Vol. 43—No. 235
12-6-78
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the federal register

WEDNESDAY, DECEMBER 6, 1978

highlights

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

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

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

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

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

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

federal register

Area Code 202 Phone 523-5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I) Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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A complete listing for the full session was published as Part II of the issue of December 4, 1978.

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[3410-02-M]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Orange, Grapefruit, Tangerine, and Tangelo Reg. 2, Amdt. 5]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Tangerine Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment allows each handler of Dancy variety tangerines to ship during the periods November 27 through December 3 and December 4 through December 10, 1978, a quantity of smaller size tangerines (2$^{7}/_{16}$ inches diameter) equal to 75 percent of total shipments during a specified prior period. In the absence of this amendment up to 25 percent of smaller tangerines could be shipped the week ending December 3, and only tangerines 2$^{7}/_{16}$ inches in diameter could be shipped the week ending December 10. This action will allow increases in suppies of tangerines during the periods specified in recognition of market needs and the size composition of the available crop in the interest of growers and consumers.

EFFECTIVE DATE: November 27, 1978, through December 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, (202) 447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* (1) Pursuant to the marketing agreement and Order No. 905, both as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the recommendations of the committee established under the marketing agreement and order, and upon other available information, it is found that the regulation of shipments of Florida tangerines, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The minimum size requirements, herein specified, for domestic shipments reflect the Department's appraisal of the need for the amendment of the current regulation to permit handling of smaller size fresh Florida tangerines of the designated variety during the specified period based on market needs for greater supplies of such variety. Because of the growing conditions in the production area the amount of large fruit is presently less than anticipated and there is a need to augment supplies by permitting shipment of a larger proportion of the smaller size fruit. The Dancy variety continues to size on the tree, and as the season progresses, increased quantities of such fruit is expected to meet the larger minimum size requirement. Relaxation of the minimum size requirements for a larger portion of each shipper's Dancy tangerine shipments will tend to promote the orderly marketing of Florida tangerines during the overlap period, when shipments of the Robinson variety are decreasing seasonally and Dancy are being shipped in greater volume.

The Citrus Administrative Committee, at an open meeting on November 28, 1978, reported that the amendment would allow shipment of approximately 85 additional carlots of Dancy variety tangerines during the specified period. The committee indicated there is a current market demand for larger quantities of smaller size Dancy tangerines and markets presently can absorb a larger portion of the supply of the smaller fruit. It indicated markets cannot absorb greater quantities of such smaller tangerines than the proportion recommended, without disruption of the markets.

The Department's Crop Reporting Board estimates the 1978-79 season's crop of Florida tangerines at 3.8 million boxes (approximately 7.6 million cartons). Hence, the volume of tangerines is comparable to that of last season.

The committee projected the market demand for all varieties of fresh tangerines this season, as follows: Dancy (2,500 carlots); Robinson (1,500 carlots); Honey (2,100 carlots). Each carlot is equivalent to one thousand cartons. The regulation, as amended, for Dancy tangerines relieves restrictions from those currently in effect, and amendment of such regulation, as hereinafter provided, will tend to avoid disruption of the orderly marketing of tangerines in the public interest.

It is concluded that the amendment of the size requirements, hereinafter set forth, is necessary to establish and maintain orderly marketing conditions and to provide acceptable size fruit in the interest of producers and consumers pursuant to the declared policy of the act.

(3) It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared policy of the act. Growers, handlers and other interested persons were given an opportunity to submit information and views on the amendment at an open meeting, and the amendment relieves restrictions on the handling of Florida tangerines. It is necessary to effectuate the declared purposes of the act to make the regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Accordingly, it is found that the provisions of § 905.302 (Orange, Grapefruit, Tangerine and Tangelo Regulation 2; 43 FR 43013; 52197; 53027; 54617), should be and are amended by revising paragraph (d) to read as follows:

§ 905.302 Orange, Grapefruit, Tangerine, and Tangelo Regulation 2.

* * * * *

(d) *Percentage of size regulation applicable to Dancy variety tangerines.* Notwithstanding the provisions of Table I in paragraph (a) of this section, any handler may during each of the period November 27 through December 3, 1978, and December 4 through December 10, 1978, ship

Dancy variety tangerines smaller than 2-9/16 inches in diameter: *Provided,* That such smaller tangerines are not smaller than 2-4/16 inches in diameter: *And provided further,* That the quantity of such smaller tangerines does not exceed 75 percent of the quantity shipped in the applicable prior period as determined by the procedure specified in § 905.152 (43 FR 32397) of this part.

* * * * *

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

Dated: December 1, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-33972 Filed 12-5-78; 8:45 am]

[3410-02-M]

FLORIDA CITRUS FRUITS

Expenses, Rates of Assessment, and Carryover of Unexpended Funds

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rules.

SUMMARY: These regulations authorize expenses and rates of assessment for the 1978-79 fiscal period, to be collected from handlers to support activities of the committees which locally administer Federal marketing orders covering Florida citrus fruits.

DATES: Effective August 1, 1978, through July 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, (202) 447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to Marketing Order Nos. 905, 912 and 913, each as amended (7 CFR Parts 905, 912, and 913), respectively, regulating the handling of citrus fruits grown in Florida, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by these committees, established under these marketing orders, and upon other information, it is found that the expenses and rates of assessment, as hereafter provided, will tend to effectuate the declared policy of the act.

[Marketing Order 905]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

1. Section 905.217 of Title 7 Part 905 is revised to read as follows:

§ 905.217 Expenses, rate of assessment, and carryover of unexpended funds.

(a) Expenses that are reasonable and likely to be incurred by the Citrus Administrative Committee during fiscal period August 1, 1978, through July 31, 1979, will amount to $218,700.

(b) The rate of assessment for said period, payable by each handler in accordance with § 905.41, is fixed at $0.00275 per carton (⅘ bushel) of fruit.

(c) Unexpended funds in excess of expenses incurred during fiscal period ended July 31, 1978, shall be carried over as a reserve in accordance with § 905.42.

[Marketing Order 912]

PART 912—GRAPEFRUIT GROWN IN THE INDIAN RIVER DISTRICT IN FLORIDA

2. Section 912.218 of Title 7 Part 912 is revised to read as follows:

§ 912.218 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the Indian River Grapefruit Committee during fiscal period August 1, 1978, through July 31, 1979, will amount to $27,907.

(b) The rate of assessment for said period payable by each handler in accordance with § 912.41 is fixed at $0.001 per carton (⅘ bushel) of grapefruit.

[Marketing Order 913]

PART 913—GRAPEFRUIT GROWN IN THE INTERIOR DISTRICT IN FLORIDA

3. Section 913.214 of Title 7 Part 913 is revised to read as follows:

§ 913.214 Expenses, rate of assessment, and carryover of unexpended funds.

(a) Expenses that are reasonable and likely to be incurred by the Interior Grapefruit Marketing Committee during fiscal period August 1, 1978, through July 31, 1979, will amount to $27,300.

(b) The rate of assessment for said period payable by each handler in accordance with § 913.31 is fixed at $0.004 per standard packed box (1⅗ bushel) of grapefruit.

(c) Unexpended funds in excess of expenses incurred during fiscal period ended July 31, 1978, shall be carried over as a reserve in accordance with § 913.32.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), as these orders require that the rates of assessment for a particular fiscal period shall apply to all assessable fruit handled from the beginning of such period which began August 1, 1978. To enable the committees to meet fiscal obligations which are now accruing, approval of the expenses and assessment rates are necessary without delay. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and assessment rates at an open meeting of each committee. It is necessary to effectuate the declared purposes of the act to make these provisions effective as specified.

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

Dated: November 30, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-33969 Filed 12-5-78; 8:45 am]

[7535-01-M]

Title 12—Banks and Banking

CHAPTER VII—NATIONAL CREDIT UNION ADMINISTRATION

PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

PART 745—CLARIFICATION AND DEFINITION OF ACCOUNT INSURANCE COVERAGE

Final Rulemaking—Share Accounts and Share Certificate Accounts; Qualified Trusts and Individual Retirement Accounts

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: These amendments amend existing regulations governing Individual Retirement Accounts (IRA) and Keogh accounts. The amendment to Part 701 excepts IRA and Keogh

accounts from the minimum amount requirement for share certificates. The amendment to Part 745 conforms the regulation pertaining to share insurance coverage for IRA and Keogh accounts to the Financial Institutions Regulatory and Interstate Rate Control Act of 1978. That Act, among other things, raised the share insurance coverage for IRA and Keogh accounts from $40,000 to $100,000 per account.

EFFECTIVE DATE: November 10, 1978.

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

FOR FURTHER INFORMATION CONTACT:

J. Leonard Skiles, Deputy General Counsel, Office of the General Counsel, at the above address. Telephone: (202) 632-4870.

SUPPLEMENTARY INFORMATION: Pursuant to § 701.35(c)(2)(iii) of the National Credit Union Administration rules and regulations (12 CFR 701.35(c)(2)(iii)), the lowest minimum amount requirement for a share certificate account is set at $500. This particular limitation has discouraged, rather than encouraged, people of more modest means to establish IRA and Keogh accounts in Federal credit unions. Further, the $500 limitation has created a competitive imbalance. Section 701.35(c)(2)(iii), therefore, is amended by deleting the $500 minimum amount requirement for IRA and Keogh accounts.

Section 1401(c) of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 amended the Federal Credit Union Act to authorize the National Credit Union Share Insurance Fund to insure funds held in IRA and Keogh accounts to a maximum of $100,000 per account. This particular provision became effective upon enactment, therefore, IRA and Keogh accounts are presently insured in accordance with the statutory change. This amendment simply conforms the regulation to Section 1401(c) of the Act.

In order to facilitate the achievement of the above stated objectives as rapidly as possible, the NCUA finds that application of the notice and public participation provisions of 5 U.S.C. Section 553 would be contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

Accordingly, 12 CFR 701.35(c)(2)(iii) and 745.9-2 are amended as set forth below.

LORENA C. MATTHEWS,
Acting Administrator.

NOVEMBER 22, 1978.

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

§ 701.35 [Amended]

1. Section 701.35 Share Accounts and Share Certificate Accounts.

(a) Section 701.35(c)(2)(iii) is amended to read as follows:

* * * * *

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

(iii) Except for share certificate accounts established pursuant to § 721.4, the lowest minimum amount requirement shall be $500 or more;

* * * * *

2. Section 745.9-2 Qualified Trusts and Individual Retirement Accounts

(a) Section 745.9-2 is amended to read as follows:

§ 745.9-2 Keogh accounts and individual retirement accounts

(a) The present vested ascertainable interest of a participant or designated beneficiary in a trust or custodial account maintained pursuant to a pension or profit-sharing plan described under section 401(d) or section 408(a) of the Internal Revenue Code shall be insured up to $100,000 separately from other deposits of the participant or designated beneficiary.

(b) Upon liquidation of the credit union, any insurance coverage payment shall be made by the Administrator to the trustee or custodian, or the successor trustee or custodian, unless otherwise directed in writing, by the plan participant or beneficiary.

[FR Doc. 78-34015 Filed 12-5-78; 8:45 am]

[6320-01-M]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

[Regulation PR-184 Procedural Regulations Amendment No. 46 to Part 302]

PART 302—RULES OF PRACTICE IN ECONOMIC PROCEEDINGS

Notice of Approval by Comptroller General

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice of approval by the Comptroller General of the reporting requirements contained in a regulation concerning applications for unused authority under the Airline Deregulation Act of 1978. This approval is required by the Federal Reports Act, and was transmitted to the Civil Aeronautics Board by letter dated November 8, 1978.

DATES: Adopted: November 30, 1978. Effective: November 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Raymond Kurlander, Director, Bureau of Accounts and Statistics, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5270.

Accordingly, the Civil Aeronautics Board amends Part 302 of its Procedural Regulations (14 CFR 302) by adding the following note at the end of Part 302:

NOTE.—The reporting requirements contained in sections 1803, 1805, 1806, 1809, and 1810 have been approved by the U.S. General Accounting Office under Number B-180226 (R0568).

This amendment is issued by the undersigned pursuant to the delegation of authority from the Board to the Secretary in 14 CFR Sec. 385.24(b). (Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; U.S.C. 1324.)

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-34034 Filed 12-5-78; 8:45 am]

[3510-25-M]

Title 15—Commerce and Foreign Trade

CHAPTER III—INDUSTRY AND TRADE ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 377—SHORT SUPPLY CONTROLS

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

AGENCY: Office of Export Administration, Bureau of Trade Regulation, Industry and Trade Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: These regulations establish a supplementary export quota for the Fourth Quarter 1978 for butane to be exported from the Gulf Coast since current stocks of this commodity are more than adequate to meet domestic needs. They further establish a time

period during which exporters may apply for licenses under this supplementary quota and set forth the criteria which will be considered by the Department in allocating that quota.

EFFECTIVE DATE OF ACTION: December 4, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Converse Hettinger, Director, Short Supply Division, Office of Export Administration, Department of Commerce, Washington, D.C. 20230 (telephone 202-377-3984).

SUPPLEMENTARY INFORMATION: Supplement No. 2 to Part 377 of these Regulations sets forth the historical quarterly export quotas established for the export limitations. Ninety-five percent of each historical quota is allocated exclusively among exporters who have satisfactorily documented their participation in the export trade in that commodity during the historical base period used in calculating the particular quota; the remaining five percent of each quota is reserved for applicants who apply on grounds of unique hardship. Butane is subject to a rotating base period, with export quotas established quarterly on the basis of an exporter's actual exports during the corresponding calendar quarter of the period April 1, 1972, through March 31, 1973. The overall Fourth Quarter 1978 export quota for butane has been established at 216,299 barrels, with 10,815 barrels set aside for hardship applications.

In recent weeks, citing a build up of surplus stocks of butane in the United States, a number of companies have filed applications to export this commodity outside of quota limitations. The Department has consulted with the Department of Energy as to the butane supply and demand situation and the Department of Energy has advised this Department that, under current supply conditions in addition to historical quota exports, the export of 1,250,000 barrels of butane from the U.S. Gulf Coast during the period of October 1978 through March 1979 would not impact the supply of butane to domestic consumers.

Accordingly, the Department has determined that the short supply controls over exports of butane from the Gulf Coast area of the United States may be temporarily relaxed. The Department has further decided to establish a supplementary export quota for butane for the Fourth Quarter 1978 of 1,250,000 barrels and to make this quota available to applicants without regard to whether or not they are historical exporters of butane.

Exporters seeking to participate in this supplementary export quota should file applications so as to be physically received by the Office of Export Administration no later than close of business on December 18, 1978. Those applications to export butane from the Gulf Coast which have been submitted under the unique hardship provisions of the Regulations and which are now pending with the Office of Export Administration will be considered, together with the new applications filed during this time period.

While the Department will attempt to accommodate all applicants, because of the limited size of the supplementary quota it is likely that not all applicants can be accommodated and that not all applications will be licensed in the full quantity requested.

Following expiration of the time period for submission of applications to participate in this supplementary export quota, as noted above, the Department will weigh the relative merits of all such applications under the criteria set forth below and will allocate the available quota accordingly. Criteria to be considered by the Department in reviewing these applications will include:

(1) The nature and extent of any unique hardship which the applicant may have demonstrated pursuant to Section 377.3 of the Regulations;

(2) The extent to which the butane proposed for export is needed to supply domestic customers within the particular marketing area from which it will be exported or, if purchased for export, within the particular marketing area where located at time of purchase;

(3) The extent to which the proposed export would not be detrimental to attainment of the basic objectives of the short supply program; and

(4) The extent to which the proposed export would serve any foreign policy interest of the United States and the extent to which it would otherwise be in the national interest.

Accordingly, the Export Administration Regulations (15 CFR Part 377) are amended as follows:

(1) A new § 377.6(d)(1) is established to read as follows:

§ 377.6 Petroleum and petroleum products.

* * * * *

(12) Group K: Non-Historical Supplementary Quota for Butane in Fourth Quarter 1978.

An application for a validated license to export butane under the non-historical export quota established for the Fourth Quarter 1978 will be considered without regard to the applicant's past history of exports provided: (i) the butane is to be exported from the U.S. Gulf Coast, (ii) the application is submitted by the date specified in Supplement No. 2, and (iii) it is accompanied by supporting documentation required by Section 377.6(e)(2). In allocating this supplementary quota among competing applicants, the Department will consider all reasons advanced by the applicant as to why his application deserves consideration, including:

(i) The nature and extent of any unique hardship which the applicant may have demonstrated pursuant to Section 377.3 of the Regulations;

(ii) The extent to which the butane proposed for export is needed to supply domestic customers within the particular marketing area from which it will be exported or, if purchased for export, within the particular marketing area where located at time of purchase;

(iii) The extent to which the proposed export would not be detrimental to attainment of the basic objectives of the short supply program; and

(iv) The extent to which the proposed export would serve any foreign policy interest of the United States and the extent to which it would otherwise be in the national interest.

(2) The table entitled SUBMISSION DATES in Supplement No. 2 to Part 377 is revised to read as follows:

* * * * *

SUBMISSION DATES: Applications against historical quotas: Not prior to the beginning of the applicable quarter and received in the Office of Export Administration not later than the close of business on the tenth day prior to the end of the applicable quarter.

Applications against non-historical quotas for butane (Commodity Group K) for Fourth Quarter 1978: Not later than close of business December , 1978.

Applications for hardship and all other commodities subject to validated licensing but not historical quotas: At any time.

* * * * *

(3) At the end of Supplement No. 2 to Part 377 the following table is added:

NON-HISTORICAL SUPPLEMENTARY QUOTA FOR GROUP K

(in barrels)

(SCHEDULE B NO. 475.1545, BUTANE)

All Countries /

* * * * *

(Sec. 4 Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); Sec. 103, Pub. L. 94-163, 89 Stat. 877 (42 U.S.C. 6212); E.O. 11912, 41 FR 15825, 3 CFR 1969 Comp.; 10 U.S.C. 7430; Department Organization Order 10-3,

dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977).)

RAUER H. MEYER,
Acting Deputy Assistant Secretary for Trade Regulation.

[FR Doc. 78-34050 Filed 12-4-78; 10:02 am]

[6750-01-M]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. C-2935]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE, CORRECTIVE ACTIONS

National Fire Hose Corp. et al.

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violation of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, among other things, requires a Compton, Calif., manufacturer and seller of fire hose and accessories to cease, in connection with the sale and distribution of their products, from entering into agreements, or taking any other action that would impose territorial or customer restrictions on their distributors.

DATE: Complaint and order issued November 1, 1978.[1]

FOR FURTHER INFORMATION CONTACT:

Paul W. Turley, Regional Director, 3R, Chicago Regional Office, Federal Trade Commission, 55 East Monroe St., Suite 1437, Chicago, Ill. 60603, 312-353-4423.

SUPPLEMENTARY INFORMATION: On Thursday, August 24, 1978, there was published in the FEDERAL REGISTER, 43 FR 37712, a proposed consent agreement with analysis In the Matter of National Fire Hose Corp., a corporation, and Raymond L. Pepp and Dudley H. Pepp, individually and as officers or directors of National Fire Hose Corp., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

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

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Coercing and Intimidating: § 13.358 Distributors. Subpart—Combining or Conspiring: § 13.388 To control allocations and solicitation of customers; § 13.395 To control marketing practices and conditions; § 13.470 To restrain or monopolize trade; § 13.497 To terminate or threaten to terminate contracts, dealing, franchises, etc. Subpart—Cutting Off Access To Customers or Market: § 13.560 Interfering with distributive outlets. Subpart—Cutting Off Supplies or Service: § 13.610 Cutting off supplies or service; § 13.655 Threatening disciplinary action or otherwise.

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

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-33952 Filed 12-5-78; 8:45 am]

[6750-01-M]

[Docket No. 8978]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Borden, Inc.

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: This order, among other things, requires a New York City firm to cease attempting to hinder, restrain or eliminate competition in the processed lemon juice market by granting improper price reductions and promotional allowances to its customers; or by selling its product, ReaLemon, below cost or at unreasonably low prices.

DATES: Complaint issued July 2, 1974. Decision issued November 7, 1978.[1]

FOR FURTHER INFORMATION CONTACT:

John M. Peterson, Attorney, 3R, Chicago Regional Office, Federal Trade Commission, 55 East Monroe St., Suite 1437, Chicago, Ill. 60603. (312) 353-8522.

SUPPLEMENTARY INFORMATION: In the Matter of Borden, Inc., a corporation. The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart-Cutting Prices Arbitrarily: § 13.665 Cutting prices arbitrarily, to stifle competition. Subpart-Discriminating Between Customers: § 13.685 Discriminating between customers; 13.685-10 Federal Trade Commission Act. Subpart-Offering Unfair, Improper And Deceptive Inducements To Purchase Or Deal: § 13.2090 Undertakings, in general. Subpart-Selling Below Cost: § 13.2180 Selling below cost.

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

The final order, including further order requiring report of compliance therewith, is as follows:

FINAL ORDER

This matter having been heard by the Commission upon the appeal of respondent from the initial decision, and upon briefs and oral argument in support thereof and opposition thereto, and the Commission for the reasons stated in the accompanying Opinion having determined to sustain the initial decision with certain modifications:

It is ordered, That the initial decision of the administrative law judge, pages 1-162, be adopted as the Findings of Fact and Conclusions of Law of the Commission, except to the extent indicated in the accompanying Opinion.

Other Findings of Fact and Conclusions of Law of the Commission are contained in the accompanying Opinion.

It is further ordered, That the following Order to Cease and Desist be, and it hereby is, entered:

ORDER

It is ordered, That Borden, Inc., and its successors and assigns, officers, agents, representatives and employees, directly or indirectly, or through any corporation, subsidiary, affiliate, division or other device, in connection with the production, marketing and sale of processed lemon juice in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall forthwith cease and desist from:

(1) Granting price reductions, directly or indirectly, which result in different net prices among Borden's ReaLemon customers, whether or not such customers compete in the same geographic area, which differences in price are not attributable to differing cost of manufacture, sale or delivery, and the effect of which is to hinder, restrain or eliminate competition be-

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

[1] Copies of the Complaint, Initial Decision, Opinion of the Commission, Separate Opinion of Chairman Michael Pertschuk on the Issue of Relief, Concurring Opinion of Commissioner David A. Clanton and Concurring Opinion of Commissioner Robert Pitofsky filed with the original document.

tween respondent Borden and its competitors in the production, marketing and sale of processed lemon juice;

(2) Selling ReaLemon lemon juice below its cost or at unreasonably low prices, the effect of which is to hinder, restrain or eliminate competition between respondent Borden and its competitors in the production, marketing and sale of processed lemon juice;

(3) Granting promotional allowances or payments of any kind for customers' promotional services, the effect of which is to hinder, restrain or eliminate competition between respondent Borden and its competitors in the production, marketing and sale of processed lemon juice.

It is further ordered, That Borden, Inc., shall, within sixty (60) days from the date this order becomes final, and every year thereafter for a period of ten (10) years, submit a detailed written report of its actions, plans and progress in complying with the provisions of this order, and fulfilling its objectives.

By the Commission.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-33983 Filed 12-5-78; 8:45 am]

[8320-01-M]

Title 38—Pensions, Bonuses, and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 17—MEDICAL

Former Members of the Armed Forces of Poland and Czechoslovakia

AGENCY: Veterans Administration.

ACTION: Final regulation.

SUMMARY: This regulation provides authority for furnishing hospital care, domiciliary care, and medical services to those former members of the Armed Forces of Poland and Czechoslovakia who: (1) Served during World War I or World War II in armed conflict against an enemy of the United States, and (2) served during the same period in or with the Armed Forces of France or Great Britain and (3) have been citizens of the United States for 10 years, and (4) are not entitled to payment for equivalent care and services under a program established by the foreign government concerned for persons who served in its Armed Forces in World War I or World War II. This regulation implements legislation (Pub. L. 94-491).

EFFECTIVE DATE: October 14, 1976.

FOR FURTHER INFORMATION CONTACT:

Joseph L. Erwin, Chief, Policies and Procedures, Medical Administration Service, Department of Medicine and Surgery, Veterans Administration, Washington, D.C. 20420, 202-389-3785.

SUPPLEMENTARY INFORMATION: On page 38046 of the FEDERAL REGISTER of August 25, 1978, there was published a notice of proposed regulatory development to amend § 17.55 which permits the furnishing of hospital care, domiciliary care, and medical services by the Veterans Administration within the United States to specified former members of the Armed Forces of Poland and Czechoslovakia. This regulation implements section 109(c), title 38, United States Code, as added by Pub. L. 94-491.

Interested persons were given 30 days in which to submit comments, suggestions or objections regarding the proposed regulation. Eighty-three comments were received. Sixty-three commentators objected to providing benefits to Polish and Czechoslovakian veterans. Eleven favored providing benefits and nine were not responsive to the issue. One commentator suggested a clarification of the language to show the limits within which benefits may be provided. However, both the law and the proposed regulation provide for the furnishing of those benefits specified to the same extent as if service had been performed in the Armed Forces of the United States.

The proposed regulation is hereby adopted without change and is set forth below.

Approved: November 29, 1978.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

A new center title and § 17.55 are added to read as follows:

MEDICAL CARE FOR CZECHOSLOVAKIAN AND POLISH VETERANS

§ 17.55 Medical care for certain former members of Czechoslovakian and Polish Armed Forces.

Hospital, domiciliary care, and medical services may be furnished to former members of the Armed Forces of Poland or Czechoslovakia if they:

(a) Served during World War I or World War II in armed conflict against an enemy of the United States, and

(b) Served during the same period in or with the Armed Forces of France or Great Britain, and

(c) Have been citizens of the United States for 10 years, and

(d) Are not entitled to payment for equivalent care and services under a program established by the foreign government concerned for persons who served in its Armed Forces in World War I or World War II. Such care or services may be furnished those individuals to the same extent as if they had served in the U.S. Armed Forces. Qualifying service may be established through an authenticated certification from the French Ministry of Defense or the British War Office which clearly indicates such military service, or otherwise through satisfactory evidence, under guidelines prescribed by the Chief Medical Director, of having served in the Czechoslovakian or Polish Armed Forces and in or with the Armed Forces of France or Great Britain while in armed conflict against an enemy of the United States during World War I or World War II.

[FR Doc. 78-33981 Filed 12-5-78; 8:45 am]

[1505-01-M]

Title 43—Public Lands: Interior

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

PART 2650—ALASKA NATIVE SELECTIONS

Reservation of Public Easements

Correction

In FR Doc. 78-33185 appearing on page 55326 in the issue of Monday, November 27, 1978, on page 55331, the date in the last paragraph was inadvertently omitted and should have appeared as follows:

As stated in the proposed rulemaking, Secretarial Order 2982 was to be revoked upon promulgation of final rulemaking. Final rulemaking was published in the FEDERAL REGISTER on November 27, 1978, and, accordingly, Secretarial Order 2982 is hereby revoked.

Section 2. *Effective Date.*

This order is effective immediately.

Dated: November 20, 1978.

CECIL D. ANDRUS,
Secretary of the Interior.

[4910-57-M]

Title 49—Transportation

CHAPTER VI—URBAN MASS TRANSPORTATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket Number 78-B]

PART 660—BUY AMERICA REQUIREMENTS

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Final rule.

SUMMARY: This regulation implements procedures required under § 401, "Buy America" of the Surface Transportation Assistance Act of 1978 (Act), which provides, with exceptions, that funds authorized may not be obligated for urban mass transportation projects unless materials and supplies are of United States origin.

EFFECTIVE DATE: November 6, 1978.

DATES: Comments must be received by February 15, 1979.

ADDRESS: Comments on these regulations are invited and should be sent to UMTA Docket No. 78-B, Urban Mass Transportation Administration, Room 9320, UCC-10, 400 7th Street SW., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 8:30 am and 5:00 pm, Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

John Collins, Office of the Chief Counsel, Urban Mass Transportation Administration, 400 7th Street SW., Washington, D.C. 20590, Phone: (202) 426-1909.

SUPPLEMENTARY INFORMATION: On November 6, 1978, the President signed into law the Surface Transportation Assistance Act of 1978 (Pub. L. 95-599). The provisions of Section 401, "Buy America", are effective immediately and require immediate implementation.

The Administrator has determined that the required implementation of Section 401 will have a major impact on many UMTA programs.

Since Section 401 was effective on November 6, 1978, these regulations must be effective immediately to meet the short statutory deadline. UMTA has determined that these regulations constitute emergency regulations as defined in the Department of Transportation Order implementing E.O. 12044, and that under 5 U.S.C. 553 it is in the public interest to publish them without notice and comment at this time. However, UMTA invites public comment on the regulations and will consider amendents to the regulations based on the comments.

This document does contain a significant proposal according to the criteria established by the Department of Transportation pursuant to E.O. 12044.

DISCUSSION

These regulations contained in a new Part 660 are divided into four subparts:

1. Subpart A—General—sets out the applicability of the regulations and definitions used in the Part.

2. Subpart B—Implementation—sets out grantee responsibility and the requirements of determining the origin of products for compliance with the "Buy America" provision

3. Subpart C—Waivers—sets out waivers to the "Buy America" provision, the procedures for obtaining a waiver, and the effect of waivers.

4. Subpart D—Enforcement—sets out the methods of enforcement of the "Buy America" certification.

It should be noted that the "Buy America" requirements in these regulations *do not* apply to direct Federal procurements. It is anticipated that this subject will be addressed in a separate rulemaking.

These regulations establish the only type of local or domestic preference that is authorized in third party contracts which receive UMTA financial assistance. If a grantee imposes local or domestic preference provisions in a third party contract that differ from these regulations, then that third party contract is not eligible for UMTA financial assistance.

The legislative history of the Buy America provision indicates that Congress intended it to be interpreted in the light of the Buy American Act of 1933, 41 U.S.C. §§ 10a-10d, to the extent that Act is applicable.

The Secretary of Transportation has delegated to the Administrator the authority to grant the statutory waivers of the Buy America provision with respect to UMTA programs.

Appendix A to Subpart C of the new Part 660 lists those general waivers which the Administrator has granted at this time. Comments are specifically requested as to whether or not any other general class waiver should be granted, and whether origin and traceability problems exist concerning construction materials, including general stock items.

Accordingly, Title 49 of the Code of Federal Regulations is amended by adding a new Part 660 to read as follows:

PART 660—BUY AMERICA REQUIREMENTS

Subpart A—General

Sec.

Subpart B—Implementation

Subpart C—Waivers

APPENDIX A—COMPILATION OF WAIVERS ISSUED UNDER § 660.33(a)

Subpart D—Enforcement

(Section 401, Pub. L. 95-599 (92 Stat. 2689); 49 CFR 1.51)

Subpart A—General

§ 660.10 Purpose.

The purpose of this subpart is to define the terms and procedures guiding the application of section 401, "Buy America", of the Surface Transportation Assistance Act of 1978, Pub. L. 95-599.

§ 660.11 Applicability.

(a) These regulations apply to all federally-assisted procurements under grants, loans, and cooperative agreements made pursuant to the Urban Mass Transportation Act of 1964, as amended, and sections 103(e)4 and 142 of Title 23 United States Code, for equipment and construction of facilities in which a third party contract exceeds $500,000 and is financed by funds administered by UMTA that have been obligated after November 6, 1978.

(b) Only domestic unmanufactured articles, materials and supplies and manufactured articles, materials and supplies that have been manufactured in the United States substantially all from domestic articles, materials, and supplies may be procured with assistance provided by UMTA unless the Administrator waives the application of these requirements as set forth in Subpart C of this Part.

(c) Because a domestic preference requirement, rather than an absolute "Buy America" requirement, has been established, materials of foreign origin should be considered for UMTA-assisted procurements.

(d) "Buy America" requirements do not apply to the procurement of services.

(e) A determination of the origin of end products to be procured must be made as set out in § 660.22 of this Part.

(f) The nationality of suppliers or the employees of these suppliers does not affect the origin of end products or components to be procured.

§ 660.13 Definitions.

As used in this Part:

(a) "Act" means the Surface Transportation Assistance Act of 1978 (Pub. L. 95-599).

(b) "Administrator" means the Administrator of the Urban Mass Transportation Administration (UMTA).

(c) "Component" means any article, material, or supply, whether manufactured or unmanufactured, directly incorporated into an end product.

(d) "Domestic end product" means an unmanufactured end product that has been mined or produced in the United States, or a manufactured end product determined to be domestic under § 660.22 of this Part.

(e) "End product" means an article, material or supply, whether manufactured or unmanufactured, that is to be acquired by the grantee, with financial assistance derived from UMTA, and that is to be delivered to the grantee, as specified by the third party contract.

(f) "Foreign end product" means an end product other than a domestic end product.

(g) "Grantee" means any entity that is a recipient of UMTA grants or loans under the Urban Mass Transportation Act of 1964, as amended, or under section 103(e)4 or section 142 of Title 23, United States Code.

(h) "Overall project contract" means each individual third party contract for a discrete portion of the overall project.

(i) "United States" means the several States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Commonwealth of Northern Mariana Islands.

Subpart B—Implementation

§ 660.20 Purpose.

The purpose of this subpart is to prescribe the implementation of section 401 of the Act.

§ 660.21 Grantee responsibility.

(a) The grantee shall adhere to the Buy America clause set forth in its grant contract with UMTA. The clause directly affects any third party contract utilizing financial participation awarded by UMTA after November 6, 1978. These requirements do not apply to any third party contract financed without UMTA funds or to any procurement or construction third party contract not exceeding $500,000. The Buy America clause will be included in any grant or loan made by UMTA that exceeds $500,000.

(b) The grantee shall include in its bid specifications for procurement of equipment and construction of facilities within the scope of these regulations an appropriate notice of the Buy America provision. Such specifications shall require, as a condition of responsiveness, that the bidder or offeror submit with the bid a completed Buy America certificate, as set forth below:

BUY AMERICA CERTIFICATE

The bidder or offeror hereby certifies that each end product, except the end products listed below, is a domestic end product, as defined in 49 CFR 660.13(d); and that components of unknown origin have been considered to have been mined, produced, or manufactured outside the United States.

Excluded end products (show country of origin for each excluded end product):

§ 660.22 Determination of origin.

(a) In order for a manufactured end product to be considered a domestic end product—(1) the cost of the domestic components must exceed 50 percent of the cost of all its components; and (2) the final assembly of the components to form the end product must take place in the United States.

(b) In determining the origin of components, each component must be treated as either entirely domestic or entirely foreign, based on the place where the component is mined, produced, or manufactured. Components of unknown origin must be treated as foreign. The origin of subcomponents of components is immaterial.

(c) Transportation costs to the place of incorporation into the end product and, in the case of foreign components, applicable duties, must be considered in determining component cost under paragraph (a) of this section.

Subpart C—Waivers

§ 660.30 Purpose.

The purpose of this subpart is to describe the procedure for obtaining waivers to Section 401 of the Act, the types of statutory waivers that exist, when in the bid process waivers can be issued, and the effect of the waiver on bidding procedures.

§ 660.31 Application for waiver.

(a) A bidder who seeks to establish grounds for any waiver described in § 660.32 must seek the waiver, in a timely manner, through the grantee.

(b) Only a grantee may request a waiver. The request must be in writing and include facts and justification to support the granting of the waiver.

(c) A waiver may be granted by the Administrator on his own initiative.

§ 660.32 Types of waivers.

(a) Section 401(b) of the Act provides for four instances wherein a waiver of the "Buy America" provision may be granted. A waiver of the "Buy America" provisions will be granted if:

(1) Their application would be inconsistent with the public interest;

(2) In the case of acquisition of rolling stock, their application would result in unreasonable cost (after granting appropriate price adjustments to domestic products based on that portion of project cost likely to be returned to the United States and to the States in the form of tax revenues);

(3) Supplies of the class or kind to be used in the manufacture of articles, materials, supplies are not mined, produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(4) Inclusion of domestic material will increase the cost of the overall project contract by more than 10 per centum.

(b) In determining whether the waiver described in paragraph (a)(1) will be granted, the Administrator considers all appropriate factors including, but not limited to, the cost, "red tape," and delay that would be imposed if the provision were not waived. In granting this waiver, the Administrator will issue a written determination setting forth the reasons for the granting of the waiver.

(c) In determining whether the waiver described in paragraph (a)(2) will be granted, only taxes paid by the bidder will be considered.

(d) In determining whether the waiver in paragraph (a)(3) will be granted, a domestic end product will be presumed unavailable if no responsive and responsible domestic bid has been received.

(e) In determining whether the waiver in paragraph (a)(4) will be granted in cases where the apparent low bid offers foreign end products, the lowest responsive and responsible bid offering foreign end products will be multiplied by 1.1. If this number is less than the lowest responsive and responsible bid offering all domestic end products (including end products considered domestic under the provision of § 660.34(b)) then the waiver will be granted.

(f) The statutory waiver provisions of section 401 of the Act are mutually exclusive. End products and components of end products may be granted different waivers.

§ 660.33 Relationship of waivers to bid process.

(a) Waivers may be issued that apply to broad classes of grants or particular types of end products, materials or supplies. A compilation of these waivers is listed in Appendix A.

(b) Waivers may be issued for a particular contract based on information available to UMTA—(1) prior to bid opening; or (2) after bids are opened by the grantee.

§ 660.34 Effect of waiver.

(a) If a waiver has been granted for an entire grant from UMTA or for an overall project contract planned to be advertised by a grantee, the bid process may proceed without any requirement that bidders make the certification required by § 660.21.

(b) If a waiver or waivers do not encompass all of the articles, materials, and supplies scheduled to be delivered or constructed under the contract, then the computation of the domestic component required under §§ 660.21 and 660.22 shall treat as domestic the articles, materials, and supplies for which waivers have been given.

APPENDIX A—COMPILATION OF WAIVERS ISSUED UNDER § 660.33(a).

(a) The provision has been waived for all operating assistance grants under Sections 5 and 17 of the UMT Act, and for any operating assistance portions of grants under Section 6 of the UMT Act.

(b) All waivers published in 41 CFR § 12-6.105 which established excepted articles, materials, and supplies for the Buy American Act of 1933, (41 U.S.C. 10a-d) as the waivers may be amended from time to time, are incorporated by reference.

Subpart D—Enforcement

§ 660.40 Purpose.

The purpose of this subpart is to describe the procedures that will be used by UMTA to enforce the provision of Section 401 of the Act. This subpart also defines the rights of third parties.

§ 660.41 Initiation.

(a) It is presumed that a bidder who has submitted the certification required by § 660.21 of this Part is complying with the Buy America provision. A false certification is a criminal act in violation of 18 U.S.C. § 1001.

(b) Any party may petition UMTA to investigate the compliance of a successful bidder with the bidder's certification. If UMTA determines that evidence indicates that the presumption of paragraph (a) of this section has been overcome, UMTA will require the grantee to initiate an investigation as described in § 660.42.

§ 660.42 Investigation.

When an investigation is initiated under § 660.41(b), the grantee shall require the successful bidder to document its compliance with its Buy America certification. The successful bidder has the burden of proof to establish to the grantee and to UMTA that it is in compliance with its certification and this Part.

§ 660.43 Failure to comply with certification.

If a successful bidder fails to demonstrate that it is in compliance with its certification or this Part, it will be required to substitute sufficient domestic materials, articles, and supplies to meet the terms of the original certification without revision of the original contract terms. Failure to comply will be a breach of contract and will be actionable under the terms of the contract and state law.

§ 660.44 Sanctions.

A willful refusal to comply with certification by a successful bidder may lead to the initiation of debarment proceedings under 29 CFR 5.6.

§ 660.45 Rights of third parties.

The sole right of any third party under the Buy America provision is to petition UMTA under the provisions of § 660.41(b). No third party has any additional right, at law or equity, for any remedy including, but not limited to, injunctions, damages, or cancellation of the Federal grant or contracts of the public body.

Dated: December 4, 1978.

RICHARD S. PAGE,
Urban Mass Transportation Administrator.

[FR Doc. 78-34094 Filed 12-5-78; 8:45 am]

[3510-22-M]

Title 50—Wildlife and Fisheries

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 227—THREATENED FISH AND WILDLIFE

Amendment to Emergency Regulations Declaring the Port Canaveral Navigation Channel a Restricted Fishing Area and Notice of Hearing

AGENCY: National Marine Fisheries Service.

ACTION: Amendment to Temporary Emergency Regulations and Notice of Public Hearing.

SUMMARY: The National Marine Fisheries Service (NMFS) promulgated emergency temporary regulations under section 4(f)(2)(C) of the Endangered Species Act designating the Port Canaveral Navigation Channel, Cape Canaveral, Florida, as a restricted fishing area, effective November 22, 1978, for a period of 120 days as published at 43 FR 54639. This notice amends the temporary regulations, and advises the public of a hearing on the regulations.

DATES: The emergency regulations are effective on November 22, 1978, for a period of 120 days. This amendment does not affect the effective date of the regulations or the period of effectiveness. Written comments on the regulations and this amendment may be made on or before January 22, 1979. A hearing will be held on December 12, 1978, at 10 a.m. in Cape Canaveral, Florida.

ADDRESSES: Comments may be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, 3300 whitehaven Street, N.W., Washington, D.C. 20235. The hearing will be held at the Canaveral Port Authority Building, George King Boulevard, Cape Canaveral, Florida.

FOR FURTHER INFORMATION CONTACT:

William P. Jensen, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C. 20235, telephone: 202-634-7461.

SUPPLEMENTARY INFORMATION: Regulations were published on November 22, 1978, 43 FR 54639, which added a new subpart D to part 222, and amended 227.72(e)(2) which designated a restricted fishing area.

* * * * *

Section 227.72 is amended to read:

§ 227.72 [Amended]

(e) * * * (2) Restricted fishing areas. (i) During the period beginning November 22, 1978, and ending March 21, 1979, the use of any commercial trawl gear is prohibited in those parts of the Port Canaveral Navigation Channel, Cape Canaveral, Florida, known as the turning basin, the inner reach, the middle reach, and that part of the dredged channel beyond the outer reach to a point 1.5 nautical miles beyond buoys "B7" and "R8" (latitude 28°22'48" N., and longitude 80°32'10" N.), C. & G.S. Chart 11484.

Dated: December 1, 1978.

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

[FR Doc. 78-34014 Filed 12-5-78; 8:45 am]

[3510-22-M]

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

PART 611—FOREIGN FISHING REGULATIONS

1979 Fee Schedule for Foreign Fishing

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Publication of 1979 fee schedule for foreign fishing.

SUMMARY: This document sets forth the fee schedule for the calendar year 1979 for fishing by foreign vessels in fisheries under the exclusive fishery management authority of the United States. This schedule establishes fees which must be paid by the owner or operator of any foreign fishing vessel wishing to fish within the United States fishery conservation zone (FCZ) before actually engaging in any fishing activity, except as otherwise noted.

EFFECTIVE DATE: January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Denton R. Moore, Acting Chief, Permits and Regulations Division, National Marine Fisheries Service, Washington, D.C. 20235, Telephone: (202) 634-7454.

SUPPLEMENTARY INFORMATION: Section 201(d) of the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801 et seq., as amended, (the Act), provides that foreign fishermen may be allowed to fish for "* * * that portion of the optimum yield of such fishery which will not be harvested by vessels of the United States * * *." Section 204(b)(10) of the Act further provides that reasonable fees shall be paid by the owner or operator of any foreign fishing vessel for which a permit is issued. Fishing vessels are defined by section 3(11) of the Act to include several types of vessels in addition to those actually engaged in harvesting fish. This includes any vessel "* * * aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing * * *." Section 204(b)(10) of the Act further provides, in part: "In determining the level of such fees, the Secretary may take into account the cost of carrying out the provisions of this Act with respect to foreign fishing, including, but not limited to, the cost of fishery conservation and management, fisheries research, administration, and enforcement." This schedule of fees amends the 1978 schedule which was published in the FEDERAL REGISTER on October 7, 1977 (42 FR 54588) and which was amended and codified as 50 CFR 611.22 on May 4, 1978 (43 FR 19232).

CRITERIA FOR ESTABLISHING FEE SCHEDULE

The following criteria, identical to those used in 1977, were considered in developing the fee schedule for foreign fishing in 1979.

1. Fees will not be used as a management tool to restrict foreign fishing. Foreign fishing effort will be controlled by management plans and associated regulations.

2. The fees will not be so high as to prevent nations from utilizing the allocated surplus solely because of the fee level. The fees must be reasonable.

3. Fees will recover an appropriate part of the management costs related to foreign fishing.

4. The same rate must apply to all foreign nations and the rate will not change within a given calendar year.

5. Fees will be simple to compute and collect. Fees shall be paid as provided in the Act.

6. Every vessel, by law, must pay a fee and obtain a permit, but the fee varies with the size and function of the vessel.

NOTE.—This amendment does not constitute a major Federal action within the meaning of the National Environmental Policy Act of 1969, as amended. It has been determined that this action does not require the preparation of an economic impact analysis.

Signed at Washington, D.C., this 1st day of December 1978.

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

50 CFR 611.22 is hereby amended to read:

§ 611.22 Fee schedule for foreign fishing permits.

(a) The fee charges for fishing by foreign flag vessels for fish over which the United States exercises exclusive fishery management authority required by section 204(b)(10) of the Act and § 611.3(c)(3) are specified as follows:

(1) *Permit fees.* The owners and operators of all foreign vessels engaging in fishing, as defined in § 611.2(r), are required to pay appropriate fees as specified in the following table. In the case of vessels described in more than one category, the highest applicable fee will be charged. Permit fees must be paid in advance and are not refundable. However, on a case-by-case basis, the Assistant Administrator for Fisheries may allow the substitution of like vessels when the original vessel has become disabled or otherwise cannot participate in the fishery.

TABLE I

Vessel activity	Permit fee
Catching (activities described in § 611.2(r)(1) or (2)) with an applicable national allocation (per gross registered ton)	$1.00
Catching (activities described in § 611.2(r)(1) or (2)) without an applicable national allocation, i.e., a nonretention fishery (per vessel)	200.00
Processing (activities described in § 611.2(r)(3)(i)) (per gross registered ton) (up to $2,500)	.50
Other support (activities described in § 611.2(r)(3)(ii) or (iii)) (per vessel)	200.00

(2) *Poundage fees.* (i) The poundage fee for each allocated species is calculated at 3.5 percent of the actual landed value per metric ton of the species to U.S. fishermen where U.S. landing data are available in 1977, the most recent year for which such data are available.

(ii) This fee must be paid in advance on the entire national allocation if the nation receiving the allocation chooses to accept it.

(3) *Method of payment.* (i) All payments received must be drawn in U.S. dollars, payable at a bank in the United States, and be made payable to the U.S. Department of Commerce, NOAA. In addition, payments from private firms or individuals should be in the form of a certified check.

(ii) Remittances should be sent to the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street NW., Washington, D.C. 20235, Attention: F3. To facilitate processing, each remittance should be accompanied by a copy of the applicable bill for identification purposes.

(iii) Refunds of poundage fees will be made only upon written application to the address mentioned in paragraph (a)(3)(ii) of this section. Refund requests must contain the following information:

(A) A statement that the amount involved is more than $100.

(B) An explanation of the difference between the amount of actual catch and the amount authorized, and the reasons for the difference.

(b) The following ex-vessel prices to be used for computing fees are based on U.S. commercial landings in 1977, except where noted:

Average Ex-Vessel Values per Metric Ton

Species	Values
Butterfish	$626
Cod, Pacific	359
Crab, tanner (snow)	1661
Flounders, Pacific	407

Average Ex-Vessel Values per Metric Ton— Continued

Species	Values
Hake, Pacific	[2]176
Hake, red	199
Hake, silver (whiting)	205
Herring, Atlantic	[3]200
Herring, Pacific—roeless	100
Herring, Pacific—with roe	991
Herring, river (alewives)	100
Mackerel, atka	[4]223
Mackerel, Atlantic	385
Mackerel, jack	110
Other billfish, Pacific	664
Other finfish, Atlantic	382
Other groundfish, Pacific	49
Pacific Ocean perch	[5]356
Pollock, Alaska	176
Rockfishes	356
Sablefish—longline caught	1,477
Sablefish—trawl caught	551
Seamount groundfish	[5]397
Sharks, Atlantic (except dogfish)	210
Sharks, Pacific (except dogfish)	396
Snails (meat)	[4]1,657
Squid, Atlantic—Illex	472
Squid, Atlantic—Loligo	938
Squid, Pacific	[4]458
Striped marlin, Pacific	2,346
Swordfish	5,875

[1]Price for C. opilio paid in Dutch Harbor in the 1977/78 season. Source: Resource Statistics Division, National Marine Fisheries Service.

[2]Source: Fishermen's Marketing Association of Washington, Inc. Price list effective as of October 16, 1977 (8 cents/pound).

[3]Price for mature herring.

[4]Prices based on landings in Japan.

[5]Based on average prices for other rockfishes.

[FR Doc. 78-33967 Filed 12-5-78; 8:45 am]

[3510-22-M]

PART 671—TANNER CRAB OFF ALASKA

Final Regulations

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Final regulations.

SUMMARY: These final regulations govern vessels of the United States fishing for Tanner crab in the Fishery Conservation Zone (FCZ) off Alaska and implement the Fishery Management Plan for Tanner crab off Alaska (FMP) which was adopted by the North Pacific Fishery Management Council (Council), and approved by the Secretary of Commerce on April 18, 1978. Proposed regulations governing foreign fishing for Tanner crab were published on November 24, 1978 (43 FR 54964) for an additional public comment period and do not appear as final regulations at this time.

EFFECTIVE DATE: December 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Harry L. Rietze, Director, Alaska Region, National Marine Fisheries Service, Box 1668, Juneau, Alaska 99802, telephone: (907) 586-7221.

SUPPLEMENTARY INFORMATION:

A. History of the FMP

The FMP for Tanner crab off Alaska contains conservation and management measures applicable to foreign and U.S. vessels fishing for Tanner crab off Alaska. The FMP has been subject to extensive analysis and comment by representatives of the fishing industry, interested agencies of State and Federal government, governments of foreign nations, and members of the general public. During formulation of the FMP, the Council conducted public hearings at the following locations and times to solicit public input: (a) Petersburg, Alaska, August 3, 1977; (b) Seattle, Washington, August 5, and 6, 1977; (c) Anchorage, Alaska, August 22, 1977; (d) Sand Point, Alaska, August 23, 1977; and (e) Kodiak, Alaska, August 24, 1977.

Copies of a draft FMP were widely distributed to government agencies, organizations, and individuals for comment, and the Council received oral comments on the FMP at several Council meetings during 1977 and 1978.

In December, 1977, the Council submitted the FMP to the Secretary of Commerce for approval. Review at that time indicated that the FMP: (1) Did not adequately define optimum yield; and (2) did not indicate how the specified optimum yield provided the greatest overall benefit to the nation.

On March 2, 1978, the Council submitted: (1) Changes in appropriate sections of the FMP; and (2) an additional appendix to the FMP, entitled "Development of OY and TALFF for Tanner Crab North of 58° North in the Bering Sea." (OY and TALFF are acronyms for "optimum, yield" and "total allowable level of foreign fishing"). This material adequately addressed the problem areas in the previous FMP submission, and, accordingly, the Secretary of Commerce approved the plan on April 18, 1978.

The FMP and proposed regulations applicable to vessels of the U.S. and foreign nations were published as proposed rulemaking for public comment on May 16, 1978 (43 FR 21170). Comments were received on the proposed regulations until June 30, 1978. The final regulations published here reflect comments received during that period.

Considerable comment was received on proposed rulemaking from the Council and potentially affected foreign fishermen. Implementation of the FMP was delayed because of the need to fully assess these comments and the several innovative management techniques made necessary by the nature of the fishery. One such technique is the adjustment of some fishing restrictions during the season by the NMFS Alaska Regional Director. This is discussed below under "In Season Adjustments".

The delay in plan implementation has not affected fishing operations. Fishing has begun in several registration areas but, because domestic vessels currently fishing are licensed and registered in Alaska, the management system presently employed by the State of Alaska effectively controls the fishery. The Japanese fishing fleet (the only foreign participants in this fishery) is adequately regulated by regulations implementing the existing Preliminary Fishery Management Plan (PMP) for Tanner crab in the Bering Sea (see 43 FR 10566; March 14, 1978).

The regulations published here implement the management measures in the FMP which apply to vessels of the United States. (See 43 FR 54964 for proposed regulations to implement measures in the FMP governing the foreign fishery for Tanner crab off Alaska). A subsequent amendment to the FMP which will extend the FMP through October 31, 1979, has been published as a proposed amendment for public comment at the request of the North Pacific Management Council (see 43 FR 52034; November 8, 1978).

B. In Season Adjustments

An important feature of the management system of the FMP is the ability to manage and conserve the Tanner crab resource by allowing in-season adjustment of the areas which may be fished and the times during which fishing may occur. This permits the Regional Director to act in a timely fashion to prevent damage to the resource if new data reveal that the condition of the Tanner crab stocks in any registration area is substantially different than was originally anticipated at the beginning of the fishing year.

The determination that such adjustments are necessary in order to achieve the conservation and management objectives of the FMP will be based on data concerning the following factors: (1) The effect of overall fishing effort within the registration area; (2) the catch per unit of effort and rate of harvest; (3) the relative abundance of Tanner crab within the area in comparison with pre-season prediction; (4) the proportion of immature or softshell Tanner crab being handled; (5) general information on the condition of Tanner crab within the area; and (6) any other factors relevant to the conservation and management of the Tanner crab resource.

Because of the dynamics of fishery management, decisions on these ad-

justments may have to be made quickly and without normal opportunity for notice and comment. Field orders by the Regional Director implement an in-season adjustment. In such decisions, informal rulemaking procedures will be followed pursuant to the Administrative Procedures Act (5 U.S.C. Sec. 553). In cases where normal notice and public comment procedures are to be waived for good cause shown, the regulations establish an alternate public comment procedure which provides for: (1) A 15-day comment period after the effective date of the field order; (2) the full availability for public inspection of the aggregate data upon which the field order is based; and (3) following the public comment period, publication in the FEDERAL REGISTER of either a notice announcing the continued effectiveness of the field order, or a notice modifying or rescinding the field order based on the comments received. Furthermore, field orders by the Regional Director implementing an in-season adjustment must be published in the FEDERAL REGISTER and must be posted, broadcast, and otherwise made available to the public in advance of their effective date.

Previously, the authority to issue regulations implementing fishery management plans was delegated from the Administrator of NOAA to the Assistant Administrator for Fisheries. Redelegation from the Assistant Administrator of authority to make in-season adjustments (as provided for in § 671.27 of the regulations) to the Director, Alaska Region, NMFS was approved on October 23, 1978.

C. PUBLIC COMMENTS

Issues and concerns raised by commenters during the review period, which ended June 30, 1978, and responses to those comments, are as follows:

(1) Several Japanese interests requested that the optimum yield and Japanese allocation of Tanner crab be increased.

Response. Both *C. bairdi* and *C. opilio* occupy much the same place in U.S. and foreign markets. The Council has determined that any substantial increase in catch of either species by foreign nations would adversely affect the expanding U.S. Tanner crab fishery. The quota of Tanner crab allowed to Japan in 1976 was 10,200 metric tons; in 1977, 12,500 metric tons; and under the 1978 PMP, 15,000 metric tons. Thus, the U.S. has increased quotas cautiously. Future requests for changes in optimum yields and allocatons will be fully considered; however, the requirements of U.S. fishermen and the need to provide for an orderly development of the fishery are primary considerations. At this time, these needs and requirements preclude any change in the optimum yield and level of foreign fishing.

The final regulations for the domestic fishery as published here differ only in minor ways from proposed regulations as published on May 16, 1978 (43 FR 21170). (Proposed regulations governing foreign fishing for Tanner crab were also published on May 16. The foreign fishing regulations were published again in their entirety on November 24, 1978 (43 FR 54964) for an additional public comment period and do not appear as final regulations at this time). Most changes in the regulations for the domestic fishery are of an editorial nature only, and none of the changes in the final regulations are substantive enough to require an additional comment period. Several of the changes are:

(1) The final regulations have been rearranged into a general subpart (Subpart A) and a series of specific management measures (Subpart B).

(2) The North Pacific Fishery Management Council submitted numerous comments on the proposed regulations which were incorporated.

(3) The optimum yield (OY) table was changed to correct the erroneous listing of optimum yield of Tanner crab for the Bering Sea North of 58° North latitude as 2,269 metric tons. That figure is actually the estimated U.S. capacity for that area, and the correct figure for optimum yield is 17,268 metric tons.

(4) The optimum yield table was also changed to delete the lower limit of the ranges listed for optimum yield in some areas. This change clarifies the maximum level of catch of Tanner crab.

NOTE: The appropriate amended environmental impact statement has been filed with the Environmental Protection Agency. The National Marine Fisheries Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Orders 11821 and 11949, and OMB Circular A-107.

Domestic fishing for Tanner crab begins during the month of November. In order to minimize disruption to the fishing industry these regulations should be effective immediately. As such, this agency has determined that good cause requires a waiver of 5 U.S.C. 553(d).

Signed at Washington, D.C., this 30th day of November 1978.

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

Part 671 is added to Title 50 CFR to read as follows:

PART 671—TANNER CRAB OFF ALASKA

Subpart A—General

Subpart B—Management Measures

AUTHORITY: Sec. 305, Fishery Conservation and Management Act of 1976, as amended; 16 U.S.C. 1801 *et seq.*

Subpart A—General

§ 671.1 Purpose and scope.

(a) This part regulates fishing for Tanner crab by vessels of the United States within that portion of the Bering Sea and Gulf of Alaska over which the United States exercises exclusive fishery management authority. These regulations implement the Tanner crab fishery management plan developed by the North Pacific Fishery Management Council.

(b) For regulations governing fishing for Tanner crab in the Gulf of Alaska and Bering Sea by fishing vessels other than vessels of the United States see 50 CFR 611.91.

§ 671.2 Definitions.

In addition to the definitions in the Act, and unless the context requires otherwise, the terms used in this part shall have the following meanings (some definitions in the Act have been repeated here to aid understanding of the regulations):

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

ADF&G means the Alaska Department of Fish and Game.

Assistant Administrator means the Assistant Administrator for Fisheries, National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce, or an individual to whom appropriate authority has been delegated.

Authorized Officer means:

(1) Any commissioned, warrant, or petty officer of the United States Coast Guard;

(2) Any certified enforcement agent or special agent of the National Marine Fisheries Service;

(3) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary of Commerce or the Commandant of the Coast Guard to enforce the provisions of the Act; or

(4) Any Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (1) of this definition.

Fishery Conservation Zone (FCZ) means that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Fishing means any activity, other than scientific research, which involves:

(1) The catching, taking or harvesting of fish;

(2) The attempted catching, taking or harvesting of fish;

(3) Any other activity which can reasonably be expected to result in the catching, taking or harvesting of fish; or

(4) Any operations at sea in support of, or in preparation for, any activity described in paragraphs (1), (2), or (3) of this definition.

Fishing Vessel means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for (1) fishing or (2) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Landing means off-loading fish (including Tanner crab).

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

Owner, with respect to any vessel, means:

(1) Any person who owns that vessel in whole or in part;

(2) Any charterer of the vessel, whether bareboat, time or voyage;

(3) Any person who acts in the capacity of a charterer, including but not limited to parties to a management agreement, operating agreement, or any similar agreement that bestows control over the destination, function or operation of the vessel; or

(4) Any agent designated as such by any person in subparagraph (1), (2), or (3).

Person means any individual (whether or not a citizen or national of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

Regional Director means the Director, Alaska Region, National Marine Fisheries Service, Box 1668, Juneau, Alaska, 99802 or an individual to whom appropriate authority has been delegated.

Registration Area A (Southeastern Alaska-Yakutat) is that portion of the FCZ in the Gulf of Alaska east of 143°53'36" W. longitude (Cape Suckling).

Registration Area E (Prince William Sound) is that portion of the FCZ between 143°53'36" W. longitude (Cape Suckling) and 148°53' W. longitude (Cape Fairfield).

Registration Area H (Cook Inlet) is that portion of the FCZ lying west of 148°53' W. longitude (Cape Fairfield) and north of 58°52' N. latitude (Cape Douglas).

Registration Area J (Westward) includes the FCZ in the Bering Sea, and that part of the FCZ in the Gulf of Alaska between 148°53' W. longitude (Cape Fairfield) and 172° E. longitude south of 58°52' N. latitude (Cape Douglas).

Ring Net means a bag-shaped net suspended from a circular or rectangular frame.

Tanner Crab means all species of the genus *Chionoecetes* including *C. bairdi* and *C. opilio.*

Tanner Crab Pot means a portable structure designed and constructed to capture and retain fish and shellfish alive in the water. The Tanner crab pot has rigid tunnel eye openings which individually are a maximum of five (5) inches (13 cm) in one dimension, and tunnel eye opening perimeters which individually are larger than thirty (30) inches (76 cm); or the pot tapers inward from its base to a top consisting of one horizontal opening of undescribed size.

Vessel of the United States means:

(1) A vessel documented or numbered by the Coast Guard under United States law; or

(2) A vessel, under five net tons, which is registered under the laws of any State.

§ 671.3 Relation to other laws.

(a) *Delegation.* The Assistant Administrator has delegated to the Regional Director authority to make in-season adjustments pursuant to § 671.27.

(b) *Other Agreements.* Certain responsibilities relating to the administration of this Part will be performed by personnel of the State of Alaska under the terms of an agreement with NOAA/NMFS and the United States Coast Guard.

§ 671.4 Reporting requirements.

(a) The operator of any fishing vessel subject to this Part whose port of landing is in the United States is responsible for the submission of an accurately completed State of Alaska fish ticket for each sale or delivery of any Tanner crab covered by this part.

(b) At the election of the vessel operator, the fish ticket shall be either: (1) Submitted by the vessel operator directly to the ADF&G within 72 hours after such Tanner crab are sold or delivered; or (2) prepared, at the request of the operator, by the purchaser (i.e., any person who receives Tanner crab for a commercial purpose from a fishing vessel subject to this part) and submitted by the purchaser to the ADF&G within 72 hours after such Tanner crab are received by the purchaser.

(c) In addition to the requirements of paragraphs (a) and (b) of this section, each operator (or purchaser, if the fish ticket is submitted in accordance with paragraph (b)(2) of this section) shall also accurately state on each such fish ticket: (1) Total time fished; (2) total number of pot lifts; and (3) quantity and type of gear used.

(d) The operator of any fishing vessel subject to this part whose port of landing is outisde the State of Alaska shall submit a completed State of Alaska fish ticket, or an equivalent document containing all of the information required on an Alaska fish ticket and in § 671.4(c), to the ADF&G within 72 hours after the date of each sale or delivery of any Tanner crab. (Sample alternative document reserved.)

§ 671.5 General prohibitions.

It is unlawful for any person to:

(a) Fish for, take, or retain Tanner crab in violation of the Act, this part, or any regulation or permit issued under the Act, including but not limited to the following: During closed seasons or in closed areas specified in Subpart B of this part; after closure of an area when a catch limitation is reached, or as otherwise announced by a field order issued under this part; or by means of gear or methods prohibited by this part;

(b) Take and retain Tanner crab in violation of § 671.22;

(c) Possess, have custody or control of, ship, transport, offer for sale, sell, purchase, import, land or export any Tanner crab taken in violation of the Act, this part, or any other regulation or permit issued under the Act;

(d) Refuse to permit an Authorized Officer to board a fishing vessel subject to such person's control for pur-

poses of conducting any search or inspection in connection with the enforcement of the Act, this part, or any other regulation or permit issued under the Act;

(e) Forcibly assault, resist, oppose, impede, intimidate or interfere with any Authorized Officer in the conduct of any search or inspection described in paragraph (d) of this section;

(f) Resist a lawful arrest for any act prohibited by this part; or

(g) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person knowing that such other person has committed any act prohibited by this part.

§ 671.6 Enforcement.

(a) *General.* The owner or operator of any fishing vessel subject to this part shall immediately comply with instructions issued by an Authorized Officer to facilitate safe boarding and inspection of the fishing vessel, its gear, equipment, and catch for purposes of enforcing the Act and this part.

(b) *Signals.* Upon being approached by a Coast Guard cutter or aircraft, or other vessel or aircraft authorized to enforce the Act, the operator of a fishing vessel shall be alert for signals conveying enforcement instructions. The following signals extracted from the International Code of Signals are among those which may be used:

(1) "L" meaning "You should stop your vessel instantly,"

(2) "SQ3" meaning "You should stop or heave to; I am going to board you," and

(3) "AA AA AA etc." which is the call to an unknown station.

(c) *Boarding.* A fishing vessel signalled to stop or heave to for boarding shall:

(1) Stop immediately and lay to or maneuver in such a way as to permit the Authorized Officer and his party to come aboard;

(2) If requested, provide a safe ladder for the Authorized Officer and party;

(3) When necessary to facilitate the boarding, provide a man rope, safety line and illumination for the ladder; and

(4) Take such other actions as necessary to ensure the safety of the Authorized Officer and party and to facilitate the boarding.

§ 671.7 Penalties.

Any person or fishing vessel found to be in violation of this part will be subject to the civil and criminal penalty provisions and forfeiture provisions prescribed in the Act, and 50 CFR Parts 620 (Citations) and 621 (Civil Procedures), and other applicable law.

Subpart B—Management Measures

§ 671.21 Optimum yield.

(a) *Table.* The optimum yield for Tanner crab for each Federal registration area is set forth in Table I. These specifications of optimum yield are effective for the fishing year beginning on January 1 and ending on December 31, 1979.

TABLE I

Registration area	Optimum yield (in metric tons) [1]	Species
Registration Area A (Southeast-Yakutat).	2,495	All.
Registration Area E (Prince William Sound).	3,175	All.
Registration Area H (Cook Inlet).	2,404	All.
Registration Area J:		
Kodiak district	11,340	All.
South Peninsula district	13,608	All.
Aleutian district	907	All.
Bering Sea district:		
South of 58°	40,381	*C. bairdi.*
	110,000	*C. opilio.*
North of 58°, west of 164°	17,268	All.

[1] Catches of Tanner crab in State of Alaska registration areas will be counted as part of the optimum yield specified for the contiguous Federal registration area.

(b) *Limitation.* The optimum yield for Tanner crab in each of the eight geographic areas in Table I is the maximum amount of Tanner crab which may be caught or harvested by fishing vessels subject to this Part in each respective area.

(c) *Field Orders.* If the Regional Director determines that the optimum yield in any geographic area specified in Table I will be reached, he shall issue a field order pursuant to § 672.27(a) prohibiting fishing for Tanner crab in that geographic area. Fishing for Tanner crab by vessels of the United States in the applicable geographic area is prohibited from the effective date of the field order.

§ 671.22 Size and sex-restrictions.

(a) *Female Tanner crabs.* No female Tanner crab may be retained.

(b) *Male Tanner crabs.* No male Tanner crab of the species *C. bairdi* measuring less than 5½ inches (140 mm) across the greatest width of the carapace may be retained, except that male Tanner crabs of the species *C. bairdi* in Federal registration area E (Prince William Sound) may be retained if they measure 5.3 inches (135 mm) or greater, across the greatest width of the carapace. The width measurement of Tanner crab is determined by measuring the greatest straight line distance across the carapace, including the spines, perpendicular to an imaginary line drawn between a point midway between the eyes and the midpoint of the posterior portion of the carapace.

(c) *General.* All female and undersized male Tanner crabs of the species *C. bairdi* must be returned to the sea immediately with a minimum of injury, regardless of their condition.

§ 671.23 Vessel registration.

(a) *Requirement.* Any vessel of the United States fishing for Tanner crab in any Federal registration area must be registered for fishing in such area pursuant to this section.

(b) *Applications.*

(1) The owner (or the owner's authorized agent) of a fishing vessel desiring to fish for Tanner crab in a Federal registration area, not registered for a State of Alaska registration area contiguous with such Federal registration area must submit to the Regional Director, within 30 days prior to the scheduled opening of fishing in the Federal registration area, a completed State of Alaska registration form to be used as a Federal form.

(2) A fishing vessel registered for a State of Alaska registration area will be deemed to be registered for the contiguous Federal registration area.

(c) *Registration certificate.* The registration certificate shall be signed by the owner (or the owner's authorized agent), shall be kept onboard by the operator at all times during fishing operations, and shall be shown by the operator upon request to any Authorized Officer.

(d) *Registration validation.* A registration certificate is not valid until the fishing vessel has complied with the inspection requirements contained in § 671.24. A valid registration certificate becomes invalid:

(1) Upon landing Tanner crab in a Federal registration area other than the area for which the vessel is registered (or other than the contiguous State of Alaska registration area); or

(2) Seventy-two (72) hours after the close of the season for the applicable Federal registration area, whichever occurs first.

(e) *Late registration.* The late registration of any fishing vessel may be permitted by the Regional Director in the case of the loss of a registered fishing vessel. For purposes of this paragraph, "loss of a registered fishing vessel" means that the fishing vessel is incapable of being used to take Tanner crab during the open Tanner crab season in the area for which it is registered. An application for late registration under this paragraph shall be documented by submission of adequate proof, in writing, concerning the loss of the vessel. The late registration shall be for the Federal registration area in which the lost fishing vessel was registered.

(f) *Expiration.* A registration certificate expires on the last day of the reg-

istration year. Registration for any subsequent year shall be obtained by re-application in accordance with the procedure set forth in this section.

(g) *Registration year.* The registration year shall be August 1 through July 31.

(h) *Exclusive registration areas.* (1) Federal registration areas E and H are exclusive registration areas. No fishing vessel registered for an exclusive Federal registration area may be registered for any other Federal registration area (exclusive or non-exclusive) during a registration year.

(2) A fishing vessel registered for an exclusive State of Alaska registration area may register only in the contiguous Federal exclusive registration area during that registration year.

(3) No operator of a fishing vessel registered for an exclusive Federal registration area may operate any other fishing vessel registered for any other exclusive Federal registration area.

(i) *Non-exclusive registration areas.* Federal registration areas A and J are non-exclusive registration areas. A fishing vessel may be registered for any or all of the non-exclusive Federal registration areas during any registration year.

§ 671.24 Vessel inspection.

(a) *Inspection.* (1) Within 72 hours prior to fishing for Tanner crab for the first time during an open season, each registered fishing vessel must have its holds and live tanks, if any, inspected by an Authorized Officer at an inspection point specified in paragraph (b) of this section.

(2) *Requirement.* A registration certificate will not be validated if there are Tanner crab on board the fishing vessel at the time of inspection.

(3) *Certificate.* No fishing vessel will be issued an inspection certificate unless a current registration certificate for the contiguous Federal registration area is displayed to the Authorized Officer conducting the inspection. The inspection certificate shall be signed by the current fishing vessel operator, shall be kept onboard by the operator at all times during fishing operations, and shall be shown by the operator upon request to any Authorized Officer.

(4) *Landings.* The operator of a fishing vessel landing Tanner crab in a Federal registration area other than the area for which the fishing vessel is registered (or other than in the contiguous State of Alaska registration area) must attach the inspection certificate to the back of the ADF&G copy (yellow copy) of the State of Alaska fish ticket at the time the Tanner crab are landed.

(b) *Inspection points.* Inspection points are those established by the ADF&G for State of Alaska purposes and by these regulations for Federal purposes. Additional inspection points may be authorized by the Regional Director if the Regional Director finds that:

(1) Existing inspection points are imposing an unusual and material hardship which affected fishermen cannot themselves mitigate; or

(2) The ADF&G has no practical means of making special administrative accommodations regarding existing inspection points; and

(3) Authorization of additional inspection points would not result in a significant likelihood of unauthorized fishing or other management or enforcement problems.

§ 671.25 Landing requirements.

(a) Except as provided in paragraph (b) of this section, all Tanner crab must be landed in the State of Alaska registration area contiguous to a Federal registration area for which the fishing vessel is registered.

(b) The operator of a fishing vessel who desires to land Tanner crab outside the State of Alaska, or in a State registration area other than the State registration area contiguous to a Federal registration area for which the fishing vessel is registered, shall contact, by radio or other means, an Authorized Officer prior to leaving the Federal registration area for which the fishing vessel is registered, and shall state to the Authorized Officer the amount of Tanner crab onboard at the time. A fishing vessel operator acting pursuant to this paragraph shall submit the vessel to inspection at such location as the Authorized Officer may require. The operator shall not land an amount of Tanner crab which is more than one hundred and ten (110) percent or less than ninety (90) percent of the amount stated to be present onboard upon leaving the Federal registration area, or observed to be present onboard at the time of any inspection.

(c) *Certificate validity.* If a fishing vessel lands Tanner crab pursuant to paragraph (b) of this section, the registration certificate of the fishing vessel becomes invalid. To again become validly registered for a Federal registration area, the fishing vessel must be reinspected pursuant to the procedures of § 671.24.

§ 671.26 Season and gear restrictions.

(a) *Season dates.* All season dates in this section are inclusive. Time periods begin at 12:01 a.m. and end at 11:59 p.m. on the dates specified, based on local zone time, unless otherwise specified.

(b) *General requirements.* (1) At least one buoy on each Tanner crab pot or ring net shall be legibly marked with the permanent ADF&G vessel license number of the fishing vessel using the gear or, if a fishing vessel does not have a permanent ADF&G vessel license number, with the official documentation number of the fishing vessel operating the gear. Identification numbers shall be painted on the top one-third of the buoy in numerals at least 4 inches in height and ½ inch in width in contrasting color to that of the buoy. The buoy markings shall be legible and visible on the buoy above the water surface when attached to the Tanner crab pot, and maintained in a legible condition.

(2) All Tanner crab pots shall contain an opening in the webbing of a side wall of the pot which has been laced, sewn or secured together by untreated cotton twine or other natural fiber no larger than 120 thread, which upon deterioration or parting of the twine produces an opening in the web with a perimeter equal to or exceeding one half of the tunnel eye opening perimeter.

(3) During a closed season for Tanner crab in any Federal registration area, Tanner crab pots shall either be removed from the water or stored in less than 25 fathoms (46 m) of water, with all doors secured fully open and all bait and bait containers removed, with the following exceptions:

(i) In the Kamishak Bay and Southern districts of the Cook Inlet area, the maximum pot storage depth is 15 fathoms (27 m);

(ii) Tanner crab pots with all doors secured fully open and with all bait and bait containers removed may be stored in water depth greater than the maximum permissible storage depth for 72 hours prior to the opening of the Tanner crab season, and for 72 hours after the season closure where the pots are fished;

(iii) Tanner crab pots may be stored in waters deeper than 25 fathoms (46 m) if specifically allowed by this section.

(c) *Registration Area A.* Tanner crab may be taken in Registration Area A from September 1 through May 1 only, subject to adjustment by the Regional Director pursuant to § 671.27.

(d) *Registration Area E*—(1) *Districts.* The following districts within Federal Registration Area E are established:

(i) *Western District:* All waters east of the longitude of Cape Fairfield (148°53' W. longitude) south of line from the southern entrance of Port Nellie Juan at 60°36' N. latitude to Point Eleanor (60°34'42" N. latitude, 147°34'6" W. longitude) to the eastern tip of Smith Island (60°31'54" N. latitude, 147°19' W. longitude) to Montague Point (60°22'18" N. latitude, 147°06'0" W. longitude), west of a line

from Zaikof Point (60°18'12" N. latitude, 146°55'42" W. longitude) to Seal Rocks (60°10' N. latitude, 146°50' W. longitude) and west of the longitude of Seal Rocks.

(ii) *Eastern District:* All waters east of the longitude of Seal Rocks (60°10' N. latitude, 146°50' W. longitude), east of a line from Seal Rocks, to Cape Hinchinbrook (60°15'54" N. latitude, 146°37'18" W. longitude), south of a line from Point Bentinck (60°23'24" N. latitude, 146°05'36" W. longitude) to Point Whitshed (60°26'36" N. latitude, 145°53'12" W. longitude), and west of the longitude of Cape Suckling (51°59' N. latitude, 143°53'36" W. longitude).

(iii) *Hinchinbrook District:* All waters east of a line from Montague Point to the eastern tip of Smith Island, south of a line from the eastern tip of Smith Island to Johnstone Point (60°28'48" N. latitude, 146°37'18" W. longitude), north and east of a line from Cape Hinchinbrook to Seal Rocks (60°10' N. latitude, 146°50' W. longitude), and east of a line from Seal Rocks to Zaikof Point.

(2) *Seasons.* Tanner crab may be taken in Registration Area E from November 15 through May 31 only, subject to adjustment by the Regional Director pursuant to § 671.27.

(3) *Gear.* (i) Only Tanner crab pots may be used to fish for Tanner crab. Tanner crab taken by any other means must be returned immediately to the sea, with a minimum of injury, regardless of their condition.

(ii) Two escape rings, 4¾ inches (121 mm) in minimum inside diameter, so located on the vertical plane to permit the escape of undersized crabs, shall be provided for each Tanner crab pot.

(e) *Registration Area H*—(1) *Districts.* The following districts within Registration area H are established:

(i) *Central District.* All waters between a line extending from Boulder Point at 60°46'23" N. latitude, to Shell Platform C (60°45'50" N. latitude, 151°30'08" W. longitude), then to a point on the west shore at 60°46'23" N. latitude, and the latitude of Anchor Point Light (59°40'12" N. latitude, 151°52' W. longitude).

(ii) *Southern District.* All waters within a line from Anchor Point Light west to 59°46'15" N. latitude, 152°20' W. longitude, then south to 59°04'15" N. latitude, 152°20' W. longitude, then in a northeasterly direction to Cape Elizabeth (59°9'12" N. latitude; 151°53'18" W. longitude), then from Cape Elizabeth to Point Adam (59°15'12" N. latitude; 151°58'48" W. longitude), including Kachemak Bay.

(iii) *Kamishak Bay District.* All waters within a line from 59°46'15" N. latitude, 153°00'30" W. longitude, then east to 59°46'15" N. latitude, 152°20" W. longitude, then south to 59°04'15" N. latitude, 152°20" W. longitude, then southwesterly to Cape Douglas (58°50'54" N. latitude, 153°16'24" W. longitude), including Kamishak Bay.

(iv) *Barren Islands District.* All waters within a line from Cape Douglas to Cape Elizabeth, then south to 58°52' N. latitude, 151°53' W. longitude, then west to Cape Douglas.

(v) *Outer District.* All waters with a line from Point Adam to Cape Elizabeth, then south to 58°52' N. latitude, 151°53' W. longitude, then east to the longitude of Aligo Point (149°44'33" W. longitude), then north to the mainland of Alaska.

(vi) *Eastern District.* All waters east of the longitude of Aligo Point (149°44'33" W. longitude), west of the longitude of Cape Fairfield (148°53' W. longitude), and north of 58°52' N. latitude.

(2) *Seasons.* (i) Tanner crab may be taken in the Southern district from December 1 through April 30 only, subject to adjustment by the Regional Director pursuant to § 671.27.

(ii) Tanner crab may be taken in the Central, Kamishak Bay, Barren Islands, and Outer and Eastern Districts from December 1 through May 31 only, subject to adjustment by the Regional Director pursuant to § 671.27.

(3) *Gear.* During any king crab season established by the State of Alaska an aggregate of not more than 75 king and Tanner crab pots (including Tanner crab pots used in State waters) may be fished in Registration Area H from any registered tanner crab vessel.

(f) *Registration Area J*—(1) *Districts.* The following districts within registraton area J are established:

(i) *Kodiak District.* South of 58°52' N. latitude, west of 150° longitude and east of the longitude of Cape Kumlik (157°27' W. longitude).

(ii) *South Peninsula District.* Between the longitude of Cape Kumlik and the longitude of Scotch Cap Light (164°44'6" W. longitude).

(iii) *Aleutian District.* Between the longitude of Scotch Cap Light (164°44'6" W. longitude) and 172° E. longitude, and south of 54°36' N. latitude.

(iv) *Bering Sea District.* Bering Sea waters north of 54°36' N. latitude. The following subdistricts within the Bering Sea District are established:

(A) *Southeastern Subdistrict.* East of 168° W. longitude, and south of the latitude of Cape Newenham (58°39' N. latitude), and all Bristol Bay waters.

(B) *Pribilof Subdistrict.* West of 168° W. longitude and south of the latitude of Cape Newenham (58°39' N. latitude).

(C) *Northern Subdistrict.* North of the latitude of Cape Newenham (58°39' N. latitude). The following sections within the Northern Subdistrict are established:

(1) *Nome Section.* All waters of Norton Sound between the longitude of Penny River and the longitude of Tophok Head.

(2) *General Section.* All other waters of the northern subdistrict.

(3) *Seasons.* Subject to adjustment by the Regional Director pursuant to § 671.27, Tanner crab may be taken in Federal Registration Area J:

(i) In the Kodiak district from January 5 through April 30 only, except that in that portion of the Kodiak district between 156°20'13" W. longitude (Kilokak Rocks) to 157°27' W. longitude (Cape Kumlik) Tanner crab may be taken from January 5 through May 15 only.

(ii) In the South Peninsula district from November 1 to 12:00 noon, May 15 only;

(iii) In the Aleutian district from November 1 to 12:00 noon, June 15 only; and

(iv) In the Bering Sea district from 12:00 noon November 1 to 12:00 noon June 15 only, except that Tanner crab other than *C. bairdi* may be taken or possessed from 12:00 noon November 1 to 12:00 noon September 3 only.

(4) *Storage of Gear.* During the closed season for Tanner crab in the applicable geographic area, Tanner crab pots may be stored in the water only if stored:

(i) In the waters which are both west of 172° W. longitude and 30 fathoms (55 meters) or less in depth; or

(ii) In the Southeastern Subdistrict, in the waters which are bounded on the north by 58° N. latitude, on the south by 57° N. latitude, on the east by 164° W. longitude and on the west by 166° W. longitude.

§ 671.27 Time and area closures.

(a) *Field orders.* (1) Field orders issued by the Regional Director under this part shall include the following information: (i) A description of the area to be opened or closed; (ii) the effective date and any termination date of such opening or closure; and (iii) the reason for the opening or closure.

(2) No field order issued under this section shall be effective until:

(i) It is filed for publication with the FEDERAL REGISTER;

(ii) It has been posted and otherwise made available to the public, in accordance with procedures customarily used by the ADF&G for posting and publicizing of similar notices of closure for 48 hours prior to its effective date; and

(iii) It has been broadcast, at those time intervals, channels and frequencies customarily used by the ADF&G to broadcast similar notices of closure, for 48 hours prior to its effective date.

(3) Field orders issued pursuant to this section shall remain in effect until the earlier of the following dates: (i) Any expiration date stated in the field order; or (ii) the effective date of any field order which modifies, rescinds, or supersedes the initial field order.

(b) *In-season adjustments*—(1) *General.* The Regional Director may, following consultation with the ADF&G, adjust the opening and closing dates for the Federal registration areas, districts, subdistricts, and sections specified in § 671.26.

(2) *Determinations.* Any adjustment under this section shall be based on a determination by the Regional Director that (i) the condition of Tanner crab stocks in any such geographic area is substantially different from the condition anticipated at the beginning of the fishing year, and (ii) such differences reasonably support the need for in-season conservation measures to protect such Tanner crab stocks.

(3) *Data.* Fishery data reported in-season which relate to one or more of the following factors may be considered in making this determination:

(i) The effect of overall fishing effort within the area;

(ii) Catch per unit of effort and rate of harvest;

(iii) Relative abundance of Tanner crab within the area in comparison with pre-season prediction;

(iv) The proportion of immature or softshell Tanner crab being handled;

(v) General information on the condition of Tanner crab within the area; and

(vi) Any other factors relevant to the conservation and management of Tanner crab.

(4) *Procedures.* (i) The Regional Director shall publish proposed adjustments in the FEDERAL REGISTER for public comment before they are made final, unless the Regional Director finds for good cause that such advance notice and public procedure are impracticable, unnecessary, or contrary to the public interest.

(ii) If the Regional Director decides, for good cause, that any in-season adjustment is to be made without affording a prior opportunity for public comment, public comments on the necessity for, and extent of, the adjustment will be received by the Regional Director for a period of 15 days after the effective date of the adjustment.

(iii) During any such 15-day period, the Regional Director shall make available for public inspection, during business hours, the aggregate data upon which the adjustment was based. (Address: National Marine Fisheries Service, Alaska Regional Office, Federal Building, Room 453, 709 West Ninth Street, Juneau, Alaska 99802).

(iv) If comments are received during the 15-day period, the Regional Director shall reconsider the necessity for the adjustment and, as soon as practicable after that reconsideration, shall either: (A) Publish in the FEDERAL REGISTER a notice of continued effectiveness of the adjustment, responding to comments received; or (B) modify or rescind the adjustment.

(5) *Notice of adjustments.* The Regional Director shall give notice of in-season adjustments by issuance of field orders in accordance with the procedures in paragraph (a) of this section.

(c) *Optimum yield.* No action which has the effect of raising the optimum yield for Tanner crab in any geographic area as specified in Table I of § 671.21(a) is authorized under this section.

(d) *Prohibition.* Any fishing for Tanner crab contrary to a field order issued under this section is prohibited.

[FR Doc 78-33966 Filed 12-1-78; 3:36 pm]

proposed rules

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 910]

HANDLING OF LEMONS GROWN IN CALIFORNIA AND ARIZONA

Proposed Amendment of Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice proposes amending the rules and regulations to permit the optional use of upward adjustments by handlers in Districts 1 and 3, during the balance of the 1978-79 season, of not to exceed 100 percent of their average weekly pick. This would allow such handlers the option of receiving a larger proportion of their allotment earlier in the season, and enable them to use their proportionate share of the marketing opportunity more advantageously.

DATES: Comments must be received by December 21, 1978. Proposed effective dates: January 1, 1979, through July 31, 1979.

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

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: The rules and regulations (Subpart—Rules and Regulations; 7 CFR 910.100-910.180) are effective pursuant to the applicable provisions of the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The proposed amendment of said rules and regulations was recommended by the Lemon Administrative Committee, established under the order as the agency to administer its terms and provisions.

Under the order the prorate base of each handler is based upon his average weekly pick (the average weekly amount of lemons harvested and delivered to such handler's pickinghouse during a specified number of weeks preceding the computation date). In recognition of the fewer number of weeks during which lemons are harvested in Districts 1 and 3, the order provides that the handlers in such districts may request and be granted an upward adjustment in their average weekly pick to accelerate their receipt of allotment during the first half of their season, subject to payback during the last half of their season of the extra allotment received. The order provides in § 910.53(h) that the percentage of adjustment, currently set at not to exceed 50 percent in §§ 910.53(f)(1) and 910.153(e)(3), may be changed.

The committee reports that, due to the conditions expected to prevail during the balance of the 1978-79 season, the percentage of adjustment permitted should be changed to permit the optional use of upward adjustments by handlers in Districts 1 and 3 of not to exceed 100 percent of their average weekly pick. This would allow such handlers the option of receiving a larger proportion of their allotment earlier in the season, and enable them to use their proporationate share of the marketing opportunity more advantageously.

This added flexibility would be provided by an amendment to § 910.153(e)(3) Subpart—Rules and Regulations (7 CFR Part 910.100-910.180). As proposed to be so amended, § 910.153(e)(3) would read as follows:

§ 910.153 Prorate bases and allotments.

* * * * *

(e) * * *

(3) *Granting of upward adjustment for Districts 1 and 3 applicants.* Upon receiving a duly filed application for an upward adjustment by a District 1 or 3 handler pursuant to § 910.53(f)(1) the committee shall adjust the average weekly pick of such handler by increasing such picks in the amount requested, but not in excess of 50 percent of his average weekly pick: *Provided, however,* That during the period January 1, 1979, through July 31, 1979, upon request of any such handler, the committee shall adjust such handler's average weekly pick in the amount requested but not in excess of 100 percent. * * *

* * * * * *

Dated: December 1, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

FR Doc. 78-33968 Filed 12-5-78; 8:45 am]

[1505-01-M]

[7 CFR Part 1062]

[Docket No. AO-10-A 53]

MILK IN THE ST. LOUIS-OZARKS MARKETING AREA

Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order

Correction

In FR Doc. 78-32809 appearing on page 54642 in the issue of Wednesday, November 22, 1978, the following corrections should be made:

1. On page 54643 in the 3rd column, the 1st paragraph, the 1st word in the last sentence should begin with "They . . ." instead of "The . . .".
2. On page 54644 in the 3rd column, the 3rd paragraph, the 14th line should read, ". . . form price at the Lebanon plant would . . .".
3. On page 54645, in the 1st column, the 3rd full paragraph, the 13th line, the last word should be "proceeding".
4. In the 2nd column, the 3rd line should read, "under the St. Louis-Ozarks order as a result of having greater sales in the St. Louis-Ozarks market for [only one month.]".
5. On page 54646 in the middle column, the 2nd paragraph, the 5th line, the 1st word, should read, "producers" instead of "procedures".
6. On page 54647 in the 1st column, the 4th paragraph, the 7th line should read, ". . . each producer. This change will pro-[vide]".
7. In the middle column, the 5th paragraph should read, "Kraft proposed that during each of the months of September through February at least one day's production of milk of a dairy farmer must be . . .".

8. On page 54647 in the middle column, the 4th paragraph, the 2nd and 3rd sentences should read, "The witness stated that Kraft plans to divert milk from its pool supply plant at Springfield, Mo., to its nonpool plants at Bentonville, Berryville and Springfield beginning in the fall months of 1978. Under the present order provisions, milk diverted to Bentonville and Berryville from Springfield would be priced at Springfield because these two locations are within 120 miles of Springfield."

9. On page 54648 in the 1st column, the 4th paragraph should read, "One of proponent's concerns was that milk which is diverted to its plants at Bentonville and Berryville be priced at the same level. The present provisions provide that milk diverted to nonpool plants within 120 miles of Springfield or St. Louis shall be priced at the plant from which diverted. Since the Bentonville and Berryville plants are within 120 miles of Springfield, any milk diverted by Kraft from the Springfield plant to such locations will receive the same price."

10. In the middle column, the 1st paragraph, the 15th and 21st lines, the words, "producers" and "previous" should replace, "procedures" and "prövious", respectively.

11. The middle column, the 2nd sentence should read, "The money is deducted by the market administrator in the computation of the blend price and is turned over to an agency composed of pro-[ducer representatives.]".

12. In the 3rd column, the 2nd paragraph, the 1st sentence should read, "At the request of the cooperative, a representative of the United Dairy Industry Association presented data in support of the cooperative's position that additional funds are needed by the agency."

13. Also, in the 3rd column, the 4th paragraph, the 2nd sentence should read, "He stressed that while he was not opposed to advertising and promotion he felt that the higher assessment to producers would be passed on to Kroger through the price that producers charge Kroger for milk.".

14. On page 54649 in the 1st column, the 1st full paragraph, the last sentence should read, "The funding rate adopted herein is in line with these costs increases for newpaper and radio advertising."

15. Also, in the 3rd full paragraph, the 8th line should read, "equal to .72 percent of the weighted . . ."

16. On page 54650 in the middle column, § 1062.7(d)(3), the word, "plan" should read, "plant".

17. Also, the last sentence in that column should read, "2. Section 1062.13 is revised to read as follows:".

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

[10 CFR Part 50]

DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Acceptance Criteria for Emergency Core Cooling Systems for Light-Water-Cooled Nuclear Power Plants

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The U.S. Nuclear Regulatory Commission is considering amending its regulations to change certain technical as well as nontechnical requirements within the existing emergency core cooling system rule. Modifications under consideration would take into account (1) experience gained in the licensing process, (2) new research information, and (3) operating experience. This notice is to invite advice and recommendations on several questions concerning the acceptance criteria for emergency core cooling systems in light-water-cooled nuclear power plants. There will be a later opportunity for public comment in connection with any proposed rules that may be developed by the Commission.

DATES: Comment period expires February 5, 1979.

ADDRESSES: Interested persons are invited to submit written comments and suggestions to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments received by the Commission may be examined in the Commission's Public Document Room at 1717 H Street, N.W., Washingon, D.C.

FOR FURTHER INFORMATION CONTACT:

Mr. James A. Norberg, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, phone 301-443-5921.

SUPPLEMENTARY INFORMATION:

HISTORICAL BACKGROUND

Emergency core cooling systems (ECCS) were recognized in 1966 as important engineered safety features for mitigating the consequences of a postulated loss-of-coolant-accident (LOCA) in light-water-cooled nuclear power plants. During the period 1966 to 1971 extensive research programs were initiated to better understand the LOCA and several comprehensive reviews were made to evaluate the adequacy of ECCS. ECCS designs submitted for licensing safety evaluation were reviewed on a case-by-case basis.

By 1971, much significant research information on the LOCA/ECCS had been obtained, and the Regulatory staff had acquired extensive experience in its licensing review of over 50 ECCS designs. Included in this experience was the large amount of staff time spent in individual ECCS-related licensing reviews. In some cases new evaluation models, assumptions, and parameters were proposed for each successive plant.

To alleviate this situation, an Interim Policy Statement (IPS) providing specific guidance on ECCS evaluations and based on the then current state of knowledge of LOCA/ECCS was developed. The IPS was issued by the Commission immediately effective on June 29, 1971. However, following public comment, the Commission announced its decision on November 30, 1971, to hold a rulemaking hearing to determine whether the IPS should be retained as issued or whether different criteria should be adopted.

A rulemaking hearing, convened in January 1972, generated an extensive record of discussion and evaluation of the available evidence (i.e., experimental results and analytical models) pertinent to LOCA/ECCS. The complete hearing record was certified to the Commission for the Commission's use in making its determination of policy on ECCS. Based on this record, the Commission Opinion of December 28, 1973 (CLI-73-39, 6 AEC 1085) was issued, providing the basis for the ECCS rule 10 CFR § 50.46, "Acceptance Criteria for Emergency Core Cooling Systems for Light Water Nuclear Power Reactors," and Appendix K, "ECCS Evaluation Models," to 10 CFR Part 50 (published in the FEDERAL REGISTER January 4, 1974).

In its Opinion, the Commission carefully considered the different views produced by the record and decided on the criteria and the required and acceptable features of the ECCS evaluation models. The Commission stated its belief that the margin provided by these criteria and their inherent conservative features would be adequate to assure core cooling should a design basis LOCA ever occur.

The Commission in its Opinion also stated its intent to provide latitude for change when new research information became available.

For many years, the Commission (and its predecessor agency, the Atomic Energy Commission) have had programs of experimental and theoretical research related to ECCS performance. The rulemaking Opinion noted the ongoing research programs of the Commission and the nuclear industry, and their potential for improved knowledge (6 AEC 1085, 1088,

1094, 1103, 1120, 1124, 1129). The government and industry ECCS research programs have produced significant new information in the years since the rulemaking. Furthermore, the Commission has acquired significant experience in using the ECCS rule, through its review of many ECCS evaluation models and licensing of ECCS designs.

In order to utilize new technical information and experience in the licensing process, the Commission is considering modifying the ECCS rule with both procedural changes and technical changes. The procedural changes provide improvements to the rule which would eliminate difficulties previously encountered in applying the rule. The technical changes would be in the direction of improving the realism of ECCS licensing evaluation in the light of present knowledge, while preserving a level of conservatism consistent with that knowledge.

Summary of Proposed Rule Changes

The Commission is considering the intiation of rulemaking in two phases, as follows:

PHASE 1 (SHORT TERM)

Initiate rulemaking for procedure-oriented and certain specific technical changes in the ECCS rule. These rule changes are expected to have little impact on the overall conservatism of the rule, and such changes are anticipated to require a minimum of time and effort to implement.

PHASE 2 (LONG TERM)

In parallel with Phase 1, initiate development of the bases for a more comprehensive rulemaking action to incorporate new knowledge and operating experience into the ECCS rule. This effort would include assessing the impact of proposed changes on the overall conservatism of the rule. As part of the overall assessment of conservatism, a systematic review of all relevant information will be performed to ensure that it is appropriately considered. No information on decay heat and zirconium-water reaction would be considered together with all other new information, including any adverse results (for example, discrepancies in the pretest prediction of significant research test results, uncertainties associated with the prediction of counter-current flow phenomena and core spray distribution, and the possibility of steam generator tube failures). If, during this review, it is determined that any information requires more specific treatment than is presently provided in Appendix K or in present licensing practices, appropriate rulemaking action will be taken.

The Commission staff is presently assessing the impact on the overall conservatism of the rule of the proposed Phase 1 changes. Concurrently, the staff is developing the methodology for assessing the technically complex Phase 2 changes. It is expected that the Phase 1 assessment will be completed within six months. A completion time for the Phase 2 assessment has not been established, but this assessment is expected to take several years to complete. In each case, the drafting of the proposed rule could begin with the end of the assessment.

Specific Considerations

The following specific areas are under consideration by the Commission for proposed rulemaking:

PHASE 1 (SHORT TERM) PROCEDURE-ORIENTED AND CERTAIN SPECIFIC TECHNICAL RULE CHANGES

1. *Reanalysis Requirements.* a. *Reanalysis Requirements for Construction Permit Applications.* Changes to 10 CFR § 50.34 would allow for certain corrections to be made to vendor ECCS computer analysis codes during the construction permit review or during construction of the plant without a complete reanalysis of ECCS performance in compliance with 10 CFR § 50.34 until the operating license review. Criteria would be provided to define the bounds within which the corrections could be accepted without plant specific reanalysis.

b. *Reanalysis Requirements for Operating License Applications and Licensed Plants.* The changes to 10 CFR § 50.34 would dispense with ECCS performance recalculations in the event of corrections to vendor ECCS computer analysis codes if it is demonstrated, on a generic basis, that the model changes reduce the peak cladding temperature and if no change in plant technical specifications is involved.

2. *Return to Nucleate Boiling.* The changes would allow an assumption of a return to nucleate boiling during the blowdown phase of the LOCA when supported by applicable data. This change would involve modifications to 10 CFR Part 50, Appendix K, paragraph I.C.4.e. The objective of this change is to allow use of recent data on rewetting.

3. *Steam Cooling Requirements for Flooding Rates Below One Inch Per Second.* The changes would delete the requirement [Appendix K, paragraph I.D.5] that heat transfer calculations be based on the assumption that cooling is only by steam for flooding rates below one inch per second and replace it with a requirement that heat transfer calculations be based on applicable experimental data appropriately accounting for flow blockage if it is predicted to occur.

4. *Transition Boiling Correlation Reference.* This change would replace the reference to the transition boiling correlation in Appendix K, paragraph I.C.5. with an improved reference in a later publication by the same authors.

Items 2 and 3 above constitute certain specific technical changes to the present rule. However, recent assessments strongly indicate that these changes do not significantly affect the overall conservatism of the rule. Therefore, these changes will be considered along with the procedural changes of items 1 and 4 above. The results of the assessment which show that these changes have a negligible impact on the overall conservatism of the rule will be made available as part of the rule making process.

PHASE 2 (LONG TERM) RULE CHANGES BASED ON NEW INFORMATION FROM RESEARCH AND OPERATING EXPERIENCE

The following changes to the ECCS rule based on new information from research and operating experience are being considered by the Commission;

1. *Research Information.* a. *Fission Product Decay Heat Rate.* The changes would involve revising paragraph I.A.4 of Appendix K which assumes a heat generation rate from radioactive decay of 1.2 times the October 1971 ANS Proposed Standard[1] to another specified decay heat rate consistent with present knowledge. Consideration will be given to the combination of uncertainties in decay heat with uncertainties in initial heat rate.

b. *Zircaloy Oxidation Rate.* The changes would involve revising paragraph I.A.5. of Appendix K from the Baker-Just equation[2] of May 1962 to a calculation method based on present knowledge and needed conservatism. In addition, the basic performance requirement set forth in § 50.46(b)(2) that "the calculated total oxidation of the cladding shall nowhere exceed 0.17 times the total cladding thickness before oxidation" would also be reexamined to ensure consistency with the new data on strength and ductility of partially oxidized zircaloy.

c. *Additional Data.* The changes will include any changes to the ECCS rule needed to take into account new information that indicates the present rule is less conservative than previously believed, such as (1) the delay of emergency coolant injection caused by heat transfer to the coolant from hot walls and (2) less favorable distribution of BWR ECCS core spray.

2. *Operating Experience.* The changes will include any revisions to the ECCS rule needed to account for phenomena not specifically identified at the time the rule was promulgated but that have since been identified through operating experience as having a significant effect on ECCS performance. Such revisions will be identified during the development of the proposed rule.

During the development of the proposed rule changes, an assessment will be made of the impact of the proposed changes on the overall conservatism of the ECCS rule. The impact assessment will include a reassessment of the requirements presently specified in Appendix K in light of current information (e.g., statistical combination of heat sources) as well as consideration of other phenomena of importance to ECCS performance that have been

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[1] Proposed American Nuclear Society Standards—"Decay Release Rates Following Shutdown of Uranium-Fueled Thermal Reactors," approved by Subcommittee ANS-5, ANS Standards Committee, October 1971.

[2] Baker, L. C., "Studies of Metal Water Reactions at High Temperatures, III. Experimental and Theoretical Studies of the Zirconium-Water Reactor," ANL-6548, page 7, May 1962.

identified since the promulgation of Appendix K (e.g., new semiscale and LOFT test results, steam generator tube ruptures, countercurrent flow phenomena, BWR core spray distribution, subcooled break flow). A methodology will be developed for assessing the impact of proposed technical changes on the overall conservatism of the rule.

Advice and recommendations on the proposed areas of revision to the acceptance criteria for emergency core cooling systems in light-water-cooled nuclear power plants are invited from all interested persons. Specifically, comments are requested on the following questions:

1. Under what circumstances should corrections to ECCS models be used during licensing review without necessitating complete reanalysis of a given plant or an entire group of plants?
2. What would be the impact of the proposed procedure-oriented and certain specific technical rule changes?
3. How should safety margins be quantified and how can acceptable safety margins best be specified?
4. What phenomena have been identified since promulgation of the ECCS rule that are significant to ECCS performance and that are not adequately considered in the existing ECCS rule, in light of current knowledge and experience, or in current licensing practices?
5. How should the ECCS rule provide for the inclusion of new research information and operating experience? Can or should this be done on a continuing basis? How should provision of acceptable margins be handled in such a process?

The Commission has concluded preliminarily that the procedure-oriented and certain technical changes (Phase 1) to the emergency core cooling system rule would not constitute a major Federal action significantly affecting the quality of the human environment and as such will not require the preparation of an environmental impact statement pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA).

In view of the uncertainty regarding the possible technical changes to the ECCS rule based on new information from research and operating experience (Phase 2), the Commission cannot make a determination at this time concerning the possible need for an environmental impact statement. Any proposal for rulemaking action along these lines will include a Commission determination whether or not an environmental impact statement should be prepared for that action.

(5 U.S.C. 552; Sec. 161, Pub. L. 83-703, 68 Stat. 948; Sec. 201, Pub. L. 93-438, 88 Stat. 1242 (42 U.S.C. 2201, 5841).)

Dated at Washington, D.C., this 30th day of November 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-33943 Filed 12-5-78; 8:45 am]

[4710-08-M]

DEPARTMENT OF STATE

[22 CFR PART 151]

[Docket No. SD—140]

COMPULSORY LIABILITY INSURANCE FOR DIPLOMATIC MISSIONS AND PERSONNEL

Notice of Proposed Rulemaking

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: The Department of State proposes to add new regulations to 22 CFR as Subchapter P—Diplomatic Privileges and Immunities. These regulations specify the insurance required of all diplomatic missions, members of missions and their families, and officials of the United Nations entitled to diplomatic immunity, including the limits of liability, and describe the evidence of insurance necessary before the Department of State endorses applications for diplomatic automobile license plates or exemptions from registration fees.

DATES: Written comments must be received by February 2, 1979. In addition, interested persons may offer comments orally at a public meeting to be held at 10 a.m., February 5, 1979, at Room 1912, Department of State, 2201 C Street NW., Washington, D.C. 20520. Written notification of intent to offer oral comments at this public meeting must be received by February 2, 1979.

ADDRESS: Written comments and written intention to attend the meeting and offer oral comments should be sent to David P. Stewart, Special Assistant, Office of the Legal Adviser, Room 6423, 2201 C Street NW., Washington, D.C. 20520.

FOR FURTHER INFORMATION CONTACT:

David P. Stewart, Department of State, Washington, D.C., telephone 202-632-2149.

SUPPLEMENTARY INFORMATION: The Diplomatic Relations Act, Pub. L. 95-393, September 30, 1978 (22 U.S.C. 254a et seq., 28 U.S.C. 1364 will become effective December 29, 1978. As of that date, previous statutes on diplomatic immunity dating from the eighteenth century will be repealed and the privileges and immunities provisions of the 1961 Vienna Convention on Diplomatic Relations (23 UST 3227, 500 UNTS 95), will be established as the United States law on diplomatic immunity.

Section 6 of the Act requires diplomatic missions, members of missions, their families, and senior officials of the United Nations who are entitled to diplomatic immunity to have and maintain liability insurance against risks arising from their operation of motor vehicles, vessels, or aircraft. The President is directed to establish the requirements for this liability insurance by regulation. Executive Order 12101 (43 FR 54195) delegates to the Secretary of State the authority to prescribe these regulations.

In consideration of the foregoing, it is proposed to amend Chapter I of 22 CFR, by adding a new Subchapter P, to read as follows:

SUBCHAPTER P—DIPLOMATIC PRIVILEGES AND IMMUNITIES

PART 151—COMPULSORY LIABILITY INSURANCE FOR DIPLOMATIC MISSIONS AND PERSONNEL

Sec.
151.1 Purpose.
151.2 Definitions.
151.3 Types of insurance coverage required.
151.4 Minimum limits for motor vehicle insurance.
151.5 Recommended limits for motor vehicle insurance.
151.6 Authorized insurer.
151.7 Policy terms consistent with the Act.
151.8 Evidence of insurance for motor vehicles.
151.9 Evidence of insurance required for diplomatic license plates and waiver of fees.
151.10 Minimum limits of insurance for aircraft and/or vessels.
151.11 Notification of ownership, maintenance, or use of vessel and/or aircraft; evidence of insurance.

AUTHORITY: Sec. 4, 63 Stat. 111 (22 U.S.C. 2658); Sec. 6 Pub. L. 95-393 (92 Stat. 809, 22 U.S.C. 254c); E.O. 12101 (43 FR 54195).

§ 151.1 Purpose.

This part establishes regulations required under section 6 of the Diplomatic Relations Act (Pub. L. 95-393; 22 U.S.C. 254c). These regulations require all missions, members of missions and their families, and those officials of the United Nations who are entitled to diplomatic immunity to have and maintain liability insurance against the risks of bodily injury, including death, and property damage, including loss of use, arising from the ownership, maintenance, or use in the United States of any motor vehicle, vessel, or aircraft.

§ 151.2 Definitions.

(a) "Act" means the Diplomatic Relations Act, Pub. L. 95-393 (22 U.S.C. 254a et seq., 28 U.S.C. 1364).

(b) "Persons subject to the Act" means the members of missions who

are entitled to diplomatic immunity and their families as defined in section 2 of the Act, and senior United Nations officials.

(c) "Missions" means missions as defined in Section 2 of the Act.

(d) "Senior United Nations official" means a United Nations official entitled to diplomatic immunity as provided in § 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946 (21 UST 1418; 1 UNTS 16).

(e) "Insurance" means insurance as required by the Act and these regulations.

§ 151.3 Types of insurance coverage required.

(a) Every person subject to the Act and every mission shall have and maintain with respect to any motor vehicle, vessel or aircraft owned by, leased to, or furnished for the regular use of every such person or mission liability insurance in accordance with the form, terms, and conditions provided for in these regulations.

(b) The insurance shall provide coverage against the following risks to third parties arising from the ownership, maintenance, or use in the United States of any motor vehicle, vessel, or aircraft:

(1) Bodily injury, including death;

(2) Property damage, including loss of use; and

(3) Any additional coverage required to be included in liability insurance policies by the jurisdiction where the motor vehicle, vessel or aircraft is principally garaged, berthed, or kept, such as uninsured motorist coverage or first party no-fault coverage.

§ 151.4 Minimum limits for motor vehicle insurance.

The insurance shall provide not less than the minimum limits of liability specified in the financial responsibility, compulsory insurance or other law of the jurisdiction where the motor vehicle is principally garaged.

§ 151.5 Recommended limits for motor vehicle insurance.

Every person subject to the Act and every mission should have and maintain insurance adequate to afford reasonable compensation to accident victims. Minimum limits of liability of $100,000 per person and $300,000 per incident for bodily injury, including death, and $50,000 per incident for property damage, including loss of use, are recommended to meet this objective.

§ 151.6 Authorized insurer.

The insurance must be issued by an insurer licensed to do business in the jurisdiction where the motor vehicle, vessel or aircraft is principally garaged, berthed or kept.

§ 151.7 Policy terms consistent with the Act.

The insurance shall be construed in conformity with the Act. In particular, no effect shall be given to any policy terms which are inconsistent or in conflict with those provisions of the Act stating that any suit against the insurer under the policy shall not be subject to any of the following defenses:

(a) That the insured is immune from suit;

(b) That the insured is an indispensable party; or

(c) In the absence of fraud or collusion, that the insured has violated a term of the contract, unless the contract was canceled before the claim arose.

§ 151.8 Evidence of insurance for motor vehicles.

(a) Every mission must periodically furnish evidence satisfactory to the Department of State that the required insurance is in effect for the mission, its members and their families.

Every senior United Nations official must also periodically furnish evidence satisfactory to the Department of State that the required insurance is in effect.

(b) The Department of State will accept as satisfactory evidence that the required insurance is in effect:

(1) A written statement of self-certification signed by the Chief of Mission, indicating that the mission, its members and their families have and will maintain insurance throughout the period of registration of all vehicles owned or leased or otherwise regularly used, and showing the name of the insurance company or companies and identifying each policy by number and name of insured; and

(2) A written statement of self-certification signed by a senior United Nations official, indicating that the official has and will maintain insurance throughout the period of registration on all motor vehicles owned or leased or otherwise regularly used, and showing the name of the insurance company or companies and identifying each by number and name of insured.

(c) A certificatin under paragraph (b) of this section by a Chief of a Mission to the United Nations or by a senior United Nations official shall be delivered to the Counselor for host country affairs of the United States Mission to the United Nations. All other certifications shall be delivered to the Chief of Protocol, Department of State.

§ 151.9 Evidence of insurance required for diplomatic license plates and waiver of fees.

The Department of State will not endorse on behalf of any person subject to the Act or any mission any application for diplomatic motor vehicle license plates or any application for waiver of motor vehicle registration fees without prior receipt of satisfactory evidence that the required insurance is in effect.

§ 151.10 Minimum limits of insurance for aircraft and/or vessels.

Insurance in respect of vessels and/or aircraft shall provide limits of liability adequate in light of reasonably foreseeable risks from the ownership, maintenance, or other regular use of vessels and/or aircraft.

§ 151.11 Notification of ownership, maintenance or use of vessel and/or aircraft; evidence of insurance.

(a) Each person subject to the Act and each mission must notify the Department of State in writing of the ownership, maintenance or other regular use of a vessel or aircraft in the United States by such mission or person.

(b) Notices under paragraph (a) of this section shall identify the vessel and/or aircraft with specificity, including model and manufacturer's name, and serial and registration numbers. Each notification shall be accompanied by a copy of the insurance policy or policies issued in respect of the vessel and/or aircraft. Such policy or policies need not be issued by the insurer providing liability insurance for motor vehicles.

(c) With regard to senior United Nations officials, missions to the United Nations and members of such missions as have diplomatic status and their families, notices and evidence of insurance under this section shall be delivered to the Counselor for Host Country Affairs of the United States Mission to the United Nations. All other notices under this section shall be delivered to the Chief of Protocol, Department of State.

EDITH J. DOBELLE,
Chief of Protocol
Department of State.

NOVEMBER 23, 1978.

[FR Doc. 78-34171 Filed 12-5-78; 8:45 am]

[4910-22-M]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[23 CFR Part 772]

[FHWA Docket No. 78-33]

PROCEDURES FOR ABATEMENT OF HIGHWAY TRAFFIC NOISE AND CONSTRUCTION NOISE

Advance Notice of Proposed Rulemaking

AGENCY: Federal Highway Administration, DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Federal Highway Administration (FHWA) is issuing this advance notice to request comments on existing noise abatement procedures and suggestions for improvement of these procedures.

DATES: Comments must be received on or before February 5, 1979.

ADDRESS: FHWA Docket No. 78-33, Federal Highway Administration, HCC-10, Room 4205, 400 Seventh Street SW., Washington, D.C. 20590. It would be appreciated if comments were sent in triplicate. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Mr. Jerry Reagan, Environmental Quality Division, Office of Environmental Policy (202-426-4836), or Mr. Stanley H. Abramson, Office of the Chief Counsel (202-426-0791), Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The FHWA's current procedures for abatement of highway traffic noise and contruction noise were published on April 23, 1976 (41 FR 16936), and appear in Part 772 of 23 CFR § 772.25, which deals with traffic noise level prediction methods, was revised on October 4, 1978 (43 FR 45838).

The Federal Highway Administrator has directed that a review be made of such regulations in order to determine their effectiveness and judge their current applicability and necessity. The FHWA is issuing this advance notice to solicit public comments and suggestions on Part 772 as part of the agency's review of that regulation.

During the past two years several informal comments have been received on the requirements contained in Part 772. These comments have come from private citizens, State and local officials, FHWA field offices, and other Federal agencies. The following is a summary of the comments received:

1. Requirements for coordination with local officials (§ 772.17), analysis and abatement of construction noise (§ 772.23), and other measures not specifically included in Federal-aid highway legislation (23 U.S.C. 109(h),(i)) should be eliminated.

2. There is too little flexibility in the regulation. The detailed procedures such as those contained in §§ 772.11 and 772.25 should be reduced in order to recognize the technical skills of State and local agencies, allow more flexibility and reduce paperwork requirements.

3. The exception process provided in § 772.15 should be deleted. If abatement is found to be feasible along Type IB projects (uncontrolled access) the regulation requires that it be undertaken. However, on Type IA projects (partial and full control of access), where the most serious noise problems generally occur, a procedure is provided that allows exceptions to the design noise levels even if abatement is practical and feasible.

4. The design noise levels provided in § 772.13 are maximum levels above which abatement must be considered. However, these same levels are also used to indicate the existence of a noise impact. The FHWA has indicated that these levels are higher than desirable but reflect what is reasonably possible. The FHWA admits that traffic noise impacts can exist below these levels. Therefore, in addition to leading to decisions on the need to employ feasible abatement measures, the regulation should provide criteria for assessing impacts on health and welfare such as those issued by the Environmental Protection Agency (EPA) ("Information on Levels of Environmental Noise Requisite to Protect Public Health and Welfare with an Adequate Margin of Safety," EPA 550/9-74-004, March 1974).

5. In the evaluation of benefits and adverse social, economic and environmental effects (e.g., §§ 772.13(a), 772.15), the regulation does not specify that the cost of abatement measures should be included as an economic effect. If this is the intent, more appropriate wording would be "adverse social, economic and environmental effects and the cost of abatement."

6. The regulation should specifically provide for Federal participation in the costs of noise insulation for private residencies as a routine abatement measure (§ 772.21).

7. The regulation contains too many definitions (§ 772.5).

8. The list of factors which a State may want to consider in developing Type II projects (specifically for noise abatement) is unnecessary (§ 772.11(e)).

9. The extent to which the noise standards do not apply to certain types of projects should be clarified (§ 772.5(w)).

Comments on the foregoing suggestions and criticisms and on any other aspects of the current regulation are invited.

NOTE.—The Federal Highway Administration has determined that this document does not contain a major regulation according to the criteria established by the Department of Transportation pursuant to E.O. 12044. (23 U.S.C. 109(i), 315; 49 CFR 1.48(b)).

Issued on: November 28, 1978.

KARL S. BOWERS,
Federal Highway Administrator.

[FR Doc. 78-33985 Filed 12-5-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

Region VIII

[40 CFR Part 52]

[FRL 1020-4]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Montana Sulfur Oxides Control Strategy—Change of Public Hearing Date

AGENCY: U.S. Environmental Protection Agency.

ACTION: Ammouncement of postponement of public hearing.

SUMMARY: Notice is hereby given that the public hearing scheduled to receive comments on proposed regulations to control deficiencies in Montana's Implementation Plan on Wednesday, November 29, 1978 at 9:00 a.m. in the Civic Center Auditorium, Butte, Montana, has been postponed indefinitely due to progress by the State of Montana in correcting control deficiencies in its State Implementation Plan. Should a public hearing on the proposed EPA regulation be necessary in the future, the hearing will be rescheduled.[1]

FOR FURTHER INFORMATION CONTACT:

Robert R. DeSpain, Chief, Air Programs Branch, Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Denver, CO 80295 (303) 837-3471.

[1] NOTE: Notice of hearing was published on October 30, 1978, at 43 FR 50473. The proposed regulations were published September 11, 1978 at 43 FR 50473. This notice was received at the office of the Federal Register on November 30, 1978.

Dated: November 27, 1978.

ALAN MERSON,
Region VIII, Regional Administrator, Environmental Protection Agency.

[FR Doc 78-33818 Filed 12-5-78; 8:45 am]

[6560-01-M]

[40 CFR Part 65]

[FRL 1020-8]

DELAYED COMPLIANCE ORDERS

Proposed Approval Of Five Administrative Orders Issued By the State of Washington, Department of Ecology To Boise Cascade Corp. (2) Nanome Aggregates, Inc., Vaagen Brothers Lumber Co., Matney Lumber Co.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve five administrative orders issued by the State of Washington, Department of Ecology (DOE). The order requires these companies to bring air emissions from their facilities in Washington into compliance with certin regulations contained in the Federally-approved Washington State implementation Plan (SIP) by July 1, 1979. Because the orders have been issued to major sources and permits a delay in compliance with provisions of the SIP, they must be approved by EPA before they become effective as delayed compliance orders under the Clean Air Act (the Act). If approved by EPA, these orders will constitute additions to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment of EPA's proposed approval of these orders as delayed compliance orders.

DATE: Written comments must be received on or before January 5, 1979.

ADDRESS: Comments should be submitted to Director, Enforcement Division, EPA, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101. The State orders, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Kenneth D. Brooks, Environmental Protection Agency M/S 513, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone: (206) 442-1387

SUPPLEMENTARY INFORMATION: The Boise Cascade Corporation operates a sawmill at Kettle Falls, Washington. The orders under consideration address emissions from the wigwam burner; the hog fuel boiler and veneer drier at the facility, which are subject to Washington Administrative Code (WAC) 18-04-040. The regulation limits the emissions of particulate matter, and is part of the federally approved Washington State Implementation Plan. The orders require final compliance with the regulation by July 1, 1979 through discontinuing use of the wigwam burner, derating the existing boiler and installation of a new fluid bed combuster. The source has consented to the terms of the orders and has satisfied particular due increments contained in these orders.

Matney Lumber Company operates a sawmill at Kettle Falls, Washington. The order under consideration addresses emissions from the wigwam burner at the facility which are subject to WAC 18-04-040. The regulation limits the emissions of particulate matter, and is part of the federally approved Washington State Implementation Plan. The order requires final compliance with the regulation by July 1, 1979 through installation of a new wood fired boiler and elimination of the wigwam burner. The source has consented to the terms of the order and has satisfied particular due increments contained in the order.

Vaagen Brothers Lumber Company operates a sawmill at Colville, Washington. The order under consideration addresses emissions from the wigwam burner at the facility which are subject to WAC 18-04-040. The regulation limits the emissions of particulate matter, and is part of the federally approved Washington State Implementation Plan. The order requires final compliance with the regulation by July 1, 1979 through installation of a new wood fired boiler and elimination of the wigwam burner. The source has consented to the terms of the order and has satisfied particular due increments contained in the order.

Nanome Aggregates, Inc. operates a limestone crushing and sacking operation at Valley, Washington. The order under consideration addresses emissions from crushing equipment at the facility which are subject to WAC 18-04-040. The regulation limits the emissions of particulate matter, and is part of the federally approved Washington State. Implementation Plan. The order requires final compliance with the regulation by July 1, 1979 through installation of a new baghouse, repair of duct work, and addition of new collection points and hooding. The source has consented to the terms of the order and has satisfied particular due increments contained in the order.

Because these orders have been issued to major sources of particulate emissions and permits a delay in compliance with the applicable regulation, they must be approved by EPA before they become effective as delayed compliance orders under section 113(d) of the Clean Air Act (the Act). EPA proposes to approve these orders because they satisfy the appropriate requirements of this subsection. The elements of the appropriate paragraphs of subsection 113(d) are met in these orders.

If these orders are approved by EPA, source compliance with the terms would preclude federal enforcement action under Section 113 of the Act against these sources for violations of the regulations covered by the orders during the period the orders are in effect. Enforcement against the sources under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the orders would also constitute additions to the Washington SIP. All interested persons are invited to submit written comments on the proposed orders. Written comments received by the date specified above will be considered in determining whether EPA may approve these orders. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order on 40 CFR Part 65.

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

Dated: November 17, 1978.

DONALD P. DUBOIS,
Regional Administrator, Region X

DEPARTMENT OF ECOLOGY

In the matter of the compliance by Matney Lumber Company with Chapter 70.94 RCW and the Rules and Regulations of the Department of Ecology.

Delayed Compliance Order Docket No. DE 78-441

To: Mr. Frank Matney, Owner, Matney Lumber Co., Route 2, Box 307, Kettle Falls, WA 99141.

Matney Lumber Co. operates a wigwam burner at their sawmill in Kettle Falls, Washington. Emissions from the burner do not comply with provisions of the Washington State Air Quality Implementation Plan (S.I.P.).

The Department of Ecology has reviewed plans and schedules submitted by Matney Lumber Co. for the correction of this problem. Matney Lumber Co. will install a new wood fired boiler and eliminate the use of the wigwam burner.

In accordance with provisions of Section 113(d) of the Federal Clean Air Act, as amended, and after public notice, the Department of Ecology makes the following findings and issues the following order:

FINDINGS

1. The present wigwam burner is unable to comply with emission standards, Washington Administrative Code (WAC) 18-04-040 recodified as 173-400-040 (part of S.I.P.).

2. The proposed equipment is the best practicable and will provide for continuous compliance, WAC 18-04-040 recodified as 173-400-040.

3. The proposed schedule is as expeditious as practicable.

4. The proposed interim requirements are reasonable and practicable. The methods of control will provide the best practicable system for emission reduction and will prevent imminent and substantial endangerment to the health of persons.

RCW 70.94.332 reads in part: Whenever the department has reason to believe that any provision of this chapter or any rule or regulation adopted thereunder relating to the control or prevention of air pollution has been violated it may cause written notice to be served upon the alleged violator or violators and may include an order that necessary corrective action be taken within a reasonable time.

In view of the foregoing and in accordance with the provisions of RCW 70.94.332:

It is ordered That Matney Lumber Co. shall, upon receipt of this Order, take appropriate action in accordance with the following instruction:

The methods and equipment as described in submitted plans, specifications, schedules and other correspondence be installed according to the following schedule:

1. Begin construction of new boiler by June 1, 1978.

2. Complete construction of boiler by February 28, 1979.

3. Discontinue use of wigwam burner by June 1, 1979.

4. Source in compliance by July 1, 1979.

Matney Lumber Co. shall comply with the following interim requirements to reduce present emissions:

1. Maintain and operate wigwam burner with recognized good practice. This includes regular cleaning and repair of underfire grates. Underfire air blowers should be checked for proper operation weekly. Overfire air vents should be maintained in operating condition. Shell condition should be checked weekly and leaks fixed when found.

2. All precautions should be taken to reduce fugitive dust emissions. This includes, but is not limited to:

a. Proper disposition of ash from burner;

b. Reduced traffic speed at sawmill and in log yard;

c. Road pallative should be used under extreme dry conditions.

Matney Lumber Co. shall comply with the following reporting requirements:

1. No later than five (5) working days after the completion of each step in the schedule, the Department of Ecology, Eastern Regional Office, will be notified in writing by Matney Lumber Co.

2. All notification or reports will be submitted to:

Department of Ecology
Eastern Regional Office
E. 103 Indiana Avenue
Spokane, WA 99207
Attn: Carl J. Nuechterlein

3. Source test will be completed as required by Notice of Construction on new source. Interim monitoring is not required.

Matney Lumber Co. is hereby notified that failure to achieve final compliance by July 1, 1979 may result in a requirement to pay noncompliance penalties as stated in 113(e) of the Federal Clean Air Act.

Nothing in this order is to be construed in any way as to prevent enforcement and/or abatement action for any violation of any applicable law, rule, or regulation.

Dated at Olympia, Washington this 21st day of September 1978.

BRUCE A. CAMERON,
Assistant Director, Department of Ecology, State of Washington.

[FR Doc. 78-33938 Filed 12-5-78; 8:45 am]

[6560-01-M]

[40 CFR Part 65]

[FRL 1021-2; Docket No. VII-78-DCO-17]

DELAYED COMPLIANCE ORDERS

Proposed Delayed Compliance Order for City of Independence Power and Light Department, Independence, Mo.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to issue an administrative order to the City of Independence Power and Light Department. The order requires the company to bring air emissions from its Blue Valley Station in Independence, Missiouri into compliance with certain regulations contained in the federally-approved Missouri State Implementation Plan (SIP). Because the company is unable to comply with these regulations at this time, the proposed order would establish an expeditious schedule requiring final compliance by June 30, 1979. Source compliance with the Order would preclude suits under the federal enforcement and citizen suit provision of the Clean Air Act for violation of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on EPA's proposed issuance of the order.

DATES: Written comments must be received on or before January 5, 1979, before December 21, 1978. All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If it is determined there will be significant public benefit in holding a hearing, it will be held after twenty-one days prior notice of the date, time, and place of the hearing has been given in this publication.

ADDRESS: Comments and requests for a public hearing should be submitted to Director, Enforcement Division, EPA, Region VII, 1735 Baltimore, Kansas City, Missouri 64108. Material supporting the order and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Peter J. Culver or Rennelle Rae, EPA, Region VII, 1735 Baltimore, Kansas City, Missouri 64108, telephone 816-374-2576.

SUPPLEMENTARY INFORMATION: The City of Independence Power and Light Department operates an electric power generating plant at Independence, Missouri. The proposed order addresses emissions from Blue Valley Station, Units 1, 2 and 3 at this facility, which are subject to Missouri Air Quality Standards and Air Pollution Control Regulations for the Kansas City Metropolitan Area, Regulation III (10CSR10-2.040). The regulation limits the emissions of particulates, and is part of the federally-approved Missouri State Implementation Plan. The order requires final compliance with the regulation by June 30, 1979, and the source has consented to its terms. The source has agreed to meet the order's increments during the period of this informal rulemaking. The source has satisfied increments 1 and 2 contained in the order.

The proposed order satisfies the applicable requirements of Section 113(d) of the Clean Air Act (the Act). If the order is issued, source compliance with its terms would preclude further EPA enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provisions of the Act (Section 304) would be similarly precluded.

Comments received by the date specified above will be considered in determining whether EPA should issue the order. Testimony given at any public hearing concerning the order will also be considered.

After the public comment period and any public hearing, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

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

Dated: November 20, 1978.

DAVID R. ALEXANDER,
Acting Regional Administrator,
Region VII.

In consideration of the foregoing, it is proposed to amend 40 CFR Chapter I, as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By amending the table in § 65.300 to reflect approval of the following Federal delayed compliance order issued under Section 113(d)(1) of the Act.

[Docket No. VII-78-DCO-17]

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the matter of City of Independence Power and Light Department, Blue Valley Station, Independence, Mo., Docket No. VII-78-DCO-17.

This ORDER is issued this date pursuant to Section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 *it seq.* (the Act). this ORDER contains a schedule for compliance, interim requirements, and monitoring and reporting requirements. Public notice, opportunity for a public hearing, and thirty days notice to the State of Missouri have been provided pursuant to Section.113(d)(1) of the Act.

FINDINGS

On August 30, 1978, the United States Environmental Protection Agency (EPA) issued a notice of violation, pursuant to Section 113(a)(1) of the Act, to the City of Independence Power and Light Department, upon a finding that the Blue Valley Station Units 1, 2, and 3 are in violation of Missouri Air Quality Standards and Air Pollution Control Regulations for the Kansas City Metropolitan Area, Regulation III (10CSR10-2.040) a part of the applicable Missouri Implementation Plan as defined in Section 110(d) of the Act. This finding was based upon calculations of current emissions from the Blue Valley Station.

Said violation has extended beyond the thirtieth day after issuance of the August 30, 1978, notice of violation. This finding is based upon acknowledgement of continued violation by the City of Independence.

ORDER

After a thorough investigation of all relevant facts, including public comment, it is determined that the schedule for compliance set forth in this ORDER is expeditious as practicable, and that the terms of this ORDER comply with Section 113(d) of the Act. *Therefore, it is hereby ordered:*

I. That the City of Independence Power and Light Department will comply with the Missouri Implementation Plan regulations in accordance with the following schedule on or before the dates specified therein.

A. Blue Valley Station Units 1, 2 and 3

1. September 25, 1978—Award contracts for erection of control equipment (Increment met).

2. November 1, 1978—Commence construction (Incerement met).

3. May 2, 1979—Complete construction on electrostatic precipitator No. 1.

4. May 16, 1979—Complete construction on electrostatic precipitator No. 2.

5. June 4, 1979—Complete construction on electrostatic precipitator No. 3.

6. June 30, 1979—Complete shakedown adjustments and debugging of control equipment and achieve final compliance with Regulation III (10CSR10-2.040).

II. That City of Independence Power and Light Department shall comply with the following interim requirements which are determined to be the best reasonable and practicable interim system of emission reduction (taking into account the requirement for which compliance is ordered in Section I, above) and are necessary to avoid an imminent and substantial endangerment to the health of persons and to assure compliance with Regulation III insofar as City of Independence Power and Light Department is able to comply during the period this ORDER is in effect:

1. The City of Independence Power and Light Department shall continue to operate Blue Valley Station Units 1, 2 and 3 with the full use of the existing mechanical collectors until such time as the boilers are taken off-line to tie in to the new pollution control equipment. These existing collectors shall be maintained and operated according to the manufacturer's recommendation, consistent with good engineering practice to achieve optimal collection efficiency.

2. In the event that additional natural gas becomes available, it shall be used in place of coal for boiler fuel.

III. That the City of Independence Power and Light Department shall comply with the following reporting requirements on or before the dates specified below:

Reporting requirements

1. No later than five days after any date for achievement of an incremental step or final compliance, specified in this ORDER, the City of Independence shall notify EPA in writing of its compliance, or noncompliance and reasons therefor, with the requirement. If delay is anticipated in meeting any requirement of this ORDER, the City of Independence shall immediately notify EPA in writing of the anticipated delay and reasons therefor. Notification to EPA of any anticipated delay does not excuse the delay.

2. All submittals and notifications to EPA pursuant to this ORDER shall be made to the Director, Enforcement Division, EPA, Region VII, 1735 Baltimore, Kansas City, Missouri 64108, telephone 816/374-2576.

IV. Nothing herein shall affect the responsibility of the City of Independence to comply with State or local regulations.

V. The City of Independence is hereby notified that your failure to achieve final compliance by July 1, 1979 (*or other applicable date specified in accordance with section 120(a)(2)(B) of the Act*) will result in a requirement to pay a noncompliance penalty under Section 120. In the event of such failure, the City of Independence will be formally notified, pursuant to section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

VI. This ORDER shall be terminated in accordance with Section 113(d)(8) of the Act if the Administrator (*or his delegatee, as appropriate*) determines on the record, after notice and hearing, that an inability to comply with Regulation III above no longer exists.

VII. Violation of any requirement of this ORDER shall result in one or more of the following actions:

A. Enforcement of such requirement pursuant to Sections 113 (a), (b), or (c) of the Act, including possible judicial action for an injunction and/or penalties and in appropriate cases, criminal prosecution.

B. Revocation of this ORDER, after notice and opportunity for a public hearing, and subsequent enforcement of Regulation III above in accordance with the preceding paragraph.

C. If such violation occurs on or after July 1, 1979, notice of noncompliance and subsequent action pursuant to Section 120 of the Act.

VIII. This ORDER is effective immediately.

Date——

Administrator,
U.S. Environmental Protection Agency.

WAIVER OF RIGHTS TO CHALLENGE ORDER

City of Independence Power and Light Department, by the duly authorized undersigned, hereby acknowledges that Blue Valley Station, Units 1, 2, and 3 are in violation of Missouri Air Quality Standards and Air Pollution Control Regulations for the Kansas City Metropolitan Area, Regulation III (10CSR10-2.040), consents to the issuance of this Order and waives any and all rights under any provision of law to challenge this ORDER.

Date:

City of Independence.

[FR Doc. 78-33940 Filed 12-5-78; 8:45 am]

[6560-01-M]

[40 CFR Part 65]

[FRL 1021-3]

DELAYED COMPLIANCE ORDERS

Proposed Delayed Compliance Order for Indiana Farm Bureau Cooperative Association, Inc.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: U.S. EPA proposes to issue an Administrative Order to Indiana Farm Bureau Cooperative Association, Inc. The Order requires the Company to bring the gasoline loading and storage facility at Westfield, Indiana, into compliance with APC-15, Sections 3 and 4, a part of the federally approved Indiana State Implementation Plan (SIP). Because the Company is unable to comply with this regulation at this time, the proposed Order would establish an expeditious schedule requiring final compliance by July 1, 1979. Source compliance with the Order would preclude suits under the Federal enforcement and citizen suit provision of the Clean Air Act (the

Act) for violation of the SIP regulations covered by the Order.

The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on U.S. EPA's proposed issuance of the Order.

DATES: Written comments must be received on or before January 5, 1979, and requests for a public hearing must be received on or before December 21, 1978. All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after twenty-one days' prior notice of the date, time, and place of the hearing has been given in this publication.

ADDRESSES: Comments and requests for a public hearing should be submitted to Director, Enforcement Division, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. Material supporting the Order and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Arthur E. Smith, Jr., Attorney, Enforcement Division, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, at 312-353-2082.

SUPPLEMENTARY INFORMATION: Indiana Farm Bureau Cooperative Association, Inc. owns a gasoline loading and storage facility at Westfield, Indiana. The proposed Order addresses emissions from the gasoline loading and storage facility, which is subject to APC-15, Sections 3 and 4 of the Indiana Implementation Plan. The regulation limits the emissions of volatile organics (hydrocarbons) and is part of the federally approved Indiana State Implementation Plan. The Order requires final compliance with the regulations by July 1, 1979, and the source has consented to its terms. The source has agreed to meet the Order's increments during the period of this informal rulemaking.

The proposed Order satisfies the applicable requirements of Section 113(d) of the Clean Air Act. If the Order is issued, source compliance with its terms would preclude further U.S. EPA enforcement action under Section 113 of the Act against the source for violations of the regulations covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provisions of the Act (Section 304) would be similarly precluded.

Comments received by the date specified above will be considered in determining whether the U.S. EPA should issue the Order. Testimony given at any public hearing concerning the Order will also be considered. After the public comment period and any public hearing, the Administrator of U.S. EPA will publish in the FEDERAL REGISTER the Agency's final action on the Order in 40 CFR Part 65.

Dated: November 24, 1978.

JOHN MCGUIRE,
Regional Administrator,
Region V.

In consideration of the foregoing, it is proposed to amend 40 CFR Chapter I, as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding an entry to the table in § 65.190, Federal Delayed Compliance Orders under Section 113(d)(1), (3), and (4) of the Act, to reflect approval of the following order:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION V

In the Matter of: Indiana Farm Bureau Cooperative Association, Inc., Westfield, Ind., proceeding pursuant to Section 113(d) of the Clean Air Act, as Amended [42 U.S.C. Section 7413(d)]

The Order is issued this date pursuant to Sections 113(a), 113(d) and 114 of the Clean Air Act, as amended, 42 U.S.C. Section 7401 *et seq.* (Act. This Order contains a schedule for compliance, interim control requirements, and reporting requirements. Public notice, opportunity for a public hearing, and thirty (30) days' notice to the State of Indiana have been provided pursuant to Section 113(d)(1) of the Act.

FINDINGS

1. On May 15, 1978, the United States Environmental Protection Agency (U.S. EPA) issued a Notice of Violation, pursuant to Section 113(a)(1) of the Act, to Indiana Farm Bureau Cooperative Association, Inc. (Indiana Farm), upon a finding that the Westfield, Indiana, gasoline loading and storage facility, was in violation of Indiana APC-15, Sections 3 and 4, a part of the applicable implementation plan defined in Section 110(d) of the Act. This finding was based upon emission factor calculations derived from data submitted to U.S. EPA by the subject facility.

2. In satisfaction of Section 113(a)(4) of the Act, opportunity to confer with the Administrator's delegate was given to Indiana Farm, and on June 7, 1978, an enforcement conference was held.

3. It has been determined that Indiana Farm is unable to immediately comply with the applicable implementation plan.

After a thorough investigation of all relevant facts, including public comment, it is determined that the schedule for compliance set forth in this Order is as expeditious as practicable, and that the terms of this Order comply with Section 113(d) of the Act. Therefore, it is hereby ordered:

ORDER

I. Indiana Farm shall comply with the Indiana Implementation Plan regulations APC-15, Sections 3 and 4, as approved by U.S. EPA on May 14, 1973, including a vapor collection and disposal/recovery system, in accordance with the following schedule on or before the dates specified therein.

A. In regard to the gasoline loading and storage facility at Westfield, Indiana:

1. *September 6, 1978*—Indiana Farm shall submit preliminary control plans to U.S. EPA.

2. *December 1, 1978*—Indiana Farm shall submit final control plans to the U.S. EPA.

3. *December 1, 1978*—Indiana Farm shall award contracts for the control equipment.

4. *December 1, 1978*—Indiana Farm shall complete on-site construction for the control equipment.

5. *June 15, 1979*—Indiana Farm shall complete on-site construction.

6. *July 1, 1979*—Indiana Farm shall achieve final compliance with the Indiana Implementation Plan regulation APC-15, Sections 3 and 4, as approved by the U.S. EPA on May 14, 1973.

7. After July 1, 1979, Indiana Farm shall implement operation and maintenance procedures to maximize the control efficiency of the pollution control equipment.

II. Indiana Farm, Westfield, Indiana, gasoline loading and storage facility shall use the best practicable interim system of emission reduction so as to minimize hydrocarbon emissions; avoid any imminent and substantial endangerment to the health of persons; comply with the requirements of the applicable implementation plan insofar as it is able to; and, comply with the following interim requirements:

A. Indiana Farm shall insert fill-pipes to the bottom of the loading compartment in a vertical position. Indiana Farm shall control flow rate so as to minimize hydrocarbon emissions.

B. Indiana Farm shall minimize product spillage.

C. Indiana Farm shall fill storage tanks so as not to cause emissions of hydrocarbons through the venting system.

III. Indiana Farm, Westfield, Indiana, storage and gasoline loading facility, shall comply with the following emission monitoring and reporting requirements on or before the dates specified below:

A. *Emission Monitoring.* Indiana Farm shall maintain a record of the amount of gasoline which travels through the loading facility. This shall include the volume and vapor pressure of the gasoline.

B. *Reporting Requirement.* 1. No later than fifteen (15) days after any date for achievement of an incremental step of final compliance, specified in this Order, Indiana Farm shall notify U.S. EPA in writing of its compliance, or noncompliance and reasons therefore, with the requirement. If delay is anticipated in meeting any requirement of this Order, Indiana Farm shall immediately notify U.S. EPA in writing of the anticipated delay and reasons therefore.

2. A quarterly report shall be sent to the U.S. EPA reporting the progress of the program for installation of the control equipment and information required by paragraph I.A.

3. All submittals and notifications to U.S. EPA pursuant to this Order shall be made to Mr. Eric Cohen, Chief, Compliance Section, Enforcement Division, U.S. EPA, 230

South Dearborn Street, Chicago, Illinois 60604.

IV. Nothing herein shall affect the responsibility of Indiana Farm to comply with State or local regulations, or other Federal regulations.

V. Indiana Farm is hereby notified that its failure to achieve final compliance by July 1, 1979, at the Westfield, Indiana, storage and loading facility may result in a requirement to pay a noncompliance penalty under Section 120. In the event of such failure, Indiana Farm will be formally notified, pursuant to Section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

VI. This Order is effective immediately.

Date ——

Administrator,
U.S. Environmental Protection Agency.

WAIVER OF RIGHTS TO CHALLENGE ORDER

Indiana Farm, by the duly authorized undersigned, hereby consents to the provisions of this Order and waives any and all rights under any provisions of law to challenge this Order.

Date ——

(Signature of authorized representative of source)

[FR Doc. 78-33941 Filed 12-5-78; 8:45 am]

[4110-35-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

[42 CFR Parts 405 and 449]

MEDICARE AND MEDICAID PROGRAMS

Automatic Extinguishment Systems for Long-Term Care Facilities

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Notice of intent to reconsider regulations.

SUMMARY: This notice sets forth alternatives and discusses the legal and program aspects of requiring sprinkler systems in all skilled nursing facilities (SNFs) and intermediate care facilities (ICFs) that participate in Medicare and Medicaid.

The purpose of the Notice is to obtain comments, suggestions, and pertinent information from all who are concerned with, or would be affected by, such requirements.

DATES: Consideration will be given to written comments recieved by January 30, 1979.

ADDRESS: Please address your comments to:

Janice M. Caldwell, Director, Division of Long Term Care, Department of Health, Education, and Welfare, Room 12A-52, 5600 Fishers Lane, Rockville, Md. 20857.

In commenting, please refer to file code HSQ-56-NI. Institutions and organizations are requested to submit comments in duplicate.

Comments will be available for public inspection, beginning approximately 2 weeks from today, at the address given above.

FOR FURTHER INFORMATION, CONTACT:

Janice M. Caldwell (301) 443-3346

SUPPLEMENTARY INFORMATION:

WHAT THE CURRENT LAW AND REGULATIONS REQUIRE

Section 1861(j)(13) of the Social Security Act requires that SNFs meet the requirements of the 1973 edition of the Life Safety Code (the Code) of the National Fire Protection Association (NFPA). There is no comparable statutory requirement for ICFs, but our regulations 42 CFR 449.12, require them to comply with the 1967 edition of the Code.

With respect to automatic extinguishment systems, the 1967 and 1973 editions of the Code are nearly identical. Under these codes, automatic extinguishment systems are required in all long-term care health facilities except those that are of fire resistant construction or are of protected noncombustible construction and not more than one story high. (NFPA LSC 1967 edition, section 10-2341) (NFPA LSC 1973 edition, section 10-2352)

CURRENT SITUATION

Under the requirements discussed above, approximately two thirds of all SNFs and ICFs that participate in the Medicare and Medicaid programs have automatic extinguishment systems. Concern over fire fatalities in long-term care facilities has led members of Congress and advocacy groups to recommend that we extend the requirement to all facilities.

DISCUSSION

A Presidential Commission study estimated that approximately 500 patients die in all health care institutions (including hospitals) by fire and smoke year. Of these 500 fatalities, approximately 25 occur in multi-death fires. A multi-death fire is defined by the NFPA as one resulting in three or more deaths. The consensus of fire protection experts, including those within the Department, is that automatic extinguishment systems would not save the lives of patients who are in the room of fire origin or near the fire source because sprinklers are not activated until the ambient temperture at the sprinkler head is between 135 and 165 degrees Fahrenheit for one or more minutes. By the time these temperatures are reached, it may be too late to save the lives of patients at or near the source of the fire.

Automatic extinguishment systems would, however, contain the fire and keep it from spreading to the rooms of other patients and to other parts of the building. They would undoubtedly prevent large scale fires (those that result in three or more deaths). Statistics compiled by the NFPA indicate that perhaps as many as 25 lives might be saved each year if automatic extinguishment systems were installed in all health care facilities in the country. Since, however, the Department could mandate sprinklers only in facilities that participate in Medicare or Medicaid, the number of lives saved by such action on our part may be less than the NFPA estimate.

ALTERNATIVES

It is our view that the following are the most practical alternatives available for consideration.

(1) Require automatic extinguishment systems in all long-term care facilities participating in Medicare or Medicaid.

(2) Require automatic extinguishment systems in all newly constructed long-term care facilities participating in Medicare or Medicaid and in existing structures that are converted into long-term care facilities after the effective date of the final regulations.

(3) Require automatic extinguishment systems in all newly constructed long-term care facilities participating in Medicare or Medicaid, and in existing structures that are converted into long-term care facilities after the effective date of the final regulations, except when those buildings are of fire resistive construction.

(4) Retain present automatic extinguishment system requirements: Continue to require automatic extinguishment systems in accordance with the NFPA's Life Safety Code.

(5) In facilities not required by the Code to have automatic extinguishment systems, require other measures (such as smoke detectors, special patient evacuation plans, staff emergency training, higher staff-patient ratios) if HCFA determines that the facility's fire safety protection is not adequate.

COST ESTIMATES

We estimate that the cost of implementing Alternative (1) would be between $400-$500 million.

Cost estimates are not possible for Alternatives (2) and (3) because it is difficult to estimate what the costs of new construction will be five or ten years from now and there is no way to predict how many new nursing homes will be built in the next few years.

The cost of implementing Alternative (4) would not substantially differ from what we are presently spending.

Alternative (5) might involve some increased administrative costs.

REQUEST FOR COMMENTS

We request comments, suggestions, and pertinent information to help us decide whether or not to propose amendments to our current regulations.

The Secretary particularly requests comments and information on the costs and the benefits of the options listed in this Notice. We seek comment on what the costs of each option would be. We seek comments on exactly how effective the different altenatives set out will be in preventing fires and saving lives. We also seek guidance on how to weigh the costs versus the benefits of alternative methods of controlling fire hazards in nursing homes—a difficult judgment that affects life and safety.

The first option proposed in the Notice, requiring sprinkler systems in all nursing homes, would significantly increase the costs of care in many nursing homes. We particularly seek comment on the cost-effectiveness of this option, on how expensive it will be, on the benefits it would produce, and on how cost effective it would be compared to other alternatives.

(Section 1102 of the Social Security Act (42 U.S.C. 1302))

Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program; No. 13.773, Medicare-Hospital Insurance.

Dated: October 30, 1978.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: November 1, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 78-31936 Filed 12-5-78; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Part 8370]

USE AUTHORIZATIONS

Special Recreation Permits—Allocations and Transfers

AGENCY: Bureau of Land Management.

ACTION: Notice of intent to develop proposed rulemaking.

SUMMARY: The Bureau of Land Management is studying use allocations for river areas requiring limited use or river areas of scarce recreation resources, including development of procedures which will prevent the buying or selling of privileges conferred by a special recreation use permit. These are situations which must be closely controlled or use allotted in order to protect and/or enhance the resource and users' recreation experiences.

DATES: Written comments should be received on or before February 8, 1979.

ADDRESS: Send written comments to: Mr. William Brown, Bureau of Land Management (D-370), Denver Federal center, building 50, Denver Colorado 80225.

FOR FURTHER INFORMATION CONTACT EITHER:

Mr. William Brown, Bureau of Land Management (D-370), Denver Federal Center, building 50, Denver, Colorado 80225, telephone 303-234-5094; or Mr. Larry R. Young, Bureau of Land Management (WO-370), Interior Building, 18th and C Street, N.W., Washington, D.C. 20240, telephone 202-343-9353.

SUPPLEMENTARY INFORMATION: Recreational use of the public lands has been increasing tremendously over the past several years. Use of river areas of the public lands has been one of the fastest growing uses. Because of this greatly increased use, it has become apparent that some public land river areas are not capable of unlimited use, and a standard system of limiting or allotting certain uses is desirable. Many public land river areas have reached this condition. Other special areas managed by the BLM are approaching or have reached this state also.

It has also come to our attention that some commercial river runners may be buying and selling passenger day privileges allotted to them through special recreation permits. The BLM will not and cannot condone permittees selling privileges conferred to them by special recreation permits. Therefore, procedures are to be developed to eliminate this practice.

The BLM is therefore soliciting the public's help to devise a system which will equitably allot recreational river area use, and provide for orderly transfers of commercial recreation privileges in river areas. The BLM desires substantive, well-thought-out suggestions on this matter.

All comments and recommendations received will be considered when drafting proposed regulations. When developed, the proposed regulations will be published in the FEDERAL REGISTER as proposed rules, allowing the public further opportunity to comment before final regulations are adopted. Resolution of conflicting public comments and/or rejecting of comments on policy or legal grounds is the prerogative of the Secretary of the Interior.

Discussion papers concerning this matter shall be available in all BLM District and State Offices for 30 days beginning December 11, 1978.

GERALD E. PETTY,
Acting associate Director.

NOVEMBER 6, 1978.

[FR Doc. 78-33146 Filed 12-5-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 1]

[Docket No. 19660; RM-690]

INTERNATIONAL RECORD CARRIER'S SCOPE OF OPERATIONS IN THE CONTINENTAL UNITED STATES, INCLUDING POSSIBLE REVISIONS TO THE FORMULA PRESCRIBED UNDER SECTION 222 OF THE COMMUNICATIONS ACT

Order Extending Time for Filing Petitions to Deny and Other Comments and Oppositions to These Further Pleadings

AGENCY: Federal Communications Commission.

ACTION: Order extending time.

SUMMARY: Action taken herein extends the time for filings in a proceeding involving the authorization of additional gateways and Free Direct Access.

DATES: Petitions to deny and other comments must be received on or before December 18, 1978, and oppositions to the further pleadings by January 2, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Helene Bauman, Common Carrier Bureau, 202-632-7834.

SUPPLEMENTARY INFORMATION: None.

ADOPTED: November 27, 1978.

RELEASED: November 29, 1978.

Order. In the matter of International Record Carrier's Scope of Operations in the Continental United States, including Possible Revisions to the Formula Prescribed under Section 222 of the Communications Act, [43 FR 46982], Docket No. 19660,[1] RM-690.

1. The Commission has before it orders of September 29, 1978 and October 30, 1978, extending the time for filing amended gateway applications and related data, required by para-

[1] See 43 FR 46982, October 12, 1978.

graphs 14 and 17 of the Commission's Notice of Inquiry and Further Notice of Proposed Rulemaking (Notice) released in this docket on July 28, 1978 (FCC 78-511) to October 30, 1978 and November 6, 1978, respectively.

2. Because of these extensions, it is necessary to expand the time allowed for the filing of subsequent pleadings, if any.

3. Accordingly, the time to file petitions to deny and other comments is extended until December 18, 1978, and Oppositions to these further pleadings will be due by January 2, 1979. No further extensions are contemplated.

FEDERAL COMMUNICATIONS COMMISSION,
LARRY F. DARBY,
Acting Chief,
Common Carrier Bureau.

[FR Doc. 78-34027 Filed 12-5-78; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-11-M]

DEPARTMENT OF AGRICULTURE

Forest Service

COLVILLE NATIONAL FOREST

Precommercial Thinning; Availability of Environment Assessment Report

An Environmental Assessment Report that discusses precommercial thinning on approximately 1,180 acres of National Forest lands in Stevens County, Washington, is available for public review in the Forest Service Office in Colville, Washington.

Although this project involves application of the herbicide MSMA, the Environmental Assessment Report does not indicate that there will be any significant effect upon the quality of the human environment. Therefore, it has been determined that an environmental statement will not be prepared.

This determination was based upon consideration of the following factors, which are discussed in the Environmental Assessment Report: (1) Application of the herbicide MSMA in accordance with Federal, State, and local government regulations and requirements is not expected to have any unanticipated effects on the ecosystem (2) there will be no irretrievable or irreversible resource commitments on the proposed project areas; (3) physical and chemical effects of MSMA, when properly applied, have proven to be acceptable based on the best scientific evidence available; and (4) no known unique or rare resources within the proposed project areas.

Use of MSMA in accordance with Federal and State regulations provides controls which guarantees protection of human health and welfare.

No action will be taken prior to January 5, 1979.

The responsible official is Robert B. Terrill, Forest Supervisor, Colville National Forest, 695 So. Main, Colville, Washington, 99114.

Dated: November 21, 1978.

ROBERT B. TERRILL,
Forest Supervisor.

[FR Doc. 78-33953 Filed 12-5-78; 8:45 am]

[3410-11-M]

MIDDLE FORK OF THE FEATHER WILD AND SCENIC RIVER

Classification, Boundaries, and Development Plan; Correction

FR Doc. 70-2791, published at page 4219 in the FEDERAL REGISTER, Volume 35, No. 45, Friday, March 6, 1970, pages 4221-4222, corrected and amended as follows:

RIVER AREA DESCRIPTION, MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 22 N., R. 8 E.,
Section 7, delete entire present description; insert N½, N½S½
T. 22 N., R. 12 E.,
Section 4, add N½NW¼SW¼SW¼, NE¼NW¼SE¼SW¼.
Section 5, add N½NW¼NE¼SW¼, S½S½N½SE¼.
Section 9, add SW¼SW¼SE¼NW¼, W½NW¼NE¼SW¼, N½SW¼NE¼SW¼, NW¼NE¼SE¼SW¼; delete S½NW¼SE¼SW¼; add S½SW¼NW¼SE¼, SW¼SE¼NW¼SE¼.
Section 10, add NW¼SW¼NW¼SW¼, NW¼NE¼SW¼SW¼, S½SE¼SW¼SW¼.
Section 14, SW¼NW¼SE¼SW¼, S½S½N½SE¼, SW¼SE¼SE¼ SW¼.
Section 15, add W½NW¼NE¼NE¼, SE¼SE¼NW¼NE¼, SW¼NW¼SE¼NE¼, W½SW¼SE¼NE¼, SW¼NE¼NE¼NW¼, W½NW¼NE¼NW¼W¼, SE¼NW¼NE¼NW¼, W½NE¼NE¼SE¼, SW¼SW¼NE¼SE¼, N½NE¼SE¼SE¼.
Section 23, add NW¼NE¼NE¼NW¼, SE¼NE¼NE¼NW¼, E½SE¼NE¼NW¼, NE¼NE¼SE¼NW¼, SW¼NW¼NW¼SE¼, NE¼SW¼NW¼SE¼, SE¼SW¼NW¼SE¼, SW¼SE¼NW¼SE¼, SW¼SW¼SE¼SE¼.
Section 25, add SW¼SW¼NW¼NW¼, S½NE¼SW¼NW¼, E½W½SW¼NW¼, SE¼SW¼NW¼.
T. 22 N., R. 13 E.,
Section 2, add S½NW¼SW¼NW¼, SW¼SW¼NW¼.
Section 17, add E½NE¼NE¼, SW¼SE¼NE¼, SE¼SW¼SW¼.
T. 22 N., R. 14 E.,
Delete the entire description.
T. 22 N., R. 15 E.,
Delete the entire description.
T. 22 N., R. 16 E.,
Delete the entire description.
T. 23 N., R. 9 E.,
Section 30, delete the entire description; insert S½S½, NE¼SE¼.
Section 31, delete entire present description; insert N½N½.
T. 23 N., R. 11 E.,
Section 10, add NE¼SW¼SE¼SW¼, NW¼SE¼SE¼SW¼.
Section 13, add SW¼NW¼SW¼.
Section 14, add NE¼SE¼SW¼SW¼, E½SW¼NE¼SE¼, SE¼NE¼SE¼.
Section 15, add SW¼SW¼NW¼NE¼, E½NW¼NE¼NW¼, S½SW¼SE¼ NE¼.
Section 24, add SW¼SW¼NE¼NE¼, SW¼NW¼NW¼NE¼.
T. 23 N., R. 12 E.,
Section 30, add S½SE¼SE¼NW¼, N½NE¼NE¼SW¼, E½SE¼NE¼ SE¼.
Section 31, add W½E½NE¼.
Section 32, add all those lands lying between the westerly right-of-way of California State Highway 70 and the existing easterly boundary of the Middle Fork of the Feather Wild and Scenic River.
T. 23 N., R. 13 E.,
Section 35, add N½SW¼SW¼SE¼.
Section 36, add SE¼SE¼SE¼NE¼, SW¼NE¼SW¼SW¼, NW¼NE¼ SE¼SW¼, N½NW¼SE¼SW¼, SW¼NW¼NE¼SE¼.
T. 23 N., R. 14 E.,
Section 26, delete entire present description; insert SW¼, W½SE¼NW¼, W½NE¼SE¼, all those portions of NE¼SW¼, E½NW¼SW¼, SE¼SW¼, NW¼SW¼SE¼ that lie north of the Western Pacific Railroad right-of-way.[1]
Section 27, add NE¼NE¼NW¼SW¼.
Section 29, add S½SW¼NE¼NE¼, SW¼SE¼NE¼NE¼, SE¼SE¼NW¼ NE¼, NE¼SE¼SE¼.
T. 23 N., R. 15 E.,
Delete entire description.
T. 23 N., R. 16 E.,
Delete entire description.

Dated: November 28, 1978.

ROBERT E. BUCKMAN,
Acting Chief.

[FR Doc. 78-33960 Filed 12-5-78; 8:45 am]

[3410-11-M]

ROADLESS AREA REVIEW AND EVALUATION

RARE II

A RARE II update was published in the FEDERAL REGISTER on Wednesday, September 13, 1978, which discussed the availability of data. The purpose of this notice is to announce that Item 3, RPA Relationships, has been completed and is available at Regional Offices and Forest Supervisor's Offices. The RPA relationship was developed by determining the minimum acreage of the roadless areas needed to meet mid-level output goals for the year 2015, as

[1] New terminus.

set forth in the 1975 RPA Program. This baseline calculation shows that 1.054 roadless area containing 29.4 million acres would need to be allocated to nonwilderness to meet the mid-range goals for timber and developed recreation site visitor use. The remaining 997 roadless area contain 20 million acres.

The output aggregated to the National Level for the 1.054 areas as nonwilderness and 997 areas as wilderness are:

Resource	RPA goal from RARE II lands	Baseline output calculated October 1978
Sawtimber (potential yield in million board feet)	2,412	2,448
Timber products (potential yield in million cubic feet)	96.6	256.0
Developed recreation sites (visitor use in million recreation visitor days)	5.83	19.81
Dispersed recreation (visitor use in million visitor days)	19.5	36.0
Grazing use (million animal unit months)	1.93	2.53

This information was developed only as an intermediate step to display the relationship between RARE II roadless areas and the Resource Planning Act program goals. It does not represent an alternative being considered nor an allocation that is likely to be recommended in the final environmental statement for RARE II.

Dated: November 29, 1978.

JOHN R. MCGUIRE,
Chief.

[FR Doc. 78-34030 Filed 12-5-78; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

LAKER AIRWAYS LIMITED

Statement of Tentative Findings and Conclusions and Order to Show Cause

[Docket No. 33616; Order No. 78-11-143]

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 30th day of November, 1978.

Application of LAKER AIRWAYS LIMITED for amendment of its foreign air carrier permit under section 402 of the Federal Aviation Act of 1958, as amended.

By application filed October 5, 1978, Laker Airways Limited requests amendment of its foreign air carrier permit to consolidate the two route segments now authorized into a single route permitting it to operate scheduled service between London, England, on the one hand, and New York; New York, and Los Angeles, California, on the other hand.

Laker's existing permit, issued by Order 78-9-100, authorizes it to engage in foreign air transportaion of persons and their accompanied baggage between London and New York and between London and Los Angeles.[1] The application for consolidation of these two segments was accompanied by a diplomatic note from the British Embassy advising that the Route Schedules annexed to Bermuda II specifically provide for the carriage of transit traffic by a United Kingdom airline between two points in United States territory for which that airline is designated.[2]

In granting Laker its existing route authority to the United States, we determined that the carrier was substantially owned and effectively controlled by nationals of the United Kingdom; that it was fit, willing, and able to perform the air transportation; and that it was in the public interest to grant the carrier authority to serve New York and Los Angeles.[3] We believe these findings are equally applicable to the case at hand and warrant our approval of the permit amendment.[4]

Laker merely seeks to consolidate on one route segment traffic rights which, until now, were authorized on two, and which, we already have found to be in the public interest. The route consolidation, furthermore, would provide Laker increased scheduling flexibility, which ultimately would inure to the benefit of the traveling public by enabling the carrier to operate more efficiently and, consequently, offer its customers low fares. Finally, the authority we are proposing to grant Laker is specifically provided for in the United States-United Kingdom Air Services Agreement (Bermuda II). Thus, our decision is consistent with that agreement.

We, therefore, tentatively find and conclude that:

1. It is in the public interest to amend the foreign air carrier permit issued to Laker Airways Limited;

2. The public interest requires that the exercise of the privileges granted by the amended permit shall be subject to the terms, conditions, and limitations contained in the specimen permit attached to this order, and to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board.

3. Laker is fit, willing, and able to perform properly the foreign air transportation described in the specimen permit, and to conform to the provisions of the Federal Aviation Act of 1958, as amended, and the rules, regulations, and requirements of the Board;

4. The public interest does not require an oral evidentiary hearing on the application;[5] and

5. This amendment of Laker Airways Limited's foreign air carrier permit would not constitute "a major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(c) of the National Environmental Policy Act of 1969 and would not constitute a "major regulatory action" under the Energy Policy and Conservation Act of 1975, as defined in Part 313 of the Economic Regulations;[6]

Accordingly, 1. We direct all interested persons to show cause why we should not (1) make final our tentative findings and conclusions; and (2) issue an amended foreign air carrier permit to Laker Airways Limited in the speci-

[1] The permit also authorizes it to perform charter trips in foreign air transportation subject to the terms, conditions, and limitations in Part 212 of our Economic Regulations.

[2] The carrier would not, and under sections 402 and 1108(b) of the Act could not, be authorized to carry local New York-Los Angeles "cabotage" traffic.

[3] See Order 78-9-44, making final the tentative findings and conclusions set forth in Order 78-6-61; and Order 78-9-100, making final the tentative findings and conclusions in Order 78-8-177.

[4] We know of no information to indicate that Laker's corporate structure or operations have changed, in the short period of time since our last authorizations, which would cast doubt upon the accuracy or validity of our previous findings.

[5] Any interested persons having objections to the issuance of an order making final the Board's tentative findings and conclusions, and issuing the attached permit, shall be allowed ten days in which to respond from the date of service of this order. Answers to objections shall be filed not later than ten days thereafter.

[6] Our tentative findings follow from the fact that this amendment will not significantly alter Laker's existing flight frequencies at New York or Los Angeles.

men form attached, subject to the disapproval of the President;

2. Any interested persons having objections to the issuance of an order making final our tentative findings and conclusions and issuing the attached specimen permit shall, no later than December 11, 1978, file with the Board and serve on the persons named in paragraph 5 below, a statement of objections specifying the part or parts of the tentative findings or conclusions objected to, together with a summary of testimony, statistical data, and concrete evidence expected to be relied upon in support of the objections. If an oral evidentiary hearing is requested, the objector should state in detail why such a hearing is considered necessary and what relevant and material facts he or she would expect to establish through such hearing that cannot be established in written pleadings. Any interested person who wishes to answer these objecions shall file such answers not later than December 21, 1978;

3. If timely and properly supported objections are filed, we will give further consideration to the matters and issues raised by the objections before we take further action, *Provided*, that we may proceed to enter an order in accordance with our tentative findings and conclusions set forth in this order, if we determine that there are no factual issues presented that warrant the holding of an oral evidentiary hearing; [7]

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Secretary shall enter an order which (1) shall make final our tentative findings and conclusions set forth in this order, and (2) subject to the disapproval of the President, shall issue an amended foreign air carrier permit to the applicant in the specimen form attached; and

5. We are serving this order upon Laker Airways Limited, the Ambassador of the United Kingdom of Great Britain and Northern Ireland in Washington, D.C., the U.S. Departments of State and Transportation, the Governors of the States of New York and California, and upon all U.S. certificated carriers.

We shall publish this order in the FEDERAL REGISTER and shall transmit a copy to the President of the United States.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Secretary.

All Members concurred.

[7] Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

SPECIMEN PERMIT

UNITED STATES OF AMERICA, CIVIL AERONAUTICS BOARD, WASHINGTON, D.C., PERMIT TO FOREIGN AIR CARRIER (AS AMENDED)

Laker Airways Limited is authorized, subject to the provisions set forth, the provisions of the Federal Aviation Act of 1958, and the orders, rules and regulations of the Board, to engage in foreign air transportation with respect to persons, and their accompanied baggage, as follows:

Between the terminal point London, England, and the coterminal points New York, New York, and Los Angeles, California.

The holder shall be authorized to engage in charter trips in foreign air transportation, subject to the terms, conditions, and limitations prescribed by Part 212 of the Board's Economic Regulations.

The initial tariff filed by the holder shall not set forth rates, fares and charges lower than those that may be in effect for any U.S. air carrier in the same foreign air transportation; *However*, this limitation shall not apply to a tariff filed after the initial tariff regardless of whether this subsequent tariff is effective before or after the introduction of the authorized service.

The holder shall conform to the airworthiness and airman competency requirements prescribed by the Government of the United Kingdom of Great Britain and Northern Ireland for British international air service.

The holder shall not operate any aircraft under the authority granted by this permit, unless the holder compiles with the operational safety requirements at least equivalent to Annex 6 of the Chicago Convention.

This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and the United Kingdom of Great Britain and Northern Ireland shall be parties.

By accepting this permit, as amended, the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit, as amended.

The holder shall keep on deposit with the Board a signed counterpart of Agreement CAB 18900, an agreement relating to liability limitations of the Warsaw Convention and The Hague Protocol approved by Board Order E-23680, May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement which may be approved by the Board and to which the holder becomes a party.

The holder (1) shall not provide foreign air transportation under this permit unless there is in effect third-party liability insurance in the amount of $1,000,000 or more to meet potential liability claims which may arise in connection with its operations under this permit, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the third-party liability insurance provided, and (2) shall not provide foreign air transportation with respect to persons unless there is in effect liability insurance sufficient to cover the obligations assumed in Agreement CAB 18900, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the passenger liability insurance provided. Upon request, the Board may authorize the holder to supply the name and address of an insurance syndicate in lieu of the names and address of the member insurers.

The exercise of the privileges granted shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

This permit shall become effective on—

Unless otherwise terminated at an earlier date pursuant to the terms of any applicable treaty, convention, or agreement, this permit shall terminate (1) upon the effective date of any treaty, convention, or agreement or amendment which shall have the effect of eliminating the route or routes authorized by this permit from the routes which may be operated by airlines designated by the Government of the United Kingdom of Great Britain and Northern Ireland (or in the event of the elimination of any part of the authorized route, the authority granted shall terminate to the extent of such elimination); or (2) upon the effective date of any permit granted by the Board to any other carrier designated by the Government of the United Kingdom of Great Britain and Northern Ireland in lieu of the holder, or (3) upon the termination or expiration of the Air Services Agreement between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland effective July 23, 1977 (Bermuda II) as amended: *However*, clause (3) of this paragraph shall not apply if, prior to the occurrence of the event specified in clause (3), the operation of the foreign air transportation authorized becomes the subject of any treaty, convention, or agreement to which the United States of America and the United Kingdom of Great Britain and Norther Ireland are or shall become parties.

The Civil Aeronautics Board, through its Secretary, has executed this permit and affixed its seal on

Secretary.

[SEAL]

[FR Doc. 78-34038 Filed 12-5-78; 8:45 am]

[6320-01-M]

[Order No. 78-11-152; Docket Nos. 33889 and 33764]

UNITED AIR LINES, ET AL.

Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 30th day of November 1978.

Processing of further applications for unused authority under Section 401(d)(5) of the Federal Aviation Act as added by the Airline Deregulation Act of 1978.

On October 18, 1978, in anticipation of the President's signature of the Airline Deregulation Act of 1978, the Board by Regulation PR-80 issued

rules governing applications for unused authority under new section 401(d)(5) of the Federal Aviation Act, as added by the Deregulation Act. By Order 78-10-73 of the same date the Board delegated functions under the unused authority provision of the Act to the Director, Bureau of Pricing and Domestic Aviation. Also on the same day, the Acting Manager Director issued a notice entitled "Processing Applications for Unused Authority", which in essence called for a queue on the sidewalk outside the Board's offices composed of representatives of carriers either applying under section 401(d)(5) for other carrier's unused authority or giving notice under section 401(d)(5)(G) of their intent to reactivate their own unused authority.

The queue called for by this notice duly formed, and continued until October 25, 1978, the day following the President's signature of the Deregulation Act, when the applicants were admitted to the Docket Section and filed their respective applications and notices. The Director of BPDA issued a number of orders exercising his delegated authority to rule on disputes concerning positions in the queue and suggestions by various parties for changes in the filing procedures. After the first queue had been admitted to the Docket Section, the Director observed that a new queue was already forming, apparently to establish priority for future applications for unused authority in markets where the first applicant failed to commence service within the time required by the new law. To avert the establishement of a perpetual queue outside the Board's offices, the Director undertook to promise in Order 78-10-119, October 26, 1978, that no such new queue would be recognized, and that new procedures would be adopted for processing future applications and notices under section 401(d)(5) which did not involve the necessity for a physical queue.

The purpose of this order is to establish such new procedures. Because some important authority is about to become "used" in the statutory sense, we are acting immediately by order; the procedures described here will, however, subsequently be proposed as amendments to new Subpart R of our Rules of Practice. At that time we will solicit comments on the procedures established here and on possible variants.

An initial study of the new Deregulation Act disclosed no ready alternative to the first-to-file principle, embodied in the clear language of the Act, whch appeared to mandate the use of a queue or some equivalent procedure. Thus in Order 78-10-111, the Bureau Director rejected the use of a lottery as being inconsistent with the first-to-file requirement of the Act. Further legal research, however, has brought to light judicial authority for procedures under "first-to-file" statutes which involve treating filings within a defined short period of time, *e.g.*, a day, as essentially simultaneous, and using a system of drawings or other random distributions to allocate the property or authority applied for among simultaneous applicants. The leading authority is *Thor-Westcliffe Development Co.* v. *Udall*, 314 F. 2d 257 (C.A.D.C. 1963), *cert. denied*, 373 U.S. 951, involving applications for mineral leases on federal lands.

We have accordingly decided to establish the following rules for processing future applications and notices under the unused authority provision of the Act.[1]

1. As between applications filed on different days, the first filed prevails.[2]

2. Applications filed on the same day will be treated as essentially simultaneous. Any unused authority applied for by only a single applicant (or by no more applicants than there are carriers with unused authority in the market) shall, if awarded, be awarded to that applicant. Where more carriers apply for unused authority in a market than there are carriers holding such unused authority, a drawing[3] will be held with respect to each such market to determine which carrier or carriers will have priority to receive the authority.

3. If a winning carrier in a market amends its application to delete that market before the application is granted, the next applicant as determined by the drawing will have priority to receive the authority.

4. When available unused authority in a market is granted, all other applications for that authority will be denied. (Here, "application" does *not* include a notice of intent under section 401(d)(5)(G).) If thereafter a carrier awarded such authority fails to commence service within the time specified by the Act, or gives notice that it does not intend so to serve, the market will again be open for new applications.[4]

5. The Director will make any necessary subsidiary rules to carry out the foregoing system of dealing with applications.

Accordingly, 1. We order that the procedures described above be used to process applications and notices under section 401(d)(5) of the Deregulatibn Act filed on or after December 4, 1978.

2. We dismiss all applications pending at the close of business on December 1, 1978, for authority awarded to another carrier or carriers.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[5]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 70-34037 Filed 12-5-78; 8:45 am]

[1] In the rules which follow, "application" includes a notice of intent to reinstitute service in a carrier's own market, "applicant" includes a carrier filing such as a notice of intent, and the "grant" of an application includes recognition of the effectiveness of such a notice of intent to preclude lower-ranking applications for the same authority. In Order 78-10-111, the Bureau Director held that the Act gives notices of intent no automatic priority over applications, a ruling we affirm.

[2] Telegraphic applications will not be recognized.

[3] Initially the drawings will be conducted at weekly intervals by the Director using traditional procedures. We contemplate shifting to a system of computer-generated random numbers which the Board's computer will assign to each application in each market as the applications are fed into the computer, with the lowest-numbered applications in each market being granted. This shift will take place only after a detailed computer protocol is published and the procedure receives general approval of applicants.

[4] This differs from the procedure the Bureau Director has followed to date, which has been to award such authority to the next applicant in the existing queue. The Director's procedure was necessitated by the absence of settled procedures for reapplying for authority already awarded. For the long haul, however, it seems undesirable to allow stale applications for unused authority to remain on the books. In implementation of the new procedure, all existing applications for authority already awarded to another carrier will be dismissed as of the close of business on December 1, 1978. Since a notice of intent to resume service in a market can be filed only once, and must be implemented within 30 days of the date of filing, outstanding notices will not be included in the dismissal.

[5] Appendix filed as part of original.

[3510-07-M]

DEPARTMENT OF COMMERCE

Bureau of the Census

SPECIAL CENSUSES

The Bureau of the Census conducts a program whereby a local or State government can contract with the Bureau to conduct a special census of population. The content of a special census is ordinarily limited to questions on household relationship, age, race, and sex, although additional items may be included at the request and expense of the sponsor. The enumeration in a special census is conducted under the same concepts which govern the decennial census.

Summary results of special censuses are published semiannually in the *Current Population Reports*—Series P-28, prepared by the Bureau of the Census. For each area which has a special census population of 50,000 or more, a separate publication showing

data for that area by age, race, and sex is prepared. If the area has census tracts, these data are shown by tracts.

The data shown in the following table are the results of special censuses conducted since December 31, 1977, for which tabulations were completed between November 1, 1978 and November 30, 1978.

Dated: December 1, 1978.

MANUEL D. PLOTKIN,
Director,
Bureau of the Census.

State/place or special area	County	Date of census	Population
Arkansas:			
Little Rock City—annexed areas only	Pulaski	Sept. 15	5,121
Georgia:			
Eatonton City	Putnam	Sept. 12	4,353
Illinois:			
Batavia City	DuPage and Kane	Aug. 28	12,035
Mokena Village	Will	Sept. 14	3,818
Indiana:			
Elkhart County—unincorporated area only (part)		Aug. 29	8,341
Iowa:			
Roland City	Story	Sept. 18	962
Michigan:			
Riga Township	Lenawee	Aug. 28	1,667
Ohio:			
New Boston Village	Scioto	Sept. 6	3,270
Pennsylvania:			
Hamilton Township	Monroe	Sept. 26	4,455
Wisconsin:			
Lac du Flambeau Town	Vilas	Aug. 28	2,259

[FR Doc. 78-33970 Filed 12-5-78; 8:45 am]

[3510-22-M]

National Oceanic and Atmospheric Administration

NORTH PACIFIC FUR SEALS

Notice Regarding Draft Environmental Impact Statement

Notice is hereby given that the National Marine Fisheries Service in cooperation with the Department of State is beginning preparation of a draft environmental impact statement on the Interim Convention on Conservation of North Pacific Fur Seals which will terminate on October 14, 1980, unless extended, renegotiated, or replaced with a new agreement. Any comments or expressions of interest by affected Federal, State, or local agencies, or any interested parties on issues to be covered in the environmental impact statement should be addressed to the National Marine Fisheries Service (F6), National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20235.

Dated: November 30, 1978.

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

[FR Doc. 78-33965 Filed 12-5-78; 8:45 am]

[3510-22-M]

PACIFIC FISHERY MANAGEMENT COUNCIL SCIENTIFIC AND STATISTICAL COMMITTEE BILLFISH ADVISORY SUBPANEL AND JACK MACKEREL ADVISORY SUBPANEL

Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of Public Meeting with Partially Closed Session.

SUMMARY: The Pacific Fishery Management Council and its Scientific and Statistical Committee, Billfish Advisory Subpanel and Jack Mackerel Advisory Subpanel will conduct a series of meetings January 10-12, 1979.

DATES: January 10-12, 1979.

ADDRESS: The meetings will take place at the Shelter Island Inn, located at 2501 Shelter Island Drive, San Diego, California.

FOR FURTHER INFORMATION CONTACT:

Mr. Lorry M. Nakatsu, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201, Telephone: (503) 221-6352

SUPPLEMENTAL INFORMATION: The Pacific Fishery Management Council and its Scientific and Statistical Committee were established by the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), and the Council has established a Billfish Subpanel and Anchovy/Jack Mackerel Subpanel to its Advisory Panel to assist in carrying out its responsibilities.

Meeting Agendas follow:

Billfish Advisory Subpanel (open meeting)—January 10, 1979 (9:00 a.m. to 5:00 p.m.).

Agenda: Consideration of the First Draft of the Billfish Fishery Management Plan.

Jack Mackerel Subpanel (open meeting)—January 10, 1979 (9:00 a.m. to 5:00 p.m.).

Agenda: Consideration of the First Draft of the Jack Mackerel Fishery Management Plan.

Scientific and Statistical Committee (open meeting) January 10, 1979, (9:00 a.m. to 5:00 p.m.); January 11 1979, (10:00 a.m. to 5:00 p.m.).

Agenda: Development of fishery management plans: Comprehensive Salmon; Ocean Salmon for 1979; Squid; Groundfish; Billfish; Dungeness Crab; Jack Mackerel, Pink Shrimp and Anchovy. Operational and procedural matters of the Council, including advisory panel and management plan development team activities. Public comment period beginning at 3:30 p.m. on January 10, 1979, and other committee business.

Council (partially closed meeting)—January 11-12, 1979 (8:00 a.m. to 5:00 p.m. on both days; NOTE: meeting will be closed to the public from 8:00 a.m. to 10:00 a.m. on January 11, 1979).

Agenda: January 11, 1979, (8:00 a.m. to 10:00 a.m.). The closed session is being held to discuss security classified material on the status of current maritime boundary and resource negotiations between the United States and Canada. Personnel matters including appointments to possible vacancies on subpanels and teams, will be discussed. Only those Council members, SSC members and related staff having security clearances will be allowed to attend this closed session.

Agenda: January 11, 1979 Following the closed session, the rest of the meeting will be open to the public for consideration of the First Draft of the Billfish FMP; First Draft of the Jack Mackerel FMP; consideration of reports from ad hoc committees; review of communications from other agencies and organizations, public comment period beginning at 4:00 p.m.

Agenda: January 12, 1979. Consideration of amendments to the Trawl FMP for 1979; operational and procedural matters of the Council, including its staff, advisory panels, and committee

activities; consideration of reports from other agencies and organizations. Status of other Fishery Management Plans. The Council, Scientific and Statistical Committee, Billfish Advisory Subpanel, and Jack Mackerel Advisory Subpanel expect to address each of the items of their respective agendas above. Time restraints may require that some items be deferred to a later meeting. In addition, there is a possibility that late items of importance may be added to the agenda after the appearance of this announcement. Interested parties should contact the Executive Director as mentioned above to obtain a more detailed agenda.

The Assistant Secretary for Administration of the Department of Commerce, with the concurrence of its General Counsel, formally determined on November 30, 1978, pursuant to Section 19(d) of the Federal Advisory Committee Act, that the agenda items covered in the closed session may be exempt from the provisions of the Act relating to open meetings and public participation therein, because items will be concerned with matters that are within the purview of 5 U.S.C. 552B (c)(1) as information which is properly classified pursuant to Executive Order 11652, and disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. (A copy of the determination is available for public inspection and copying in the Public Reading Room, Central Reference and Record Inspection Facility, Room 5317, Department of Commerce).

Dated: December 1, 1978.

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

[FR Doc. 78-34007 Filed 12-5-78; 8:45 am]

[3510-17-M]

WEATHER MODIFICATION ADVISORY BOARD

Termination

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Termination notice.

SUMMARY: Notice is hereby given of the termination of the Weather Modification Advisory Board. The Board was established by the Secretary of Commerce, as noted in the FEDERAL REGISTER (42 FR 4512), to provide independent, expert advice on various aspects of weather modification, including recommendations for a national policy and a research and development program. The Board's work has been completed, and the Board is hereby terminated,

DATE: The date of termination was September 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. Ronald L. Lavoie, Director Science and Academic Affairs Office, National Oceanic and Atmospheric Administration, Rockville, Maryland 20852, telephone 301-443-8721.

Dated: November 28, 1978.

ELSA A. PORTER,
Assistant Secretary for Administration.

[FR Doc. 78-34005 Filed 12-5-78; 8:45 am]

[3510-17-M]

Office of the Secretary

[Department Organization Order 25-1; Transmittal 398]

UNITED STATES TRAVEL SERVICE

Organization Order

Effective date: May 23, 1978.

This order effective May 23, 1978 supersedes the material appearing at 41 FR 5859 of February 10, 1978

Section 1. Purpose

.01 This order prescribes the organization and assignment of functions within the United States Travel Service (USTS). The scope of authority and funcitons of USTS are set forth in Department Organization Order 10-7.

.02 This revision, reflecting a major reorganization and assignment of functions:

a. Renames the Office of Program Services and Development as the Office of Market Development, the Office of State-City Affiars as the Office of Governmental Affairs, the Office of Policy Analysis as the Office of Policy and Research, the Office of Marketing and Field Operations as the Office of International Operations, and the Field Offices as the Regional Offices.

b. Abolishes the Visitor Services Division and assigns its functions to the Office of Governmental Affairs (Section 10.).

c. Transfers the Research and Analysis Division to the Office of Policy and Research (Section 5.).

d. Transfers the Advertising and Promotion Division to the Office of Market Development and combines it with the former Media Services Division to form the Advertising and Media Services Division (paragraph 8.02).

e. Transfers the Marketing Programs Division to the Office of Market Development and combines it with part of the former Conventions and Expositions Division to form the Marketing and Conventions Division (paragraph 8.03).

f. Establishes the Expositions Staff (Section 7.).

g. Reassigns responsibility for coordination of the domestic tourism program to the Office of Governmental Affairs (Section 10.).

h. Established the Management and Policy Council (Section 4.).

i. Places the Regional Offices and the International Congress Office under the Office of International Operations (Section 9.).

Section 2. Organization Structure

The principal organization structure and lines of authority shall be as depicted on the attached organization chart. A copy of the organization chart is on file with the original of this document in the Office of the FEDERAL REGISTER.

Section 3. Office of the Assistant Secretary

.01 The *Assistant Secretary for Tourism* (hereinafter the "Assistant Secretary") has overall responsibility for the policies and direction of USTS. The incumbent establishes its basic policies and objectives, chairs the Department's Travel Advisory Board, establishes and maintains relations with government and industry officials at all levels to facilitate tourism policies and programs, provides U.S. representation with the Bureau of International Expositions, and advises the Secretary and the Under Secretary on all matters related to toursim.

.02 The *Deputy Assistant Secretary for Tourism* (hereinafter the "Deputy Assistant Secretary") serves as the principal advisor to the Assistant Secretary and performs the duties of the Assistant Secretary in the latter's absence or disability, or in the event of a vacancy in that office; supervises and directs day-to-day operations of USTS including Congressional liaison, provides policy guidance for programs and projects developed within USTS, makes recommendations to the Assistant Secretary on all matters related to tourism, and carries out other responsibilities as assigned by the Assistant Secretary.

Section 4. Management and Policy Council

The *Management and Policy Council* consists of the Assistant Secretary, the Deputy Assistant Secretary, and the Directors of the Offices of Policy and Research, Administration, Market Development, International Operations and Governmental Affairs; and provides a management forum for the Assistant Secretary and the Deputy Assistant Secretary to plan, coordinate, and manage the principal activities of USTS. The Council provides a forum for the clarification of policies, the discussion of issues, planning functions as required, the expression of al-

ternative view-points and options, and the assignment of responsibilities for carrying out policy and program decision made by the Assistant Secretary.

Section 5. Office of Policy and Research

The *Office of Policy and Research* assists the Office of the Assistant Secretary in the development of policies, legistive positions, and strategies in the area of international and domestic tourism; provides options for negotiations on international agreements; and represents the Department as official participants in international tourism meetings; maintains liaison with policy staffs of other Federal agencies and organizations; provides the economic marketing and statistical data necessary to effectively plan and evaluate policies and programs; collects and analyzes industry and government economic and tourism data; develops and conducts trade/consumer research studies; develops, coordinates and administers joint research projects with industry and government; develops and implements forecasting and other types of econometric models; assists in establishing overall performance goals, develops program evaluation studies to determine individual program effectiveness; maintains the USTS Measurement System; provides specific data and *ad hoc* analyses as needed; reviews and recommends action and research projects proposed in markets abroad; maintains a data bank on international and domestic tourism; and serves on the Matching Grants Committee.

Section 6. Office of Administration

The *Office of Administration* advises and assists the Office of the Assistant Secretary in developing and implementing overall policies in the areas of administrative, personnel and financial matters; ensures that proper administrative and financial procedures are carried out by USTS offices and divisions; performs budget formulation and execution functions; provides administrative evaluations and management analyses to assist the Office of the Assistant Secretary in assuring that effective management practices are utilized throughout USTS; provides administrative services as required to execute policy and program operations; conducts internal administrative and management evaluations; and serves on the Matching Grants Committee. In addition, the Director is responsible for assisting the Deputy Assistant Secretary in carrying out the day-to-day operations of USTS.

Section 7. Expositions Staff

The *Expositions Staff* administers, for the Office of the Assistant Secretary, Federal recognition of, and participation in, exposition to be held in the United States, and at the direction of the Assistant Secretary, participates as necessary in meetings of the Bureau of International Expositions.

Section 8. Office of Market Development

.01 The *Office of Market Development* plans and develops marketing programs based on international and domestic tourism promotion policies as approved by the Assistant Secretary and develops specific program plans and procedures for implementation, supervises the Advertising and Media Services Division and the Marketing and Conventions Division, and serves on the Matching Grants Committee.

.02 The *Advertising and Media Services Division* participates in the development coordination, and evaluation of international advertising, media relations, and trade and consumer product information campaigns; participates in the selection of advertising and communications contractors after evaluation of their proposals and presentations; reviews and recommends action on specific advertising and information projects proposed for the markets abroad; reviews and recommends reference materials for the Regional Offices and provides these materials for use by the Offices abroad; plans and implements domestic advertising and media information programs; develops and coordinates production and distribution of all printed materials including brochures, films, and booklets used in USTS programs; maintains and distributes supplies of photographs and films, plans and prepares information support materials for distribution to domestic and foreign media; has responsibility for public affairs; and generates positive media coverage on USTS activities through direct media contact. These functions shall be performed in close cooperation with the Departmental Office of Public Affairs.

.03 The *Marketing and Conventions Dvision* reviews and recommends action on market development projects proposed for markets abroad; assists in planning and implementing market development support programs; supervises development by the Regional Offices of contracts with foreign tour operators designed to increase the number of tour offerings to the United States; develops, coordinates and processes all familiarization and inspection tours for representatives of the travel trade, associations and the media; develops and supervises joint USTS/industry promotion programs; plans and develops programs to motivate and persuade U.S. Associations to host International Congresses and to increase foreign attendance at international expositions, conventions, trade shows, and other events to be held in the U.S.; develops incentive travel programs for implementation by USTS offices abroad; and maintains working relationships with the U.S. travel industry for development of international programs.

Section 9. Office of International Operations

.01 The *Office of International Operations* directs the implementation of approved programs, projects, and procedures to promote international travel to the United States from USTS-designated markets abroad. This includes: supervision of the Regional Offices and the International Congress Office; representation of the Regional Offices in headquarters; development and coordination of all operational plans for the markets abroad; and recommendations on and reviews of operation budgets of the Regional Offices and International Congress Office. The Office also monitors progress against plans, including the direction of corrective actions as required in order to meet program goals; conducts program reviews in cooperation with the Office of Market Development in each foreign market to ensure optimum use of available resources; coordinates communications between headquarters and the Regional Offices; and serves on the Matching Grants Committee.

.02 *Regional Offices* perform the primary role in implementing programs of USTS in their respective markets, and are responsible for travel information and services to be provided to the foreign travel trade, and to the consumer. Regional Offices develop marketing strategies for their markets and prepare annual marketing plans for approval by headquarters. They are responsible for implementing and monitoring all travel promotion programs such as research, market development, consumer information, sales promotion, advertising, and product information in their primary and special markets.

.03 The *International Congress Office* is responsible for implementing the International Conventions Program is countries abroad. The Office identifies international conventions and congresses which are prime prospects for selecting the U.S. as a site for their meetings; motivates and persuades those prospects to hold congresses in the U.S.; promotes foreign attendance at national U.S. conventions; and collects, analyzes, and furnishes International Association profile data for sales follow-up by headquarters.

Section 10. Office of Governmental Affairs

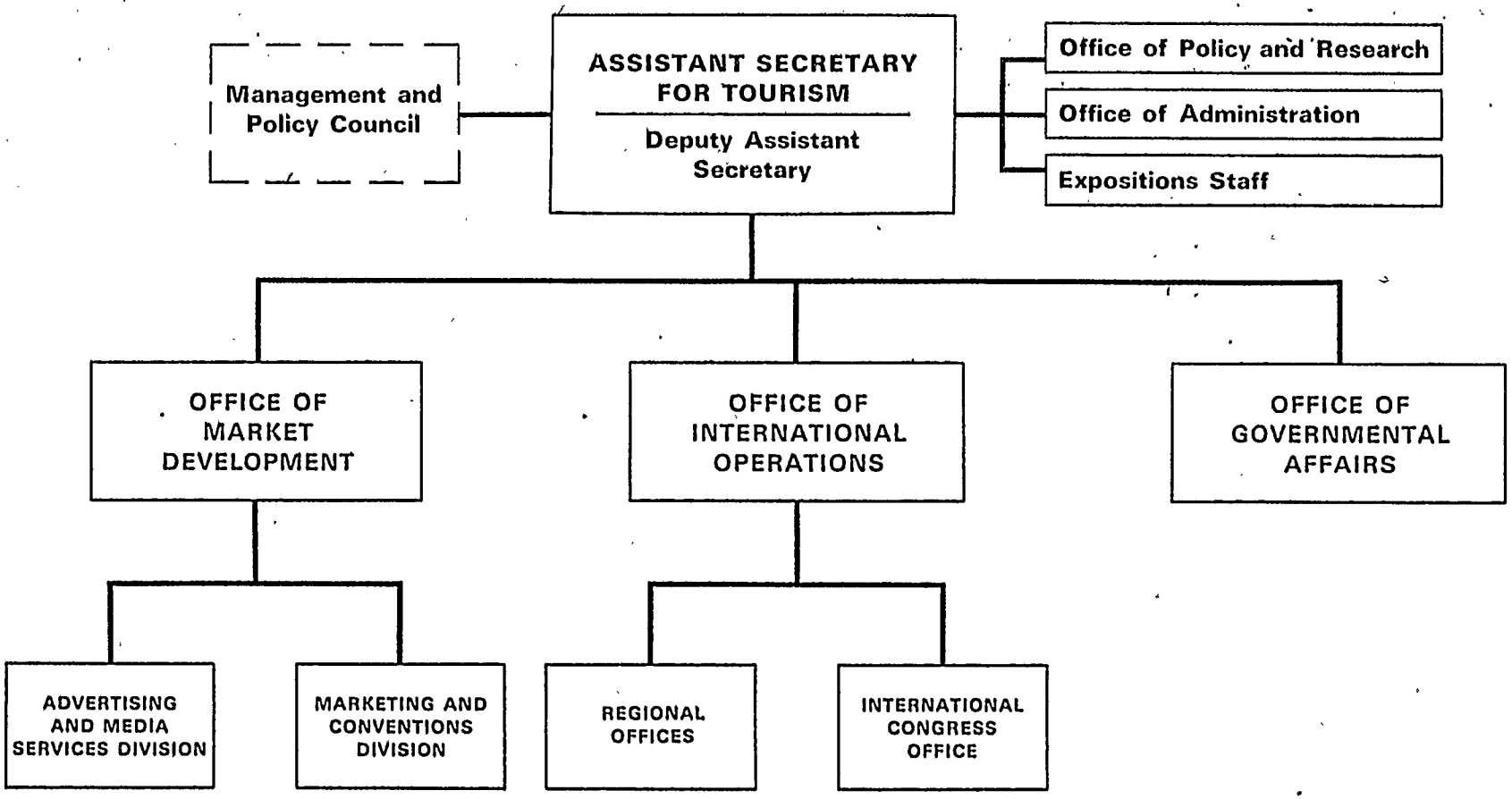
The *Office of Governmental Affairs* provides information, advice and assistance to the Office of the Assistant

Secretary by establishing and maintaining relations with governmental officials at all levels, particularly those of tourism offices in regions, States, territories and local governments; develops, coordinates and implements cooperative programs with these entities; provides other USTS offices with advice and information on programs and activities taking place in the tourism field; and in cooperation with other offices as necessary, develops and implements domestic tourism policies and objectives as they pertain to Federal, regional, State, and local governments in the planning of tourism programs as part of economic development. This office is responsible for international and domestic visitor facilitation programs such as international gateway reception services, facility planning and development, and domestic telephone information services. It administers a matching grants program by developing rules and criteria, providing instructions and technical assistance to applicants, coordinating internal review and approval of applications, monitoring the progress and funding of awarded grants, and evaluating completed grants. The office also chairs the Matching Grants Committee.

GUY W. CHAMBERLAIN,
Acting Assistant Secretary for Administration.

U.S. DEPARTMENT OF COMMERCE

United States Travel Service



MAY 31, 1979

[FR Doc. 78-34006 Filed 12-5-78; 8:45 am]

[3510-25-M]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

BRAZIL, JAPAN AND MACAU

Soliciting Public Comment on Bilateral Negotiations Concerning Textile Products

NOVEMBER 30, 1978.

On April 21, 1974, the Committee for the Implementation of Textile Agreements published a notice in the FEDERAL REGISTER (39 FR 13307) conveying the Committee's intention to announce, and solicit comment on, U.S. Government actions implementing the GATT Arrangement Regarding International Trade in Textiles and the bilateral textile agreements entered into under its terms.

Pursuant to the terms of the Arrangement and the bilateral agreements between the Government of the United States and the Governments of Brazil and Japan and Portugal (Macau) the Committee anticipates holding bilateral negotiations with these governments before June 30, 1979. Any party wishing to express a view or provide data or information with regard to the treatment of any product under the bilateral agreements and any other aspects thereof, or comment on production or availability of domestic textile products, is invited to submit such in ten copies to Mr. Robert E. Shepherd, Chairman of the Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development, U.S. Department of Commerce, 14th and Constitution Avenue NW., Room 3826, Washington, D.C. 20230.

Views, data or information submitted under this procedure will be available for public inspection in the Office of Textiles, Room 2815, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C. 20230, and may be obtained upon written request. Whenever practicable, public comment may be invited concerning views, comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments on any negotiation, consultation, market disruption or any other matter pursuant to this notice is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) and 554(a)(4) relating to matters which constitute "a foreign affairs function of the United States."

EDWARD GOTTFRIED,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 78-33975 Filed 12-5-78; 8:45 am]

[3510-25-M]

REPUBLIC OF CHINA

Announcing Additional Import Controls on Certain Man-Made Fiber Textile Products From the Republic of China

NOVEMBER 30, 1978.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Controlling imports of man-made fiber gloves in Category 631, produced or manufactured in the Republic of China and exported to the United States during the agreement year which began on January 1, 1978. (A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978. (43 FR 8828), June 22, 1978 (43 FR 3421), and September 5, 1978 (43 FR 39408)).

SUMMARY: Under the terms of paragraph 15 of the Bilateral Cotton, Wool and Man-Made Textile Agreement of June 8, 1978, between the Governments of the United States and the Republic of China, the Government of the United States has decided to control imports of man-made fiber textile products in Category 631, produced or manufactured in the Republic of China and exported to the United States during the twelve-month period which began on January 1, 1978, at the level established for the period.

EFFECTIVE DATE: December 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald R. Foote, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423)

SUPPLEMENTARY INFORMATION: On June 16, 1978, there was published in the FEDERAL REGISTER (43 FR 26102) a letter dated June 15, 1978 from the Chairman of the Committee for the Implementation of Textile Agreement to the Commissioner of Customs which established levels of restraint for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of China, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1978 and extends through December 31, 1978. In accordance with the terms of the bilateral agreement, the United States Government has decided also to control imports of man-made fiber textile products in Category 631, during the agreement year which began on January 1, 1978 at the designated level. When the data become available, the level of restraint will be adjusted to reflect imports during the period beginning on January 1, 1978 and extending through the effective date of this action.

ROBER E. SHEPHARD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

NOVEMBER 30, 1978.

COMMISSIONER OF CUSTOMS,
Department of the Treasury, Washington, D.C.

DEAR MR. COMMISSIONER: This directive amends, but does not cancel, the directive issued to you on June 15, 1978 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufatured in the Republic of China.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 8, 1978, between the Governments of the United States and the Republic of China; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on December 5, 1978 and for the twelve-month period beginning on January 1, 1978 and extending through December 31, 1978, entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Category 631, produced or manufactured in the Republic of China, in excess of 2,109,286 dozen pairs.[1]

Man-made fiber textile products in Category 631 which have been exported to the United States prior to January 1, 1978 shall not be subject to this directive.

Man-made fiber textile products in Category 631 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 3421), and September 5, 1978 (43 FR 39408).

In carrying out the above directions, entry into the United States for consumption

[1] The level of restraint has not been adjusted to reflect any entries after December 31, 1977.

shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of China and with respect to imports of man-made fiber textile products from the Republic of China have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHARD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

[FR Doc. 78-33974 Filed 12-5-78; 8:45 am]

[3810-71-M]

DEPARTMENT OF DEFENSE

Department of the Navy

THE NAVY'S COSO GEOTHERMAL DEVELOPMENT PROGRAM, NAVAL WEAPONS CENTER, CHINA LAKE, KERN COUNTY, CALIF.

Public Hearing and Availability of the Draft Environmental Impact Statement (DEIS)

Notice is hereby given pursuant to the National Environmental Policy Act of 1969 (NEPA). Pub. L. 91-100 (42 U.S.C. 4321 *et seq.*); the Council on Environmental Quality Guidelines. (40 CFR Part 1500); and Department of Defense Regulations, "Environmental Considerations in Department of Defense Actions," (32 CFR Part 214), that a public hearing will be held for providing the public with relevant information concerning the Draft Environmental Impact Statement (DEIS) prepared for the Navy's Coso Geothermal Development Program, and to afford the public an opportunity to present their views on this matter. The hearing will be held on the following date, at the location and time specified:

DECEMBER 21, 1978

Burroughs High School Lecture Center, Ridgecrest, California. The hearing will commence at 7:00 p.m. and run until its conclusion.

The proposed action is the award of a contract to develop geothermal energy resources on Navy fee-acquired land as a secure, self-sufficient energy alternative to conventional electricity supply at the Naval Weapons Center (NAVWPNCEN), China Lake, California. The development program will be subject to well defined constraints that are designed to allow development of the geothermal resource without degrading NAVWPNCEN'S national defense mission.

The major environmental issue is the potential alteration of the character of Coso Hot Springs, a National Register of Historic Places site, by either surface development impacts or by extraction of geothermal fluids. The alteration of hot spring activity is a controversial issue according to Native Americans who attribute spiritual and medicinal values to Coso Hot Springs.

Other impacts will result from the ground disturbance that will accompany geothermal development in the relatively undisturbed environment on Navy fee-acquired land. These include increased erosion, loss of productive soil, biotic habitat losses and possible impacts to locally significnt faunal species. Short-term human population fluctuations produced by geothermal development will place demand on the limited services and housing facilities currently available in this rural portion of Inyo County. Adverse impacts to the local social and economic systems could occur if mitigation efforts are unsuccessful.

The public hearing is being held in order that all persons, governmental agencies, organizations, and groups who so desire are afforded the opportunity to comment on the proposed action.

The hearing will be conducted by Captain R. B. Wilson, United States Navy, and will include a presentation of the Navy's proposed Coso Geothermal Development Program and the expected environmental impact.

The following procedures will be followed during the public hearing. For record purposes, all persons attending the hearing will be asked to provide their names you entering the hearing. Oral comments at the hearing will be limited to ten minutes and all lengthy or technical comments should be accompanied by a written submittal. Further, all speakers will identify themselves and any organization they may be representing.

Individuals and organizations wishing to submit written statements to be included in the hearing record are encouraged to do so by December 15, 1978, or such statements may be presented to the Hearing Officer, Captain Wilson, during the hearing. Pre-registration of speakers is desired and should be made in person or writing. Speakers may also register at the attendance desk at the hearing. The names and title of speakers for organizations should be included in the pre-registration.

Any organization desiring to make a formal presentation in excess of the foregoing time limit is requested to contact the Hearing Officer prior to December 15, 1978, so that appropriate arrangements may be made. The closing date for including additional written statements in the Navy hearing record is ten calendar days after the date of the hearing. Speaker pre-registrations and submission of written statements should be addressed to: Captain R. B. Wilson, United States Navy, Public Works Officer (Code 26), Naval Weapons Center, China Lake, CA 93555.

The DEIS was prepared by the NAVWPNCEN, Public Works Department, China Lake, California, and it was submitted and filed with the Environmental Protection Agency (EPA) on November 24, 1978. Notice of the DEIS appeared at page 55281 in the FEDERAL REGISTER of November 27, 1978, (43 Fed. Reg. 55281). The DEIS evaluates the potential broad scope environmental impacts that could result from development of geothermal resources on Navy fee-acquired land at NAVWPNCEN by contract with private industry. Copies of the DEIS have been furnished to various Federal, State, and local agencies, conservation groups and other interested private parties. Moreover, the DEIS may be reviewed at the following locations:

Environmental Protection Agency, Room 537 West Tower, Waterside Mall, Washington, D.C.
Kern County Library, Ridgecrest Branch, Ridgecrest, California
Inyo County Library, Bishop Branch, Bishop, California
Beale Memorial Library, Bakersfield, California
Naval Weapons Center, Public Works Department, China Lake, California

Members of the public are encouraged to comment on the DEIS and all comments should be forwarded to Captain R. B. Wilson on or before January 19, 1979.

For further information concerning this notice captain R. B. Wilson, United States Navy, Public Works Office (Code 26), Naval Weapons Center, China Lake, California, telephone number (714) 939-2382.

Dated: December 1, 1978

P. B. WALKER,
Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 78-34031 Filed 12-5-78 8:45]

[6450-01-M]

DEPARTMENT OF ENERGY

PEACEFUL USES OF ATOMIC ENERGY

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby

given of the proposed "Subsequent Arrangement" under the Additional Agreement for Cooperation Between the Government of the United States and the European Atomic Energy Community (Euratom) Concerning the Peaceful Uses of Atomic Energy and the Agreement for Cooperation Between the Governments of the United States and Switzerland Concerning Civil Uses of Atomic Energy.

The Subsequent Arrangement to be carried out under the above mentioned agreements involves the transfer of one defective fuel element from Switzerland to Euratom for repair and the return of the element from Euratom to Switzerland for use in the Goesgen nuclear power station. The fuel element contains approximately 405 kilograms of uranium enriched to 1.9% U-235.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the Subsequent Arrangement will not be inimcal to the common defense and security of the United States.

This subsequent arrangement will take effect no sooner than 15 days after the date of publication of this notice.

For the Department of Energy.

Dated: November 30, 1978.

ROBERT N. SLAWSON,
Acting Director for Nuclear Affairs International Programs.

[FR Doc. 78-33948 Filed 12-5-78; 8:45 am]

[6450-01-M]

Economic Regulatory Administration

[ERA Docket No. SWPA 78-2, Supplement No. 1]

SOUTHWESTERN POWER ADMINISTRATION

Conditional Extension of Existing System Rates and Notice of Intent to Confirm and Approve Extension

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Conditional extension of existing system rates and Notice of Intent to exercise final confirmation and approval authority with respect to the requested extension.

SUMMARY: On November 16, 1978, the Assistant Secretary for Resource Applications (Assistant Secretary) requested the Administrator of the Economic Regulatory Administration (ERA or the Administrator) to extend confirmation and approval of certain system rates of the Southwestern Power Administration (SWPA) from December 1, 1978, through March 31, 1979. The purpose of this Notice is to advise the public that: (1) the Administrator of ERA has conditionally extended the SWPA system rates through March 31, 1979, and (2) the Administrator of ERA intends to exercise final confirmation and approval authority with respect to the requested extension and to invite interested parties to submit written comments. An opportunity for an oral presentation will be afforded upon request.

DATES: Written comments must be received no later than January 17, 1979. Requests for an oral presentation must be made by December 22, 1978. If a public hearing is requested it will be held on January 4, 1979. Speakers may submit written copies of their oral presentation at the hearing.

ADDRESSES: Requests for an oral presentation and/or ten copies of written comments shall be submitted to: Office of Public Hearing Management, Box WF, Department of Energy, 2000 M Street, NW., Room 2313, Washington, D.C. 20461.

The public hearing, if held, will be in Room 2105, Department of Energy, 2000 M Street, NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Jerry Nicholas, Office of Utility Systems, Economic Regulatory Administration, 2000 M Street, NW., Vanguard Building 527F, Washington, D.C. 20461, Phone 202-254-8470, or Richard W. Manning, Office of the General Counsel, 12th & Pennsylvania Avenue, NW., Room 6146, Washington, D.C. 20461, Phone 202-633-8653.

SUPPLEMENTARY INFORMATION: Pursuant to Section 301(b) of the Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*, the function to confirm and approve power rates for the Southwestern Power Administration was transferred to the Secretary of Energy. By Delegation Order No. 0204-4, effective October 1, 1977, 42 F.R. 60725-27 (November 29, 1977), the Secretary of Energy delegated confirmation and approval authority to the Administrator of ERA. The Administrator has delegated this authority to the Assistant Administrator for Utility Systems, Economic Regulatory Administration.

On May 19, 1978, the Assistant Secretary, on behalf of SWPA, requested ERA to extend confirmation and approval of the existing SWPA system rates through December 1, 1978, in order to allow SWAP additional time to develop new rates. In an order dated July 31, 1978, ERA granted the Assistant Secretary's request, after notice and an opportunity for comment, 43 FR 34523 (August 4, 1978).

On November 16, 1978, the Assistant Secretary requested ERA to extend the existing system rates through March 31, 1979, in order to allow his staff additional time "to review [SWPA's] proposed new rates and supporting data which will be furnished by SWPA by November 22, 1978." The rates which the Assistant Secretary has requested to be extended are contained in the following rate schedules:

Rate Schedule F-1 (Firm Power)
Rate Schedule P-2 (Revised) (Peaking Power)
Rate Schedule EE (Excess Energy)
Rate Schedule IC (Interruptible Capacity)
Contract No. 14-02-001-864 (with Tex-La Electric Cooperative, Inc.)

Pending final action on the requested extension, ERA has determined that the public interest would best be served by immediately extending on a conditional basis SWPA's system rates through March 31, 1979, as requested.

The public is invited to submit comments, as set forth in this Notice, relative to the requested rate extension. At the conclusion of the comment procedure the Administrator of ERA will take final action on the Assistant Secretary's request.

COMMENT PROCEDURES: Interested persons are invited to submit comments with respect to the subject matter set forth in this Notice to: Public Hearing Management, Box WF, Room 2313, Department of Energy, 2000 M Street, NW., Washington, D.C. 20461. Such written comments may be mailed or hand delivered and should be received by 4:30 p.m., e.s.t., on January 17, 1979.

Any person who has an interest in this matter or is a representative of a group or class of persons that has an interest in it may make a written request for an opportunity to make an oral presentation at a public hearing. Such a request can be mailed or hand delivered to: Public Hearing Management, Box WF, Department of Energy, Room 2313, 2000 M Street, NW., Washington, D.C. 20461 and must be received before 4:30 p.m., e.s.t. on December 22, 1978.

The request shall state the name of the person making the request, identify the interest represented and if appropriate state why he or she is a proper representative of a group or class of persons that has an interest, give a concise summary of the proposed oral presentation, and give a telephone number where the person may be contacted.

DOE reserves the right to select the persons to be heard, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited based on the number of persons requesting to be heard.

The public hearing, if any, will not be adjudicative in nature. A DOE official will be designated to preside at the

hearing, if one is held. Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding official.

The hearing, if held, will begin at 9:30 a.m., on January 4, 1979, in Room 2105, Department of Energy, 2000 M Street NW., Washington, D.C.

Public comments, if any, and the hearing record, if any, will be available for inspection at the DOE Freedom of Information Office, Room GA152, James Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585 between the hours of 8:00 a.m., and 4:30 p.m., Monday through Friday.

Issued in Washington, D.C., on November 20, 1978.

JERRY L. PFEFFER,
Acting Assistant Administrator for Utility Systems, Economic Regulatory Administration, Department of Energy.

[FR Doc. 78-33947 Filed 12-5-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20690; FCC 78-807]

AMERICAN TELEPHONE & TELEGRAPH CO.

In the matter of American Telephone & Telegraph Co., Revisions to Tariff F.C.C. Nos. 258 and 267, Transmittal No. 12478; Revisions to Tariff F.C.C. No. 268, Revisions to Tariff F.C.C. No. 267, Transmittal No. 12853; Docket No. 20690.

Memorandum Opinion and Order

Adopted: November 21, 1978.

Released: November 30, 1978.

By the Commission: Commissioner Fogarty dissenting in part and issuing a separate statement.

1. By Commission Order, 57 F.C.C. 2d 956 (1976) (*Designation Order*), we instituted an investigation into the lawfulness of American Telephone and Telegraph Company's (AT&T's) tariff revisions which cancelled the offering of 1.544 Megabits per second (Mbps) Dataphone Digital Service (DDS) under AT&T's experimental tariff, F.C.C. Tariff No. 258, and simultaneously offered this service under F.C.C. Tariff No. 267.[1] By further order, 57 F.C.C. 2d 1176 (1976), we expanded this investigation to cover AT&T's F.C.C. Tariff No. 268, under which this identical service is offered to other common carriers (OCCs). DDS is a private line data communications service offering two-way transmission of digital signals at synchronous speeds of 2.4, 4.8, 9.6, 56 kilobits per second, and 1.544 Mbps. The revisions set for investigation added the 1.544 Mbps speed to AT&T's other speed offerings under F.C.C. Tariff Nos. 267 and 268. The Docket 20690 investigation is of the 1.544 Mbps speed only. This investigation is underway and an Administrative Law Judge (ALJ or Judge) is midway through taking testimony. We now have before us both a petition to enlarge the issues, filed on April 5, 1978 by the Common Carrier Bureau Trial Staff (Trial Staff), and a joint motion to delete the issues, filed on April 24, 1978 by the Trustee in Bankruptcy for the Data Transmission Company (Datran) and AT&T, and various responsive pleadings. We will consider each set of pleadings separately.

[1] See 41 FR 8100, February 24, 1976.

PETITION TO ENLARGE ISSUES

2. On November 10, 1977, during the course of the investigation, AT&T again filed revisions to its Tariff F.C.C. No. 267, Transmittal No. 12853, effective February 8, 1978, making certain changes to its intra-DSA 1.544 Mbps offering.[2] No action was taken on this transmittal by the Commission. relying on information obtained during discovery, the Trial Staff now claims that before the filing of Transmittal No. 12853, interstate 1.544 Mbps intra-DSA service was offered in each DSA encompassing the territory of more than one state, and that this revision now limits this service to only the Washington, D.C. DSA. The Trial Staff argues that a substantial question is raised by this revision as to whether the withdrawal of this service offering in non-Washington DSAs violates Section 214(a) of the Act, 47 U.S.C. 214(a), since AT&T did not obtain a certificate permitting service withdrawal before filing the tariff revision in question. See Rule 63.62, 47 CFR 63.62. It also claims that it raises a question of unlawful discrimination under Section 202(a), 47 U.S.C. 202(a), against customers in the interstate DSAs other than Washington, D.C. who are now deprived of an opportunity for this service. The Trial Staff therefore requests that we enlarge the issues to include:

(1) Whether AT&T's F.C.C. Tariff No. 267 revision, Transmittal No. 12853, constitutes an unauthorized withdrawal and a discriminatory denial of service to customers in the DSAs affected under Sections 214 and 202 of the Act.

(2) Whether any tariff prescription, forfeiture, or other remedy is appropriate and should be ordered.

3. AT&T argues that the tariff revision under Transmittal No. 12853 does not constitute a withdrawal of service without Section 214 authority because 1.544 Mbps service was never actually provided to customers in any area outside the Washington, D.C. DSA. It also claims this revision is not unlawfully discriminatory because the Department of Defense (DOD) is the sole customer using 1.544 Mbps and that it uses this service only in the Washington, D.C. DSA. It also claims that it would not serve the public interest to designate these issues at this stage of the proceeding where the investigation of these tariffs are already underway. DOD has also filed an opposition to the Trial Staff's request claiming, *inter alia*, that because it is the sole customer for 1.544 Mbps service and because no new customers are planned or likely in the future, AT&T's tariff revision does not violate the Act. The ALJ, in a separate opinion released April 26, 1978, FCC 78M-668, commented that he considers the issues already stated in our *Designation Order* to be broad enough to include both issues requested by the Trial Staff in this petition but recognized this matter was before the Commission.

4. As to the Section 214(a) issue, we find no dispute as to the facts in this case. Before the revision, Tariff No. 267 offered interstate 1.544 Mbps intra-DSA service in each DSA encompassing more than one state. After the revision, this service is now offered in only the Washington, D.C. DSA. The only despute relates to the applicability of Section 214(a). While the Trail Staff maintains that this section applies whether or not a service is actually provided, AT&T contends that such section applies only when service is actually provided. We find that a service offering need not be actually utilized before Section 214(a) becomes applicable. The relevant portion of Section 214(a) states:

> No carrier shall discontinue, reduce, or impair service to a community, or part of a community, unless and until there shall first have been obtained from the Commission a certificate that neither the present nor future public convenience and necessity will be adversely affected thereby * * *.

The fact that a service is offered means that such service is available to the public and therefore must comply with the mandate of this section. We explicitly stated in *Interconnection Facilities Provided to the International Record Carriers* (Docket No. 20452, 66 F.C.C. 2d 517, 540 (1977), that "we do not agree, as AT&T seems to imply, that the mere fact a carrier has no orders for service, excuses it from the need to acquire Section 214 discontinuance authority" (footnote omitted). We have adopted detailed procedures in Part 63 of our rules, 47 CFR 63.60 *et seq.*, for a carrier to follow if it proposes a service discontinuance.

[2] Intra-DSA service provides for the transmission of digital signals within a Digital Serving Area (DSA). A DSA is a specific geographic area served in and around a Digital City. A Digital City is a city in which a principal telephone company central office is located which handles DDS.

Consequently, we must find AT&T's revisions to Tariff No. 267, Transmittal No. 12853, to be null and void, insofar as it discontinues service to intra-DSA's other than Washington, D.C., because this revision violates Section 214(a) and Part 63 of our rules.[2] This in no way, however, prejudices AT&T from refiling a tariff revision after obtaining a proper Section 214 certificate to do so.[3]

5. We do not find it necessary to include any forfeiture issue for AT&T's violation of Section 214 for consideration by the ALJ. Historically, we have generally not considered a forfeiture remedy when we have found a Section 214(a) violation. However, Section 503(b) was recently amended by the Communications Act Amendments of 1978, Pub. L. No. 95-234, Section 2 (to be codified in 47 U.S.C. 503(b)), and became effective March 23, 1978.[4] This section now applies to the type of violation found unlawful here. However, this section is discretionary with the Commission[5] and mitigating factors also may be taken into account.[6] In this case, where the violation initially occurred before this amendment became applicable, where there has been no actual disruption of service to any customer, and where we are, in effect, rejecting the tariff filing, we will not apply this provision. Therefore, we shall designate no further issues with respect to this matter.[7] However, if AT&T does not fully comply with the requirements of Section 214 in this regard in the future, we may impose forfeitures or take such other action as necessary to insure compliance.

MOTION TO DELETE ISSUES

6. We next address the motion, filed jointly by Datran and AT&T, requesting that we delete without prejudice those issues specified in para. 3 and incorporated into Issue (5) of our *Designation Order*, 57 F.C.C. 2d 956 (1976), insofar as they apply to Tariff 268. Those issues are as follows:

> Included among the unresolved issues and subissues are whether the proposed rates unlawfully discriminate between 1.544 Mbps users and lower speed users by giving mileage discounts to users of 1.544 Mbps while charging lower speed users on a flat per mile basis; whether the proposed rates unlawfully discriminate by charging 1.544 Mbps short mileage users higher rates per mile than those charged longer mileage users; whether the switch from point-to-point pricing to rate center to rate center pricing is unlawfully discriminatory; whether the rates are unjust or unreasonable because the percentage discount per Kilobit decreases as the speed of the service increases; whether the rates are unjust or unreasonable in that the ratio of price to alleged cost of service is greater for 1.544 Mbps than for the lower speeds; whether the tariff is unlawfully discriminatory in providing error performance standards for the lower speeds but omitting them from 1.544 Mbps service; what impact the offering of this service will have upon the market projections submitted in Docket No. 20288; whether identical pricing for both OCCs and the public, as proposed by AT&T, is unlawfully discriminatory because the costs in serving the two are allegedly different; and whether competitive necessity would justify lower rates to the OCCs.

57 F.C.C. 2d at 957. When we designated these issues, at Datran's request, for investigation in 1976, Datran was the only OCC requesting service under Tariff 268, the tariff offering 1.544 Mbps to OCCs. Since then Datran has filed for bankruptcy and no longer offers service to the public. The motion claims that since Datran was the sole OCC taking service under Tariff 268, no other carrier is presently taking service, and no market is presently forecasted for such service, it would be in the public interest, by conserving the Commission's time and resources, to delete these specific issues from further inquiry.[8] The Trial Staff, in its comments, agrees that circumstances now warrant deletion of these particularized issues raised by Datran,[9] but cautions that we not delete any other remaining issues stated in our *Designation Order* as they relate to Tariff 268, *e.g.*, the justness and reasonableness of Tariff 268 rate levels. Because of the similarity of the rate structures of Tariffs 267 and 268, and in the absence of any evidence that costs for Tariff 268 differ from Tariff 267, the Trial Staff argues that any finding of unlawfulness of Tariff 267's rate level should remain freely applicable by Commission order to Tariff 268.[10]

7. Since no one is presently taking service under Tariff 268, we can understand AT&T's, Datran's, and the Trial Staff's concern in not wanting to spend inordinate time and resources regarding this tariff's lawfulness. We also wish to conclude this proceeding expeditiously. Nevertheless, since AT&T has filed identical rate levels and rate structures for Tariffs 267 and 268, we do not want to preclude ourselves from applying, to the extent appropriate, any findings regarding the lawfulness of Tariff 267 to both tariffs at the conclusion of the investigation. In this regard, we fail to see how we can delete all the specific subissues mentioned in para. 3 of our *Designation Order* as they apply to Tariff 268 without possibly precluding full consideration of the remaining general issues as they relate to Tariff 268 since some of the issues set forth in para. 3 are merely subissues of the generalized issues. For instance, the first two issues stated in para. 3 which inquire into whether the rate structure of Tariff 268 is unlawfully discriminatory either between and among speeds or over distance, seem to be directly related to general Issue (2) of our *Designation Order*.[11] Accordingly, since a

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[2] We may find a tariff revision null and void if, as here, it patently conflicts with a provision of the Communications Act. *See, e.g., Pacific Telatronics, Inc.*, 68 F.C.C. 2d 67 (1978).

[3] While the above finding makes the requested Section 202(a) discrimination issue technically moot, because this tariff revision is now null and void, AT&T is still free to refile. In passing on AT&T's Section 214 request we will consider the existence or nonexistence of customers for this service to the extent relevant.

[4] This amendment was approved February 21, 1978. However, Section 7 states that it "shall take effect on the thirtieth day after the date of enactment of this Act," or March 23, 1978. Section 503(b) now states that:

> Any person who is determined by the Commission, in accordance with paragraph (3) or (4) of this subsection, to have—
>
> (A) Willfully or repeatedly failed to comply substantially with the terms and conditions of any license, permit, certificate, or other instrument of authorization issued by the Commission;
>
> (B) Willfully or repeatedly failed to comply with any of the provisions of this Act or of any rule, regulation, or order issued by the Commission under this Act * * *.
>
> * * * * *
>
> * * * shall be liable to the United States for a forfeiture penalty * * *.

[5] *See* amended section 503(b)(3)(A), which states that "[a]*t the discretion of the Commission*, a forfeiture penalty may be determined against a person under this subsection after notice and an opportunity for a hearing before the Commission or an administrative law judge * * *." (Emphasis added.)

[6] *See* amended Section 503(b)(2)(B), as well as our recently amended Rule 1.80(b)(3), *Implementation of Pub. L. 95-234*, FCC 78-709, (released October 17, 1978) (to be codified in 47 CFR 1.80(b)(3)), which implements this section of the Act. *See also* Section 504(b) of the Act, 47 U.S.C. 504(b).

[7] We wish to note that contrary to the ALJ's conclusion, FCC 78M-668, slip op. at 2, the existing issues in our *Designation Order* were not broad enough to encompass either the Section 214 issue or any related forfeiture issue. The statutory authority under which we designated this proceeding did not include Section 214 of the Act and, accordingly, the issues cannot be read so broadly.

[8] The last two subissues in para. 3 are connected with the question of whether a different cost basis exists for Tariffs 267 and 268, respectively.

[9] The Trial Staff argues that if we do delete these issues, however, that we should delete them with prejudice since Datran does not now want to litigate them in this proceeding where they have already been designated for hearing.

[10] DOD also filed comments objecting to any deletion of the issues in para. 3 of our *Designation Order* as they relate to Tariff 267. Since no party has even suggested that these issues be deleted as to Tariff 267, we find these comments need no further discussion.

[11] Issue (2) of our *Designation Order*, 57 F.C.C. 2d at 958, states:

Footnotes continued on next page

finding of lawfulness or unlawfulness regarding the overall Tariff 268 rate structure or rate levels under the generalized issues may be predicated on the findings obtained regarding the specific subissues stated in para. 3, we do not see how we could delete these specific issues without possibly undercutting the applicability of the generalized issues. However, since the specific subissues will be investigated as they relate to Tariff 267 in any event (the tariff offering this service to the general public under identical rates and rate structure), we do not see a need to devote substantial additional time and resources to the proceeding to determine their applicability to Tariff 268. (the tariff offering this service to the OCCs). Therefore, we shall leave it to the discretion of the Judge to consider, as appropriate, the issues specified in para. 3 and elsewhere in our *Designation Order* in determining the applicability of any findings regarding the lawfulness of the Tariff 267 rate structure and rate levels to Tariff 268. This does not mean that the Judge must make a finding on each issue designated, but rather, should only consider the issues to the extent relevant to resolving the applicability questions.[12]

ORDER

8. *Accordingly, it is ordered,* That AT&T's revision to its Tariff F.C.C. No. 267, Transmittal No. 12853, IS DECLARED NULL AND VOID to the extent indicated herein;

9. *It is further ordered,* That the petition to enlarge the issues, filed by the Trial Staff, is declared moot;

10. *It is further ordered,* That the joint motion to delete issues, filed by Datran and AT&T, is denied, but that the Judge shall consider the designated issues in the manner set forth herein; and

11. *It is further ordered,* That the Secretary shall send a copy of this order by certified mail, return receipt requested, to American Telephone and Telegraph Company, the Trustee in Bankruptcy for the Data Transmission Company, the Department of Defense, shall serve the Common Carrier Bureau Trail Staff and the Administrative Law Judge, and shall cause copy to be published in the FEDERAL REGISTER.

FEDERAL COMMUNICATIONS COMMISSION,[13]
WILLIAM J. TRICARICO,
Secretary.

SEPARATE STATEMENT OF COMMISSIONER JOSEPH R. FOGARTY DISSENTING IN PART

In Re: Discontinuance of Service Offering, Docket No. 20690

The Commission item states that a carrier must obtain a certificate pursuant to Section 214(a)[14] prior to discontinuing a service offering to a community, even if no customer exists for the service, I disagree. If no demand exists for a service, it is incomprehensible to me how service can be discontinued, reduced, or impaired if, in fact, no service was ever provided.

In the present case, I believe AT&T was entirely correct in filing a tariff to discontinue its. 1.544 Mbps service offering to points for which no customer exists for the service. Therefore, I would deny the Trial Staff's request for additional issues.

[FR Doc. 78-33980 Filed 12-5-78; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION

[Docket No. 78-52; Agreement No. 10346]

CARGO REVENUE POOLING AND SAILING AGREEMENT—ARGENTINA/UNITED STATES GULF TRADE

Order of Investigation and Hearing and Approval Pendente Lite

Agreement No. 10346, between Empresa Lineas Maritimas Argentinas S.A., A Bottacchi S.A. de Navegacion C.F.I.I. and Delta Steamship Lines, Inc., as the national-flag lines, and the Northern Pan-America Line, A/S, Cia. de Navegacao Lloyd Brasileiro, Cia. Maritima Nacional, Montemar S.A. Comercial y Maritima and Navimex S.A. de C.V., as the non-national flag lines, has been filed with the Federal Maritime Commission for approval pursuant to section 15 of the Shipping Act, 1916.

The Agreement establishes a cargo revenue pooling and sailing arrangement in the northbound trade from Argentine ports within the La Plata/Rosario range, both inclusive, to ports on the United States Gulf Coast.

Notice of the filing of the Agreement appeared in the FEDERAL REGISTER on July 31, 1978. In response, protests were filed by the United States Department of Justice, Reefer Express Lines (REL) and Transportacion Maritima Mexicana, S.A. (TMM).

The Agreement is one which limits service competition between the parties, and as such, is contrary to the antitrust laws of the United States. The Agreement, therefore, cannot be approved by the Commission unless it can be demonstrated that it is required by a serious transportation need, necessary to secure important public benefits, or in furtherance of a valid regulatory purpose of the Shipping Act, 1916, i.e., justified. *Federal Maritime Commission* v. *Aktiebolaget Svenska Amerika Linien,* 390 U.S. 238 (1968).

All of the protestants allege that the Agreement has not been justified. In addition, REL and TMM allege that it is unjustly discriminatory and unfair in that it will preclude them from entering the trade.

Despite the protests and requests for hearing, we are of the opinion that Agreement No. 10346 may be approved *pendente lite.* Agreement No. 10346 implements an international agreement between the Governments of the United States and Argentina which is designed to avoid the conflict that could arise as a result of the cargo preference laws of Argentina. As the Commission stated in *Agreement No. 10066—Cooperative Working Arrangement,* No. 74-5, slip op. at 21-22 (F.M.C., November 17, 1978):

> Because these measures [cargo preference laws] affect the imports and exports of the United States—insofar as our trade with a given country is concerned—they in and of themselves, are a source of "inter-governmental conflict." This "conflict" can only be resolved either through a commercial arrangement or resort to retaliatory measures such as those permitted under section 19 of the Merchant Marine Act, 1920. [footnote omitted]
>
> We believe that a commercial arrangement which avoids potential inter-governmental conflict is clearly preferable to disruptive retaliatory action. The avoidance of such potential "inter-governmental conflict" and the maintenance of international harmony is a legitimate public interest objective to be derived from the approval of a bilateral agreement.

The allegations of discrimination which have been raised by REL and TMM, while requiring hearing are not, in and of themselves, sufficient to deny *pendente lite* approval of the

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Footnotes continued from last page

Whether such revisions will make an unjust or unreasonable discrimination or will subject any person or class of persons to undue or unreasonable prejudice or disadvantage, or will give any undue or unreasonable preference or advantage to any person or class of persons, within the meaning of Section 202(a) of the Communications Act.

This general issue necessarily requires investigation of the Tariff 268 rate structure. Similarly, some of the para. 3 subissues may be relevant to general Issue (1), concerning the justness and reasonableness of the Tariff 268 rate levels under Section 201(b).

[12] Considerable testimony regarding Tariff 267 has already been taken in this proceeding. We note that Tariffs 267 and 268 have near identical rate structures. We leave it to the presiding Judge's discretion to determine whether it will be necessary and to what extent, if at all, additional evidence need be taken on any of the generalized issues or subissues as they pertain to Tariff 268.

[13] See attached Separate Statement of Commissioner Joseph R. Fogarty Dissenting in Part.

[14] "No carrier shall discontinue, reduce, or impair service to a community, or part of a community, unless and until there shall first have been obtained from the Commission a certificate that neither the present nor future public convenience and necessity will be adversely affected thereby;"

Agreement. In *Agreement No. 9939—Pooling, Sailing and Equal Access to Government-Controlled Cargo Agreement,* 16 F.M.C. 293, 305-306 (1973), Westfal Larsen and Company A/S (WL), a third flag carrier in the Peruvian trade asserted that the Agreement there would drive it from the trade and that its departure would create such detriment to commerce as would warrant disapproval of the Agreement. The Commission disagreed stating:

"Detrimental to the commerce of the United States" is but one of the criteria of section 15. While a contrary finding under any one of the four criteria of section 15 can support disapproval, all of the parts make a legislative whole and must be considered. 16 F.M.C. at 306.

The Agreement there was approved because the interest in intergovernmental harmony outweighed any possible detriment to WL.

In weighing the Agreement's potential impact on the two carriers involved against the need to prevent a possible disruption of commerce and international harmony, we find that approval of Agreement No. 10346 serves the public interest. Therefore, we will approve the Agreement while the allegations of REL and TMM are being explored. However, this *pendente lite* approval shall expire on December 31, 1979, or until a final decision is reached in the proceeding ordered herein, whichever comes first.

Now, therefore, it is ordered, That pursuant to sections 15 and 22 of the Shipping Act, 1916, a proceeding is hereby instituted to determine whether or not Agreement No. 10346 shall be approved, disapproved or modified under the provisions of section 15;

It is further ordered, That this proceeding be limited to consideration of the following issue: whether Agreement No. 10346 is unjustly discriminatory or unfair to the protesting carriers, REL and TMM;

It is further ordered, That Agreement No. 10346 is approved as of November 22, 1978, *pendente lite,* which approval shall expire on December 31, 1979 or until a final decision is reached in this proceeding, whichever comes first;

It is further ordered, That the carriers listed in the Appendix attached hereto are hereby made Proponents and Protestants as so designated in the Appendix;

It is further ordered, That, in accordance with the Commission's rules of practice and procedure (46 CFR 502.42), Hearing Counsel shall be a party to this proceeding;

It is further ordered, That a public hearing be held in this proceeding and that the matter be assigned for hearing and decision by an Administrative Law Judge of the Commission's Office of Administrative Law Judges at a date and place to be hereafter determined by the Presiding Administrative Law Judge, but no later than May 30, 1979.

The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

It is further ordered, That notice of this Order be published in the FEDERAL REGISTER, and a copy thereof be served upon proponents and protestants as listed in the Appendix below and the Commission's Bureau of Hearing Counsel;

It is further ordered, That any person other than proponents, protestants, and the Bureau of Hearing Counsel having an interest and desiring to participate in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 (46 CFR 502.72) of the Commission's rules of practice and procedure;

It is further ordered, That all future notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be mailed directly to all parties of record;

It is further ordered, That all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 118 of the Commission's rules of practice and procedure (46 CFR 502.118), as well as being mailed directly to all parties of record.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

APPENDIX

Proponents

Empresa Lineas Maritimas Argentinas S.A.
Five World Trade Center
Suite 6167
New York, New York 10048

Delta Steamship Lines, Inc.
1700 International Trade Mart
New Orleans, Louisiana 70150

A. Bottacchi S. A. de Navegacion C.F.I.I.
c/o American Oceanice Shipping Inc.
900 International Trade Mart
New Orleans, Louisana 70130

Northern Pan-America Line, A/S
c/o Oivind Lorntzen, Inc.
522 Fifth Avenue
New York, New York 10006

Cia. de Navegacao Lloyd Brasileiro
c/o Norton, Lilly & Company, Inc.
90 West Street
New York, New York 10006

Cia. de Navegacao Lloyd Brasileiro
c/o Norton, Lilly & Company, Inc.
90 West Street
New York, New York 10006

Montemar S.A. Commercialy Maritima
c/o Hansen & Tideman, Inc.
One World Trade Center, Suite 1623
New York, New York 10048

Navimex, S.A. de C.V.
c/o Oivind Lorntzen, Inc.
522 Fifth Avenue
New York, New York 10036

PROTESTANTS

Reefer Express Lines
c/o Joseph A. Klausner, Esq.
1028 Connecticut Auenue, N.W.
Washington, D.C. 20036

Transportacion Maritima Mexicana, S.A.
c/o David C. Jordan, Esq.
Billig, Sher & Jones, P. C.
2033 K Street, N.W.
Washington, D.C. 20006

[FR Doc. 78-34018 Filed 12-5-78; 8:45 am]

[6730-01-M]

[Docket No. 78-51; Agreement No. 10349]

CARGO REVENUE POOLING AND SAILING AGREEMENT—ARGENTINA/UNITED STATES ATLANTIC TRADE

Order of Investigation and Hearing and Approval Pendente Lite

Agreement No. 10349, between Empresa Lineas Maritimas Argentinas S.A., Moore-McCormack Lines, Incorporated and Sea-Land Service, Inc., as the national-flag lines, and Cia. de Navegacao Lloyd Brasileiro, Cia. de Navegacao Maritima Netumar, A/S Ivarans Rederi, Van Nievelt, Goudriaan & Co., B.V. and Montemar S.A. Comercial y Maritima as the non-national flag lines, has been filed with the Federal Maritime Commission for approval pursuant to section 15 of the Shipping Act, 1916.

The Agreement establishes a cargo revenue pooling and sailing arrangement in the northbound trade from Argentine ports within the La Plata/Rosario range, both inclusive, to ports on the United States Atlantic Coast.

Notice of the filing of the Agreement appeared in the FEDERAL REGISTER on August 22, 1978. In response, protests were filed by the United States Department of Justice, Reefer Express Lines (REL) and A/S Ivarans Rederi (Ivarans). The United States Department of State has requested a hearing. The Norwegian Embassy submitted an Aide Memoire through the Department of State.

The Agreement is one which would tend to limit service competition between the parties, and as such, is contrary to the antitrust laws of the United States. The Agreement, therefore, cannot be approved by the Commission unless it can be demonstrated

that it is required by a serious transportation need, necessary to secure important public benefits, or in furtherance of a valid regulatory purpose of the Shipping Act, 1916, i.e., justified. *Federal Maritime Commission v. Aktiebolaget Svenska Amerika Linien*, 390 U.S. 238 (1968).

All of the protestants allege that the Agreement has not been justified. In addition, REL alleges that it will preclude it from entering the trade. Ivarans claims that the Agreement is unjustly discriminatory and unfair because its share is not commensurate with its past share of the trade and its requirements to provide a viable service. The comments of the Norwegian Embassy oppose approval on the grounds that the Agreement would make it impossible for Ivarans, a Norweigian flag line, to remain in the Trade.

The Department of State, along with other protestants, asks for a hearing relative to the possibility that there is an unfiled and unapproved agreement between the Argentine flag line and the Brazilian flag lines regarding the participation of these lines in the Argentina/U.S. and Brazil/U.S. trades. Since this allegation will be handled as a separate matter, it will not be dealt with in connection with this Order.

Despite the protests and requests for hearing, we are of the opinion that Agreement No. 10349 may be approved *pendente lite*. Agreement No. 10349 implements an international agreement between the Governments of the United States and Argentina which is designed to avoid the conflicts that could arise as a result of the cargo preference laws of Argentina. As the Commission stated in *Agreement No. 10066—Cooperative Working Arrangement*, No. 74-5, slip op. at 21-22 (F.M.C., November 17, 1978):

> Because these measures [cargo preference laws] affect the imports and exports of the United States—insofar as our trade with a given country is concerned—they in and of themselves, are a source of "inter-governmental conflict."
>
> This "conflict" can only be resolved either through a commercial arrangement or resort to retaliatory measures such as those permitted under section 19 of the Merchant Marine Act, 1920. [footnote omitted]
>
> We believe that a commercial arrangement which avoids potential inter-governmental conflict is clearly preferable to disruptive retaliatory action. The avoidance of such potential "inter-governmental conflict" and the maintenance of international harmony is a legitimate public interest objective to be derived from the approval of a bilateral agreement.

The allegations of discrimination which have been raised by REL and Ivarans, while requiring hearing, are not, in and of themselves sufficient to deny *pendente lite* approval of the Agreement. In *Agreement No. 9939—Pooling, Sailing and Equal Access to Government-Controlled Cargo Agreement*, 16 F.M.C. 293, 305-306 (1973), Westfal Larsen and Company A/S (WL), a third flag carrier in the Peruvian trade asserted that the Agreement there would drive it from the trade and that its departure would create such detriment to commerce as would warrant disapproval of the Agreement. The Commission disagreed stating:

> "Detrimental to the commerce of the United States" is but one of the criteria of section 15. While a contrary finding under any one of the four criteria of section 15 can support disapproval, all of the parts make a legislative whole and must be considered. 16 F.M.C. at 306.

The Agreement there was approved because the interest in intergovernmental harmony outweighed any possible detriment to WL.

In weighing the Agreement's potential impact on the two carriers involved against the need to prevent a possible disruption of commerce and international harmony, we find that approval of Agreement No. 10349 better serves the public interest. Therefore, we will approve the Agreement while the allegations of REL and Ivarans are being explored. However, this *pendente lite* approval shall expire on December 31, 1979, or until a final decision is reached in the proceeding ordered herein, whichever comes first.

Now, therefore, it is ordered, That pursuant to sections 15 and 22 of the Shipping Act, 1916, a proceeding is hereby instituted to determine whether or not Agreement No. 10349 shall be approved, disapproved or modified under the provisions of section 15;

It is further ordered, That this proceeding be limited to consideration of the following issue: whether Agreement No. 10349 is unjustly discriminatory or unfair to the protesting carriers, REL and Ivarans;

It is further ordered, That Agreement No. 10349 is approved as of November 22, 1978, *pendente lite*, which approval shall expire on December 31, 1979, or until a final decision is reached in this proceeding, whichever comes first;

It is further ordered, That the carriers listed in the Appendix attached below are hereby made Proponents and Protestants as so designated in the Appendix;

It is further ordered, That in accordance with the Commission's rules of practice and procedure (46 CFR 502.42), Hearing Counsel shall be a party to this proceeding;

It is further ordered, That a public hearing be held in this proceeding and that the matter be assigned for hearing and decision by an Administrative Law Judge of the Commission's Office of Administrative Law Judges at a date and place to be hereafter determined by the Presiding Administrative Law Judge, but no later than May 30, 1979.

The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

It is further ordered, That notice of this Order be published in the FEDERAL REGISTER, and a copy thereof be served upon proponents and protestants as listed in the Appendix below and the Commission's Bureau of Hearing Counsel;

It is further ordered, That any person other than proponents, protestants, and the Bureau of Hearing Counsel having an interest and desiring to participate in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 (46 CFR 502.72) of the Commission's rules of practice and procedure;

It is further ordered, That all future notices orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be mailed directly to all parties of record;

It is further ordered, That all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 118 of the Commission's rules of practice and procedure (46 CFR 502.118), as well as being mailed directly to all parties of record.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

APPENDIX

PROPONENTS

Empresa Lineas Maritimas Argentinas, S.A., Five World Trade Center, Suite 6167, New York, New York 10048.

Moore-McCormack Lines, Incorporated, 2 Broadway, New York, New York 10004.

Sea-Land Service, Inc., 10 Parsonage Road, Box 900, Edison, New Jersey 08817.

Cia. de Navegacao Lloyd Brasileiro, c/o Norton, Lilly & Co., Inc., 90 West Street, New York, New York 10006.

Cia. de Navegacao Maritima Netumar, c/o Netumar International, Inc., 67 Broad Street, New York, New York 10004.

Van Nievelt, Goudriaan & Co., B.V. c/o Constellation Navigation, Inc., 233 Broadway, New York, New York 10007.

Montemar S.A. Comercial y Maritima, c/o Hansen & Tideman, Inc., One World Trade Center, Suite 1623, New York, New York 10048.

PROTESTANTS

Reefer Express Lines, c/o Joseph A. Klausner, Esq., 1028 Connectivut Avenue, N.W., Washington, D.C. 20036.
A/S Ivarans Rederi, c/o Elmer C. Maddy, Esq., Kirlin, Campell & Kesting, 120 Broadway, New York, New York 10005.

[FR Doc. 78-34019 Filed 12-5-78; 8:45 am]

[6730-01-M]

[Independent Ocean Freight Forwarder License No. 1002R]

CARIBE SHIPPING CO.

Order of Revocation

On November 20, 1978, Caribe Shipping Company, Inc., Pier No. 9, San Juan, Puerto Rico 00904, requested the Commission to revoke its Independent Ocean Freight Forwarded License No. 1002R.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(c), dated August 8, 1977;

It is ordered, That Independent Ocean Freight Forwarder License No. 1002R, issued to Caribe Shipping Company, Inc., be and is hereby revoked effective November 20, 1978 without prejudice to reapplication for a license in the future.

It is further ordered, That Independent Ocean Freight Forwarder License No. 1002R issued to Caribe Shipping Company, Inc. be returned to the Commission for cancellation.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon Caribe Shipping Company, Inc.

ROBERT G. DREW,
Director, Bureau of Certification & Licensing.

[FR Doc. 78-34022 Filed 12-5-78; 8:45 am]

[6730-01-M]

[Docket No. 78-49]

EMILE BERNAT & SONS CO. v. UNITED STATES LINES, INC., ET AL.

Filing of Complaint

Notice is hereby given that a complaint filed by Emile Bernat & Sons Co. against United States Lines, Peabody & Lane, Atlantic Container Lines, Ltd., Farrell Lines, Inc., Dart Containerline, Inc., Trans Freight Lines, Inc., and North Atlantic Westbound Freight Association was served November 28, 1978. Complainant alleges that it was assessed charges for ocean transportation in violation of section 18(b)(3) of the Shipping Act, 1916 in excess of those provided in respondents' tariff schedules.

Hearing in this matter, if any is held, shall commence on or before May 28, 1979. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate reocrd.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-34020 Filed 12-5-78; 8:45 am]

[6730-01-M]

[Independent Ocean Freight Forwarder License No. 1233]

GERALD T. BOYLE & ASSOCIATES, GERALD T. BOYLE D.B.A.

Order of Revocation

On November 17, 1978, Gerald T. Boyle & Associates, Gerald T. Boyle d/b/a/, 2801 East Colfax Avenue, Denver, Colorado 80206, requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 1233.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(c), dated August 8, 1977;

It is ordered, That Independent Ocean Freight Forwarder License No. 1233, issued to Gerald T. Boyle & Associates, Gerald T. Boyle d/b/a, be and is hereby revoked effective November 17, 1978, without prejudice to reapplication for a license in the future.

It is further ordered, That Independent Ocean Freight Forwarder License No. 1233, issued to Gerald T. Boyle & Associates, Gerald T. Boyle d/b/a, be returned to the Commission for cancellation.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon Gerald T. Boyle & Associates, Gerald T. Boyle d/b/a.

ROBERT G. DREW,
Director, Bureau of Certification & Licensing.

[FR Doc. 78-34024 Filed 12-5-78; 8:45 am]

[6730-01-M]

[Independent Ocean Freight Forwarder License No. 937R]

VERNON FORWARDING CO., INC.

Order of Revocation

On October 28, 1978, Vernon Forwarding Company, Inc., 6212 Lankershim Boulevard, North Hollywood, California 91606, requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 937R.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(c), dated August 8, 1977;

It is ordered, That Independent Ocean Freight Forwarder License No. 937R, issued to Vernon Forwarding Company, Inc., be and is hereby revoked effective October 28, 1978, without prejudice to reapplication for a license in the future.

It is further ordered, That Independent Ocean Freight Forwarder License No. 937R, issued to Vernon Forwarding Company, Inc. be returned to the Commission for cancellation.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon Vernon Forwarding Company, Inc.

ROBERT G. DREW,
Director, Bureau of Certification & Licensing.

[FR Doc. 78-34023 Filed 12-5-78; 8:45 am]

[6730-01-M]

[Independent Ocean Freight Forwarder License No. 134]

W. M. COOK & CO., INC.

Order of Revocation

On November 6, 1978, W. M. Cook & Co., Inc., 42 Broadway, New York, New York 10004, requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 134 effective November 30, 1978.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), § 5.01(c), dated August 8, 1977:

It is ordered, That Independent Ocean Freight Forwarder License No. 134 issued to W. M. Cook & Co., Inc. be and is hereby revoked effective November 30, 1978 without prejudice to reapplication for a license in the future.

It is further ordered, That Independent Ocean Freight Forwarder License No. 134 issued to W. M. Cook & Co.,

Inc. be returned to the Commission for cancellation.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon W. M. Cook & Co., Inc.

ROBERT G. DREW,
Director, Bureau of Certification & Licensing.

[FR Doc. 78-34021 Filed 12-5-78; 8:45 am]

[1610-01-M]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on November 28, 1978 (CAB and NRC) and November 29, 1978 (NRC). 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 receipts.

The notice includes the title of each 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 CAB and NRC 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 December 26, 1978, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 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.

CIVIL AERONAUTICS BOARD

CAB has requested clearance on an extension without change basis of CAB Form 298—A Registration, Reregistration and Amendments under Part 298 of the Economic Regulations. This form is filed by every taxi operator who plans to commence operations under Part 298 of the Board's Economic Regulations. Submission of Form 298-A is mandatory under the Federal Aviation Act of 1958, as amended. CAB estimates that 4,000 air taxi operators will file this form which must be submitted every two years and that the respondent burden for completing the form is one-half hour.

NUCLEAR REGULATORY COMMISSION

The NRC has requested clearance on an extension without change basis of Form NRC/DOE-742 (w/supplements), "Material Status Report". This report serves as a confirmation document pertaining to the location, composition, and status of special nuclear material inventories in the possession of NRC licensees. The information submitted on the forms is needed to enable the Commission to assure that special nuclear materials are adequately safeguarded in the interest of the common defense and security of the United States. Respondents are NRC special nuclear material licensees. NRC estimates that approximately 500 licensees fill out a total of 1,000 forms annually and the burden for completing one form is 1 hour.

The NRC also has requested clearance for a new Form NRC-313(I), "Application for Byproduct Material License-Industrial." This is a revision in the 313 series designed to facilitate rapid processing of license applications for industrial usage of Byproduct Material. According to NRC, the new form should benefit both applicants and the agency. NRC estimates that 220 respondents will apply for new licenses annually with an average burden per respondent of 24 hours, 2,070 respondents will apply for license amendments annually with an average burden per respondent of 2 hours, and 510 respondents will apply for license renewals annually with an average burden per respondent of 8 hours.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc. 78-34053 Filed 12-5-78; 8:45 am]

[6820-24-M]

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FPMR G-137]

TRANSPORTATION AND MOTOR VEHICLES

Fuel Economy Mileage Information for Use in Preparing Fiscal Year 1979 Vehicle Acquisition Forecasts

DECEMBER 1, 1978.

1. *Purpose.* This bulletin announces the vehicle miles per gallon ratings to be used by Federal agencies in preparing their fiscal year (FY) 1979 vehicle acquisition forecasts for passenger automobiles (sedans and station wagons) and light trucks (6,000 pounds gross vehicle weight rating (GVWR) and under).

2. *Expiration date.* This bulletin expires September 30, 1979.

3. *Background.* a. To implement the provisions of Public Law 94-163 and Executive Orders 11912 (dated April 13, 1976) and 12003 (dated July 20, 1977) GSA added Subpart 101-38.13 to the Federal Property Management Regulations (FPMR) and issued FPMR Temporary Regulation G-39 (43 FR 54632). These regulations established policy and procedures governing, respectively, the acquisition by Federal agencies of passenger automobiles (sedans and station wagons) and light trucks (6,000 pounds GVWR and under).

b. In accordance with FPMR 101-38.13 and FPMR Temporary Regulation G-39, Federal agencies that will require vehicles during the fiscal year shall furnish GSA a separate forecast of their total passenger automobile and light truck acquisition requirements, based on the latest applicable fuel economy information issued by the Environmental Protection Agency.

c. Attachment A to this bulletin provides class miles per gallon (mpg) ratings for use in the preparation of agency acquisition forecasts of passenger automobiles. Additionally, it lists examples of the mpg ratings for individual vehicles in each class. Attachment B provides similar information for each item of light trucks.

4. *Suggested action.* Each agency should use the attached miles per gallon rating information in preparing its acquisition forecast for both pasenger automobiles and light trucks.

5. *Inquiries and assistance.* Assistance or information regarding vehicles not listed in the attachments to this bulletin may be obtained by calling GSA, telephone number 703-557-1327.

WILLIAM P. KELLY, Jr.,
Commissioner, Federal Supply Service.

December 1, 1978

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Attachment A

PASSENGER AUTOMOBILE MILES PER GALLON DATA

Class	Sedans	Transmissions			
		Automatic		Manual	
		49 States	Calif.	49 States	Calif.
IB Subcompact	Standard 4 cylinder	23	21	25	25
	Optional 4 cylinder	26	24	30	28
	Optional 6 cylinder	20	19	21	**
Examples:	Engines				
AMC Spirit	121/4	23	21	26	N/A
	232/6	21	N/A	21	N/A
	258/6	19	16***	20	N/A
Chev Chevette	98/4	27	27	34	30
Chev Monza	151/4	25	N/A	28	N/A
	196/6	23	N/A	21	N/A
	231/6	N/A	19	N/A	20
	305/8	20	16***	17***	N/A
Ford Pinto	140/4	24	23	25	26
	171/6	20	N/A	N/A	N/A
Ply Horizon	105/4	27	24	30	28
II Compact	Standard 4 cylinder	23	21	24	21
	Optional 6 cylinder	20	**	20	**
	Optional 8 cylinder*	**	**	**	N/A
	Optional 8 cylinder*	**	**	N/A	N/A
Examples:	Engines				
AMC Concord	121/4	23	21	25	N/A
	232/6	20	N/A	21	N/A
	258/6	19	16***	20	N/A
	304/8	17***	N/A	22	N/A
Chev Nova	250/6	19	17***	22	N/A
	305/8	18***	15***	17***	N/A
	350/8	18***	15***	N/A	N/A
Ford Fairmont	140/4	24	21	24	21
	200/6	20	18***	22	N/A
	302/8	18***	17***	N/A	N/A

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Class	Sedans	Transmissions: Automatic 49 States	Automatic Calif.	Manual 49 States	Manual Calif.
Examples:	Engines				
Plymouth Volare	225/6	21	16***	21	N/A
	318/8	18***	17***	N/A	N/A
	360/8	N/A	16***	N/A	N/A
III	Standard 6 cylinder	21	19	24	N/A
Mid-Size	Optional 8 cylinder	19	**	**	N/A
	Optional 8 cylinder*	**	**	N/A	N/A
Examples:	Engines				
Chev Malibu	200/6	21	N/A	24	N/A
	231/6	N/A	19	N/A	N/A
	267/8	20	N/A	N/A	N/A
	305/8	19	18***	18***	N/A
	350/8	18***	N/A	N/A	N/A
Ford Ltd II	302/8	16***	N/A	N/A	N/A
	351/8	15***	13**	N/A	N/A
IV	Standard 6 cylinder	19	**	N/A	N/A
Large	Optional 8 cylinder*	**	**	N/A	N/A
	Optional 8 cylinder*	**	**	N/A	N/A
Examples:	Engines				
Chev Impala	250/6	18***	16***	N/A	N/A
	305/8	18***	15***	N/A	N/A
	350/8	18***	15***	N/A	N/A
Dodge St. Regis	225/6	19	N/A	N/A	N/A
	318/8	18***	15***	N/A	N/A
	360/8	17***	16***	N/A	N/A
Ford Ltd.	302/8	18***	16***	N/A	N/A
	351/8	16***	N/A	N/A	N/A

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Class	Station Wagons	Transmissions			
		Automatic		Manual	
		49 States	Calif.	49 States	Calif.
I	Standard 4 cylinder	24	23	24	23
Subcompact	Optional 6 cylinder	19	19	20	20
Examples:	Engines				
AMC Concord	232/6	20	N/A	21	N/A
	258/6	19	16***	20	N/A
	304/8	16***	N/A	N/A	N/A
Chev Monza	152/4	25	N/A	28	N/A
	196/6	23	N/A	21	N/A
	231/6	N/A	19	N/A	20
Ford Pinto	141/4	24	23	24	23
	171/6	20	N/A	N/A	N/A
II	Standard 6 cylinder	19	19	21	N/A
Compact	Optional 8 cylinder	19	**	**	N/A
	Optional 8 cylinder*	**	**	N/A	N/A
Examples:	Engines				
Chev Malibu	200/6	21	N/A	24	N/A
	231/6	N/A	19	N/A	N/A
	267/8	19	N/A	18***	N/A
	305/8	N/A	16***	17***	N/A
Ford Fairmont	140/4	N/A	N/A	24	21
	200/6	19	N/A	22	N/A
	302/8	18***	17***	N/A	N/A
Plymouth Volare	225/6	19	16***	21	N/A
	318/8	18***	17***	N/A	N/A
	360/8	N/A	16***	N/A	N/A
III					
Mid-Size	None available				

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Class	Station Wagons	Transmissions			
		Automatic		Manual	
		49 States	Calif.	49 States	Calif.
IV	Standard 8 cylinder	**	**	N/A	N/A
Large	Optional 8 cylinder	**	**	N/A	N/A
Examples:	Engines				
Chev Impala	250/6	16***	N/A	N/A	N/A
	305/8	15***	N/A	N/A	N/A
	350/8	15***	14***	N/A	N/A
Ford Ltd.	302/8	16***	N/A	N/A	N/A
	351/8	17***	N/A	N/A	N/A

KEY:

N/A Not available

* Law enforcement option only.

** Does not comply with 19 miles per gallon minimum established by Executive Order 12003. May not be used to prepare agency forecast.

*** Requires written authorization from the Administrator of General Services and the Secretary of Energy.

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Attachment B

LIGHT TRUCK MILES PER GALLON DATA

Item	4 X 2	Transmissions				
		Automatic		Manual		
		49 States	Calif.	49 States		Calif.
1 Utility	Standard 4 cylinder	21	18	N/A		N/A
Examples:	Engines					
AM General Dispatcher	121/4	21	18	N/A		N/A
				3 Spd	4 Spd	
20 Van Panel & 30 Van Wagon	Standard 6 cylinder	17	N/A	18	19	N/A
	Standard 8 cylinder	14	14	16	17	N/A
Examples:	Engines					
Chev Sport Van &	250/6	N/A	N/A	19	N/A	N/A
Chev Van (G 10)	305/8	14	N/A	N/A	N/A	N/A
Dodge Sportsman &	225/6	17	N/A	18	19	N/A
Tradesman (B-100)	318/8	16	15	16	17	N/A
Ford Club Wagon &	300/6	17	N/A	18	19	N/A
Econoline (E-100)	302/8	15	14	16	17	N/A
	351/8	14	N/A	N/A	N/A	N/A
40 Pickup	Standard 6 cylinder	17	N/A	18	18	N/A
	Standard 8 cylinder	14	14	16	16	N/A
	Extra power 8 cylinder	14	12	15	N/A	N/A
	Diesel	22	N/A	N/A	N/A	N/A
Examples:	Engines					
Chev C 10	250/6	N/A	N/A	19	19	N/A
	305/8	14	N/A	N/A	N/A	N/A
	350/8 Diesel	22	N/A	N/A	N/A	N/A
Dodge D 100	225/6	17	N/A	18	18	N/A
	318/8	16	15	16	16	N/A
Ford F 100	300/6	17	N/A	19	20	N/A
	302/8	16	14	17	18	N/A
	351/8	14	12	15	N/A	N/A
60 Compact pickup	Standard 4 cylinder	22	22	N/A	25	24

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Item			Transmissions			
			Automatic		Manual	
			49 States	Calif.	49 States	Calif.
	4 X 2					
Examples:		Engines				
Chev LUV		111/4	24	22	26	25
Ford Courier		120/4	N/A	N/A	30	29
		140/4	23	22	25	23
Dodge D 50		122/4	25	22	25	24
		156/4	22	22	N/A	N/A
116 Sedan delivery	Standard 6 cylinder		19	16	21	N/A
	Standard 8 cylinder		18	17	18	N/A
Examples:		Engines				
AMC Concord		232/6	20	N/A	21	N/A
		258/6	19	16	20	N/A
		304/6	16	N/A	N/A	N/A
Chev Malibu		200/6	21	N/A	24	N/A
		231/6	N/A	19	N/A	N/A
		267/8	19	N/A	18	N/A
		305/8	N/A	16	17	N/A
Ford Fairmont		200/6	19	N/A	22	N/A
		302/8	18	17	N/A	N/A
Plymouth Volare		225/6	19	16	21	N/A
		318/8	18	17	N/A	N/A
		360/8	N/A	16	N/A	N/A
	4 X 4					
5 & 6 Utility truck	Standard 6 cylinder		18	16	18	17
	Standard 8 cylinder		15	N/A	16	15
Example:		Engines				
AMC CJ-5/CJ-7		258/6	18	16	18	17
		304/8	15	N/A	16	15

IHC Travel Top - This vehicle rated at more than 6,000 pounds GVWR. If furnished under Item 6, will not count in calculation of fleet average fuel economy.

65 Compact pickup	Standard 4 cylinder		N/A	N/A	22	22
Example:		Engine				
Chev LUV		111/4	N/A	N/A	22	22

KEY: N/A = Not available

[FR Doc. 78-34102 Filed 12-5-78; 8:45 am]

[4110-88-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE.

Alcohol, Drug Abuse, and Mental Health Administration

ADVISORY COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory body scheduled to assemble during the month of December 1978:

ALCOHOL TRAINING REVIEW COMMITTEE, December 15, 8:00 a.m.—OPEN MEETING, Conference Room L, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857. Contact: Ms. Jeanne Trumble, Room 14C-17, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-1056.

Purpose. While the principal function of the Alcohol Training Review Committee is to provide professionally competent merit review of grant applications, members are also expected to bring to the attention of the national Institute on Alcohol Abuse and Alcoholism particular problems, issues and needs of the field which are timely and of major importance. The committee members have proposed this special workshop to address issues in the field of alcohol manpower and training which directly affect their review of applications.

Agenda. From 8:00 a.m. to 5:00 p.m. on December 15, the meeting will be open for discussion of issues and needs in the field of alcohol training and manpower development. Substantive information may be obtained from the contact person listed above.

This notice was delayed because of delays in planning and obtaining approval for this meeting.

The NIAAA Information Officer who will furnish upon request summaries of the meeting and roster of the committee members is Mr. Harry Bell, Associate Director, Office of Public Affairs, NIAAA, Room 11A-17, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3306.

Dated: November 30, 1978.

ELIZABETH A. CONNOLLY,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.78-33961 Filed 12-5-78; 8:45 am]

[4110-83-M]

Health Resources Administration

TRAINING IN EMERGENCY MEDICAL SERVICES

Application Announcement for Grants

The Bureau of Health Manpower, Health Resources Administration, is pleased to announce the availability of fiscal year 1979 application materials for Grants for Training in Emergency Medical Services as authorized by section 789, Title VII, of the Public Health Service Act.

Section 789 authorizes grants to educational entities to assist in meeting the cost of training programs providing instruction in the techniques and methods of emergency medical services, including the skills required in connection with the provision of ambulance services. Eligible entites include schools of medicine, dentistry, osteopathy and nursing, training centers for allied health professions, hospitals, and other appropriate educational and public entities. Funds are to assist in meeting the costs of training programs in techniques and methods for providing emergency medical services. Programs covered within this authority include projects for the training of emergency medical technicians-ambulance, emergency medical technicians-paramedic, emergency nursing personnel, and projects for the residency training of emergency physicians.

In determining the priority for funding of approved applications, additional funding preference will be accorded projects in which the following are demonstrated.

For all projects: (1) Those affording clinical experience in emergency medical services systems receiving assistance under Title XII of the Public Health Service Act.

(2) Those providing substantial portions of the training program in a health manpower shortage areas(s) as defined in section 332 of the Public Health Service Act.

(3) Those providing education emphasizing interdisciplinary approaches to emergency care.

For Projects in Specific Disciplines: (1) *EMT-Paramedic:* Those projects sponsored by educational entities granting a degree or diploma. (This does not apply to a degree or diploma in EMS but applies to the institution).

(2) *Medicine:* Those projects designed to train emergency physicians while developing general emergency medical training resources. As evidence that the program is so designed, the applicant must:

(a) Be a school of medicine or osteopathy with an administrative unit which is responsible for educational programs in emergency medicine and involved in more than one of the following phases of emergency medical education: undergraduate, graduate or continuing education; or

Be affiliated with a school of medicine or osteopathy as described in the preceding paragraph.

Applications which do not address these preferences will be reviewed and given full consideration for funding. However, each preference which is met will enhance the competitive position of an approved applicant in determining the order of funding of approved applications.

Approximately $2,000,000 is expected to be available for competitive grant awards in fiscal year 1979 under section 789.

Application materials for fiscal year 1979 are based on Interim-Final regulations published in the FEDERAL REGISTER on September 16, 1977 (42 FR 46523). Therefore, application materials, including the various requirements, are subject to change when final regulations are issued under section 789.

Fiscal year 1979 application materials for Grants for Training in Emergency Medical Services will be forwarded *only upon request.* Completed applications are due on January 25, 1979.

Requests for application materials and requests regarding grants policy should be directed to: Grants Management Officer—A(18), Grants for Training in Emergency Medical Services, Bureau of Health Manpower, HRA, Center Building, Room 4-27, 3700 East-West Highway, Hyattsville, Maryland 20782, Phone: (301) 436-6098.

Should additional programmatic information be required, please contact: Division of Medicine, Bureau of Health Manpower, HRA, Center Building, Room 4-50, 3700 East-West Highway, Hyattsville, Maryland.20782, Phone: (301) 436-7350.

Dated: November 24, 1978.

HENRY A. FOLEY,
Administrator, Health Resources Administration.

[FR Doc. 78-34025 Filed 12-5-78; 8:45 am]

[4110-02-M]

APPLICATIONS FOR PINPOINT DISASTER ASSISTANCE

Applications no Longer Accepted

Notice is hereby given that the U.S. Commissioner of Education will no longer accept applications for pinpoint disaster assistance. This notice if effective December 6, 1978. Authority for this program is contained in section 7(a)(1)(B) of Pub. L. 81-874 (assistance for current school expenditures in cases of certain disasters; 20

U.S.C. 241-1(a)(1)(B) and section 16(a)(1)(B) of Pub. L. 81-815 (school construction assistance in cases of certain disasters; 20 U.S.C. 646(a)(1)(B)).

This action is necessary because funds are unavailable for pinpoint disaster assistance at this time.

The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a) published in the FEDERAL REGISTER on November 6, 1973 (38 FR 30654) and Parts 112 and 113 of 45 CFR published in the FEDERAL REGISTER on November 17, 1976 (41 FR 50776).

(Catalog of Federal Domestic Assistance Nos. 13.477, School Assistance in Federal Affected Areas—Construction and 13.478, School Assistance in Federal Affected Areas—Maintenance and Operation).

Dated: December 1, 1978.

ERNEST L. BOYER,
Commissioner of Education.

[FR Doc. 78-34035 Filed 12-5-78; 8:45 am]

[4110-02-M]

Office of Education

NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION

Meeting

AGENCY: National Advisory Council on Adult Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Governmental Relations and Legislation Committee of the National Advisory Council on Adult Education. This notice also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92-463, section 10(a)(2)).

DATE: December 28, 1978, 9:00 a.m. to 3:30 p.m.

ADDRESS: National Advisory Council on Adult Education, 425 13th Street NW., Suite 323, Washington, D.C. 20004.

FOR FURTHER INFORMATION CONTACT:

Dr. Gary A. Eyre, Executive Director, National Advisory Council on Adult Education, 425 13th St. NW., Washington, D.C. 20004 (202/376-8892).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under Section 313 of the Adult Education Act (80 Stat. 1216.20 U.S.C. 1201). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the admininstration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services. The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Committee shall be open to the public.

The proposed agenda includes:

Analysis of Comments on Notice of Intent to Regulate Issues.
Structure for Proposed Rule Making Hearings.
Supplemental Appropriation—Adult Education Act.
Committee Budget.

Records shall be kept of all Council proceedings, and shall be available for public inspection at the Office of the National Advisory Council on Adult Education, 425 13th St. NW., Suite 323, Washington, D.C.20004.

Signed at Washington, D.C. on November 30. 1978.

GARY A. EYRE,
Executive Advisory Council on Adult Education.

[FR Doc. 78-33973 Filed 12-5-78; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

COLORADO

Availability of Northwest Colorado Coal Report

The Department of the Interior, Bureau of Land Management (BLM) has prepared a report on the potential development of coal resources in Northwest Colorado.

The report, entitled *Northwest Supplemental Report: A Supplement to the Northwest Colorado Coal Regional Environmental Statement*, presents an overview of potential coal development through 1990 in the Northwest Colorado Region which consists of Moffat, Routt, and Rio Blanco counties north of the White River. The report updates coal development projections on existing Federal leases and private coal holdings, and provides an updated assessment of impacts that reflects new laws and regulations that have become effective since the original environmental statement (FES 77-1) was published in January 1977. There were no site-specific actions proposed within this region that were not covered by the injunction on new Federal coal leasing in the case *Natural Resources Defense Council, Inc. et al. v. Royston C. Hughes et al.* Therefore, no site-specific proposals are assessed in this supplemental report.

Single copies of the report are available from the:

BLM District Manager, Craig District Office, P.O. Box 248, 455 Emerson Street, Craig, Colorado 81625, telephone (303) 824-3417;
BLM State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, telephone (303) 837-4481.

Copies of the report are available for inspection at the following locations:

BLM State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, telephone (303) 837-4481;
BLM Craig District Office, P.O. Box 248, 455 Emerson Street, Craig, Colorado 81625, telephone (303) 824-3417;
Washington Office of Public Affairs, Bureau of Land Management, Room 5627, 18th and C Streets, NW., Washington, D.C. 20240, telephone (202) 343-5717;

PUBLIC LIBRARIES

Conservation Library, Denver Public Library, 1357 Broadway Denver, Colorado 80206;
Craig-Moffat County Library, 651 Yampa Avenue, Craig, Colorado 81625;
Hayden Public Library, 153 West Jefferson, Hayden, Colorado 81639;
Meeker Public Library, 200 Main Street, Meeker, Colorado 81641;
Rangely Public Library, 109 East Main, Rangely, Colorado 81648;
Werner Memorial Library, 1289 Lincoln Avenue, Steamboat Springs, Colorado 80477.

No public hearings are scheduled concerning this report since there is no specific action proposed by the Bureau of Land Management at this time.

Written comments on the report will be accepted, and may be submitted to the BLM District Manager, Craig District Office, at the address given above. These comments will be taken into consideration in future environmental assessments that may be done by the Bureau of Land Management concerning potential coal development in the Northwest Colorado Region.

ARNOLD E. PETTY,
Acting Associate Director, Bureau of Land Management.

Approved: December 1, 1978.

GARY J. WICKS,
Deputy Assistant Secretary of the Interior.

[FR Doc. 78-34026 Filed 12-5-78; 8:45 am]

[4310-84-M]

WESTERN LEG OF ALASKA NATURAL GAS TRANSMISSION SYSTEM WILDERNESS INVENTORY (CALIFORNIA ONLY)

Proposed Decision

BACKGROUND

Pursuant to Section 603 of the Federal Land Policy and Management Act of 1976 (Pub. L. 94-579) and the Wilderness Inventory Handbood (September 27, 1978); the BLM State Director of California has made an initial proposed decision on four wilderness inventory units in Northern California in accordance with FR, Vol. 43, No. 218, November 9, 1978. Inventories in these four units have been conducted in advance of the statewide inventory in order to meet time commitments that have been previously established for the special project identified as the Western Leg of the Alaska Natural Gas Transmission System.

The Alaska Natural Gas Transmission System from its point of entrance into California at the Oregon State line to its proposed termination point at Antioch, California is approximately 281.6 miles in length. The proposed pipeline through California parallels an existing 36 inch pipeline for its total length and will result in a 50 ft. additional right-of-way width.

The R/W crosses 15.21 miles of Modoc National Forest, 16.94 miles of Shasta-Trinity National Forest, 1.85 miles of Lassen National Forest and approximately 2.53 miles of public lands administered by the Bureau of Land Management.

The respective National Forests have previously determined that the proposed pipeline will not have any significant adverse impacts upon any wilderness areas or lands which have wilderness values within their boundaries.

PROPOSED DECISION

The California State Director's proposed decision on the wilderness inventory of the four inventory units containing public lands is as follows:

CA-030-001—Bryant Mtn. Unit—The public lands contained within this unit clearly and obviously do not meet the criteria for identification as a wilderness study area.

CA-030-002—Pit River Unit—The public lands contained within this unit clearly and obviously do not meet the criteria for identification as a wilderness study area.

CA-030-003—Meridian Unit—The public lands contained within this unit clearly and obviously do not meet the criteria for identification as a wilderness study area.

CA-030-004—Sacramento River Unit—The public lands contained within this unit clearly and obviously do not meet the criteria for identification as a wilderness study area.

DECISION SUMMARY AND RATIONALE

The above inventory units contain public lands that are nearby or are traversed by the proposed pipeline. The lands do not meet the established criteria for identification as wilderness study areas primarily due to the scattered nature and small size of the inventoried lands, which range from less than 40 acres to a maximum of approximately 2300 acres of contiguous public land. In addition, numerous intrusions, such as roads or structures are present throughout many of the parcels. It has therefore been determined that there are no public lands containing wilderness values that will be impacted by the proposed pipeline.

PUBLIC REVIEW

A 60 day formal public review of this proposed decision will begin November 30, 1978, and will be terminated on January 29, 1979. A public meeting will be held on this proposed decision at 7:30 p.m., January 3, 1979, at the BLM Redding District Office, located at 355 Hemsted Drive, Redding, CA 96001. Written comments may be sent to the Redding District Office in care of the District Manager.

SUPPLEMENTARY INFORMATION

Additional information concerning this proposed decision can be obtained from the Wilderness Coordinator at the Redding District Office.

ED HASTEY,
State Director.

[FR Doc. 78-33978 Filed 12-5-78; 8:45 am]

[4310-70-M]

National Park Service

CHESAPEAKE AND OHIO CANAL NATIONAL HISTORICAL PARK COMMISSION

Meeting

Notice is hereby given in accordance with Federal Advisory Committee Act that a meeting of the Chesapeake and Ohio Canal National Historical Park Commission will be held Saturday, December 16, 1978, at 1 p.m. at the Grace Episcopal Church 1041 Wisconsin Avenue NW., Washington, D.C.

The Commission was established by Pub. L. 91-664 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the administration and development of the Chesapeake and Ohio Canal National Historical Park.

The members of the Commission are as follows:

Mr. Donald R. Frush, Chairman, Hagerstown, Maryland
Mrs. Bonnie Troxell, Cumberland, Maryland
Miss Nancy Long, Glen Echo, Maryland
Mrs. Constance Morella, Bethesda, Maryland
Mr. Kenneth S. Rollins, Brookmont, Maryland
Mr. Vladimir A. Whabe, Baltimore, Maryland
Mr. Edwin F. Wesely, Jr., Brookmont, Maryland
Mr. John D. Miller, Cumberland, Maryland
Mr. James B. Coulter, Annapolis, Maryland
Mrs. Dorothy Grotos, Arlington, Virginia
Mrs. Minnie Pohlmann, Dickerson, Maryland
Miss Margaret Dietz, Lovettsville, Virginia
Dr. James H. Gilford, Frederick, Maryland
Mr. Lorenzo W. Jacobs, Jr., Washington, D.C.
Mr. Siles F. Starry, Shepherdstown, West Virginia
Mr. Rockwood H. Foster, Washington, D.C.
Mr. R. Lee Downey, Williamsport, Maryland
Mr. John C. Frye, Gapland, Maryland

Matters to be discussed at this meeting include:

1. Talk by D.C. City Planning on the Georgetown area
2. National Park Service overview of C&O Canal National Historical Park
3. National Park Service talk on rebuilding canal in the Georgetown area
4. Williamsport Basin status
5. Harpers Ferry Road Improvements
6. Access to Town of Brunswick campground
7. Palisades wayside interpretive exhibit plan
8. Great Falls development concept plan
9. Restoration Team activities report
10. Future status of Commission (terms)
11. Relocation of Lander Maintenance shop
12. Redecking of bridge on Route 11, Williamsport

The meeting will be open to the public. Any member of the public may file with the committee a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact William R. Failor, Superintendent, C&O Canal National Historical Park, P.O. Box 4, Sharpsburg, Maryland 21782, telephone 301-948-5641 or 301-432-2231. Minutes of the meeting will be available for public inspection 4 weeks after the meeting at Park Headquarters, Sharpburg, Maryland.

Dated: November 22, 1978.

MANUS J. FISH, Jr.,
Regional Director
National Capital Region.

[FR Doc. 78-34134 Filed 12-5-78; 8:45 am]

[4310-84-M]

Office of the Secretary

[INT FES 78-37]

REVISED RANGE MANAGEMENT PROGRAM FOR THE CHALLIS GRAZING UNIT, CUSTER COUNTY, IDAHO

Notice of Availability of Final Supplement Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final supplemental statement for the Challis Grazing Unit. The proposal involves implementing an improved range management program on public lands within the Challis Planning Unit of the Salmon District in east central Idaho.

A limited number of copies are available upon request at the Idaho State Office and Salmon District Office:

Idaho State Office, Bureau of Land Management, Federal Building, Box 042, 550 W. Forth Street, Boise, Idaho 83724, Telephone 208-384-1770.

Salmon District Office, Bureau of Land Management, Highway 93 South, Salmon, Idaho 83467, Telephone 208-756-2201.

Public reading copies wil be available for review at the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th and C Streets, N.W., Washington, D.C. 20240, Telephone 202-343-5717.

Idaho State Office, Bureau of Land Managements, Federal Building, Box 042, 550 W. Fort Street, Boise, Idaho 83724, Telephone 208-384-1770.

Salmon District Office, Bureau of Land Management, Highway 93 South, Salmon, Idaho 83647, Telephone 208-756-2201.

Dated: December 1, 1978.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc. 78-34036 Filed 12-5-78; 8:45 am]

[4410-01-M]

DEPARTMENT OF JUSTICE

NOTICE OF PROPOSED CONSENT JUDGMENT IN ACTION TO ENJOIN DISCHARGE OF WATER POLLUTANTS

In accordance with Departmental Policy, 28 CFR § 50.7, 38 FR 19029, notice is hereby given that a proposed consent decree in *United States* v. *City of St. Petersburg Beach and the State of Florida,* Civil Action No. 76-694-CIV, has been lodged with the District Court for the Middle District of Florida. The proposed decree imposes a moratorium on connections to the existing City of St. Petersburg Beach sewer system until such time as a new original sewage treatment plant is completed and the City has connected to that system. In addition the decree establishes certain interim effluent limitations that will apply to the operation of the existing City system. With respect to penalties the decree would impose a $10,000 per day fine on the City if it does not connect into the regional system thirty days after that facility can accept its wastes. In addition the decree imposes certain other penalty provisions for violations of its provisions as well as requiring the City to pay $6,000 for its past violations.

The Department of Justice will receive written comments relating to the proposed judgment for thirty days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and refer to *"United States* v. *City of St. Petersburg Beach, et al.," D.J. Ref. No. 90-5-1-1-632.*

The proposed decree may be examined at the office of the United States Attorney, 311 West Monroe Street, Jacksonville, Florida 32201; at the Region IV Office of the Environmental Protection Agency, Enforcement Division, 345 Courtland Street, N.E., Atlanta, Georgia 30308; and at the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2625, Washington, D.C. 20503. A copy of the proposed decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

JAMES W. MOORMAN,
Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 78-33977 Filed 12-5-78; 8:45 am]

[7536-01-M]

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

HUMANITIES PANEL ADVISORY COMMITTEE

Canceled Meeting

NOVEMBER 30, 1978.

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Humanities Panel which appeared in the FEDERAL REGISTER, Vol. 43, No. 222, p. 53512, Thursday, November 16, 1978, has been canceled. The meeting was originally scheduled to meet December 15, 1978, from 9 a.m. to 5:30 p.m., in room 1025, 806 15th Street, NW., Washington, D.C.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc. 78-34016 Filed 12-5-78; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-261]

CAROLINA POWER AND LIGHT CO.

Issuance of Amendment To Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 34 to Facility Operating Licencse No. DPR-23, issued to the Carolina Power and Light Company, (the licensee), which revised Technical Specifications for operation of the H. B. Robinson Steam Electric Plant Unit No. 2 (the facility) located in Darlington County, Hartsville, South Carolina. The amendment is effective as of the date of its issuance.

The amendment revises Technical Specifications 4.5.2.4 and 4.5.2.6 concerning testing requirements of the containment spray additive valves and the refueling water storage tank outlet valves. These changes are consistent with NRC guidance for meeting the requirements of 10 CFR 50.55a(g).

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendement.

For further details with respect to this action, see (1) the licensee's submittals dated December 2, 1977, (2) Amendment No. 34 to License No. DPR-23, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 6th day of October 1978.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-33944 Filed 12-5-78; 8:45 am]

[7590-01-M]

[Docket No. 50-261]

CAROLINA POWER AND LIGHT CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 33 to Facility Operating License No. DPR-23, issued to the Carolina Power and Light Company (the licensee), which revised Technical Specifications for operation of the H. B. Robinson Steam Electric Plant Unit No. 2 (the facility located in Darlington County, Hartsville, South Carolina. The amendment is effective as of the date of its issuance.

This amendment provides for the reissuance of the Technical Specifications in a retyped format. Some minor changes in the retyped Technical Specifications were made which were administrative or clarification. Also included in the amendment was an organization change which did not reduce any safety functions.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the licensee's submittals dated August 13, 1976 and September 1, 1977, and application for amendment dated August 14, 1978, and (2) Amendment No. 33 to License No. DPR-23. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina. A copy of item (2) may be obtained upon request addressed to the U. S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 10th day of October, 1978.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-33945 Filed 12-5-78; 8:45 am]

[7590-01-M]

[Docket Nos. 50-282 and 50-306]

NORTHERN STATES POWER CO.

Issuance of Amendments To Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 32 and 26 to Facility Operating License Nos. DPR-42 and DPR-60, issued to the Northern States Power Company (the licensee), which revised Technical Specifications for operation of Unit Nos. 1 and 2 of the Prairie Island Nuclear Generating Plant (the facilities) located in Goodhue County, Minnesota. The amendments are effective as of their date of issuance.

These amendments change the Technical Specifications that relate to the pressurizer heatup rate, the reactor vessel pressure-temperature operating limits, and the part length rods.

The application for amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) and environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the applications for amendments dated December 9, 1977 and September 8, 1978, (2) Amendment Nos. 32 and 26 to License Nos. DPR-42 and DPR-60, respectively, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Environmental Conservation Library of the Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 1st day of November, 1978.

For the nuclear regulatory commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-33946 Filed 12-5-78; 8:45 am]

[7590-01-M]

[Docket Nos. STN 50-592-A and STN 50-593-A]

ARIZONA PUBLIC SERVICE COMPANY, ET AL PALO VERDE NUCLEAR GENERATING STATION, UNITS 4 AND 5

Notice of Receipt of Additional Antitrust Information: Time for Submission of Views on Antitrust Matters

Arizona Public Service Company, pursuant to section 103 of the Atomic Energy Act of 1954, as amended, filed on July 28, 1978, information requested by the Attorney General for Antitrust Review as required by 10 CFR Part 50, Appendix L. The information concerns additional ownership participants, Nevada Power Company, San Diego Gas and Electric Company, Los Angeles Department of Water & Power, and the Cities of Anaheim, Burbank, Glendale, Pasadena, and Riverside, California, for the Palo Verde Nuclear Generating Station, Units 4 and 5 located in Maricopa County, Arizona.

This additional Antitrust information was filed in connection with the Arizona Public Service Company's applications for construction permits and operating licenses for the Palo Verde Nuclear Generating Station, Units 4 and 5.

The original "Notice of Receipt of Antitrust Information and Application for Construction Permits and Operating Licenses; Time for Submission of Views and Antitrust Matters" was published in the FEDERAL REGISTER on May 8, 1978 (43 FR 19729).

A copy of the Arizona Public Service Company letter, dated July 28, 1978

and the above stated documents are available for public examination and copying for a fee at the Commission's Public Document Room at 1717 H Street, NW. Washington, D.C. 20555 and at the Phoenix Public Library, Science and Industry Section, 12 East McDowell Road, Phoenix, Arizona 85004.

Information in connection with the antitrust review of this application can be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. ATTN: Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

Any person who wishes to have their views on the antitrust matters with respect to the Nevada Power Company, San Diego Gas and Electric Company, Los Angeles Department of Water & Power, and the Cities of Anaheim, Burbank, Glendale, Pasadena, and Riverside, California presented to the Attorney General should submit such views for consideration to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Chief, Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation, on or before January 22, 1979.

Dated at Bethesda, Maryland, this 13th day of November, 1978.

For the Nuclear Regulatory Commission.

OLAN D. PARR,
Chief Light Water Reactors Branch No. 3 Division of Project Management.

[FR Doc. 78-32556 Filed 11-21-78; 8:45 am]

[7590-01-M]

[Docket No. 50-368]

ARKANSAS POWER & LIGHT CO., ARKANSAS NUCLEAR ONE, UNIT 2

Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 6 to Facility Operating License No. NPF-6 to Arkansas Power and Light Company for operation of Arkansas Nuclear One, Unit 2 (the facility) located at the licensee's site in Pope County, Arkansas. The amendment is effective as of the date of its issuance.

The amendment provides one-time relief from Technical Specification 3.8.1.1.b to allow non-nuclear heat up operation with only one deisel generator and two offsite power systems available before repairs are completed on the second diesel generator which experienced mechanical failure on November 9, 1978. The basis of granting relief is that the plant has not yet gone critical and so there are no fission products requiring decay heat removal from the reactor core. The relief expires when the Commission has made a written determination that both diesel generators are operable but not later than three weeks from the date of issuance of this license amendment.

The amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action see (1) the licensee's application for amendment dated November 13, 1978 and submittal of additional information in a letter dated November 15, 1978, (2) Amendment No. 6 to License No. NPF-6, and (3) the Commission's related Safety Evaluation supporting Amendment No. 6 to License No. NPF-6. All of these items are available for public inspection at the Commission's Public Document Room at 1717 H Street, NW., Washington, D. C. 20555 and the Arkansas Polythechic College, Russellville, Arkansas 72801.

Dated at Bethesda, Maryland, this 18th day of November 1978.

For the Nuclear Regulatory Commission,

JOHN F. STOLZ,
Chief, Light Water Reactors Branch No. 1, Division of Project Management.

[FR Doc. 78-34009 Filed 12-5-78; 8:45 am]

[7590-01-M]

[Dockets Nos. 50-277 and 50-278]

PHILADELPHIA ELECTRIC COMPANY, ET AL, PEACH BOTTOM UNITS NOS. 2 AND 3

Notice of Issuance of Amendments to Facility Operating Licenses and Negative Declaration

The U. S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 49 and 48 to Facility Operating License No. DPR-44 and DPR-56, issued to Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company and Atlantic City Electric Company, which revised the Technical Specifications for operation of the Peach Bottom Atomic Power Station Units Nos. 2 and 3, located in York County, Pennsylvania. The amendments are effective as of the date of issuance.

These amendments revise the Technical Specifications to increase the total storage capacity of the spent fuel pools at Peach Bottom Atomic Power Station Units Nos. 2 and 3 from 2220 to 5623 fuel assemblies.

The applications for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Notice of Proposed Issuance of Amendments to Facility Operating Licenses in connection with this action was published in the FEDERAL REGISTER on February 23, 1978 (43FR7490). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has prepared an environmental impact appraisal for this action and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the Facility dated April 1973.

For further details with respect to this action, see (1) applications for amendments dated January 18, April 12, May 19, June 12 and September 19, 1978, (2) Amendments Nos. 49 and 48 to License Nos. DPR-44 and DPR-56, (3) the Commission's related Safety Evaluation, and (4) the Commission's related Enrionmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N. W., Washington, D. C. and at Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U. S. Nuclear Regulatory Commission, Washington, D. C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 30th day of November 1978.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-34010 Filed 12-5-78; 8:45 am]

[7590-01-M]

[Docket Nos. STN 50-556 and STN 50-557]

PUBLIC SERVICE COMPANY OF OKLAHOMA BLACK FOX STATION, UNIT NOS. 1 AND 2

Notice of Issuance of Amendment to Limited Work Authorization

Pursuant to the provisions of 10 CFR 50.10(e) of the Nuclear Regulatory Commission's (Commission) regulations, the Commission has authorized the Public Service Company of Oklahoma to conduct certain site activities in connection with the Black Fox Station, Unit Nos. 1 and 2, prior to a decision regarding the issuance of construction permits. Notice of the Limited Work Authorization was published in the FEDERAL REGISTER on August 11, 1978 (43 FR 35762).

Since that time, the Director of Nuclear Reactor Regulation has determined that additional activities may be authorized under the Limited Work Authorization. The additional activities that are authorized are within the scope of those authorized by 10 CFR 50.10(e)(1) and include excavation and pouring of the excavation seal for Unit 2. Excavation was previously authorized only for Unit 1.

Any activities undertaken pursuant to this authorization are entirely at the risk of the Public Service Company of Oklahoma and the grant of the authorization has no bearing on the issuance of construction permits with respect to the requirements of the Atomic Energy Act of 1954, as amended, and rules, regulations, or orders of the Commission promulgated pursuant thereto.

A copy of (1) the Atomic Safety and Licensing Board's Partial Initial Decision Authorizing Limited Work Authorization and the Order Granting Applicants' Motion for Reconsideration and Clarification; (2) the applicant's Preliminary Safety Analysis Report and amendments thereto; (3) the applicant's Environmental Report and amendments thereto; (4) the staff's Final Environmental Statement dated February 1977; (5) the Commission's letters of authorization dated July 26, 1978 and September 6, 1978, and (6) the Commission's letter amending the authorization dated November 30, 1978, are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C., and at the Tulsa City County Library, 400 Civic Center, Tulsa, Oklahoma.

Dated at Bethesda, Maryland, this 30th day of November 1978.

For the Nuclear Regulatory Commission.

JAN A. NORRIS, ACTING CHIEF,
Environmental Projects Branch 2 Division of Site Safety and Environmental Analysis.

[FR Doc. 78-34008 Filed 12-5-78; 8:45 am]

[7590-01-M]

[Docket Nos. 50-361 and 50-362]

SOUTHERN CALIFORNIA EDISON COMPANY SAN DIEGO GAS AND ELECTRIC COMPANY

Notice of Availability of Draft Environmental Statement for San Onofre Nuclear Generating Station, Units 2 and 3

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Draft Environmental Statement (NUREG-0490) prepared by the Commission's office of Nuclear Reactor Regulation related to the proposed operation of the San Onofre Nuclear Generating Station, Units 2 and 3, in San Diego County, California, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, N. W., Washington, D. C. and in the Mission Viejo Branch Library, 24851 Chrisanta Drive, Mission Viejo, California. The Draft Statement is also being made available at the Office of the Governor, Office of Planning and Research, 1400 Tenth Street, Sacramento, California, and at the San Diego County Comprehensive Planning Organization, Security Pacific Plaza, 1200 Third Avenue, San Diego, California. Requests for copies of the Draft Environmental Statement should be addressed to the U. S. Nuclear Regulatory Commission, Washington, D. C., Attention: Director, Division of Site Safety and Environmental Analysis.

The Applicant's Environmental Report, as supplemented, submitted by Southern California Edison Company and San Diego Gas and Electric Company is also available for public inspection at the above-designated locations. Notice of availability of the Applicant's Environmental Report was published in the FEDERAL REGISTER on April 7, 1977 (42 F. R. 18460).

Pursuant to 10 CFR Part 51, interested persons may submit comments on the Applicant's Environmental Report, as supplemented, and the Draft Environmental Statement for the Commission's consideration. Federal and State agencies are being provided with copies of the Applicant's Environmental Report and the Draft Environmental Statement (local agencies may obtain these documents upon request). Comments are due by January 22, 1979. Comments by Federal, State, and local officials, or other persons received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D. C. and the Mission Viejo Branch Library, 24851 Chrisanta Drive, Mission Viejo, California. Upon consideration of comments submitted with respect to the Draft Environmental Statement, the Commission's staff will prepare a final Environmental Statement, the availability of which will be published in the FEDERAL REGISTER.

Comments on the Draft Environmental Statement from interested persons of the public should be addressed to the U. S. Nuclear Regulatory Commission, Washington, D. C. 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Bethesda, Maryland, this 28th day of November 1978.

For the Nuclear Regulatory Commission

WM. H. REGAN, JR.,
Chief, Environmental Projects Branch 2, Division of Site Safety and Environmental Analysis.

[FR Doc. 78-34011 Filed 12-5-78; 8:45 am]

[7590-01-M]

[Docket Nos. STN 50-566 and STN 50-567]

TENNESSEE VALLEY AUTHORITY, YELLOW CREEK NUCLEAR PLANT, UNITS 1 AND 2

Notice of Issuance of Construction Permits

Notice is hereby given that, pursuant to the Partial Initial Decision, dated February 3, 1978, and the Initial Decision, dated November 24, 1978 of the Atomic Safety and Licensing Board, the Nuclear Regulatory Commission (the Commission) has issued Construction Permit Nos. CPPR-172 and CPPR-173 to the Tennessee Valley Authority for construction of two pressurized water reactors at the applicant's site in Tishomingo County, Mississippi. The proposed reactors, known as the Yellow Creek Nuclear Plant, Units 1 and 2 are designed to operate at a core power level of 3800 megawatts thermal with a net electrical output of approximately 1300 megawatts.

The Initial Decision is subject to review by an Atomic Safety and Licensing Appeal Board prior to its becoming final. Any decision or action taken by an Atomic Safety and Licensing Appeal Board in connection with the Initial Decision may be reviewed by the Commission.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations in 10 CFR Chapter I, which are set forth in the construction permits. The application for the construction permits complies with the standards and requirements of the Act and the Commission's regulations.

The construction permits are effective as of their date of issuance. The earliest date for the completion of Unit 1 is February 1, 1984, and the latest date for completion is May 1, 1985. The earliest date for completion of Unit 2 is February 1, 1985 and the latest date for completion is May 1, 1986. The permits shall expire on the latest dates for completion of the facilities.

A copy of: (1) the Partial Initial Decision, dated February 3, 1978; (2) the Initial Decision, dated November 24, 1978; (3) the Construction Permits Nos. CPPR-172 and CPPR-173; (4) the report of the Advisory Committee on Reactor Safeguards, dated January 13, 1978; (5) the Commission's staff Safety Evaluation Report, dated December 1, 1977 and Supplement No. 1 thereto, dated June 1978; (6) the Preliminary Safety Analysis Report and amendments thereto; (7) the applicant's Environmental Report, dated July 1976; (8) the Draft Environmental Statement, dated June 1977; and (9) the Final Environmental Statement, dated November 1977, are available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. and at the Corinth Public Library, 1023 Fillmore Street, Corinth, Mississippi 38834. A copy of the construction permits may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Managment, Office of Nuclear Reactor Regulation.

Copies of the Safety Evaluation Report and Supplement No. 1 (Document No. NUREG-0347) and the Final Environmental Statement (Document No. NUREG-3065) may be purchased at current rates, from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

Dated at Bethesda, Maryland this 29th day of November, 1978

For the Nuclear Regulatory Commission.

OLAN D. PARR,
Chief, Light Water Reactors Branch No. 3, Division of Project Management.

[FR Doc. 78-34012; Filed 12-5-78; 8:45 am]

[7590-01-M]

[Docket No. 50-29]

YANKEE ATOMIC ELECTRIC COMPANY

Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 53 to Facility Operating License No. DPR-3, issued to Yankee Atomic Electric Company (the licensee), which revised the Technical Specifications for operation of the Yankee Nuclear Power Station (Yankee-Rowe) (the facility) located in Rowe, Franklin County, Massachusetts. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications by reducing the neutron detector thimbles required to be operable from 75 percent (17 thimbles) to 12 thimbles and by increasing the assigned nuclear measurement uncertainty from 5 percent to 6.8 percent if less than 17 detector thimbles are operable when the incore detection system is used for power distribution measurements.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. the Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 14, 1977, and supplements thereto dated April 6, 1978, May 11, 1978, June 15, 1978, and October 4, 1978, (2) Amendment No. 53 to License No. DPR-3, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public document Room, 1717 H Street, N.W., Washington, D.C., and at the Greenfield Comunity College, 1 College Drive, Greenfield, Massachusetts 01301. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 24th day of November, 1978.

For the Nuclear Regulatory Commission.

RICHARD D. SILVER,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 78-34013 Filed 12-5-78; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

STATE AND LOCAL GRANTEE PROCUREMENT STANDARD

Invitation for Public Comment and Notice of Public Hearing

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Notice of public hearing on a proposed guideline governing state and local grantee procurement standards, Attachment O of OMB Circular A-102.

SUMMARY: This proposed revision would amend the Attachment O to OMB Circular A-102. (1) It reaffirms the maximum reliance on state and local government grantee management of their own procurement; (2) Rescinds non-confroming provisions of current agency subordinate regulations; and (3) creates a grantee procurement review certification program to further reduce the Federal Government's preaward review of individual procurements and burdensome duplicative reviews of grantee procurement procedures. This policy, it is anticipated, will reduce administrative cost, paperwork, and other such factors which contribute to inefficiency, waste, and delay in implementing programs.

DATE: Comments must be received on or before January 30, 1979. The public meeting will be held on January 16, 1979 in Room 2010, NEOB at 10:00 a.m. Statements for the public hearing should be received prior to January 12, 1979.

ADDRESSES: Comments and requests to be scheduled to make statements at the public hearing should be addressed to the Administrator for Federal Procurement Policy, Office of Management and Budget, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT:

Mr. Jack Nadol, Assistant for Intergovernmental Affairs, Telephone 202-395-6166.

SUPPLEMENTARY INFORMATION: Under Pub. L. 93-400, authority for procurement policies governing procurement under Federal assistance programs is vested in the Administrator for Federal Procurement Policy. All executive agency procurement policies, for procurement under such programs, are subject to those prescribed by the Administrator. The Office of Federal Procurement Policy, Office of Management and Budget is considering the adoption of amendments to the current procurement standards, Attachment O to OMB Circular A-102.

ANALYSIS OF PROPOSED REVISIONS

Section 4. Proposed that grantor agencies conduct grantee procurement system reviews and that when a grantee procurement system meets the standards of this attachment it may be certified by the grantor agencies, thus reducing individual pre-award contract reviews by that agency or other agencies making grants.

Section 5. Limits grantor agencies' authority to review protests. This is properly the responsibility of the grantee.

Section 6. Limits grantor review of grantee procurements to non-competitive procurements, brand name procurements, and procurements by grantees that do not meet Attachment O standards.

Section 7. Expands the code of conduct from merely prohibiting the acceptance of gifts and gratuities to prohibiting the participation in the award of contracts to firms in which the employee has some financial interest.

Section 8B. Expands the section requiring affirmative steps to ensure minority and small business participation in contracting under Federal grant programs.

Section 9A. Encourages the use of functional specifications.

Section 10. Explains when it is appropriate to use one of the following four methods of procurement, small purchase, competitive sealed bids, competitive negotiations, and noncompetitive negotiations.

Section 11. Prohibits the use of a percentage of construction cost method of contracting, requires either a cost or price analysis of all procurement, and states cost will be allowed if consistant with Federal cost principles.

LESTER A. FETTIG,
Administrator.

PROCUREMENT STANDARDS

1. APPLICABILITY

a. This Attachment establishes standards and guidelines for the procurement of supplies, equipment, construction, and other services with Federal grant funds. These standards are furnished to ensure that such materials and services are obtained efficiently and economically and in compliance with the provisions of applicable Federal law and Executive orders. No additional requirements or subordinate regulations shall be imposed upon grantees by Executive agencies unless specifically required by Federal law or Executive orders or authorized by the Administrator for Federal Procurement Policy.

b. Provisions of current subordinate regulations not conforming to this attachment are rescinded unless approved by the Office of Federal Procurement Policy (OFPP).

2. GRANTEE/GRANTOR RESPONSIBILITY

a. These standards do not relieve the grantee of any contractual responsibilities under its contracts. The grantee is responsible, for the settlement of all contractual and administrative issues arising out of procurements entered into in support of a grant. These include but are not limited to: Source evaluation, protest, disputes, and claims. Executive agencies shall not substitute their judgment for that of the grantee unless the matter is of primary Federal concern. Violations of law are to be referred to the local, State, or Federal authority having proper jurisdiction.

b. Grantees shall use their own procurement procedures which reflect applicable State and local laws and regulations: *Provided,* That procurements made with Federal grant funds conform to the standards set forth in the following paragraphs.

3. GRANTEE PROCUREMENT IMPROVEMENT

Executive agencies awarding Federal grants or other assistance which require or allow for procurement by the recipients are encouraged to assist recipients in improving their procurement capabilities by providing them with technical assistance, training, publications, and other aid.

4. PROCUREMENT SYSTEM REVIEWS

a. Executive agencies are encouraged to perform reviews of their grantees' procurement systems if a continuing relationship with the grantee is anticipated or a substantial amount of the Federal assistance is to be used for procurement and review of individual contracts is anticipated. The purpose of the review shall be to determine: (1) Whether a grantee's procurement system conforms to the standards prescribed by this Attachment or other criteria acceptable to the OFPP, such as provisions of the model procurement code for State and local government and (2) whether the grantee's procurement system should be certified by the reviewing agency. Such a review will also give an agency an opportunity to give technical assistance to a grantee to remedy its procurement system if it does not fully comply. In addition, such a review will provide a firm basis for deciding whether the grantee's contracts and related procurement documents should be subject to the grantor's prior approval, as provided by Section 6.

b. In conducting procurement system reviews, grantor agencies will evaluate a grantee's procurement system in terms of whether it complies with the standards prescribed by this Attachment and represents a fair, efficient and effective procurement system. To the maximum extent feasible, reviewors will rely upon State or local evaluations and analyses performed or by agencies or organizations independent of the grantee contracting activity.

c. When a Federal grantor agency completes a procurement review, it shall furnish a report to the grantee, with a copy to OFPP.

The reviews authorized by Section 6 are waived if a grantee's procurement system is certified.

d. All agencies should normally rely upon the resultant findings or certification for a period of 24 months before another review is performed.

5. DISPUTES PROCEDURES

Grantor agencies may develop an administrative procedure to handle complaints or protests regarding grantee contractor selection actions. The procedure shall be limited as follows:

(a) No protest shall be accepted by the grantor agency until all administrative remedies at the grantee level have been exhausted.

(b) Review is limited to:

(i) Violations of Federal law or regulations. Violations of State or local law shall be under the jurisdiction of State or local authorities.

(ii) Violations of grantee procedure for review of complaints or protest.

6. GRANTOR REVIEW OF PROPOSED CONTRACT

Federal grantor pre-award review and approval of the grantee's proposed contracts and related procurement documents, such as requests for proposals and invitations for bids, may be required only under the following circumstances:

a. The procurement is expected to exceed $10,000 and is to be awarded without competition or only one bid or offer is received in response to solicitation.

b. The procurement specifies a "brand name" product; or

c. The grantee's procurement system fails to comply with one or more significant aspects of this Attachment. The grantor agency shall notify the grantee of such deficiencies in writing, with a copy of such notification to the OFPP.

7. CODE OF CONDUCT

Grantees shall maintain a written code or standards of conduct which shall govern the performance of their officers, employees or agents engaged in the award and administration of contracts supported by Federal funds. No employee, officer or agent of the grantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

a. The employee, officer or agent;

b. Any member of his immediate family;

c. His or her partner; or

d. An organization which employs, or is about to employ, any of the above,

has a financial or other interest in the firm selected for award.

The grantee's and contractor's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements.

To the extent permitted by State or local law or regulations, such standards of conduct shall provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's officers, employees, or agents, or by contractors or their agents.

8. PROCUREMENT PROCEDURES

The grantee shall establish procurement procedures which provide for, the following minimum requirements:

a. Proposed procurement actions shall be reviewed by grantee officials to consider consolidation of requirements to obtain a more economical purchase and to avoid unnecessary or duplicative items. Where appropriate, an analysis shall be made of lease versus purchase alternatives, in-house or contracting out, and any other appropriate area of analysis to determine which approach would be the most economical. To foster greater economy and efficiency grantees are encouraged to enter into State and local intergovernmental agreements for procurement and/or use of common goods and services.

b. Affirmative steps must be taken to assure that small and minority businesses are utilized when possible as sources of supplies and services. Affirmative steps shall include but not limited to the following:

(1) Include qualified small and minority businesses on solicitation lists.

(2) Assure that small and minority businesses are solicited whenever they are potential sources.

(3) When economically feasible, divide total requirements into smaller tasks or quantities so as to permit maximum small and minority business participation.

(4) Establish delivery schedules which will encourage participation by small and minority business.

(5) Use the services and assistance of the Small Business Administration, the Office of Minority Business enterprize of the Department of Commerce and the Community Service Administration.

(6) If any subcontracts are to be let, require the prime contractor to take the affirmative steps in 1 through 5 above.

9. SELECTION PROCEDURES

The grantee shall have written selection procedures which shall provide, as a minimum, the following procedural requirements:

All procurement transactions, regardless of whether by sealed bids or by negotiation and without regard to dollar value, shall be conducted in a manner that provides maximum open and free competition consistent with this attachment. Procurement procedures shall not restrict or eliminate competition. Examples of what is considered to be restrictive of competition include, but are not limited to: (1) Placing unreasonable requirements on firms in order for them to qualify to do business, (2) noncompetitive practices between firms, and (3) organizational conflicts of interest.

a. Solicitations of offers, whether by competitive sealed bids or competitive negotiation, shall:

(1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, may set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement. The specific features of the named brand which must be met by offerors shall be clearly specified.

2. Clearly set forth all requirements which bidders must fulfill and all other factors to be used in evaluating bids or proposals.

b. Awards shall be made only to responsible contractors that possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, and financial and technical resources.

10. METHOD OF PROCUREMENT

Procurement under grants shall be made by one of the following methods, as described herein: a. small purchase procedures; b. Competitive sealed bids; c. competitive negotiation; d. noncompetitive negotiation.

a. Small purchase procedures are those relatively simple and informal procurement methods that are sound and appropriate for a procurement of services, or supplies or other property, costing in the aggregate not more than $10,000. (State or local small purchase limits under $10,000 shall be binding on grantees.) If small purchase procedures are used for a procurement under a grant, price or rate quotations shall be obtained from an adequate number of qualified sources.

b. In formal advertising, sealed bids are publicly solicited and a firm-fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming exactly with all the material terms and conditions of the invitation for bids, is lowest in price.

(1) In order for formal advertising to be feasible, appropriate conditions must be present, including, as a minimum, the following:

(a) A complete adequate and realistic specification or purchase description is available.

(b) Two or more responsible suppliers are willing and able to compete effectively for the grantee's business.

(c) The procurement lends itself to a firm-fixed-price contract, and selection of the successful bidder can appropriately be made principally on the basis of price.

(2) If formal advertising is used for a procurement under a grant, the following requirements shall apply:

(a) Within a sufficient time prior to the date set for opening of bids, bids shall be solicited from an adequate number of known suppliers. In addition, the invitation shall be publicly advertised. The invitation for bids including specifications and pertinent attachments, shall clearly define the items or services needed in order for the bidders to properly respond to the invitation.

(b) All bids shall be opened publicly at the time and place stated in the in-

vitation for bids. A firm-fixed-price contract award shall be made by written notice to that responsible bidder whose bid, conforming to the invitation for bids, is lowest. Where specified in the bidding documents, factors such as discounts, transportation costs and life cycle costs shall be considered in determining which bid is lowest. Any or all bids may be rejected when there are sound documented business reasons in the best interest of the program.

c. In competitive negotiation, proposals are requested from a number of sources and the Request for Proposal is publicized, negotiations are normally conducted with more than one of the sources submitting offers, and either a fixed-price or cost-reimbursable type contract is awarded, as appropriate. If competitive negotiation is used for a procurement under a grant, the following requirements shall apply:

(1) Proposals including price, shall be solicited from an adequate number of qualified sources to permit reasonable competition consistent with the nature and requirements of the procurement. The Request for Proposals shall be publicized and reasonable requests by other sources to compete shall be honored to the maximum extent practicable.

(2) Grantees shall provide for evaluation of the proposals, written or oral discussions as required, and selection for contract award.

(3) Award may be made to the responsible offeror whose proposal will be most advantageous to the procuring party, price and other factors considered. Unsuccessful offerors should be notified promptly.

d. Noncompetitive nogotiation is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate. Noncompetitive negotiation may be used when the award of contract is infeasible under small purchase competitive bidding or competitive negotiation procedures. Circumstances under which a contract may be awarded by noncompetitive negotiation are limited to the following:

(1) The item is available only from a single source;

(2) Public exigency or emergency when the urgency for the requirement will not permit a delay incident to competitive solicitation; or

(3) The Federal grantor agency authorizes noncompetitive negotiation.

11. CONTRACT PRICING

The cost-plus-a-percentage-of-cost and percentage of construction cost method of contracting shall not be used. Grantees shall perform some form of cost or price analysis in connection with every procurement action including contract modifications. Costs or prices based on estimated costs for contracts under grants shall be allowed only to the extent that costs incurred or cost estimated included in negotiated prices are consistent with Federal cost principals.

12. GRANTEE PROCUREMENT RECORDS

Grantees shall maintain records sufficient to detail the significant history of a procurement. These records shall include, but are not necessarily limited to, information pertinent to the following: Rationale for the method of procurement, selection of contract type, contractor selection, and the basis for the cost or price negotiated.

13. CONTRACT PROVISIONS

In addition to provisions defining a sound and complete procurement contract, any recipient of Federal grant funds shall include the following contract provisions or conditions in all procurement contracts:

a. Contracts shall contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate.

b. All contracts in excess of $10,000 shall contain suitable provisions for termination by the grantee including the manner by which it will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

c. All contracts awarded in excess of $10,000 by grantees and their contractors or subgrantees shall contain a provision requiring compliance with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).

d. All contracts and subgrants for *construction* or repair shall include a provision for compliance with the Copeland "Anti-Kick-Back" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR, Part 3). This Act provides that each contractor or subgrantee shall be prohibited from including, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The grantee shall report all suspected or reported violations to the grantor agency.

e. When required by the Federal grant program legislation, all *construction* contracts in excess of $2,000 awarded by grantees and subgrantees shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) as supplemented by Department of Labor regulations (29 CFR Part 5). Under this Act contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less often than once a week. The grantee shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The grantee shall report all suspected or reported violations to the grantor agency.

f. Where applicable, all contracts awarded by grantees and subgrantees in excess of $2,000 for *construction* contracts and in excess of $2,500 for other contracts which involve the employment of mechanics or laborers shall include a provision for compliance with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5). Under section 103 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work day of 8 hours and a standard work week of 40 hours. Work in excess of the standard workday or workweek is permissible: *Provided*, That the worker is compensated a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 8 hours in any calendar day or 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction, safety and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

g. Contracts or agreements, the principal purpose of which is to create, develop, or improve products, processes or methods; or for exploration into fields which directly concern public health, safety, or welfare; or contracts in the field of science or technology in which there has been little significant experience outside of work funded by Federal assistance, shall contain a notice to the effect that matters re-

garding rights to inventions, and materials generated under the contract or agreement are subject to the regulations issued by the Federal grantor agency and the grantee. The contractor shall be advised as to the source of additional information regarding these matters.

h. All contracts (except those of $10,000 or less) awarded by grantees shall include a provision to the effect that the grantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to a specific grant program for the purpose of making audit, examination, excerpts, and transcriptions.

Grantees shall require contractors to maintain all required records for three years after grantees make final payments and all other pending matters are closed.

i. Contracts and subgrants of amounts in excess of $100,000 shall contain a provision which requires the recipient to agree to comply with all applicable standards, orders, or requirements issued pursuant to section 306 of the Clean Air Act of 1970 and Section 508 of the Federal Pollution Control Act. Violations shall be reported to the grantor agency and the Regional Office of the Environmental Protection Agency.

j. Contracts shall recognize mandatory standards and policies relating to energy efficiency which are contained in the State Energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-165).

14. CONTRACT ADMINISTRATION

Grantees shall maintain a contract administration system insuring that contractors perform in accordance with the terms, conditions, and specifications of the contract or purchase orders.

[FR Doc. 78-33954 Filed 12-5-78; 8:45 am]

[3110-01-M]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on November 29, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

REVISIONS

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service
Model Food Stamp Forms
On occasion
Food stamp applicants and State agencies
63,735,000 responses; 12,699,581 hours
Ellett, C. A., 395-6132

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration
Application Form-National Health Service Corps Scholarship
On occasion
Student scholarship application
10,000 responses; 3,333 hours
Richard Eisinger, 395-3214

EXTENSIONS

DEPARTMENT OF COMMERCE

Industry and Trade Administration
Overseas Business Interest Questionnaire
ITA-471P
On occasion
Businesses joining missions or seminars
1,000 responses; 250 hours
C. Louis Kincannon, 395-3211

DEPARTMENT OF LABOR

Employment Standards Administration
Request for Examination and/or Treatment
LS-1
On occasion
Employers and treating physicians
200,000 responses; 66,667 hours
Strasser, A., 395-6132

Employment Standards Administration
Notice of Employee's Injury or Death
LS-201
On occasion
Injured employee or survivor
240,000 responses; 60,000 hours
Strasser, A., 395-6132

BRENDA A. MAYBERRY,
Acting Budget and Management Officer.

[FR Doc. 78-34054 Filed 12-5-78; 8:45 am]

[7715-01-M]

POSTAL RATE COMMISSION

[Docket No. MC79-1]

MINIMUM HEIGHT FOR CARRIER-ROUTE PRESORTED MAIL

Order Instituting Proceedings

Issued November 30, 1978.

The proceeding under section 3623 of the Postal Reorganization Act (39 U.S.C 3623) which we are instituting by this Order is designed to examine an issue suggested by the proceedings in Docket No. MC77-2—proceeding dealing generally with minimum size prohibitions, in which we are concurrently forwarding an Opinion and Recommended Decision to the Governors of the Postal Service. The present docket will be devoted to the question whether the 3½-inch minimum height which we are recommending be continued in effect[1] should be modified by reducing it to 3¼ inches where the mail pieces involved are presorted to carrier route.

Certain parties in Docket No. MC 77-2 suggested modifications to the existing (though not yet effective) Domestic Mail Classification Schedule provision in the interest of presorted mail, but none directly addressed the question of mail presorted to carrier route. The closest approach to such a proposal was made by one public utility participant, which proposed a 3¼-inch minimum height to be applicable where the mail was sufficiently presorted to bypass machine processing in normal Postal Service operations. In our Opinion in Docket M77-2 (pp. 60-61), we explain why a strict carrier-presort category is a more practical and desirable ground for potential distinction between applicable minima.

We are led to believe that the question of a 3¼-inch minimum height limit to carrier-route presorted mail needs exploration by two factors. First, it appears that a substantial number of firms, particularly including public utilities, may be using a billing card of that height. This was asserted by several parties in Docket No. MC77-2 and appears to be uncontroverted. Secondly, a statement made by

[1] The 3½-inch minimum height was announced in Docket MC73-1, where it formed part of the classification schedule stipulated to by the parties. It was not to go into effect until a subsequent time, however; and in Docket No. MC77-2 it was examined afresh. *See generally* PRC Op. MC77-2 (November 30, 1978).

the Postal Service in the course of those proceedings suggests that when mail is presorted to carrier route it in fact does bypass mechanical processing.[18]

Accordingly, we have decided to institute proceedings to determine whether the 3½-inch height minimum should be modified in the manner described above. Because the issues in this proceeding appear susceptible to strict limitation, we are issuing, as an attachment hereto, a preliminary Notice of Inquiry presenting the issues as they appear to us initially. Participants are asked to respond to these questions, and may, of course, suggest additional issues they believe are necessary to the case.

As an additional aid to the focusing of issues, we have prepared the following specimen language illustrating the potential change in the DMCS:

Not before November 30, 1978, present regulations on the minimum sizes for mail matter shall be expanded to all classes of mail and types of service, and shall be amended to prohibit (1) all items which are less than .007 inches thick, and (2) all items, other than keys and identification devices, which are .25 inches thick or less and (a) are not rectangular, and/or (b) are less than 3.5 inches in height, and/or (c) are less than 5 inches in length; Provided, however,

(1) that photo post cards (defined as post cards consisting of a print produced by photographic means on photographic printing paper and imprinted on the reverse side with post card indicia) shall, until November 30, 1982, be mailable if they are not less than 4.5 inches in length and comply with the other requirements of this section; *and*

(2) that mail pieces presorted to carrier route shall be mailable if they are not less than 3.25 inches in height and otherwise comply with the requirements of this section.

The new matter to be considered in this proceeding is represented by the underscored portion of the above illustrative sample. We emphasize that this provision is not put forward as a proposal of the Commission. Participants in this proceeding may, of course, adopt it as their own if they believe it meritorious; they are equally free to propose modifications of it. In either case, the proposal will remain that of the participant in question. Proposals will be due at the same time as responses to the Notice of Inquiry questions attached hereto.

If no proposals are received by the date specified (January 12, 1979) we contemplate terminating this proceeding by Order without scheduling hearings or other procedural stages. If proposals are received which are responsive to the basic issue raised herein, we will issue further Orders prescribing appropriate procedures.

The Commission orders:

(A) Each person (including the Postal Service) who participated as an intervenor or limited participator in Docket No. MC77-2 is hereby an intervenor or limited participator, respectively, in this proceeding, subject to the provisions of paragraph (B), below.

(B) The participation of the intervenors and limited participators provided for by paragraph (A) is subject to the rules and regulations of the Commission. Their participation shall be limited to matters affecting rights and interests specifically set forth in their initial petitions to intervene and requests to become limited participators in Docket No. MC77-2, and shall not be construed as recognition by the Commission that they or any of them might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(C) Persons made participants by paragraph (A) hereof who do not desire to participate in these proceedings may by motion request leave to withdraw.

(D) The participants shall serve copies of all documents, including prepared direct evidence, upon representatives of the Postal Service, the OOC, intervenors, and limited participators. For purposes of such service, where service upon more than one representative has been requested in a petition to intervene or in a request for leave to be heard as a limited participator, including those petitions and requests filed jointly and severally by two or more persons (whether filed in Docket No. MC77-2 or initially in this proceeding), only the first two named representatives in the petition need be served.

(E) The participants (whether made participants by paragraph (A) hereof or by Commission order upon an initial petition to intervene or for leave to be heard as a limited participator) may file responses to the attached Notice of Inquiry by January 12, 1979. Proposals for modification of the Domestic Mail Classification Schedule shall also be filed by that date. Reply comments are due January 22, 1979.

(F) The Commission will sit en banc, with Commissioner Kieran O'Doherty as presiding officer.

(G) Stephen L. Sharfman, Assistant General Counsel (Litigation) (Acting), is hereby designated as the Officer of the Commission to represent the interests of the general public in this proceeding. Service of documents on the Commission shall not constitute service on the Officer of the Commission, who shall be separately served with three copies of all documents.

By the Commission.

DAVID F. HARRIS,
Secretary.

Docket No. MC79-1

MINIMUM HEIGHT FOR CARRIER-ROUTE PRESORTED MAIL

NOTICE OF INQUIRY

The following questions are directed to the Postal Service, the Officer of the Commission, and all other participants in the instant docket. Any participant is free to respond to any of the questions; however, Questions 1 through 5 are particularly directed to the Postal service, and the remaining questions to mailer participants.

1. In response to the Presiding Officer's August 23, 1978, Information Request, in Docket No. MC77-2, the Postal Service states that "unless fully presorted to carrier route, first-class mail is sorted by letter sorting machines at a large and growing number of destination post offices." [19] Are there any occasions when carrier route presorted mail is required to be machine processed at any point in the mail processing operation?

2. Compared to the 3.5 inch minimum height requirement, are there any carrier functions or other mail processing functions which could be adversely affected if carrier route presorted cards 3.25 inches in height were permitted to be mailed?

3. Would the Postal Service enjoy any potential cost benefits if cards 3.25 inches in height were permitted to be mailed providing these cards were presorted to carrier route?

4. Would a minimum number of pieces per mailing, with a minimum number of separately addressed pieces bundled to each carrier, be required to achieve cost benefits, if any, for carrier route presorted cards which are 3.25 inches in height?

5. Assuming that the minimum height standard of 3.5 inches were reduced to 3.25 inches for presorted carrier route mail, would the administration of this exemption from the minimum size standard create any significant problems?

6. What percentage of that number of letters and cards which you mail annually consists of pieces 3.25 or 3.5 inches in height and 5 inches or more in length?

7. What specific types of mail pieces—including particularly those associated with a specific business system—do you now use which are less than 3.5 inches in height?

8. Would you presort letters or cards to carrier route in order to take advantage of a reduction in the permitted height from 3.5 inches to 3.25 inches?

9. What percentage of the cards that you mail annually would be inserted in envelopes for the purpose of complying with (a) *minimum* height requirements of 3.5 inches and (b) *minimum* height requirements of 3.25 inches?

[FR Doc. 78-33984 Filed 12-5-78; 8:45 am]

[18] Postal Service Response to Presiding Officer's Information Request, Docket No. MC77-2, September 6, 1978, p. 1. The Postal Service was intent principally on explaning why mail presorted to five-digit ZIP codes *not* bypass machine processing—which was the subject of the Presiding Officer's inquiry. The Response suggests, however, that the same may not be true if the mail is presorted to carrier route.

[19] Response of the Postal Service, dated September 6, 1978, p. 1.

[8025-01-M]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 12-A; (Revision 2)]

DIRECTOR, OFFICE OF FINANCING

Redelegation of Financial Assistance

Delegation of Authority No. 12-A (Revision 1) (38 FR 18595), as amended (40 FR 6395, 40 FR 10522, 41 FR 46665, and 42 FR 12507) is hereby superseded by Delegation of Authority No. 12-A (Revision 2). This revision reflects the organizational change made by the abolishment of the Office of Community Development and the establishment of the Office of Neighborhood Business Revitalization and the Office of Special Guarantees. It also deletes the authority previously delegated for lease guarantees since no appropriation for this program has been made since FY 1976.

Delegation of Authority No. 12-A (Revision 2) reads as follows:

I. Pursuant to the authority delegated by the Administrator to the Associate Administrator for Finance and Investment in Delegation of Authority No. 12 (Revision 1) (38 FR 13063), as amended (38 FR 16001, 38 FR 26509, 40 FR 8398, 40 FR 18054, 41 FR 42994, and 42 FR 10083), the following authority is hereby delegated to the specific positions as indicated herein:

DIRECTOR, OFFICE OF FINANCING

1. To approve or decline applications for business, economic opportunity, disaster, handicapped assistance, energy loans, and all other types of loans authorized to be made by the Agency, including reconsiderations thereof, and to execute authorizations and amendments pertaining to such loans, except that action on economic injury loans are limited to those not in excess of $2,000,000.

2. To cancel, reinstate, modify and amend authorizations for fully or partially undisbursed loans.

3. To determine eligibility of business, economic opportunity, disaster, handicapped assistance and all other types of loan applicants.

CHIEF, PROGRAM OPERATIONS DIVISION

1. To approve or decline applications for business, economic opportunity, disaster, handicapped assistance, energy loans, and all other types of loans authorized to be made by the Agency, including reconsiderations thereof, and to execute authorizations and amendments pertaining to such loans, except that actions on economic injury loans are limited to those not in excess of $1,000,000.

2. To cancel, reinstate, modify and amend authorizations for fully or partially undisbursed loans.

3. To determine eligibility of business, economic opportunity, handicapped assistance, disaster and all other types of loan applicants.

C. DIRECTOR, OFFICE OF PORTFOLIO MANAGEMENT

1. To take all necessary action in connection with the servicing, administration, collection and liquidation of all loans, direct lease guarantees (including automatic terminations provided for within the Policy), other obligations and acquired property, with the exception of those loans classified as in litigation, but is *not* authorized:

a. To sell any primary obligation or other evidence of indebtedness, exclusive of property acquired, owed to the Agency for a sum less than the total amount due thereon.

b. To accept or reject a compromise settlement of an indebtedness owed to the Agency for a sum less than the total amount thereon.

C. To deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the initiation of suit for recovery from a participating bank under any alleged violation of a participation or guaranty agreement.

2. To take all necessary actions in connection with the liquidation of SBIC's and EDA loans for the Department of Commerce.

3. To take all necessary actions in connection with the servicing (financial aspects) of certificates of competency and, as appropriate, financial aspects of contracts let by SBA under Section 8(a) of the Small Business Act, as amended.

D. CHIEF, OPERATIONS ASSISTANCE DIVISION

1. To take all necessary action in connection with the servicing, administration, collection and liquidation of fully disbursed loans not in litigation, direct least guarantees (including automatic terminations provided for within the Policy), and other obligations and acquired property within all loan programs of the Small Business Administration, but is *not* authorized:

a. To sell any primary obligation or other evidence of indebtedness, exclusive of property acquired, owed to the Agency for a sum less than the total amount due thereon.

b. To accept or reject a compromise settlement of an indebtedness owed to the Agency for a sum less than the total amount due thereon.

c. To deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the initiation of suit for recovery from a participating bank under any alleged violation of a participating or guaranty agreement.

2. To take all necessary actions in connection with the liquidation of SBIC's and EDA loans for the Department of Commerce.

3. To take all necessary actions in connection with the servicing (financial aspects) of certificates of competency and, as appropriate, financial aspects of contracts let by SBA under Section 8(a) of the Small Business Act, as amended.

E. DIRECTOR, OFFICE OF NEIGHBORHOOD BUSINESS REVITALIZATION

1. To approve or decline development company (sections 501 and 502) loan applications, including reconsiderations thereof, and to execute authorizations and modifications pertaining to such loans.

2. To cancel, reinstate, modify and amend authorizations for fully undisbursed loans.

3. To determine eligibility of development company loan applicants.

F. CHIEF, DEVELOPMENT COMPANY LOAN DIVISION

1. To approve or decline development company (sections 501 and 502) loan applications, including reconsiderations thereof, and to execute authorizations and modifications pertaining to such loans.

2. To cancel, reinstate, modify and amend authorizations for fully undisbursed loans.

3. To determine eligibility of development company loan applicants.

G. DIRECTOR, OFFICE OF SPECIAL GUARANTEES

1. To guarantee sureties of small business against portions of losses resulting from the breach of bid, payment, or performance bonds on contracts up to the statutory limit.

To approve or decline all claim reimbursement requests from participating surety companies on contract defaults bonded with SBA guarantees.

3. To approve or decline applications for pollution control financing guarantees authorized to be made by the Agency including reconsiderations thereof and to execute commitments and modifications thereto and guarantees pertaining to such financings.

4. To determine eligibility and make size determinations of applicants for pollution control financing guarantees and surety bond guarantees.

5. To take all necessary actions in connection with the servicing, administration, collection and payment of claims arising under the guarantees upon default of the small business.

6. To enter into participation agreements with qualified surety or other qualified companies and to revise such agreements when necessary.

7. To approve the investment of funds in the pollution control guaran-

tee fund not for payment of operating expenses or payment of claims arising under the pollution control financing program in bonds or other obligations of, or other obligations guaranteed as to principal and interest by, the United States.

8. To take all necessary actions in connection with the servicing, administration, collection and payment of claims arising under reinsurance lease guarantee agreements except compromise settlements.

H. CHIEF, POLLUTION CONTROL FINANCING DIVISION

1. To approve or decline applications for pollution control financing guarantees authorized to be made by the Agency including reconsiderations thereof and to execute commitments and modifications thereto and guarantees pertaining to such financings.

2. To take all necessary actions in connection with the servicing, administration, collection and payment of claims arising under pollution control financing guarantees upon default of the small business.

3. To determine eligibility and make size determinations of applicants for pollution control financing guarantees.

I. CHIEF, SURETY BOND GUARANTEES DIVISION

1. To guarantee sureties of small business against portions of losses resulting from the breach of bid, payment or performance bonds on contracts up to $500,000.

2. To approve or decline all claim reimbursement requests from participating surety companies on contract defaults bonded with SBA guarantees.

3. To determine eligibility of surety bond applicants.

J. DIRECTOR, OFFICE OF PROGRAM DEVELOPMENT

1. To take all necessary actions in connection with determinations of eligibility for lending institutions to participate in SBA lending and financial assistance programs.

2. To take all necessary actions in connection with the regulation of lending institutions participating in SBA lending and financial assistance programs, in accordance with the Small Business Act, as amended, and the Regulations thereunder as amended from time to time.

K. CENTRAL OFFICE CLAIMS REVIEW COMMITTEE

1. This committee shall consist of the Director, Office of Portfolio Management, acting as chairman; Director, Office of Financing; and Associate General Counsel, Office of Litigation.

2. This committee shall meet and consider reasonable and properly supported compromise proposals, including compromise proposals for lease guarantees, and make the final decision to accept or reject such proposals, provided the decision of the committee is unanimous.

II. The authority delegated herein may not be redelegated.

III. All authority delegated herein may be exercised by any Small Business Administration employee designated as acting in that position.

Effective date: December 6, 1978.

Dated: November 29, 1978.

JOHN M. TRASK, Jr.,
Associate Administrator for Finance and Investment.

[FR Doc. 78-33950 Filed 12-5-78; 8:45 am]

[8025-01-M]

[License No. 04/04-5156]

VERDE CAPITAL CORP.

Issuance of a License To Operate as a Small Business Investment Company

On October 3, 1978, a notice was published in the FEDERAL REGISTER (43 FR 45662) stating that Verde Capital Corporation, located at 255 Alhambra Circle, Coral Gables, Florida 33134, has filed an application with the Small Business Administration pursuant to 13 CFR 107.102 (1978) for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business October 18, 1978, to submit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and other pertinent information, SBA has issued license No. 04/04-5156 to Verde Capital Corporation on November 22, 1978.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: November 28, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-33949 Filed 12-5-78; 8:45 am]

[4810-22-M]

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 78-481]

NOTICE THAT FINAL COURT DECISIONS ADVERSE TO THE CUSTOMS SERVICE WILL BE GIVEN GENERAL EFFECT UNLESS A LIMITING RULING IS PUBLISHED WITHIN 180 DAYS; MODIFICATION AND CLARIFICATION OF T.D. 78-302

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

ACTION: General notice.

SUMMARY: The Customs Regulations provide that the Customs Service, with certain exceptions, may limit the application of an adverse decision of the Customs Court or the Court of Customs and Patent Appeals to the particular merchandise, circumstances, or entries which were the subject of the litigation by publication of a limiting ruling. A recent Customs Service Notice established a procedure to inform Customs officers and the public that the general application of adverse decisions would be delayed until a notice of acquiescence or limiting ruling is published in the Customs Bulletin, not later than 180 days after the adverse decision. It has been determined that a notice of acquiescence is not required; that in the unusual circumstances in which it is decided to limit the application of a court decision, a limiting ruling will be published in the Customs Bulletin not later than 180 days after the adverse decision; and that in the absence of the publication of a limiting decision, the adverse decision will be given general application after the period for publication has expired. The previous Notice is modified accordingly.

DATES: The procedures set forth in this notice shall be effective with respect to all transactions or protests pending on, or arising on or after, December 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Salvatore E. Caramagno, Director, Classification and Value Division, Office of Regulations and Rulings, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5868).

SUPPLEMENTARY INFORMATION:

BACKGROUND

DISCUSSION OF APPLICABLE CUSTOMS REGULATIONS

Section 176.31, Customs Regulations (19 CFR 176.31), provides that entries which are the subject of litigation which has been concluded with a deci-

sion of the U.S. Customs Court or the U.S. Court of Customs and Patent Appeals shall be reliquidated in accordance with that decision.

However, § 152.16(e), Customs Regulations (19 CFR 152.16(e)), provides that the Customs Service:

1. May limit the application of the principles of any adverse decision, except a decision upholding a petition of an American manufacturer, producer, or wholesaler, under section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), to the specific entries which were the subject of the decision, and

2. May provide for the application of the decision, in a manner which it considers appropriate, to unliquidated entries and protested entries that have not been denied, in whole or in part, which involve the same issue as that decided by the court.

Section 177.10(d), Customs Regulations (19 CFR 177.10(d)), similarly provides that the Customs Service may limit the application of an adverse judicial decision to the particular merchandise, circumstances, or entries which were the subject of the litigation by publication of a limiting ruling. No time frame within which the limiting ruling must be published is provided.

TREASURY DECISION 78-302

Treasury Decision 78-302, published in the FEDERAL REGISTER on August 31, 1978 (43 FR 38817), established a uniform procedure under which no action would be taken on unliquidated entries and pending protests not specifically the subject of the adverse decision, but to which the principles of the decision would apply, until the Customs Service published, in the alternative, a notice of acquiescence in the decision or a ruling limiting the application of the decision.

The purpose of T.D. 78-302 was to establish a procedure requiring the Customs Service to announce within restrictive time constraints its infrequent determination to limit the application of an adverse decision to the specific article under litigation, or to an article of a specific class or kind of such or similar merchandise, or to the particular circumstances or entries which were the subject of the litigation.

The limiting ruling, which would be made under the authority in §§152.16(e) and 177.10(d), Customs Regulations, would remain in effect until the legal principle or issue involved could be reconsidered by the courts on the basis of a more complete presentation of evidence.

Neither T.D. 78-302 nor the Customs Regulations intended in any way to question the binding effect of a final adverse judicial decision, or the obligation of the Customs Service to abide by that decision, in respect to the entries which are the subject of the case before the court. In this respect, as noted previously, § 176.31, Customs Regulations, provides specifically that entries which are the subject of the litigation which has been concluded with a decision of the U.S. Customs Court or the U.S. Court of Customs and Patent Appeals shall be reliquidated in accordance with that decision.

In those relatively rare and unusual circumstances in which a determination to limit an adverse decision is made, usually in cases in which the Customs Service believes that the specific evidence available for judicial evaluation has not provided to the courts an adequate basis for establishing a universally applicable rule of law, T.D. 78-302 set maximum time constraints on the announcement by the Customs Service of its determination to limit the application of the decision. The absence of such a time constraint had created a vacuum in the past with respect to adverse judicial decisions in which Customs field officers were unable to determine whether other entries of merchandise of the class or kind involved in the adverse adjudication should be liquidated, or action on protests taken, in accordance with the court decision; and the liquidation of entries often was delayed without justification, or liquidations at different ports lacked uniformity of treatment.

Although the procedure for implementing judicial decisions was established primarily for the guidance of Customs field officers, T.D. 78-302 was published in the FEDERAL REGISTER and the Customs Bulletin to provide formal notice of its time constraints to the public as well. To clarify the ambiguities arising from the publication of T.D. 78-302, it has been decided to reformulate the procedures set out therein.

The requirement that the Customs Service publish a notice of acquiescence in those cases in which it is not intended to publish a limiting ruling is withdrawn. As a result, absent publication of a limiting ruling within 180 days after the adverse judicial decision, the principles on which that decision is based will be considered of general applicability. Of course, the adverse decision will continue to be applied immediately to entries or protests which are the subject of the litigation.

T.D. 78-302 MODIFIED—PROCEDURES RESTATED

To clarify the scope and intent of T.D. 78-302, effective on the December 6, 1978, the procedures set out in that Treasury decision are modified to provide as follows:

1. Entries which are the subject of an unappealed adverse judicial decision will be reliquidated immediately, in accordance with the decision, as provided for in § 176.31, Customs Regulations (19 CFR 176.31).

2. The Customs Service will not publish notices of acquiescence in adverse judicial determinations.

3. To assure uniformity in the liquidation of entries not involved in specific adverse judicial decisions, liquidation of entries or action on protested entries pending when the adverse decision is issued, and which may be affected by the decision, will be suspended for a period of 180 days following the date. If a limiting ruling is not issued within that 180-day period, pursuant to §§ 152.16(e) and 177.10(d), Customs Regulations (19 CFR 152.16(e), 177.10(d)), and the adverse decision has become final, its principles will be applied immediately for the purpose of liquidating all entries, or acting on all protests, action on which may have been suspended in accordance with this paragraph, and as a binding interpretation of the applicable law with respect to all subsequent entries or protests.

4. In those unusual instances in which the binding effect of a final adverse decision of the U.S. Customs Court or the U.S. Court of Customs and Patent Appeals which has not been appealed may be the subject of a ruling published in accordance with §§ 152.16(e) and 177.10(d), Customs Regulations, which would limit the binding effect of the decision to the specific article involved in the litigation, or to an article of a specific class or kind of such or similar merchandise, or to the particular circumstances or entries which were the subject of the litigation, the limiting ruling shall be published as soon as practicable, but not later than 180 days after issuance of the adverse decision.

T.D. 78-302 is modified and superseded to the extent that it is inconsistent with the procedures set forth herein.

Dated: November 29, 1978.

R. E. CHASEN,
Commissioner of Customs.

[FR Doc. 78-33979 Filed 12-5-78; 8:45 am]

[8320-01-M]

VETERANS ADMINISTRATION

CENTRAL OFFICE EDUCATION AND TRAINING REVIEW PANEL

Rescheduled Meeting

The Veterans Administration gives notice pursuant to Pub. L. 92-463 that

a meeting of the Central Office Education and Training Review Panel authorized by section 1790(b), title 38, United States Code, will be held in Room A-53, Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, D.C., on January 3, 1979, at 10 a.m. The meeting will be held for the purpose of reviewing the decision of the Director, Veterans Administration Regional Office, Columbia, South Carolina, that benefits to all eligible persons enrolled in Southeastern Business College, 560 King Street, Charleston, South Carolina 29403, be discontinued.

This meeting was originally scheduled for November 14, 1978 (43 FR 47633 October 16, 1978). The school's representative, Mr. Steven J. Metalitz, requested a postponement by letter of November 6, 1978. The request was granted and the meeting is now to be held on January 3, 1979.

The meeting will be open to the public up to the seating capacity of the conference room. Because of the limited seating capacity, it will be necessary for those wishing to attend to contact Mr. Larry R. Stockmoe, Education and Rehabilitation Service, Veterans Administration Central Office (phone (202) 389-2850) prior to December 26, 1978.

Dated: November 29, 1978.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

[FR Doc. 78-33964 Filed 12-5-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Decision No. 37043]

ARKANSAS INTRASTATE FREIGHT RATES AND CHARGES—1978

By joint petition filed October 2, 1978, petitioners, 6 common carriers by railroad[1] operating in intrastate commerce in Arkansas intrastate freight rates and charges, under 49 USC 11501 and 11502; section 13 of the former Interstate Commerce Act. They seek an order authorizing them to increase such rates and charges in the same amounts approved for interstate application by this Commission in Ex Parte No. 349 effective June 17, 1978. Petitioners have stated grounds sufficient to warrant instituting an investigation.

It is ordered: The petition is granted. An investigation, under 49 USC 11501 and 11502 is instituted to determine whether the Arkansas intrastate rail freight rates in any respect cause any unjust discrimination against or any undue burden on interstate or foreign commerce, or cause undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce and persons or localities in interstate or foreign commerce, or are otherwise unlawful, by reason of the failure of such rates and charges to include the full increases authorized for interstate application by this Commission in Ex Parte No. 349. In the investigation we shall also determine if any rates or charges, or maximum or minimum charges, or both, should be prescribed to remove any unlawful advantage, preference, discrimination, undue burden, or other violation of law, found to exist.

All common carriers by railroad operating in Arkansas subject to the jurisdiction of the Commission are made respondents in this proceedings.

All persons who wish to participate in this proceeding and to file and receive copies of pleadings shall make known that fact by notifying the Office of Proceedings, room 4342, Interstate Commerce Commission, Washington, DC 20423, on or before 15 days from the FEDERAL REGISTER publication date. Although individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentations to the greatest extent possible. This Commission desires participation of only those who intend to take an active part in this proceeding.

As soon as practicable after the last day for indicating a desire to participate in this proceeding, this Commission will serve a list of names and addresses on all persons upon whom service of all pleadings must be made. Thereafter, this proceeding will be assigned for oral hearing or handling under modified procedure.

A copy of this order shall be served upon each of the petitioners and respondents herein. Arkansas shall be notified of the proceeding by sending copies of this order by certified mail to the Governor of Arkansas. Further notice of this proceeding shall be given to the public by depositing a copy of this order in the Office of the Secretary of the Interstate Commerce Commission at Washington, DC, and by filing a copy with the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

This is not a major Federal action significantly affecting the quality of the human environment. Furthermore, this decision is not a major regulatory action under the Energy Policy and Conservation Act of 1975.

Dated at Washington, DC, this 27th day of November, 1978.

By the Commission, Alan Fitzwater, Director, Office of Proceedings.

H. G. HOMME, JR.,
Secretary.

[FR Doc. 78-34041 Filed 12-5-78; 8:45 am]

[1] Chicago, Rock Island and Pacific Railroad Company; The Kansas City Southern Railway Company; Louisiana & Arkansas Railway Company; Missouri Pacific Railroad Company; St. Louis-San Francisco Railway Company; and St. Louis Southwestern Railway Company.

[7035-01-M]

[Notice No. 750]

ASSIGNMENT OF HEARINGS

DECEMBER 1, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC-C-8619, Transport of New Jersey Asbury Park New York Transit Corporation Decamp Bus Lines, Hudson Bus Transportation Company, Inc., Judson Transit Lines, Inc.; Lakeland Bus Lines, Inc., Lincoln Transit Company Manhattan Transit Company Maplewood Equipment Company New York Keansburg Long Branch Bus Company, Inc.; Suburban Transit Corporation and Port Authority of New York and New Jersey—Investigation of Operations and Practices, now being assigned pre-hearing conference on January 8, 1979, (1 day), at New York, N.Y., in a hearing room to be later designated.

MC 124920 (Sub-14), La Bar's Inc., MC 124821 (Sub-26), William Gilchrist, now being assigned for hearing on February 5, 1979, (2 days), at Philadelphia, Pa., in a hearing room to be later designated.

MC 144537F, Marvin Y. Neely and Nancy B. Neely, A Partnership, DBA Shun-Pike Tours, now being assigned for hearing on February 7, 1979 (3 days), at Philadelphia, Pa., in a hearing room to be later designated.

MC 118832 (Sub-8), Westours Motor Coaches, Inc., now assigned December 4, 1978, at Seattle, Wash., is cancelled and application dismissed.

MC-C-10041, Orchelin Bros. Truck Lines, Inc. v. Beaufort Transfer Company, now assigned for hearing on December 4, 1978, at Jefferson City, Missouri is cancelled.

MC 114457 (Sub-401F), Dart Transit Company, now being assigned for hearing on February 5, 1979, at New York, N.Y. in a hearing room to be later designated (1 day).

MC 11682 (Sub-93F), Mural Transport, Inc., now being assigned for hearing on February 6, 1979, at New York, N.Y. (2 days), in a hearing room to be later designated.

MC 89369 (Sub-20F), Joart Trucking Company, now being assigned for hearing on

February 8, 1979 (2 days), at New York, N.Y., in a hearing room to be later designated.
MC 124170 (Sub-90F), Frostways, Inc., now being assigned for February 12, 1979 (1 week), at New York, N.Y., in a hearing room to be later designated.
MC 61264 (Sub-30F), Pilot Freight Carriers, Inc., now being assigned for continued hearing on February 6, 1979 (4 days), at Charlotte, North Carolina, February 12, 1979 (5 days), at Atlanta, Georgia, February 20, 1979 (4 days), at Tampa, Florida, March 26, 1979 (5 days), at Richmond, Virginia, May 1, 1979 (4 days), at Allentown or Reading, Pennsylvania, May 7, 1979 (5 days), at Wilkes Barre or Scranton, Pennsylvania, in hearing room to be later designated and continued to July 23, 1979 at the offices of Interstate Commerce Commission, Washington, D.C.
MC 144604F, John Haley, DBA J & R Auto Transport, now being assigned for February 21, 1979 (3 days), at Kansas City, Missouri in a hearing room to be later designated.
MC 116254 (Sub-205F), Chem-Haulers, Inc., now being assigned for February 26, 1979 (1 day), at Kansas City, Missouri in a hearing room to be later designated.
MC 116254 (Sub-206F), Chem-Haulers, Inc., now being assigned for Feburary 27, 1979 (1 day), at Kansas City, Missouri in a hearing room to be later designated.
MC 116254 (Sub-204F) Chem-Haulers, Inc., now being assigned February 28, 1979 (1 day), at Kansas City, Missouri, in a hearing room to be later designated.
MC 119493 (Sub-210F), Monkem Company, Inc., now being assigned for March 1, 1979 (2 days), at Kansas City, Missouri, in a hearing room to be later designated.
MC 127042 (Sub-206F), Hagen Inc., now being assigned for hearing on February 6, 1979 (1 day), at Billings, Montana, in a hearing room to be later designated.
MC 144096 (Sub-1F), Robert J. Savage, DBA, Bob Savage, Trucking, now being assigned for hearing on February 7, 1979 (2 days), at Billings, Montana, in a hearing room to be later designated.
MC 124692 (Sub-197F), Sammons Trucking, now being assigned for hearing on February 9, 1979 (1 day), at Billings, Montana, in a hearing room to be later designated.
MC 87689 (Sub-13), Inter-City Lines Limited, now being assigned for hearing on February 12, 1979 (5 days), at Helena, Montana, in a hearing room to be later designated.
MC 115495 (Sub-37F), United Parcel Service, Inc., now being assigned for continued hearing on February 27, 1979 (9 days), at Dallas, Texas.
MC 130484F, World Travel Service, Ltd, DBA World Travel Service, now assigned February 7, 1979, at Oklahoma City, OK, is cancelled and application dismissed.
MC 35227 (Sub-8F), Edson Express, Inc., now being assigned for January 8, 1979 (3 weeks), at Denver, Colorado, in a hearing room to be later designated.
MC 143775 (Sub-4F), Paul Yates, Inc., now being assigned for hearing on February 21, 1979, (1 day), at Chicago, Illinois in a hearing room to be later designated.
MC 135874 (Sub-108F), LTL Perishables, Inc., now being assigned for hearing on February 22, 1978, (2 days), at Chicago, Illinois in a hearing room to be later designated.
MC 114273 (Sub-368F), CRST, Inc., now being assigned for hearing on February 26, 1979, (2 days), at Chicago, Illinois in a hearing room to be later designated.
MC 138144 (Sub-30F), Fred Olson Co., Inc., now being assigned for hearing on February 28, 1979, (3 days), at Chicago, Illinois. in a hearing room to be later designated.
MC 81592 (Sub-7F), Wisconsin Northern Transportation, Co., Inc., now being assigned for hearing on February 21, 1979, (3 days), at Eau Claire, Wisconsin in a hearing room to be later designated.
MC 134477 (Sub-241F), Schanno Transportation Inc., now being assigned for hearing on February 26, 1979, (2 days), at St. Paul, Minnesota in a hearing room to be later designated.
MC 134402 (Sub-5F), Williams Truck Line, Inc., now being assigned for hearing on February 28, 1979, (3 days), at St. Paul, Minnesota in a hearing room to be later designated.
MC-C-10145, Dart Trucking Co., Inc., et al. V. Nick Strimbu, Inc., now assigned for hearing on December 11, 1978, at Columbus, Ohio will be held in Room 235, Federal Building, 85 Marconi Boulevard.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 78-34042 Filed 12-5-78; 8:45 am]

[7035-01-M]

[Exception No. 6]

CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROAD CO.

Exception Under Section (a), Paragraph (1), Part (v) Second Revised Service Order No. 1332

Decided November 28, 1978.

By the Board

The Vermont Railway, Inc. (VTR), has purchased new boxcars which will be delivered to Chicago, Milwaukee, St. Paul and Pacific Railroad Compnay (MILW) at Portland, Oregon, for movement to the VTR. VTR has allowed MILW to lbad these cars on the west coast for movement to the VTR. Reduced loadings of these cars on the MILW to destinations as directed by VTR means the MILW will hold some of the cars beyond the 60-hours permitted in Section (a)(2)(ii) of this order prior to placing of cars for loading.

Order. Pursuant to the authority vested in the Railroad Service Board by Section (a)(1)(v) of Second Revised Service Order No. 1332, Chicago, Milwaukee, St. Paul and Pacific Railroad Company is authorized to assemble and hold new Vermont Railway, Inc. boxcars for loading as directed by Vermont Railway, Inc., regardless of the provisions of Section (a)(2)(ii) of this order.

These cars shall become fully subjected to all provisions of Second Revised Service Order No. 1332 when loading is completed and instructions for forwarding are received from the shipper.

Effective November 20, 1978.

Expires December 31, 1978.

Robert S. Turkington,
Acting Chairman,
Railroad Service Board.

[FR Doc. 78-34043 Filed 12-5-78; 8:45 am]

[7035-01-M]

COMMISSION ISSUANCES

AGENCY: Interstate Commerce Commission.

ACTION: Notice.

SUMMARY: For many years the procedures which were followed by the Commision in its own internal operations were described in part in a document known as the "Internal Minutes." The Commission has decided to eliminate the Internal Minutes and to reorganize and restate the materials which they contained in a series of "Issuances." This document contains materials related to the way in which the Commission conducts its day-to-day business, together with certain instructions and delegations of responsibility to the staff. As revisions are made, appropriate notice will be given through further publication in the Federal Register. Because the provisions of this document govern the internal operations and procedures of the Commission, it is being issued in final form, and public comments are not being requested.

EFFECTIVE DATE: November 7, 1978.

FOR FURTHER INFORMATION CONTACT:

George M. Chandler 202-275-7513.

Commission Issuances

GENERAL

1. *Scope.*—This document contains descriptions of internal Interstate Commerce Commission procedures and assignments of responsibility which govern or affect the way in which the Commission itself, its divisions, and employee boards carry out their functions. It includes guidelines and procedures to be followed by the staff in preparing items for the Commissioner's consideration, in carrying out the Commission's directives, and in otherwise working with the Commission and the individual Commissioners. It also includes certain delegations of authority and responsiblity to staff units or employees.

2. *Authority.*—Unless otherwise noted, the contents of this document were adopted by the Commission on November 7, 1978, under the authority of 49 U.S.C. 10301(f) and 10321(a). The

source of, and authority for, all subsequent changes or additions will be indicated in future compilations of the issuances.

CONFERENCES AND VOTING

11. *Conferences.*—(a) *General*—The scheduling and conduct of conferences and other meetings of the Commission, divisions, and committees of the Commission, the provision of public notice of their scheduling, and the keeping and issuance of transcripts and minutes are governed by regulations appearing at 49 CFR part 1012. The convener is the Chairman of the Commission, division, or committee who calls the meeting, upon his or her own initiative or at the request of another member of the Commission.

(b) *Regular Commission conference*—(1) A Commissioner having an item to list for a regular conference shall, no later than noon on the second Thursday preceding the conference date, notify in writing the Commission, the Secretary, and the General Counsel of that item and shall indicate whether it is proposed that the item be considered in open or closed conference. The listing shall also be accompanied by an explanation of the proposed action in closing the conference suitable for posting under the provisions of 49 CFR 1012.3(b)(4). Each Commissioner shall have until noon on the second Friday before conference to request that an item which he or she did not list be closed in whole or in part. In that instance, the requesting Commissioner shall have the burden of preparing an explanation in conformity with 49 CFR 1012.3(b)(4). Where the General Counsel's views must be submitted, they shall be returned by close of business on the second Friday before the conference.

(2) Notwithstanding the provisions of the immediately preceding paragraph, the Chairman shall control the conference agenda. The Chairman, however, shall list on the agenda of a conference, within 30 days of the request, any item requested by a member of the Commission unless a majority of the Commission votes to delay conference consideration of that item, or unless the Chairman finds that special circumstances warrant a delay. Commissioners anticipating the need to list a matter for conference should notify the Chairman as soon as possible in order to facilitate the development of a long-range conference schedule.

(3) The Chairman will prepare a conference agenda, showing the name of the listing Commissioner and, to the extent known, the name of any Commissioner requesting that particular items be closed in whole or in part, and will circulate the conference agenda no later than noon on the second Friday preceding the conference date. All items to be considered in open conference will be listed at the beginning of the conference agenda, and will be followed by those items to be considered in closed conference. If any item is to be considered in closed conference, each Commissioner will be required to vote no later than close of business on the second Monday preceding the conference date, whether he or she approves or disapproves the proposal to consider that item in closed conference.

(4) Every effort shall be made to assure circulation of conference memoranda, draft reports, and other written materials at least one week preceding the conference date.

(c) *Special Commission conferences and Division conferences.*—(1) Special Commission conferences will be convened by the Chairman whenever, in his or her opinion, any matter or the business of the Commission so requires. The Chairman shall convene a special conference for the consideration of any matter or business upon request of a member of the Commission, under the same guidelines applicable to a request made under item 11(b)(2).

(2) Division conferences will be convened by the division chairman upon his or her own initiative or at the request of any division member, under the same guidelines applicable to a request made under item 11(b)(2).

(3) The convener of a special Commission conference, division conference, or other meetings as that term is used in 49 CFR 1012.1(b) shall notify those Commissioners eligible to participate of the time, place, and subject matter of the conference and whether it is proposed that the conference be open or closed to the public.

(d) *Provisions applicable to all meetings subject to 49 CFR Part 1012.* The convener of any conference or other meeting subject to 49 CFR Part 1012, of the Chairman of the Commission, in the case of items listed for regular Commission conferences, shall—

(1) Obtain, where necessary, a recorded vote approving the calling of the conference or other meeting on short notice.

(2) Transmit to the Secretary of the Commission and the Office of Communications and Consumer Affairs, as soon as it is available, all information to be included in any public notice required to be posted under 49 CFR 1012.3. A Commission staff member may be designated to respond to requests for information about the meeting.

(3) Where it is proposed that the conference be closed, obtain:

(A) The necessary certification from the General Counsel.

(B) From the commissioner making the proposal, any necessary explanation as required by 49 CFR 1012.3(b)(4).

(C) Any necessary votes required to hold a closed conference or partially to close a conference.

(4) Arrange for the preparation of a transcript of minutes, for the preparation of the presiding officer's statement required by 49 CFR 1012.5, and for the preparation for relase of parts of the transcript or minutes not subject to a statutory exemption.

(5) If any change in the scheduling of the conference or meeting or in the agenda is made subsequent to the posting of any public notice required under 49 CFR 1012.3, obtain the necessary votes approving that change.

(e) *Delayed voting.*—In cases where a majority has voted to take a particular action, a member may, with the approval of the majority, withhold his or her vote and vote by written memorandum within a time agreed to by the majority. In such a case, the date of the conference shall be the date of the action. If the member fails to vote within an allotted time, he or she shall be shown as not participating. Where voting at a conference is indecisive, and one or more members wishes to delay voting, the matter shall either be rescheduled for a future conference or, if there is no objection, transferred to the notation voting calendar.

12. *Voting by Notation.*—(a) *General.*—Voting on all matters not considered in conference shall be by notation. Notation voting by the Commission and divisions is accomplished by the circulation of the written vote of each decisionmaker. Employee boards may vote by the circulation of individual voters, by the circulation of a single voting sheet upon which the vote and date of voting by each decisionmaker is entered, or by any other means to which the board members agree and which provides a written record of the vote cast and the date of voting by each member.

(b) *Voting dates*—Where notation votes are cast on different days, the date of th decision is the date upon which the last individual vote is cast or the date of an appropriately set deadline for voting.

13. *Written Statements and Separate Expressions.*—(a) *General.* Written statements of the Commission shall indicate the official designation of the individual or group taking the action, the names of the persons participating in the action, and the vote or position of each participant. The written statement shall also indicate when a member eligible to participate in an action does not do so. Participants shall have the right to express their individual views as part of the written statement.

(b) *Definitions.*—(1) *Separate expression* means decisionmakers' own narrative written expression of differences with the majority written expression.

(2) *Separately stated vote* means a statement, no longer than two lines in length, specified by the decisionmakers which indicates how the decisionmakers voted.

(3) *Statement of position* means a short phrase specified by the decisionmakers or adopted by the clearing office which indicates the position of decisionmakers who do not join in the majority's written statement.

(c) *General rules.*—The following general rules shall apply in all situations unless the provisions of a specific rule apply.

(1) When decisionmakers differ from the majority or do not join in the majority statement, this shall be shown by separate expressions, separately stated votes, or statements of position.

(2) Decisionmakers may include a specifically designated separate expression, or specify a separately stated vote, or statement of position in their votes and, if they do, it shall be published as part of the written statement.

(3) Decisionmakers may reserve, in their votes or in supplemental vote submitted no later than the date of decision, the right to make a separate expression. To be published as part of the majority written statement, the separate expression must be delivered to the clearing office no later than the seventh working day following the date of the decision. Separate expressions received by the Clearance Unit after this deadline, or after any deadline set pursuant to subsection (d) of this section, will be published separately. At the request of a decisionmaker, a notice that a separate expression will be published separately at a later date will be included in the majority written statement.

(4) If decisionmakers who differ from the majority have not by the date of decision reserved the right to make a separate expression, submitted a separate expression, or specified how they should be shown in a separately stated vote or statement of position (or if, having reserved the right to make a separate expression, they have failed to submit an expression within seven working days of the date of decision), the Clearance Unit shall request from the office of the decisionmakers advice as to how they should be shown in the written statement. If the Clearance Unit is unable to obtain the necessary information by the end of the first working day following the date of decision (or the date the separate expression was due), it may clear the majority written statement for service showing that the other decisionmakers "concurred" or "dissented" if either position is a fair expression of his or her vote. If the Clearance Unit cannot determine what constitutes a fair expression, it shall show the other decisionmakers as "not joining" in the majority statement.

(5) Separate expressions, separately stated votes, and statements of position will be recorded at the end of the majority written statement in the following sequence.

A. Concurring in the result, no written expression.
B. Concurring, separately stated vote.
C. Concurring, separate expression.
D. Doncurring in part, separately stated vote.
E. Concurring in part, separate expression.
F. Dissenting in part, separately stated vote.
G. Dissenting in part, separate expression.
H. Dissenting, separately stated vote.
I. Dissenting, separate expression.
J. Dissenting, no written expression.
K. Not joining in the majority statement; and any statement of position not properly categorized in "A" through "J".
L. Not participating.
M. Absent and not participating.

Within each category decisionmakers shall appear in order of seniority, except when a decisionmaker joins in the written expression or separately stated vote of another.

(d) *Specific rules.*—The following specific rules shall apply in the special situations identified below and shall supercede the general rules in subsection (c) of this section:

(1) Whenever a time limit for service or publication will not permit a seven-day delay for submission of separate expressions or a one-day delay for obtaining statements of position, the circulating office may call for submission of all separate expressions, separately stated votes, or statements of position by the deadline for voting. If decisionmakers do not submit timely separate expressions, separately stated votes, or statements of position, but their votes clearly indicate that they dissent from or concur in the written statement of the majority, their positions shall be so reflected by the Clearance Unit in statements of position. If the positions are not clearly indicated in the votes, they shall be shown as "not joining" in the majority written statement.

(2) In considering proposed rates and charges at the suspension level, all separate expressions, separately stated votes, or statements of position shall be submitted by the voting deadline date. If decisionmakers who differ with the majority do not submit separate expressions or specify separately stated votes or statements of position, the Clearance Unit shall reflect in the written statement that the "dissented," "concurred," "voted to suspend," "voted not to suspend," or "voted not to suspend but to investigate," if that position or statement is clearly indicated in the votes of the decisionmakers. If the position is not clearly indicated in the votes, they shall be shown as "not joining" in the written statement of the action.

(3) In the case of a petition for a declaration that an issue of general transportation importance (GTI) is involved filed pursuant to Rule 97(h) of the Rules of Practice, all separate expressions, separately stated votes, or statements of position shall be submitted by the voting deadline. If decisionmakers who differ with the majority do not submit separate expressions, or separately stated votes, or statements of position, the Clearance Unit shall reflect in the written statement that "they voted in favor of a GTI determination," "voted against a GTI determination," or "voted against a GTI determination, but to reopen on the Commission's own motion," if the statement is clearly indicated in the votes of the decisionmakers. If the position is not clearly indicated in the vote, they shall be shown as "not joining" in the written statement of the action.

(4) In the case of proposed comments on legislation or Congressional Committee testimony, any separate expression, separately stated vote, or statement of position must be received by the clearing office no later than two full working days prior to the date the comment or testimony must be delivered or on the date of decision, whichever is later. When decisionmakers' positions are not clear from their votes, and if the clearing office is not able to obtain prompt clarification of their positions, they shall be shown as "not joining" in the comments or testimony.

(e) *Examples of separate expressions, separately stated votes, and statements of position.*

(1) Statement of position or separately stated vote (without separate expression).

Commissioner ———— concurs, dissents, did not participate, etc., or
Commissioner ———— and ———— concur, dissent, did not participate, etc., or
Commissioner ———— voted not to suspend but to investigate, etc., or
Commissioner ———— did not join in the action taken.

(2) Separate expressions.

Commissioner ————, concurring, dissenting, etc: (written expression), or
Commissioner ———— and ———— concurring, dissenting, etc. (written expression), or
Commissioner ————, whom Commissioner ———— joins, concurring, dissenting, etc. (written expression).

PROCESSING AND PRINTING DECISIONS

21. *Assignment of Submitted Proceedings.*

(a) *Proceedings which have not been orally argued or reopened.*—Submitted proceedings are assigned to the Commission, a division, or an employee board as provided by the Organization Rules (49 CFR 1011). Assignments are made by the Office of Proceedings. Proceedings assigned to an employee board are assigned in rotation to the personal docket of a board member. Proceedings assigned to a division are assigned in rotation to the personal docket of a member of the division unless (1) the matter is routine or is likely to be disposable by a brief order or (2) the division chairman directs that the matter be handled on an institutional basis. Proceedings assigned to the Commission are assigned to the personal docket of a Commissioner by the Chairman of the Commission following a recommendation from the appropriate Office of Proceedings unit.

(b) *Orally argued or reopened cases.*—With respect to cases orally argued before the entire Commission or a division, or cases reopened by the entire Commission or a division, the decision whether the proceeding should be assigned to the personal docket of a Commissioner or handled as an institutional decision is made by the Chairman of the Commission or the respective division. Personal docket assignments are made by the Commission or the division chairman, in rotation, following a recommendation from the appropriate Office of Proceedings unit.

(c) *Rejection of a personal docket assigment.*—A Commissioner may reject a personal docket assignment.

(d) *Assignment of a decision writer.*—Upon the assignment of a submitted proceeding, one or more attorney advisers or administrative law judges will be assigned to prepare a draft decision in the matter or to recommend other appropriate action. In preparing a draft decision or making other recommendations the attorney adviser or administrative law judge will exercise independent judgment unless otherwise specifically directed by the assigned decisionmaker or decisional unit.

22. *Identification of Proceedings Involving Issues of General Transportation Importance.*

(a) *General.*—The Commission shall be informed as early as possible in the course of a pending proceeding if it appears that an issue of general transportation importance may be involved.

(b) *Staff responsibility.*—(1) Administrative law judges, attorneys, and other staff members to whom proceedings are assigned shall promptly notify the heads of their respective bureaus and offices if a party to a proceeding alleges that an issue of genral transportation importance is involved or if they believe that an issue of general transportation importance is involved. Heads of bureaus and offices will, in turn, notify the Chairman of the Commission or of the appropriate division.

(2) Should an employee board determine that an issue of general transportation importance is involved in a proceeding assigned to it, the board will certify that proceeding to the Commission.

(c) *Division proceedings.*—When a division believes that an issue of general transportation importance is involved in a proceeding assigned to it, it may certify the matter to the entire Commission or notify the Commission and withhold issuance of a decision until the Commission has decided whether an issue of general transportation importance is present. If the latter course is followed, and the Commission determines that an issue of general transportation importance is involved, it may recall the matter for disposition. If it chooses not to recall, the following statement will be inserted at the top of the first page of the division decision:

> It has been determined by the Commission that this proceeding involves an issue of general transportation importance. Thus, parties dissatisfied with the decision may file a petition for reconsideration by the Commission.

(d) *GTI petitions in non-rail proceedings.*—Petitions filed pursuant to Rule 97(h) of the Rules of Practice seeking a finding of general transportation importance in non-rail proceedings shall be circulated to the Commission without any accompanying staff recommendation or memorandum. They must be presented and finally acted upon by the Commission within 10 days of filing.

(e) *GTI petitions in rail proceedings.*—Petitions filed pursuant to Rule 98(e) of the Rules of Practice seeking discretionary review in rail proceedings solely on the ground that an issue of general transportation importance is involved shall be circulated to the Commission without an accompanying staff recommendation or memorandum. They must be presented and finally acted upon by the Commission within 20 days after the date for filing replies. Petitions under Rule 98(e) which raise issues other than, or in addition to, that of general transportation importance may be accompanied by staff recommendations and memoranda.

23. *Procedures for Handling Cases in Compliance with the National Environmental Policy Act of 1969.*

(a) *Referral of cases to the Section of energy and Environment.*—(1) All proceedings involving rail line construction or abandonment, rail mergers, controls or consolidations, water carrier certifications (passenger), and common use of rail terminals, shall be referred to the Section of Energy and Environment by the Deputy Director of the responsible Section of the Office of Proceedings, prior to designation for hearing or modified procedure.

(2) All proceedings involving commuter fare increases (bus and rail), passenger train discontinuances, and recyclable commodities, shall be referred to the Section of Energy and Environment at the time the tariff notice, petition, complaint or other pleading is accepted for filing. The referral shall be by the office or bureau charged with acceptance of the item for filing.

(3) All rulemakings and legislative proposals by the Commission directly affecting carrier operations shall be referred to the Section of Energy and Environment in sufficient time prior to the proposing of a rule by the Commission or the submission of a legislative proposal to the Congress to allow for preparation of a draft impact statement if necessary.

(4) All proceedings other than those listed in subparagraphs 1, 2, and 3 will normally be processed by the issuance of a summary environmental negative declaration (SEND) in the initial procedural order. If, however, a party or other interested person, or the Deputy Director of the responsible Section of the Office of Proceedings, identifies environmental issues of consequence, either adverse or beneficial, the case shall be referred to the Section of Energy and Environment prior to designation or assignment to an employee review board or administrative law judge. In a proceeding for which an investigation has been ordered, and environmental issues of consequence are raised, referral should be made no later than the time the order instituting the investigation is served.

(5) In determining whether a proceeding subject to subparagraph (4) above, should be referred to the Section of Energy and Environment for analysis, the following should be considered: (A) whether there is a request for the preparation of an environmental impact statement in a pleading or oral motion; (B) whether environmental issues of consequence have been raised by a party or other interested person (pursuant to 49 CFR 1108.12 (c), (d), and (e), a statement alleging a significant environmental impact or request for the preparation of an environmental impact statement must indicate with specific data the exact nature and degree of the anticipated impact); and (C) whether significant environmental controversy has been generated by a proposed action.

(b) *Consideration by the Section of Energy and Environment.*—Upon referral, the chief of the Section of Energy and Environment will either (1) assign the case to one or more members of the Section for preparation of an environmental impact statement (EIS) or threshold assessment survey (TAS), (2) transmit the case back to the responsible Section of the Office of Proceedings with a recommendation that it be cleared through the issuance of a SEND, or (3) recommend that specific additional environmental data be requested from the parties in order to determine the appropriate environmental clearance.

(c) *Consideration of environmental issues by decisionmaking officials.*—(1) If it is determined that a TAS or EIS is required for a proposed action, the Section of Energy and Environment will prepare the appropriate document in accordance with the procedure set forth in 49 CFR 1108.13 and 1108.14, respectively, and submit it for the record. The employee review board, administrative law judge, or other decisionmaking official shall fully consider the environmental issues raised along with other issues relevant to a decision on the merits.

(2) After a SEND is issued, the case will proceed through the decisionmaking process. If environmental issues are subsequently raised which necessitate consultation with the Chief of the Section of Energy and Environment, consultation must be initiated sufficiently early in the decisionmaking process to allow for timely review by the Section. The Section Chief may provide informal guidance and advice or may recommend that an EIS or TAS be prepared.

(3) Because of the need to arrange assignments and priorities carefully, an order or directive requiring the preparation of an EIS or TAS or the submission of additional environmental data from any party should not be issued without first consulting the Chief of the Section of Energy and Environment.

(4) In the event that a request for cross-examination of witnesses of the Section of Energy and Environment is made pursuant to 49 CFR 1108.17(b), an attorney from the Section of Energy and Environment will be designated as counsel by the Chief of the Section.

(5) Any request for a waiver or exemption from applicant reporting requirements received pursuant to 49 CFR 1108.5 shall be referred to the Chief of the Section of Energy and Environment, who will make a recommendation to the Chairman of the Commission or his or her designee.

24. *Clearance Procedures.*

(a) *General.*—This issuance covers the procedures to be followed in the clearance of formal and informal proceedings matters requiring determination by the Commission or a Division of the Commission, except those cases asigned to the personal docket of individual Commissioners and cases assigned to an individual Commissioner for administrative handling shall continue to be cleared by the confidential assistant to the Commissioner. Matters not involving formal or informal proceedings circulated to the entire Commission will continue to be cleared by the confidential assistant to the Chairman.

(b) *Assignment of cases to divisions.*—(1) Proceedings with odd-numbered docket numbers (or "sub-numbers" in sub-numbered proceedings) will be assigned to Division 1, and those with even-numbered docket numbers (or sub-numbers) will be assigned to Division 2. In the case of consolidated proceedings, the final digit of the earliest proceeding filed governs the assignment. Proceedings related to other previously assigned proceedings will be assigned to the same division membership. Cases reviewed under appellate procedures will be handled by the same membership as issued the prior decision.

(2) For cases reaching a division on appeal from the Suspension and Fourth Section Board (S&FS), and other employee boards handling matters which may later become a formal docket, the division which handled the appeal will also handle the ensuing formal docket regardless of the formal docket's number. For example, an odd-numbered case going to Division 1 from the S&FS Board would later go to Division 1 as an I&S case, even if the I&S docket number is even.

(c) *Security.*—Votes and clearance memoranda will be hand carried between the Clearance Unit and the Commissioners' offices. Records and files shall be maintained in secured cabinets in a secured area. Public access to the Clearance Unit will not be permitted. Requests to the Clearance Unit for information or votes will be handled as shown under (h).

(d) *Responsibilities.*—(1) Originating office.—Sections of the Office of Proceedings, Boards, Bureaus of Investigations and Enforcement, Accounts and Operations, Offices of Hearings, Rail Services Planning, General Counsel, and others will continue to prepare and circulate matters to the divisions of the Commission in accordance with the above criteria and pertinent issuances. All matters circulated for vote by a division will contain information as to any *specific* issues that must be approved, e.g., market dominance, suspension, or fitness; any controlling time limits, including the date by which a matter must be cleared in order to be served by the deadline (in setting deadlines, one day shall be allowed for clearance if at all possible); and any other information pertinent to final disposition of the matter under review. More specifically, originating offices shall develop completed packages for circulation to divisions which generally include the following numbered items. Exceptions may be made in circulations to the entire Commission and in circulations to divisions acting in an appellate capacity or where the division is already familiar with the subject matter.

(A) Prior decisions,
(B) Field reports, if any,
(C) Pleadings, applications, etc.,
(D) Recommended decision,
(E) Examiner's explanation of decision,
(F) Views of other staff, and
(G) Cover memorandum, including any time limits for service.

A copy will be sent to each of the appropriate division members based on odd-even procedure. A complete copy of the material circulated, including the original of the draft decision or other document to be served, will be sent to the Clearance Unit.

(2) *Members.*—(A) *Institutional matters.*—Matters for voting will be circulated from the originating office to those eligible to vote on the matter. Votes will be sent to the Chairman of the Commission or the respective divisions and copies will be sent to other members. The original should be sent to the Clearance Unit. Members will take the initiative on noticing minority or separate positions and contacting the Clearance Unit with a separately stated vote or written statement for inclusion as a separate expression. To the extent possible, votes will indicate agreement or disagreement with changes proposed by the members. When supplemental votes are required, they should be issued without waiting for the Clearane Unit to poll the membership.

All separate expressions should be in writing as should any statement of position which differs from the written vote and any changes of position. A request to show a Commissioner simply as "dissenting" or "concurring" or to show a Commissioner with a statement of position exactly as the vote reads may be telephoned to the Unit (i.e., the vote reads "I vote to deny the petition.") A statement at the end of an order saying "Commissioner would deny the petition" may also be telephoned to the Clearance Unit. Any comment to be included with the member's vote should clearly be indicated whether the comment is intended to be shown in the clearance.

As copies of other votes are received, staff should check the file to see if their member is in the minority and, if so, notify the Clearance Unit as to how the Commissioner should be

shown on the order, or other appropriate instruction given.

If division members are absent and not participating, their offices should notify the Clearance Unit in order that proceedings may be cleared on a case-by-case basis.

When clearances are received from the Clearance Unit, staff should check these against the individual member's vote to insure that his or her position has been correctly stated and promptly advise the Clearance Unit of any error. Should errors occur, this will assist the Unit to correct them before service of the report or order.

(B) *Personal docket matters.*—Votes in personal docket matters will be sent to the Commissioner to whom the matter is assigned, and his or her office will have the responsibility for the clearance. A copy of the clearances issued in personal docket cases should be forwarded to the Clearance Unit or information purposes and so that the Clearance Unit will have a record of all proceedings decided by the Commission.

(3) *Division Chairmen.*—(A) *Conference matters.*—The Chairman of the Commission or the Divisions will be responsible for notifying the Clearance Unit, in writing, of the votes when voting takes place in conference.

(B) *Vacancies and absences.*—Division Chairmen will instruct originating offices and the Clearance Unit respecting the handling of cases circulated during vacancies or absences.

(C) *Staff views.*—When voting is interrupted to obtain the views of other staff, advice regarding the suspension of voting and the date it will be completed should be furnished by memorandum to the Clearance Unit and to the originating office.

(D) *Split votes.*—When there is failure to obtain a majority vote, the Clearance Unit will immediately advise the Division Chairman and request instruction as to how to proceed.

(E) *Recirculations.*—Items redrafted and recirculated will be handled under the above-outlined procedures for circulations.

(4) *Clearance Unit.*—On receipt of the circulation from the originating office this Unit will establish control records on all Division cases and prepare a voting sheet. When all votes have been received and a majority obtained, the Unit will issue a clearance memorandum specifying:

(A) The docket number and title of the case(s).

(B) The date the clearance is issued.

(C) The originating office or person to whom the clearance is directed

(D) The identification of the body voting and the members.

(E) Whether the vote was unanimous or split.

(F) The date the voting was concluded (whether by notation or in conference).

(G) A brief, complete description of the action of the majority.

(H) A brief but complete description of the votes of Commissioners differing from the majority and an indication of any not participating in the voting.

(I) A description of any changes made or to be made in the circulated draft approved by the majority.

(J) Instruction as to how any Commissioner in the minority wishes to be shown in the served reports, etc.

(K) Instructions on any action to be taken by the originating office as a result of the voting.

(L) Identification of any attachments to the clearance.

(M) Indication if a decision is to be printed.

(N) Signature of the person preparing the clearance.

(O) Identification of persons receiving copies of the clearance.

If the votes are unclear, or if changes have been proposed by any member, all of the other members voting will be polled to determine whether there is a majority approving the proposed change when this is not already indicated in their votes.

(e) *Time limits.*—To the extent that it is possible to do so, one full day should be allowed for clearance of matters circulated. However, the Unit will work within the constraints of any time limits specified in the originating office memorandum.

(f) *Service.*—Matters will be cleared to the originating offices where there are substantive changes. All other matters will be corrected or dated by the Clearance Unit and cleard to the Secretary for service. Copies of clearances will be sent to the originating offices in either instance. Originating offices will be responsible for insuring that matters are served within the established deadlines when matters are cleared to them, as will the Secretary when matters are cleared to that office. When any matter is not served within 15 days following clearance, follow-up will be made to the office to which it was cleared.

On TA, ETA and MC-FC of other proceedings, where there is no service list on file in the Section of Dockets and Service, a service list should be attached to the circulation copy submitted to the Clearance Unit. This will be forwarded to the Secretary with the report or order and the clearance memorandum. In other proceedings, the originating office must make sure that all official pleadings and the docket file are released to the Section of Dockets and Service well in advance of circulation so that accurate service lists will be on hand. These steps are intended to insure that information needed to make legal service on all parties is furnished to the Secretary either before or with the clearance.

If there is to be any deviation in service, other than to all parties, this advice should be shown in the circulation memorandum so it can be included in the clearance memorandum sent forward to the Secretary.

(g) *Corrections.*—Files will be held open until the decision has been served. The Clearance Unit will check the served copy against the clearance memorandum to insure that changes have been made. Any substantial errors will be corrected through the service of a corrected notice and the office responsible for making corrections to the original will be requested to prepare it.

(h) *Requests for information and votes.*—Requests by members of the public for copies of notation votes will be referred to and handled by the Secretary, and will be honored only after the decision has been served. Telephone requests from within the Commission, other than from a Commissioner, a member of a Commissioner's staff, or the office originating the circulation will be referred to the appropriate Section head in the Office of Proceedings or originating Bureau.

(i) *Monthly report.*—The Clearance Unit will prepare and distribute to each division member a monthly report showing the matters acted on by the division memberships and those circulated proceedings pending disposition, together with the circulation date of matters still pending.

(j) *Recorder of Minutes.*—A copy of each clearance issued by the Clearance Unit will be sent to the Recorder of Minutes for appropriate recording of the votes in the official minutes.

(k) *Retention of records.*—Records of votes and clearance memoranda issued by the Clearance Unit will be retained for two years after the case is closed and destroyed in accordance with approved records schedules.

25, *Publication of Commission Decisions.*

(a) *Series of reports.*—The Commission issues two series of official reports of its decisions.

(1) The Interstate Commerce Commission Reports, cited as "—— I.C.C. ——," include decisions relating to rates, charges, fares, and practices of all carriers subject to the. Commission's jurisdiction; decisions relating to the operating authorities of water carriers and freight forwarders; and all other decisions not listed for inclusion in the series of reports described in paragraph (2) of this subsection.

(2) The reports of the Commission's Motor Carrier Cases, cited as "—— M.C.C. ——," include decisions relating to motor carriers and brokers, except those relating to rates, charges, fares, and practices.

(b) *Selection of items for publication.*—(1) Normally, only decisions which reflect changes in Commission policy, which contain particularly

clear articulations of existing policy, which involve novel legal issues, which are likely to provide helpful guidelines for future decisionmaking, or which involve matters of major importance to the national transportation system are printed in one of the permanent series of Commission decisions.

(2) A recommendation that a decision be printed should be included in the cover memo to the unit which will issue the decision. The recommendation should be supported by a brief explanation. Only cases involving changes in policy; novel legal issues, or unusually complex factual situations will be printed. The decisionmaking unit will issue instructions to print decisions, and no decision will be printed without specific direction from that unit.

(3) Employee board decisions will not normally be printed. The approval of employee board decisions for printing will be made by the director of the office or bureau in which the board is located, upon the recommendation of the chairman of the board.

(4) A decision not previously printed which becomes the subject of a court action will be printed at the request of the General Counsel.

(c) *Index of non-printed decisions.*—All decisions during a calendar year quarter, whether printed or not, shall be listed by docket number and subject matter in the *Advance Bulletin of the Interstate Commerce Act Annotated.* Access to decisions so indexed shall be available through the microform file on non-printed decisions maintained by the Reference Services Branch.

26. Monitoring the Status of Proceedings.

(a) *General.*—It is essential that all Commission proceedings be considered and disposed of as expeditiously as possible. Railroad-related proceedings are the subject of strict statutory time limits imposed by the Railroad Revitalization and Regulatory Reform Act of 1976. The Commission has set as goals for itself time limits in all non-rail proceedings.

(b) *Monitoring case status.*—The Director of the Office of Proceedings will be responsible for monitoring the status of all Commission proceedings, including those assigned to a Commissioner's personal docket, on at least a quarterly basis. A record will be made showing each proceeding which has remained at one procedural stage (for example, awaiting assignment for hearing, in hearing, awaiting completion of initial decision, submitted and awaiting appellate decision) for 90 days or more. The Director will provide the Chairman, each Commissioner and the Managing Director with a copy of this list, together with a report containing the reasons for the delay in processing the proceeding and an estimated date for completion of the current procedural stage.

(c) *Responsibilities of other bureaus and offices.*—Where other bureaus and offices of the Commission are responsible for handling a proceeding at a particular procedural stage, the bureau or office head will respond promptly to requests from the Director of the Office of Proceedings to furnish information necessary to complete the report required under paragraph (b) above.

(d) *Cases subject to statutory deadlines.*—The Director of the Office of Proceedings will be responsible for monitoring the status of all Commission proceedings, in whatever procedural stage, which are the subject of statutory deadlines. A record will be maintained of all cases subject to statutory deadlines in which the deadline will expire within 60 days. The Director will provide the Chairman, each Commissioner, and the Managing Director with a list of such cases on at least a monthly basis. Where another bureau or office of the Commission is responsible for a proceeding appearing on this list, or where such a proceeding is assigned to the personal docket of a Commissioner, the Director will also inform the appropriate Commissioner or bureau or office head. Draft decisions and staff recommendations in proceedings requiring action by the Commission, a division, or an employee board will be submitted to the decisionmaking body no less than 30 days prior to the expiration of any applicable statutory deadline, except as the Chairman of the decisionmaking body may direct in individual cases. This paragraph does not apply to rate cases at the initial suspension stage.

BOARDS

41. *Employee Boards Under Section 17.*

(a) *General.*—The employee boards established under section 17 of the Interstate Commerce Act are described in, and their jurisdiction is established by, the Organization Rules (49 C.F.R. 1011.6). Five review boards have been established designated as Review Boards Nos. 1 through 5.

(b) *Membership.*—Each employee board consists of three members appointed by the Chairman with the approval of the Commission. One of the members is designated as Board Chairman by the Chairman of the Commission, with the approval of the Commission. In the absence of the Board Chairman, the member senior in total length of service as a member of the board is acting chairman. In the event of equal seniority in service as a board member, the senior member in service with the Commission shall be the acting chairman.

(c) *Qualifications.*—General qualifications for appointment as a board member are set forth in section 17(2) of the Act. Other special qualifications are as follows:

(1) Members of review boards must possess the time-in-service and grade-level qualifications which would make them technically eligible for appointment as administrative law judges of the Commission.

(2) Among those eligible for appointment to Bureau of Traffic Boards are employees classified as "special transportation examiners, board members." The minimum qualifications for appointment as a special transportation examiner, board member, are at least 6 years of experience in progressively more responsible work in the field of traffic or transportation, including the handling of technical assignments requiring a practical working knowledge of traffic or transportation problems and activities. Three years of this experience must have been in one or more of the major fields of transportation, in such activities as classification, rates and routing, or comparable work in regulatory agencies. It must also have included substantial responsibility in the analysis of rail, motor, water, freight forwarder, or air rate adjustments and their conformity with statutory requirements. One year's experience must also have been in work comparable to that required for appointment to grade GS-11.

(d) *Current listing of employee board members.*—There follows a list of members of each of the Commission's Employee Boards appointed under section 17 of the Act, arranged by the office or bureau within which the boards are located. The Commission will provide that a publication of a listing of board members will be made in the FEDERAL REGISTER on at least an annual basis.

OFFICE OF PROCEEDINGS

Review Board No. 1—Robert P. Carleton, Chairman, Paul R. Joyce, Charles R. Jones, Jr.

Review Board No. 2—James D. Boyle, Chairman, Henry F. Eaton, Roy P. Liberman.

Review Board No. 3—William E. K. Parker, Chairman, Roger N. Fortier, Rufus S. Hill.

Review Board No. 4—James A. FitzPatrick, Chairman, Donald J. Shaw, Jr., Walter J. Fisher.

Review Board No. 5—Richard M. Krock, Chairman, Edward A. Pohost, Daniel G. Taylor.

Finance Board—John J. Mattras, Chairman, William J. McCormick, Gerald Proger.

Motor Carrier Board—Charles D. Dickerson, Jr., Chairman, John T. Hedetniemi, Sheryl B. Tillman.

BUREAU OF ACCOUNTS

Accounting and Valuation Board—Ronald S. Young, Chairman, J. Richard Berman, Bryan Brown, Jr., William T. Bono (Alter-

nate on valuation matters), Willian J. McCormick (Alternate on accounting matters).

BUREAU OF OPERATIONS

Motor Carrier Leasing Board—Joel E. Burns, Chairman, William F. Sibbald, Jr., Robert S. Turkington.
Insurance Board—Joel E. Burns, Chairman, Leonard J. Schloer, Robert S. Turkington.
Railroad Service Board—Joel E. Burns, Chairman, Robert S. Turkington, John Michael.

BUREAU OF TRAFFIC

Suspension Board—Albert H. Fitzgerald, Chairman, Clarence S. Halvarson, John A. O'Malley.
Special Permission Board—William P. Geisenkotter, Chairman, David R. Manning, Harry J. Sullivan.
Released Rates Board—Martin E. Foley, Chairman, Alfred S. Killelea, B. Scott Walker.
Tariff Rules Board—Martin E. Foley, Chairman, William P. Geisenkotter, B. Scott Walker.

42. *Employee Board on Education and Practice.*

(a) *Duties.*—The Employee Board on Education and Practice is responsible, under the general supervision of the Vice Chairman, for the examination of non-lawyer applicants for admission to practice before the Commission, for preparing examination questions, and for grading examinations.

(b) *Membership.*—The Board consists of two attorneys and one non-attorney appointed by the Chairman with the approval of the Commission.

(c) *Committee of Examiners.*—A seven-member Committee of Examiners, under the supervisor of the Board, will grade examination questions.

(d) *Committee Membership.*—The members of this Committee must have at least two year's experience with the Commission and are appointed for one-year terms by the Chairman with the approval of the Commission. Members may be reappointed and, to the extent possible, no more than three members of the Committee will be replaced at one time.

(e) *Availability of examination questions.*—Examination questions are made public after the examination is graded.

(f) *Qualifications for admission.*—To be eligible for admission to practice as non-lawyers, candidiates must have completed two years of postsecondary education at an intitution recognized by the United States Office of Education.

(g) *Current listing of board and committee members.*—There follows a list of members of the board and committee of examiners. The Commission will provide that a publication of a listing of the board and committee members will be made in the FEDERAL REGISTER on at least an annual basis.

Employee Board on Education and Practice—Thaddeus J. Harty, Jr., Chairman, Roy P. Liberman, Ronald S. Young.
Committee of Examiners—Jane Dixon, William P. Geisenkotter, John Mattras, B. Scott Walker, Gerald C. Wegznek, Melvin B. Werner, David B. Wuehrmann.

SPECIAL AUTHORIZATIONS

51. *Criminal Prosecutions and Civil Forfeiture and Injunction Proceedings.*

(a) *Institution of proceedings.*—The Director of the Bureau of Investigations and Enforcement is authorized to recommend to the Department of Justice or to the United States Attorneys institution of criminal proceedings, civil forfeiture penalty suits, or civil injunction proceedings for violations of the Interstate Commerce Act, related Acts, or supplementary Acts administered by the Commission, or any other Federal, civil, and criminal statutes. The Bureau is further authorized to institute civil injunction proceedings which the Commission is empowered to institute in its own name under the provisions of the Interstate Commerce Act. The Commission reserves to itself the determination of what further action, if any, should be taken in the event a Federal Court of Appeals renders the decision adverse to the Commission's position in the criminal or civil proceeding that was instituted by the Director of the Bureau of Investigations and Enforcement.

(b) *Settlement of proceedings.*—The Director of the Bureau of Investigations and Enforcement as the Commission's designee is authorized, within the framework of the Federal Claims Collection Act of 1966, the applicable standards promulgated by the Attorney General and the Comptroller General and pursuant to Commission procedures to compromise, suspend, or terminate enforcement claims arising under the civil penalty or forfeiture provisions of the Interstate Commerce Act, Elkins Act, and amendatory and supplemental legislation related to such Acts. The Director of the Bureau of Investigations and Enforcement may sub-delegate the authority to settle such claims to the various Regional Counsel.

(c) *Intervention in private party actions.*—(1) The Director of the Bureau of Investigations and Enforcement is authorized to intervene on behalf of the Commission in any civil action instituted by private persons under the provisions of section 222(b)(2) and section 417(b)(2) of the Interstate Commerce Act and to notify the court in which such an action is brought that the Commission has instituted or has pending before it a recommendation to institute an administrative proceeding which will embrace the same subject matter as is involved in the court action.

(2) Applications or complaints, with all supporting papers, filed under sections 222(b)(2) and 417(b)(2) of the Act, served upon or received by any member of the Commission's staff, either in the Washington headquarters or in the field, shall be forwarded immediately to the Director of the Bureau of Investigations and Enforcement.

(d) *Representation in the Supreme Court.*—The Office of the General Counsel will represent the Commission in the Supreme Court in cases brought by the Bureau of Investigations and Enforcement in the lower courts.

(e) *Delegation.*—Any power delegated to the Director of the Bureau of Investigations and Enforcement under this issuance may be sub-delegated to other authorized personnel under plans which meet the approval of the Chairman.

INSTRUCTIONS FOR EMPLOYEES

61. *Appearances of Employees as Expert Witnesses—Statement of Policy.*

(a) The Commission does not desire to have its employees subjected to calls for testimony as expert witnesses in private litigation and declines to authorize its employees voluntarily to appear as witnesses or to submit documents in such proceedings. No Commission employee may voluntarily appear and testify as an expert witness in transportation matters in private court or administrative agency proceedings.

(b) *Appearances at the request of Commission counsel.*—Any employee or former employee of the Commission called to testify in a Commission or court proceeding by a Commission attorney authorized to participate in that proceeding is authorized and directed to divulge any fact or information which may have come to his or her knowledge during the course of any investigation, examination, or inspection of the records or properties of carriers or other persons under authority of the Interstate Commerce Act.

(c) *Internal procedures.*—Any employee receiving a subpoena shall immediately notify, through the employee's supervisor, the director of the employee's bureau or office or, as appropriate, a regional managing director. The director shall notify the General Counsel or Director of the Bureau of Investigations and Enforcement, as appropriate under (d) below. The General Counsel and the Director of the Bureau of Investigations and Enforcement shall keep each other informed of subpoena matters and coordinate their handling of them.

(d) *The handling of subpoenas.*—(1) With respect to court cases, if a subpoena is issued in an enforcement action, including one initiated by a private party, or in any other litigation if the subpoena seeks evidence resulting from an investigation conducted by the employee, it will be handled by the Bureau of Investigations and Enforcement in consultation with other appropriate bureau of office directors. In all other instances involving court cases, subpoenas will be handled by the General Counsel, in consultation with the appropriate bureau or office head, unless the General Counsel shall determine that for cost or other considerations the matter should more appropriately be handled by the Bureau of Investigations and Enforcement, in which case he may refer the matter to that Bureau for disposition.

(2) With respect to Commission proceedings, whenever an employee is subpoenaed to testify on behalf of a party the subpoena will be handled by the Bureau of Investigations and Enforcement unless that bureau is a party, in which case the matter will be handled by the General Counsel.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-34049 Filed 12-5-78; 8:45 am]

[7035-01-M]

[Sub No. 3]

DISASTER RELIEF DECISION NO.14

Decided December 1, 1978.

An application has been filed jointly by the Southern Pacific Transportation Company and the Northwestern Pacific Railroad Company (NWP) requesting authority to continue relief under Section 22 of the Interstate Commerce Act, as afforded by Disaster Relief Order No. 14 and its Sub Nos. 1 and 2. Petitioners seek to maintain allowances to provide reduced rates for persons who would normally ship via the NWP and Arcata and Mad River Rail Road Company but who cannot do so because of a fire in a tunnel on the NWP at mileage post 195 near Island Mountain, California. The outstanding relief is due to expire with December 12, 1979.

It is ordered: Authority to extend the expiration date of Disaster Order No. 14 and its Sub Nos. 1 and 2 from December 12, 1978 to March 12, 1979, is granted, including authority to make publication upon not less than one day's notice to the Commission and the public by blanket supplements. The terms of rule 9(e) of the Commission's Tariff Circular 20 [49 C.F.R. 1300.9] are waived. In all other respects, the original terms and conditions of those decisions shall remain the same.

Any tariffs or tariff provision published under this authority shall make reference to this decision by number and date.

Notice to the affected railroads and the general public shall be given by depositing a copy of this decision in the Office of the Secretary of the Commission and by filing a copy with the Director, Office of the FEDERAL REGISTER. Copies will be mailed to the Chairman of the Traffic Executive Association—Eastern Railroads, New York, N.Y.; the Chairman of the Southern Freight Association, Atlanta, Georgia; the Chairman of the Executive Committee, Western Railroad Traffic Association, Chicago, Illinois; and the Vice-President, Economics and Finance Department of the Association of American Railroads, Washington, D.C.

By the Commission, Betty Jo Christian, Vice Chairman.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-34047 Filed 12-5-78; 8:45 am]

[7035-01-M]

[Amendment No. 1 To I.C.C. Order No. 9 Under Service Order No. 1344]

GRAND TRUNK WESTERN RAILROAD COMPANY

Rerouting Traffic

Upon further consideration of I.C.C. Order No. 9 (Grand Trunk Western Railroad Company), and good cause appearing therefor:

It is ordered, I.C.C. Order No. 9 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., December 31, 1978, unless otherwise modified, changed, or suspended.

Effective date. This amendment shall become effective at 11:59 p.m., November 30, 1978.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of the amendment shall be filed with the Director, Office of the FEDERAL REGISTER.

Issued at Washington, D.C., November 29, 1978.

INTERSTATE COMMERCE COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 78-34045 Filed 12-5-78; 8:45 am]

[7035-01-M]

[Amendment No. 1 To Exception No. 4]

MARYLAND & PENNSYLVANIA RAILROAD CO.

Exception Under Section (a), Paragraph (1), Part (v) Second Revised Service Order No. 1332

Decided November 28, 1978.

By the Board:

Upon further consideration of Exception No. 4 (Maryland and Pennsylvania Railroad Company), and good cause appearing therefor:

It is ordered, Exception No. 4 to Second Revised Service Order No. 1332 is amended to:

Expire January 31, 1979.

Issued at Washington, D.C., November 29, 1978.

ROBERT S. TURKINGTON,
Acting Chairman,
Railroad Service Board.

[FR Doc. 78-34046 Filed 12-5-78; 8:45 am]

[7035-01-M]

[Exception No. 5]

MISSOURI PACIFIC RAILROAD CO.

Exception Under Section (a), Paragraph (1), Part (v) Second Revised Service Order No. 1332

Decided November 28, 1978.

By the Board:

The Missouri Pacific Railroad Company (MP) has been given permission to use National Railways of Mexico (NdeM) 50-foot plain boxcars account there is an available supply of these cars on the NdeM. I.C.C. Revised Exemption No. 133 authorizes MP to use certain NdeM boxcars without regard to the requirements of Car Service Rules 1 and 2. The MP is holding some of these cars beyond the 60-hours permitted in Section (a)(2)(ii) of this order prior to placing of cars for loading, and in Section (a)(4)(i) prior to forwarding of cars.

Order. Pursuant to the authority vested in the Railroad Service Board by Section (a)(1)(v) of Second Revised Service Order No. 1332, Missouri Pacific Railroad Company is authorized to hold empty National Railways of Mexico 50-foot plain boxcars listed in I.C.C. Revised Exemption No. 133 for loading, or prior to forwarding empty, regardless of the provisions of Section (a)(2)(ii), and of Section (a)(4)(i) of this order.

These cars shall become fully subject to all provisions of Second Revised Service Order No. 1332 when loading is completed and instructions for forwarding are received from the shipper.

Effective November 30, 1978.

Expires January 31, 1979.

ROBERT S. TURKINGTON,
Acting Chairman,
Railroad Service Board.

[FR Doc. 78-34044 Filed 12-5-78; 8:45 am]

[7035-01-M]

[Docket No. AB-35 (Sub-No. 5F)]

LOS ANGELES & SALT LAKE RAILROAD CO. ABANDONMENT AND DISCONTINUANCE OF SERVICE BY UNION PACIFIC RAILROAD CO. IN JUAB COUNTY, UTAH

Notice of Findings

Notice is hereby given pursuant to Section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by a Certificate and Decision decided November 16, 1978, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.-Abandonment Goshen,* 354 I.C.C. 584 (1978), and for public use as set forth in said decision, the present and future public convenience and necessity permit the abandonment by the Los Angeles & Salt Lake Railroad Company and discontinuance of service by the Union Pacific Railroad Company over portions of a line of railroad known as the Eureka Branch extending from railroad milepost 0.00 (near Tintic) to railroad milepost 0.81 and the Silver City Branch extending from railroad milepost 0.478 to railroad milepost 2.42 (near Silver City), a total distance of 2.75 miles in Juab County, UT. The 0.00 milepost designations for both the Eureka Branch and the Silver City Branch begin at the main line and both branches consist of the same track from railroad milepost 0.00 to railroad milepost 0.478 on the Eureka Branch. A certificate of public convenience and necessity permitting abandonment and discontinuance of operation was issued to the Los Angeles & Salt Lake Railroad Company and Union Pacific Railroad Company. Since no investigation was instituted, the requirement of Section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than December 21, 1978. The offer, as filed, shall contain information required pursuant to Section 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective on or before January 22, 1979.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-34040 Filed 12-5-78; 8:45 am]

[7035-01-M]

[Docket No. AB-7 (Sub-No. 70F)]

STANLEY E. G. HILLMAN, TRUSTEE OF THE PROPERTY OF CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROAD CO., DEBTOR, ABANDONMENT NEAR MOREAU JUNCTION AND ISABEL IN CORSON AND DEWEY COUNTIES, S. DAK.

Notice of Findings

Notice is hereby given pursuant to Section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by a Certificate and Decision decided November 16, 1978, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.-Abandonment Goshen,* 354 I.C.C. 584 (1978), and for public use as set forth in said decision, the present and future public convenience and necessity permit the abandonment by Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, of a line of railroad known as the Moreau Junction to Isabel Branch extending from railroad milepost 0.0 near Moreau Junction to railroad milepost 56.5 near Isabel, a distance of 56.5 miles, in Corson and Dewey Counties, SD. A certificate of public convenience and necessity permitting abandonment was issued to Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor. Since no investigation was instituted, the requirement of Section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later December 21, 1978. The offer, as filed, shall contain information required pursuant to Section 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective January 22, 1979.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-34039 Filed 12-5-78; 8:45 am]

[7035-01-M]

[Docket No. AB-10 (Sub-No. 14F)]

THE WHEELING & LAKE ERIE RAILWAY CO. AND THE NORFOLK & WESTERN RAILWAY CO. ABANDONMENT IN THE CITY OF STEUBENVILLE, JEFFERSON COUNTY, OHIO

Notice of Findings

Notice is hereby given pursuant to Section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by a Certificate and Decision decided October 27, 1978, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.-Abandonment Goshen,* 354 I.C.C. 584 (1978), and for public use as set forth in said decision, the present and future public convenience and necessity permit the abandonment by the Wheeling and Lake Erie Railway Company and the Norfolk and Western Railway Company of a line of railroad. The line extends from railroad milepost 13.15 to milepost 13.63 which is a distance of approximately 2525 feet at the stub-end of the Steubenville Branch in the City of Steubenville, Jefferson County, OH. A certificate of public convenience and necessity permitting abandonment was issued to The Wheeling and Lake Erie Railway Company and the Norfolk and Western Railway Company. Since no investigation was instituted, except on the issue of employee protective conditions, the requirement of Section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and

place mutually agreeable to the parties.

The offer must be filed and served no later than December 21, 1978. The offer, as filed, shall contain information required pursuant to Section 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective January 22, 1979.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-34048 Filed 12-5-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

[6712-01-M]

1

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, November 30, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission meeting.

CHANGES IN THE MEETING: Additional items to be considered:

Agenda, Item No., and Subject

General—2—Request Commission instructions on response to petitioner's motion for remand and directing removal of prior restraint in *Tulsa Cable Television* v. *FCC*, No. 78-1652, D.C. Circuit.

General—3—Supreme Court Appeal in *Community-Service Broadcasting* v. *FCC*, No. 76-1081, (D.C. Cir. Aug. 25, 1978).

This meeting may be continued the following workday to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Information Office, telephone 202-632-7260.

Issued: December 1, 1978.

[S-2461-78 Filed 12-4-78; 3:38 pm]

[3510-13-M]

2

UNITED STATES METRIC BOARD.

TIME AND DATE: 9:30 a.m. to 4 p.m., Friday December 15, 1978.

PLACE: Department of Transportation, FOB 10A, 800 Independence Avenue SW., Conf. Room 7A, B&C., Washington, D.C.

STATUS: Open to the public except between 1 p.m. and 2 p.m. This one hour session will be closed to the public for the purpose of disussing internal budget matters. Persons planning to attend the open portion of the meeting are requested to advise Mrs. Phillips, 703-235-1933 before 5 p.m., December 14, 1978.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of October 19-20, 1978 meeting.
2. Presentation by Special Olympics Committee.
3. Resolution on Special Olympics "Go Metric" program.
4. Reports.
5. Resolution on a National Metric Week.
6. Approval of Board Logo.
7. USMB response to GAO report.
8. Sunshine Act comments.
9. Agenda items for February Board meeting.
10. Locations and schedule for 1979 Board meetings.

CONTACT PERSON FOR MORE INFORMATION:

Joan Phillips, 703-235-1933.

DR. LOUIS F. POLK,
Chairman,
United States Metric Board.

[S-2460-78 Filed 12-4-78; 11:30 am]

[7590-01-M]

3

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: December 7 and 8, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

THURSDAY, DECEMBER 7, 11:30 A. M.

3. Discussion and vote on ALAB-500—Offshore Power Systems (approximately one-half hour, public meeting) (replaces the meeting title "Affirmation of Order in Offshore Power Systems" scheduled for 11 a.m., Friday, December 1.)

FRIDAY, DECEMBER 8; 10 A.M.

1. Affirmation session (approximately 10 minutes, public meeting):
a. Approval under section 145b for employment (postponed from December 4, 1978).
b. Approval under section 145b for employment.
c. Fiscal year 1979 domestic safeguards technical assistance and research contractual projects (tentative).
d. Licensee regulatory performance evaluation (tenative).
e. Interpretive statement on subpoenaing ACRS consultants (tentative).
f. Order in UCS Petition for Reconsideration (tentative).
2. Briefing on technical aspects of nuclear fuel cycle pertinent to material diversion (approximately one and one half hours, public meeting).

CONTACT PERSON FOR MORE INFORMATION:

Roger Tweed, 202-634-1410.

ROGER M. TWEED
Office of the Secretary.

DECEMBER 1, 1978.

[S-2459-78 Filed 12-4-78; 11:29 am]

Federal Register

WEDNESDAY, DECEMBER 6, 1978
PART II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development

■

SPECIAL GRANTS FOR A–95 URBAN IMPACT REVIEW

Submission of Applications

[4210-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development

[Docket No. 1 N-78-901]

SPECIAL GRANTS FOR A-95 URBAN IMPACT REVIEW

Submission of Applications

AGENCY: Department of Housing and Urban Development.

ACTION: Submission of Applications for Grants for A-95 Urban Impact Reviews.

SUMMARY: Notice is hereby given that special Comprehensive Planning Assistance (701) Program grants will be provided to State, and metropolitan and non-metropolitan areawide comprehensive planning organizations with A-95 responsibilities to carry out a demonstration of urban impact analyses of proposed Federally aided projects. This demonstration program supports the President's National Urban Policy, announced on March 27, 1978 and also supports executive Order 12074, signed August 16, 1978 which directs Federal agencies to perform urban impact analyses on all major policy initiatives. This demonstration applies the concept of urban impact analyses to the process of A-95 reviews, conducted by State and areawide clearinghouses, of projects for which Federal aid is sought.

FOR FURTHER INFORMATION, CONTACT:

Marshall Kaplan, Deputy Assistant Secretary for Urban Policy (202) 755-3314 or Trudy McFall, Acting Director Office of Community Planning and Program Coordination, (202) 755-6240.

SUPPLEMENTARY INFORMATION: The Department will make available up to $500,000 for this demonstration program for individual grants to clearinghouses up to $50,000. The intent of the demonstration is to encourage clearinghouses to design and test methodologies for conducting urban impact analyses of projects proposed for Federal assistance and to determine the relevancy of urban impact analyses to Federal, State and local project funding decisions. The impact analyses are to be conducted in the context of the regular operation of the A-95 Project Review and Notification System by clearinghouses.

BACKGROUND

On March 27, 1978 President Carter announced a National Urban Policy to conserve America's communities. This policy calls for a "New Partnership" of all levels of government—Federal, State, county, city—as well as the private sector and neighborhood and volunteer groups. All of these entities must work together to implement the policy which is aimed at making cities and communities healthier and improving the lives of people who live and work in them. Through announcement of the urban policy, nine important objectives have been identified to conserve and strengthen communities at a time of declining resources.

These objectives are:

Encourage and support efforts to improve local planning and management capacity, and the effectiveness of existing Federal programs by coordinating these programs, simplifying planning requirements, reorienting resources, and reducing paperwork.

Encourage State to become partners in assisting urban areas.

Stimulate greater involvement by neighborhood organizations and voluntary associations.

Provide Fiscal relief to the most hard-pressed communities.

Provide strong incentives to attract private investment to distressed communities

Provide employment opportunities, primarily in the private sector, to the long-term unemployed and disadvantaged in urban areas.

Increase access to opportunity for those disadvantaged by a history of discrimination.

Expand and improve social and health services to disadvantaged people in cities, counties, and other communities.

Improve the urban physical environment and the cultural and aesthetic aspects of urban life.

The nine objectives are to serve as a guide for Federal actions in administration of programs to assist communities. As a result of the President's Urban Policy, numerous implementing actions have been undertaken including over 15 legislative initiatives, several Executive Orders and numerous administrative changes as a part of this activity. Under Executive Order 12074, all Federal agencies are required to analyze the impact of new policies and programs as they relate to the implementation of the Urban Policy.

As a counterpart to the analysis of new policies and programs at the National level, there is a need to review individual project proposals for Federal assistance from State and local governments to determine their potential impact. Even though a Federal program may generally be supportive of urban communities, an individual project may have adverse impacts.

2. PURPOSE

The purpose of the demonstration is to (a) develop appropriate and replicable methodologies to assess the urban impacts of proposed Federally aided projects in the context of the A-95 Project Notification and Review System; and (b) test the relevance of special, project-level, urban impact reviews to State and local government as well as Federal agency decisions on funding individual application.

3. ELIGIBLE APPLICANTS

Applicants may be State and areawide planning organizations which are (a) eligible for regular 701 funding and have an approved housing and land use element and are (b) designated as the A-95 clearinghouse.

4. SELECTION FACTORS

State and areawide clearinghouses will be selected from applicants based on the following criteria:

(1) Capacity of the clearinghouse to perform urban impact tasks, including past use of A-95 procedures to implement the applicant's plans and policies.

(2) Degree to which applicant's plans, policies, and programs are clearly stated and relevant to National Urban Policy and can be used as a basis for making urban impact assessments.

(3) The proposed methodology for assessing urban impacts and a means to evaluate the effectiveness of the process.

(4) Proposed procedure for involving local government and interested groups in the process.

5. SIZE OF GRANT

The amount of each demonstration grant will depend on the number of applications received and the quality of the proposals. The maximum grant, whether for a State or areawide clearinghouse, is $50,000. Applications should not exceed this amount. Applicants must provide one-third local match as required in the regular 701 Program (24 CFR Part 600).

6. PROJECT PERIOD

The demonstration grants will be awarded for a twelve month period. Up to four months of this period may be used to establish the proposed urban impact review methodology as an operating system. At least eight months of this period must be used for testing the operational feasibility of the review methodology.

7. SUBMISSION PROCEDURES

(a) Date of submission. Applications must be postmarked by January 31, 1979 in order to be considered for funding.

(b) How to submit. The application shall be submitted to the Assistant Secretary for Community Planning

and Development, U.S. Department of Housing and Urban Development, 451 7th Street SW., Attention: Office of Community Planning and Program Coordination, Room 7224, Washington, D.C. 20410.

(c) Application package. The application package for the demonstration funds shall consist of the following:

(1) A letter of transmittal signed by the chief executive officer of the State or APO submitting the application.

(2) A description of the proposed urban impact review demonstration project. This shall include:

(a) The experience of the applicant with particular reference to past use of A-95 to implement plans and policies;

(b) The plans, policies, program and urban strategies that the applicant will use as one of the bases for making the reviews;

(c) The proposed methodology for assessing urban impacts as part of the A-95 review system;

(d) The proposed means for securing advisory comments of affected local governments and varied population groups, including those officials and citizen groups representing the center city and older urban areas of the clearinghouse jurisdiction.

(3) Standard Form 424, Federal Assistance, prescribed by OMB Circular No. A-102.

(4) A detailed work program which sets forth proposed use of the grant funds. The program shall include information on how the urban impact review project will be conducted for the 12 month period, and how the feasibility of the test system will be evaluated. Although an overall program design (OPD) is not required for this demonstration program, the work program must indicate how the proposed activities relate to the applicant's current HUD approved OPD.

(5) Annual work program summary (form HUD-7026.2).

(6) Annual grant budget (form HUD-7026.3).

(7) Evidence of adherence to A-95 procedures. Areawide clearinghouses shall submit the application to appropriate local governments, environmental, civil rights and coastal zone management organizations and to the State clearinghouse. State clearinghouses shall conduct their normal A-95 routing including obligatory referrals to appropriate environmental, civil rights and coastal zone management organizations.

(8) A copy of "Assurances" (form HUD-7026.4).

Since this demonstration program is being conducted under the Authority of the 701 Program, all of the regulations for the 701 Program, (contained in 24 CFR Part 600) are applicable to 701 grants made for this demonstration program.

8. Selection Process

HUD will review and select applications for demonstration funding as follows:

(a) Applications will be reviewed by HUD in accordance with the selection factors contained in Section 4 of this notice.

(b) The selection of those who will receive the demonstraion funds will be based on the written material submitted and the proposed work program and budget. If necessary, HUD may request applicants to provide additional information needed to make final selections. HUD will select those that in its judgment best meet the selection criteria.

(c) Within 60 days after the application deadline, and after review by the Interagency Coordinating Council, HUD will select no more than 15 applicants to receive incentive funding. HUD will notify all applicants as to whether they were selected or not.

9. Reporting Requirements

(a) Fiscal and other reports. The reports that will be required of each recipient of incentive funds are the same as that in the regular 701 program. These requirements are detailed in HUD Handbook 6042.1, REV., "Comprehensive Planning Assistance Handbook-II" (July 1973).

(b) Contents of completion report. The required annual program report (which serves as the project completion report) must include the following items:

(1) Identification of the work tasks completed through the incentive grant support; and

(2) Evaluation of how effective the methodology was to identify and review projects with significant urban impacts; and

(3) A record of disposition by Federal agencies, of the specified project applications reviewed.

(c) Assistance and National workshop attendance. As part of the grant, recipients must be prepared to attend a workshop to share experiences. Recipients must also be prepared to provide assistance to HUD in formulating recommendations for improving the tested methodologies and applying them for nationwide use. The amount of time to be devoted to these two activities will be mutually agreed upon by HUD and recipients.

Issued at Washington, D.C., November 16, 1978.

Robert C. Embry, Jr.,
Assistant Secretary for Community Planning and Development.

[FR Doc. 78-34017 Filed 12-5-78; 8:45 am]

Federal Register

WEDNESDAY, DECEMBER 6, 1978
PART III

OFFICE OF MANAGEMENT AND BUDGET

BUDGET RESCISSIONS AND DEFERRALS

Reports

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

BUDGET RESCISSIONS AND DEFERRALS

Reports

To The Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith propose rescission of $75,000 in unneeded funds appropriated to the Foreign Claims Settlement Commission.

In addition, I am reporting four new deferrals of budget authority totalling $889 million and two revisions to previously transmitted deferrals increasing the amount deferred by $21.4 million in budget authority. These items involve the military assistance program and programs in the Departments of Commerce, Defense, Justice, and State.

The details of the rescission proposal and the deferrals are contained in the attached reports.

Jimmy Carter

THE WHITE HOUSE, *November 30, 1978.*

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Rescission No.	Item	Budget Authority
R79-1	Other Independent Agencies: Foreign Claims Settlement Commission Salaries and Expenses	75
Deferral No.		
D79-31	Funds Appropriated to the President: International Security Assistance Military assistance	161,875
D79-32	Department of Commerce: United States Fire Administration Facilities	6,150
D79-33	Maritime Administration Ship construction	157,000
D79-34	Department of Defense-Military: Shipbuilding and Conversion, Navy	563,940
D79-17A	Department of Justice: Federal Prision System Buildings and facilities	37,165
D79-18A	Department of State: United States emergency refugee and migration assistance fund	12,250
	Subtotal, deferrals	938,380
	Total, rescission proposal and deferrals	938,455

* * * * * * * * * * * * *

SUMMARY OF SPECIAL MESSAGES
FOR FY 1979
(in thousands of dollars)

	Rescissions	Deferrals
Second special message:		
New items	75	888,965
Changes to amounts previously submitted	—	21,365
Effect of second special message	75	910,330
Previous special messages	—	1,178,229
Total amount proposed in special messages	75 (in one rescission)	2,088,559 (in 34 deferrals)

NOTE: All amounts listed represent budget authority except for $2,404,000 in one general revenue sharing deferral of outlays only.

Rescission Proposal No: R79-1

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-444

Agency Foreign Claims Settlement Commission	New budget authority (P.L. 95-431) $ 1,015,000
Bureau	Other budgetary resources
Appropriation title & symbol	Total budgetary resources 1,015,000
Salaries and Expenses 7990100	Amount proposed for rescission $ 75,000
OMB identification code: 79-0100-0-1-153	Legal authority (in addition to sec. 1012): [X] Antideficiency Act
Grant program [ ] Yes [X] No	[ ] Other
Type of account or fund: [X] Annual	Type of budget authority: [X] Appropriation
[ ] Multiple-year (expiration date)	[ ] Contract authority
[ ] No-year	[ ] Other

Justification - The Foreign Claims Settlement Commission adjudicates the claims of American citizens against foreign countries for losses resulting from the seizure of properties, including nationalizations, expropriations, war damages, etc. During fiscal year 1979, the Commission will be engaged mainly in adjudicating the claims of Americans against the German Democratic Republic pursuant to Public Law 94-542. The State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1979, (P.L. 95-431) provided for an appropriation of $1,015,000, to be derived by transfer from available balances from the Commission's "Payment of Vietnam Prisoner of War Claims" account to cover the Commission's administrative expenses.

The Commission anticipates a reduction in the workload related to the East German claims program in fiscal year 1979 resulting from the reduced number of claims received. Staff requirements have been reduced accordingly, and $75,000 have been identified as excess to program needs. Therefore, rescission of these funds is proposed.

This action is taken in accordance with the Antideficiency Act (31 U.S.C. 665).

Estimated Effects - There is no programmatic effect resulting from this rescission proposal.

Outlay Effect: (estimated in thousands of dollars)

Comparison with the President's 1979 Budget:

1. Budget outlay estimate for 1979	930
2. Outlay savings, if any, included in the budget outlay estimate	---
Current outlay estimates for 1979:	
3. Without rescission	808
4. With rescission	733
5. Current outlay savings	70
Outlay savings for 1980	5

R79-1

TITLE V - RELATED AGENCIES

Foreign Claims Settlement Commission.

Salaries and Expenses

(Transfer of Funds)

Of the funds appropriated under this head in the State, Justice, and Commerce, the Judiciary and Related Agencies Appropriation Act, 1979, $75,000 are rescinded.

Deferral No: D79-31

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Funds Appropriated to the President	New budget authority (P.L. 95-481)	$ 83,375,000
Bureau: International Security Assistance	Other budgetary resources	127,000,000 1/
Appropriation title & symbol: Military Assistance 2/ 1191080	Total budgetary resources	210,375,000
	Amount to be deferred: Part of year	$ 161,875,000
	Entire year	
OMB identification code: 11-1080-0-1-052	Legal authority (in addition to sec. 1013): [X] Antideficiency Act	
Grant program: [X] Yes [ ] No	[ ] Other	
Type of account or fund: [X] Annual	Type of budget authority: [X] Appropriation	
[ ] Multiple-year (expiration date)	[ ] Contract authority	
[ ] No-year	[ ] Other	

Justification: Pursuant to the Foreign Assistance Act of 1961, as amended, the President is authorized to furnish military assistance "...to any friendly country or international organization, the assisting of which the President finds will strengthen the security of the U.S. and promote world peace..." Funds for this purpose were appropriated in the Foreign Assistance and Related Programs Appropriation Act of 1979 and previous years.

The Administration is reviewing the proposed program within the new constraints imposed by the Foreign Assistance and Related Programs Appropriations Act of 1979 to determine what adjustments in allocation of funds to recipient countries are necessary and will report these to Congress in accordance with Section 653 of the Foreign Assistance Act of 1961, as amended. Pending this determination and the required congressional notification, $161,875,000 of military assistance funds are deferred. This temporary deferral action is taken in accordance with the Antideficiency Act (31 U.S.C. 665) to achieve the most economical use of the appropriations.

Estimated Effect: There are no programmatic or budgetary effects resulting from this deferral.

Outlay Effect: This temporary deferral has no effect on outlays.

1/ The availability of these funds was extended until September 30, 1979, by P.L. 95-481.
2/ This account was the subject of a deferral in FY 1978.

Deferral No: D79-32

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Commerce	New budget authority (P.L.)	$
Bureau: United States Fire Administration	Other budgetary resources	6,150,000
Appropriation title & symbol: Facilities 138/00801	Total budgetary resources	6,150,000
	Amount to be deferred: Part of year	$ 6,150,000
	Entire year	
OMB identification code: 13-0801-0-1-451	Legal authority (in addition to sec. 1013): [X] Antideficiency Act	
Grant program: [ ] Yes [X] No	[ ] Other	
Type of account or fund: [ ] Annual	Type of budget authority: [X] Appropriation	
[X] Multiple-year September 30, 1980 (expiration date)	[ ] Contract authority	
[ ] No-year	[ ] Other	

Justification:

The Second Supplemental Appropriations Act, 1978, provided $6,150,000 for the renovation of the National Fire Academy site located at the former Marjorie Webster Junior College in Washington, D.C. However, concern about the cost of renovating the college, and possible future limitations on expansion due to local zoning laws prompted Congress to direct the United States Fire Administration to sell the present site and acquire another site for construction of a new academy.

Alternate sites for a new fire academy are now being considered. These funds are deferred pending the selection of a new site.

Estimated Effect:

This deferral has no effect on the program as currently planned for FY 1979.

Outlay Effect:

There will be no outlay effect since the funds would not be used if made available.

Deferral No: D79-33

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Commerce	New budget authority (P.L. 95-431): $157,000,000
Bureau: Maritime Administration	Other budgetary resources: 308,933,780
Appropriation title & symbol: Ship Construction 1/ 13X1708	Total budgetary resources: 465,933,780
	Amount to be deferred: Part of year: $; Entire year: 157,000,000
OMB identification code: 13-1708-0-1-403	Legal authority (in addition to sec. 1013): [X] Antideficiency Act; [ ] Other
Grant program: [X] Yes [ ] No	
Type of account or fund: [ ] Annual; [ ] Multiple-year (expiration date); [X] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other

Justification:

This appropriation, available until expended, provides subsidies to U.S. shipyards for the construction and reconstruction of ships to be operated in the U.S.-foreign trade.

The deferral, totalling $157,000,000, is based on the current projections of reliable demand for U.S. shipbuilding. Anticipated new shipbuilding contracts during FY 1979 can be funded with the $308,933,780 apportioned for this period. The amount deferred will be used in succeeding years.

This deferral action is taken in accordance with the Antideficiency Act (31 U.S.C. 665) which provides that funds not limited to a definite period of time shall be apportioned so as to achieve their most effective and economical use.

Estimated Effects:

The deferral will not delay any planned construction or reconstruction of subsidized ships and will not affect the international competitive position of U.S. shipyards.

Outlay Effect:

There is no outlay effect of this deferral.

1/ This account was the subject of a similar deferral in FY 1978.

Deferral No: D79-34

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Defense - Military	New budget authority (P.L. 95-457): $3,759,600,000
Bureau:	Other budgetary resources: 5,000,000
Appropriation title & symbol: Shipbuilding and Conversion Navy 1/ 179/31611	Total budgetary resources: 3,764,600,000
	Amount to be deferred: Part of year: $; Entire year: 563,940,000
OMB identification code: 17-1611-0-1-051	Legal authority (in addition to sec. 1013): [X] Antideficiency Act; [ ] Other
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual; [X] Multiple-year September 30, 1983 (expiration date); [ ] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other

Justification:

These funds are proposed for deferral through September 30, 1979. Due to the long period of time required to build ships, the Congress makes appropriations available for five-year periods.

Since these funds are, by law, made available beyond the current year, they are not fully apportioned in the current year. The unapportioned amount is withheld and released as the program develops and additional funds are required. The amounts deferred are to be released contingent upon the development of program needs that arise in current and future years.

Prudent financial management requires the deferral of those funds that could not be used effectively during the current year even if made available for obligation.

The above multiple-year appropriation is currently being deferred under the provisions of the Antideficiency Act (31 U.S.C. 665), which authorizes the establishment of reserves for contingencies.

Estimated Effects:

Deferral of $563,940,000 will have no programmatic or budgetary effect since the funds could not be obligated at this time, even if made available.

Outlay Effects:

There is no outlay effect resulting from this deferral since the funds could not be used if made available.

1/ This account was the subject of a similar deferral in FY 1978.

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344.

This report revises Deferral No. D79-17 transmitted to the Congress on October 2, 1979, and printed as House Document No. 95-392.

The amount deferred for the Federal Prison System's Buildings and facilities account is $37,165,000, an increase of $11,865,000 over the amount previously deferred. This change results from an increase in budgetary resources made available by the State, Justice, and Commerce, the Judiciary and Related Agencies Appropriation Act of 1979.

Deferral No: D79-17 A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Justice	New budget authority (P.L. ____) $35,280,000*
Bureau Federal Prison System	Other budgetary resources 51,908,354
Appropriation title & symbol: Buildings and Facilities 1/ 15X1003	Total budgetary resources 87,188,354*
	Amount to be deferred: Part of year $ ____
	Entire year 37,165,000*
OMB identification code: 15-1003-0-1-753	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act
Grant program ☐ Yes ☒ No	☐ Other ____
Type of account or fund: ☐ Annual	Type of budget authority: ☒ Appropriation
☐ Multiple-year ____ (expiration date)	☐ Contract authority
☒ No-year	☐ Other ____

Justification: This appropriation finances planning, acquisition of sites, and construction of new penal and correctional facilities as well as construction, remodeling, and equipping of necessary buildings and facilities at existing penal and correctional institutions. Projects are undertaken to reduce overcrowding, close old and antiquated penitentiaries, and provide a safe and humane environment for staff and inmates. These funds were appropriated in the Departments of State, Justice, and Commerce, the Judiciary and Related Agencies Appropriation Act of 1979 and previous years. Due to the time required for planning, site acquisition, design efforts, and selection of contractors, it is not possible to complete the construction, renovation, and rehabilitation associated with these projects during FY 1979. This deferral is consistent with the congressional intent to provide no-year funding for the total cost of these projects and is taken under provisions of the Antideficiency Act (31 U.S.C. 665).

Estimated Effect: The amount deferred could not be economically used, if made available, in fiscal year 1979, because of the planned and phased procurement, construction and installation cycle.

Outlay Effect: In FY 1979 there is no outlay effect of this deferral.

1/ This account was the subject of a deferral during FY 1978.

* Revised from previous report.

D79-18A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report revises Deferral No. D79-18 transmitted to the Congress on October 2, 1978 and printed as House Document No. 95-392.

The amount deferred for the United States Emergency Refugee and Migration Assistance Fund is $12,250,000, an increase of $9,500,000 over the amount previously deferred. This change results from an increase in budgetary resources made available by the Foreign Assistance and Related Programs Appropriation Act, 1979.

Deferral No: D79-18A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of State	New budget authority (P.L. ____): $ 9,500,000*
Bureau:	Other budgetary resources: 2,750,000
Appropriation title & symbol: United States Emergency Refugee and Migration Assistance Fund, Executive 1/ 11X0040	Total budgetary resources: 12,250,000*
	Amount to be deferred: Part of year: $ 12,250,000*
	Entire year:
CMB identification code: 11-0040-0-1-151	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other

Justification: *Section 501(a) of the Foreign Relations Authorization Act, Fiscal Year 1976, Public Law 94-141, approved November 29, 1975, amended section 2(c) of the Refugee and Migration Assistance Act of 1962 (22 U.S.C. 2601) by authorizing a fund not to exceed $25 million to enable the President to provide emergency assistance for unexpected urgent refugee and migration needs.

By Executive Order No. 11922 of June 16, 1976, the President allocated all funds appropriated to him for the Emergency Fund to the Secretary of State but reserved to himself the determination of assistance to be furnished and the designation of refugees to be assisted by the Fund.

In addition to $2,750,000 in unobligated balances previously deferred, the Foreign Assistance and Related Programs Appropriation Act, 1979 (P.L. 95-481) provided $9,500,000 in new budget authority for the Fund. Consonant with the President's authority set out in Executive Order No. 11922 and to achieve the most economical use of appropriations (31 U.S.C. 665(c)(1), $12,250,000 of the Fund is now deferred. It is anticipated that reapportionments may be made case-by-case as the President determines assistance to be furnished and designates refugees to be assisted by the Fund.

Estimated Effect: There are no programmatic or budgetary effects resulting from this deferral.

Outlay Effect: No effect on outlays results from this deferral action.

1/ This account was the subject of a similar deferral during FY 1978.
* Revised from previous report.

[FR Doc. 78-34165 Filed 12-5-78; 8:45 am]

Federal Register

WEDNESDAY, DECEMBER 6, 1978
PART IV

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

■

DISCLOSURE OF FOREIGN INVESTMENT IN AGRICULTURAL LAND

Proposed Rule; Hearing

[3410-05-M]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 781]

DISCLOSURE OF FOREIGN INVESTMENT IN AGRICULTURAL LAND

Proposed Rulemaking and Public Hearing

AGENCY: Agricultural Stabilization and Conservation Service.

ACTION: Notice of Proposed Rulemaking and Public Hearing.

SUMMARY: Section 8 of the Agricultural Foreign Investment Disclosure Act of 1978 (effective October 14, 1978) prescribes that the Secretary of Agricultural shall promulgate regulations implementing the provisions of the Act within 90 days after its effective date. This Act requires foreign persons who acquire, transfer, or hold any interest, other than a security interest, in agricultural land located in the United States to report within specified time periods such transactions or holdings to the Secretary of Agriculture.

In order to facilitate the development of such regulations, the Secretary desires to obtain the views of interested persons. Such views may be submitted in writing or presented orally at a scheduled public hearing.

DATES: Written comments must be received on or before January 5, 1979. Hearing on December 14; 1978; 9 a.m. to 4 p.m.

ADDRESSES: Mail comments and requests to speak at the hearing to DASCO Staff, USDA, Room 3757, South Building, Washington, D.C. 20250, where written comments wil be available for inspection during business hours 8:15 a.m. to 4:45 p.m.

Hearing will be held in the Jefferson Auditorium, South Building, USDA, 14th and Independence, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Paul H. Sindt, DASCO Staff, USDA, Room 3757 South Building, Wahington, D.C. 20250. Telephone number 202-447-4351.

SUPPLEMENTAL INFORMATION:

BACKGROUND

After obtaining the reports required to be submitted pursuant to the Agricultural Foreign Investment Disclosure Act, the Secretary must, within specified time periods, (1) detemine the effect of such acquisitions, transfers, and holdings, particularly the effect on family farms and rural communities, and transmit a report of his findings and conclusions to the President and each House of the Congress, and (2) transmit to each State Department of Agriculture a copy of each report received from the reporting entities. If the Secretary determines that any foreign person required to submit a report has failed to do so or has knowingly submitted an incomplete, false, or misleading report, the Secretary shall impose a civil penalty on such person not to exceed 25 percent of the fair market value, on the date of the assessment of such penalty, of the interest held in such land by the foreign person.

MAJOR ISSUES

The views of interested persons are sought in particular on the following issues:

1. *Nature of the interest in United States agricultural land which a foreign entity holds, acquires or transfers.* Section 2 of the Act requires all foreign entities holding, acquiring or transferring "any interest, other than a security interst", in the United States agricultural land to report such to the Secretary of Agricultural within various specified time periods. Should the words "any interest" be taken to include such things as future interests not yet realized or usufructory interests such as easements across agricultural land? How should "any interest" in agricultural land be defined?

2. *Nature of a security interest.* Pursuant to section 2 of the Act, the holding, acquisition, or transfer of any interest other than a "security interest", in agricultural land must be reported to the Secretary. Since holdings or transactions involving "security interests" need not be reported, how should a "secretary interest" be defined? Should it be defined to include only mortgages and other debt securing devices? What peculiarities might permit the use of a "securitiy interest" as a subterfuge? How may the use of a "security interest" as a subterfuge be mitigated or eliminated?

3. *Tracing of actual ownership.* Section 2(e) provides that whenever the initial reporting foreign entity is neither an individual nor a foreign government, the Secretary "may" require the reporting entity to submit a report containing, among other things, the legal name and address of each person who holds any interest in the foreign entity. Section 2(f) then provides that on the basis of the information received pursuant to 2(e), the Secretary "may" require those named foreign persons to submit to him a report containing, among other things, the legal name and address of any person who holds any interest in the person submitting the report under 2(f).

Since the Secretary's authority is discretionary, should he refrain from the acually exercising such authority beyond either the first, or second, or third level of ownership?

Moreover, in view of the fact that both section 2(e) and 2(f) permit the Secretary to request reports concerning each person holding "any interest" in the previous reporting entity, if the Secretary decides to exercise such statutory discretion, how should "any interest" be defined both quantitatively and qualitatively? For example, should "any interest" mean 5 percent, 10 percent, 25 percent, or 50 percent interst? Should the nature of the interest include leaseholds, security interests, easements, or any other such interest?

4. *The nature of Agricultural land.* Section 9(1) defines agricultural land to mean land used for "agricultural, forestry, or timber production purposes." In light of the fact that foreign entities need only file reports concerning such land, how should these terms be defined? For instance, should a residental lot owned by a foreign person be considered agricultural land simply because it may be utilized for personal horticulture? Similarly, should land held by a foreign person and used for growing seasonal or decorative trees be considered to be land use for forestry production purposes?

5. *The size of the agricultural land.* In addition to the foregoing, section 9(1) proposed to define agricultural land as "any land" used for agricultural, forestry, or timber production purposes as determined by the Secretary uder the regulations to be prescribed. Apparently, the language is inclusive enough to allow the Secretary to issue rules requiring that reports be filed by relevant entities holding small tracts of agricultural land. Would it be preferable for the Secretary to promulgate a minimum acreage regulation providing that foreign entities holding less than a specific figure need not file the reguired reports? If so, what should be the minimum acreage figure?

6. *Significant or substantial control.* Section 9(3) defines the term "foreign person". Pursuant to subsection (3)(c)(ii), foreign person includes any entity created or organized under the laws of any State, in which a "significant interest of substanital control" is directly or indirectly held by any other foreign entity or foreign person. What should be the extend of ownership constituting significant interest or substantial control? Can any foreign entity holding 10 percent or less of a domestically incorporated corporation be considered to have substantial control of such a corporation?

Since section 8 of the Agricultural Foreign Investment Disclosure Act of 1978 requires that the Secretary of Agriculture issue regulations implementing the provisions contained therein by January 12, 1979, I have deter-

mined that it is not possible to comply with the requirement for 60-day comment period as provided for by Executive Order 12044 of March 23, 1978 (43 FR 12661). Accordingly, a 30-day comment period is provided.

In accordance with Exective Order 12044 a regulatory impact analysis has been prepared. Descriptions of alternatives and their impact are included in the analysis. Copies of the regulatory impact analysis are available by contacting the Office of the Director of Economics, Policy Analysis and Budget, Room 102, Administration Building, USDA, Washington, D.C. 20250.

Signed at Washington, D.C. on December 4, 1978,

BOB BERGLAND,
Secretary of Agriculture.

[FR Doc. 78-34201 Filed 12-5-78; 9:41 am]