Departmental Auditorium, Between 12th and 14th Streets on Constitution Avenue, NW., Washington, D.C.

Requests to appear at these hearings should be filed, in writing, with the Secretary of the Commission at his office in Washington, D.C., by no later than noon of the fifth calendar day preceding the hearing.

The notice of the institution of this investigation and the scheduling of hearings was published in the FEDERAL REGISTER of January 28, 1977 (42 FR 5432).

By order of the Commission.

Issued: April 28, 1977.

KENNETH R. MASON,
Secretary.

[FR Doc.77-12700 Filed 5-2-77;8:45 am]

DEPARTMENT OF JUSTICE

COMMITTEE ON SELECTION OF THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION

Meetings

APRIL 27, 1977.

Pursuant to the provisions of Pub. L. 92-463, notice is hereby given that the Committee on Selection of the Director of the Federal Bureau of Investigation will meet in Washington, D.C. on May 6, 7, 12, 13, 14, 19, 20, 21, 26, 27 and 28, 1977 for the purpose of interviewing persons who may be recommended to the President for consideration as Director of the Federal Bureau of Investigation. The meetings of May 6, 12, 19 and 26 will begin at 10:00 a.m. All other meetings will begin at 9:00 a.m.

Meeting dates were established by the Committee during the public session of its April 26, 1977 meeting. The Committee concluded that the President's decision to extend the time for its report by only 30 days necessitated the scheduling of meetings on an emergency basis without the full fifteen days notice prior to the first meeting. The location of the meetings will be announced at a later date.

The meetings will deal with the qualifications of individuals being interviewed and will be closed to the public pursuant to section 10(d) of Pub. L. 92-463 as amended (see 5 U.S.C. 552(b)(c)(6)). Minutes of the meetings will not be available to the public.

Additional information may be obtained from Ms. Mary C. Lawton, Deputy Assistant Attorney General, Office of Legal Counsel, Department of Justice, Washington, D.C. 20530.

MARY C. LAWTON,
Staff Director, Committee on Selection of the Federal Bureau of Investigation Director.

[FR Doc.77-12553 Filed 5-2-77;8:45 am]

Immigration and Naturalization Service

HISPANIC ADVISORY COMMITTEE ON IMMIGRATION AND NATURALIZATION

Meeting

AGENCY: Immigration and Naturalization Service.

ACTION: Meeting.

SUMMARY: This notice announces the Meeting of the Hispanic Advisory Committee on Immigration and Naturalization to be held in San Diego, Calif., on May 19-20, 1977.

FOR FURTHER INFORMATION CONTACT:

E. B. Duarte, Special Assistant to the Commissioner of Immigration and Naturalization for Hispanic Liaison, Room 7058, 425 Eye Street, N.W., Washington, D.C. 20536, Telephone 202-376-8211.

SUPPLEMENTARY INFORMATION AND MEETING AGENDA: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463 (5 U.S.C. App. I) notice is hereby given of a meeting of the Hispanic Advisory Committee on Immigration and Naturalization to be held from 9:00 a.m. to 5:30 p.m. on Thursday, May 19, 1977 and continuing from 8:30 a.m. to 1:00 p.m. on Friday, May 20 in the Board Room of the Executive Hotel, 1055 First Avenue, San Diego, California.

THURSDAY, MAY 19, 1977

I—Call to order by the Chairperson.
II—Welcoming remarks by the Commissioner, INS.
III—Approval of minutes of previous meetings.
IV—Briefings: (a) Overview of Western Region, INS; (b) Impact of Silva case on INS policy.
V—Presentation from audience.
VI—Briefings (continued): (c) Report on study of "Impact of Illegal Aliens on County of San Diego;" (d) Update on INS Residential Survey on Illegal Immigration; (e) Overview of State Department Visa Office Operations.
VII—Subcommittee meetings.
VIII—Recess.

FRIDAY, MAY 20, 1977

IX—Meeting reconvenes.
X—Subcommittee Reports, Committee Action, and Formal recommendations to the Commissioner.
XI—Old/new business.
XII—Subcommittee meetings.
XIII—Adjournment.

Attendance is open to the interested public, but is limited to the space available.

Because the Administration is conducting a review of the effectiveness of all federal advisory committees, the INS welcomes expressions from the general public on whether the INS Hispanic Advisory Committee should be continued beyond its December 31, 1977, termination date, or terminated, modified, etc. The general public may comment publicly during the portion of the May 19-20, 1977 meeting set aside for audience presentations, or may submit written statements to the Commissioner, in care of Mr. Duarte's above address.

Dated: April 27, 1977.

L. F. CHAPMAN, JR.,
Commissioner of Immigration and Naturalization.

[FR Doc.77-12554 Filed 5-2-77;8:45 am]

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

[Application No. L-562]

EMPLOYEE BENEFIT PLANS

Pendency of Proposed Class Exemption from Prohibitions Respecting Certain Transactions in Which Multiemployer and Multiple Employer Plans Are Involved Requested by the National Coordinating Committee for Multiemployer Plans

Notice is hereby given of the pendency before the Department of Labor (the Department) of a proposed class exemption from the restrictions of section 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) for the joint use by or leasing of office space or the provision of administrative services or sale or leasing of goods by a multiple employer plan to a participating employee organization, participating employer, or participating employer association, or to another multiple employer plan which is a party in interest with respect to such plan. The pending class exemption was requested in an application filed by the National Coordinating Committee for Multiemployer Plans (NCCMP), pursuant to section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If granted, the application would provide an exemption from the restrictions of section 406(b)(2) of the Act for those transactions already exempt from the restrictions of sections 406(a)(1)(A) through (D) of the Act by virtue of the exemption granted in part C of Prohibited Transaction Exemption 76-1, 41 FR 12740, March 26, 1976, as well as an exemption from the restrictions of section 406(b)(2) in situations involving the sharing of office space, services, etc. on a pro rata basis.

Summary of representations. The application contains representations with regard to the pending class exemption, which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of NCCMP.

On March 26, 1976, the Department, in conjunction with the Internal Revenue Service, granted class exemptions from the restrictions of sections 406(a) and 407(a) of the Act and from the taxes imposed by sections 4975 (a) and (b) of the Internal Revenue Code of

1954 (the Code) by reason of section 4975(c)(1) of the Code, for several classes of transactions between a multiple employer plan and a participating employee organization, employer, or employer association, or another multiple employer plan which is a party in interest or disqualified person with respect to the plan. The exemptions granted did not, however, extend to those aspects of the transactions which may be subject to the restrictions of section 406(b)(2) of the Act. Although many comment letters were received at the time that the multiemployer exemptions were first proposed, the Department noted in the March 26, 1976 exemptions that none of the comments received provided a sufficient basis for proposing an exemption from the restrictions of section 406(b)(2) with respect to the class of transactions exempted, but that it was prepared to consider applications for a class exemption from the restrictions of section 460(b)(2) of the Act with respect to such transactions upon the receipt of applications providing information sufficient to provide a basis for proposing such an exemption.

NCCMP, in its application, has represented that, pursuant to the Labor Management Relations Act, 1947 (LMRA), collectively bargained multiple employer plans under which money is transferred from employers to funds established by employee representatives are required to be administered by a board of trustees on which "employees and employers are equally represented." Trusts for health and welfare purposes must be established separately from trusts for retirement purposes.

Although separate trusts are required to be established for retirement and health and welfare funds, it has been common for one or both of the collective bargaining parties to designate the same trustees to the different boards of trustees because it has been deemed desirable to utilize fully the expertise of the trustees who are familiar with the industry and with the structure and scope of plan participation in the industry.

Further, since the 1959 amendments to the LMRA, jointly administered trusts have also been created for the purpose of providing holiday and vacation benefits and to operate apprenticeship and training programs. Because service on most of the joint boards of these trusts was a voluntary act or, at best, a minimally compensated act, the persons available to serve on these boards of trustees were limited in number.

NCCMP also represents that, but for the limitations in section 302(c)(5) of the LMRA with respect to the establishment of separate trusts and the piecemeal amendment of the LMRA to permit new types of trusts, it is likely that unitary, multi-purpose trusts would be established in each industry and the exemption granted in part C of Prohibited Transaction Exemption 76–1 (March 26, 1976) would suffice. However, to effectuate that exemption, an additional exemption, from the restrictions of section 406(b)(2) is necessary if plans are to be able to place trustees who are familiar with the industry and with the scope of plan participation on the boards of related plans.

NCCMP states that if its application for a class exemption from the restrictions of section 406(b)(2) is denied, the existing class exemptions of March 26, 1976 would be insufficient, in most situations, to permit the very transactions contemplated by those exemptions.

Further, NCCMP represents that when related plans share space, goods or facilities on a pro rata basis, even if they are not parties in interest with respect to one another, common trustees of both plans will face a similar section 406(b)(2) problem, in that the trustees, in determining the allocation of costs, will be representing parties with adverse interests. Nevertheless, NCCMP concludes that the desirability of having common trustees who are familiar with the industry and know how the plans relate to each other outweighs the potential abuses, if an exemption containing the safeguards proposed is granted.

The proposed exemption is identical to that granted in part C of Prohibited Transaction Exemption 76–1, except that it also covers sharing of office space, goods and services and is restricted to plans established in accordance with the representation requirements of section 302(c)(5) of the LMRA. As proposed, the exemption would be in two parts—the first containing conditions appropriate for a prospective class exemption effective June 12, 1975, and the second containing conditions appropriate for a class exemption retroactive to January 1, 1975, the effective date of the prohibited transaction provisions. For the purposes of the exemption, the term "multiple employer plan" is defined as an employee benefit plan which is a multiemployer plan within the meaning of section 3(37) of the Act, or a plan which meets all the requirements of at least subsections 3(37)(A)(i), (ii) and (v) of the Act.

General Information. The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act does not relieve a fiduciary or other party in interest with respect to a plan to which the exemption is applicable from certain other provisions of the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the plan's participants and beneficiaries and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act.

(2) Before an exemption may be granted under section 408(a) of the Act, the Department must find that the exemption is administratively feasible, in the interests of the plan or plans and of their participants and beneficiaries, and protective of the rights of participants and beneficiaries of such plan or plans.

(3) The pending exemption, if granted, will be supplemental to, and not in derogation of, any other provision of the Act, including statutory exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) If granted, the pending class exemption will be applicable to a particular transaction only if the transaction satisfies the conditions specified in the class exemption.

(5) The application for exemption referred to herein is available for public inspection at the Public Document Room, Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue NW., Washington, D.C., 20216.

All interested persons are invited to submit written comments on the pending class exemption set forth herein. In order to receive consideration, such comments should be received by the Department of Labor on or before June 6, 1977. In addition, any interested person may submit a written request that a hearing be held relating to the pending class exemption. Such written request must be received by the Department on or before June 6, 1977, and should state the reasons for such person's request for a hearing and the nature of such person's interest in the pending class exemption.

All written comments and all requests for a hearing (preferably six copies) should be addressed to Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, Washington, D.C. 20216, Attention: Application No. L–562. All such comments will be made part of the record, and will be available for public inspection at the Public Document Room, Pension and Welfare Benefit Programs, U.S. Deparment of Labor, Room N–4677, 200 Constitution Avenue NW., Washington, D.C. 20210.

Pending exemption. Based on the application referred to above, the Department has under consideration the granting of the following class exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975):

Section I—Prospective. Effective June 12, 1975, the restrictions of section 406(b)(2) of the Act shall not apply to the sharing of office space and administrative services and goods, leasing of office space or the provision of administrative services or sale or leasing of goods by a multiple employer plan established in accordance with the requirements for representation on the board of trustees imposed by section 302(c)(5) of the Labor Management Relations Act, 1947 (LMRA) to a participating employee organization, participating employer, or participating employer association, or to another such multiple employer plan which is a party in interest with respect

to such plan or plans, provided that the following conditions are met:

(a) With respect to the sharing of office space, administrative services and goods, the costs of securing such space, services and goods are assessed and paid on a pro rata basis with respect to each party's use of such space, services and goods.

(b) With respect to the leasing of such office space or the provision of such administrative services or other sale or leasing of goods,

(1) The plan receives reasonable compensation for such leasing, or the provision of such services or the sale or leasing of such goods. Solely for purposes of this exemption, "reasonable compensation" need not include a profit which would ordinarily have been received in an arm's-length transaction, but must be sufficient to reimburse the plan for its costs.

(2) With regard to the leasing of office space by a plan to a participating employer, such transaction will be exempt from the restrictions of section 406(b)(2) only to the extent that such office space constitutes "qualifying employer real property" as that term is defined in section 470(d)(4) of the Act. The 10 percent limitation provisions of sections 406(a)(1)(E), 406(a)(2) and 407(a) of the Act will apply to such transactions as if the employer real property involved in the transaction were "qualifying employer real property."

(c) With respect to the sharing of office space, administrative services or goods or the leasing of office space or the provision of administrative services or the sale or leasing of goods, the arrangement allows any plan which is a party to the transaction to terminate the transaction on reasonably short notice under the circumstances.

(d) Any plan which shares office space, administrative services or goods or is the lessor of such office space or which provides such administrative services or goods, maintains or causes to be maintained during the period of such sharing arrangement or lease or of such provision of services or sale or leasing of goods and for a period of six years from the date of termination of such sharing arrangement or lease or such provision of services or sale or lease of goods, such records as are necessary to enable the persons described in paragraph (e) of this section to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of the plan fiduciaries, such records are lost or destroyed prior to the end of such six-year period, and (2) such participating employee organization, participating employer, participating employer association, or other plan shall not be subject to the civil penalty which may be assessed under section 502(i) of the Act if such records are not maintained, or are not available for examination as required by paragraph (e) below.

(e) Notwithstanding anything to the contrary in subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (d) are unconditionally available at their customary location for examination during normal business hours by duly authorized employees or representatives of (1) the Department of Labor, (2) plan participants and beneficiaries, (3) any employer of plan participants and beneficiaries, and (4) any employee organization any of whose members are covered by the plan.

Sec. II. *Retroactive.* Effective January 1, 1975, the restrictions of sections 406(b)(2) of the Act shall not apply to the sharing of office space, administrative services or goods or the leasing of office space or the provision of administrative services or the sale or leasing of goods by a multiple employer plan established in accordance with the requirements for representation on the board of trustees imposed by section 302(c)(5) of the LMRA to a participating employee organization, participating employer, or participating employer association, or to another such multiple employer plan is a party in interest with respect to such plan, which occurred before June 12, 1975, or which occurred before October 1, 1975 pursuant to a binding arrangement entered into before June 2, 1975, provided that such transaction was:

(a) Of a type that was ordinarily and customarily engaged in by multiple employer plans before January 1, 1975; and

(b) At the time it was entered into, not a prohibited transaction within the meaning of section 503(b) of the Internal Revenue Code or the corresponding provisions of prior law, except that solely for purposes of this exemption the terms of such arrangement need not provide for a profit which would ordinarily have been received by the plan in an arm's-length transaction, provided that the compensation received by the plan is otherwise reasonable.

Sec. III. *Definitions.* For purposes of sections I and II above, the term "multiple employer plan" shall mean an employee benefit plan which is a multiemployer plan within the meaning of section 3(37) of the Act, or a plan which meets the requirements of at least subsections 3(37)(A)(i), (ii) and (v) of the Act.

Signed at Washington, D.C. this 28th day of April 1977.

J. VERNON BALLARD,
Acting Administrator of Pension and Welfare Benefit Programs, Department of Labor.

[FR Doc.77-11821 Filed 5-2-77;8:45 am]

Office of the Secretary

[TA-W-1514]

ALABAMA BY-PRODUCTS CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1514: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 15, 1976 in response to a worker petition received on December 15, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing coke at Alabama By-Products Corporation, Tarrant, Alabama.

The Notice of Investigation was published in the FEDERAL REGISTER on January 18, 1977 (42 FR 3365). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the United Steelworkers of America, officials of Alabama By-Products, its customers, the U.S. International Trade Commission, U.S. Department of Commerce publications, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (3) has not been met.

Evidence developed in the Department's investigation reveals that imports of metallurgical coke have decreased absolutely and relative to domestic production from 1974 through 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of metallurgical coke like or directly competitive with coke produced at Alabama By-Products Corporation, Tarrant, Alabama have not increased as required in Section 222 of the Trade Act of 1974. The petition is, therefore, denied.

Signed at Washington, D.C. this 22nd day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-12661 Filed 5-2-77;8:45 am]