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PART I

HIGHLIGHTS OF THIS ISSUE

This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.

(Continued inside)

June 24, 1975—Pages 26501–26666

reminders

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

Rules Going Into Effect Today

NOTE: There are no items eligible for inclusion in the list of RULES GOING INTO EFFECT.

List of Public Laws

NOTE: No acts approved by the President were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

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contents

list of cfr parts affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1974, and specifies how they are affected.

7 CFR

908 26501
915 26501
916 26502
1207 26503
1423 26503

PROPOSED RULES:

29 26528
921 26529

10 CFR

100 26526

12 CFR

PROPOSED RULES:

226 26571

14 CFR

39 26503
71 (3 documents) 26504

PROPOSED RULES:

39 (3 documents) 26541–26542
71 (3 documents) 26542–26543

16 CFR

PROPOSED RULES:

440 26646

17 CFR

30 26504
200 26506

18 CFR

201 26506

PROPOSED RULES:

2 26568
3 26569
154 26568
157 26568
260 26569

20 CFR

405 26656

PROPOSED RULES:

404 26532
405 (3 documents) 26535, 26540

21 CFR

210 26508
1220 26508

24 CFR

82 26509
888 26509

36 CFR

PROPOSED RULES:

7 26528

39 CFR

21 26510
22 26510
24 26510
25 26510
31 26511
32 26511
54 26511
61 26511
62 26511
222 26511
259 26511
775 26511
912 26511

42 CFR

PROPOSED RULES:

85a 26530

45 CFR

5 26512
123 26514

47 CFR

0 26521
73 26522
97 26524

PROPOSED RULES:

1 (2 documents) 26543, 26557
73 (3 documents) 26551, 26560–26561
87 26561

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

1 CFR

PROPOSED RULES
5 ... 26046

2 CFR

101 ... 25199

3 CFR

EXECUTIVE ORDERS:
8038 (Amended by PLO 5502) ... 25593
11466 (Superseded by EO 11867) ... 26253
11652 (Amended by EO 11682) ... 25197
11758 (Amended by EO 11867) ... 26253
11784 (Superseded by EO 11867) ... 26253
11808 (Amended by EO 11865) ... 25663
11833 (Revoked by EO 11863) ... 25431
11861 (Amended by EO 11864) ... 25579
11862 ... 25197
11863 ... 25431
11864 ... 25579
11865 ... 25663
11866 ... 26015
11867 ... 26253
11868 ... 26255
PRESIDENTIAL DOCUMENTS OTHER THAN PROCLAMATIONS AND EXECUTIVE ORDERS:
Memorandum of January 2, 1973 (Amended by Memorandum of May 20, 1975) ... 24889
Memorandum of April 26, 1973 (Amended by Memorandum of May 20, 1975) ... 24889
Memorandum of December 13, 1973 (Amended by Memorandum of May 20, 1975) ... 24889
Memorandum of October 29, 1974 (Amended by Memorandum of May 20, 1975) ... 24889
Memorandum of May 20, 1975 (2 documents) ... 24887, 24889
Memorandum of May 22, 1975 ... 24891
100 ... 24993
101 ... 24993
PROCLAMATIONS:
4379 ... 25429

5 CFR

213 ... 23717–21378, 23835, 23987–23989, 24353, 24517, 24893, 24993, 25433, 26017
302 ... 23835
330 ... 23836
351 ... 23836
353 ... 23836
531 ... 23838
550 ... 23838
772 ... 23839
890 ... 25433

7 CFR

20 ... 23839
29 ... 24173
52 ... 25799
53 ... 25581
295 ... 23719
401 ... 25434
412 ... 24993, 26257
510 ... 24893
724 ... 25199
726 ... 24994
905 ... 24174, 25799
908 ... 23720, 24175, 24717, 24994, 25436, 25799, 26501

7 CFR—Continued

910 ... 24353, 24717, 25200, 25665, 26037
911 ... 24353, 24995, 25201, 25665, 26037
915 ... 24006, 25800, 26501
916 ... 26502
917 ... 25435
918 ... 25436
944 ... 24008
953 ... 23720, 24354
981 ... 25436
1207 ... 26503
1421 ... 24717
1423 ... 26503
1464 ... 24175
1801 ... 26257
1807 ... 26257
1808 ... 26258
1823 ... 24517
PROPOSED RULES:
29 ... 26528
51 ... 24013
270 ... 26042
916 ... 24018
917 ... 24908, 25478
921 ... 26529
922 ... 25679
923 ... 23763
929 ... 24527
967 ... 25828, 26276
989 ... 26276
999 ... 24363
1007 ... 25828
1030 ... 25828
1032 ... 25828
1033 ... 24193
1040 ... 25828
1046 ... 25828
1049 ... 25828
1050 ... 25828
1060 ... 24738, 25828
1061 ... 25828
1062 ... 25828
1063 ... 25828
1064 ... 24019, 25828
1065 ... 25828
1068 ... 25828
1069 ... 25828
1070 ... 25828
1071 ... 25828
1073 ... 25828
1076 ... 25828
1078 ... 25828
1079 ... 25828
1090 ... 25828
1094 ... 25828
1096 ... 25828
1097 ... 25828
1098 ... 25828
1099 ... 25680, 25828
1102 ... 25828
1104 ... 25828
1106 ... 25828
1108 ... 25828
1120 ... 25828
1126 ... 25828
1131 ... 25682, 25828
1132 ... 25828
1137 ... 24908
1138 ... 25828
1139 ... 25828
1464 ... 25217
1701 ... 23763, 23874, 24738, 25218
1831 ... 24204

9 CFR

78 ... 23721
113 ... 23721, 23989
151 ... 24176
308 ... 25438
331 ... 25202
381 ... 25202, 25438
PROPOSED RULES:
54 ... 25829
112 ... 24203
113 ... 24203, 25598, 25599
303 ... 25230

10 CFR

100 ... 26526
213 ... 24718
310 ... 24517
211 ... 24176
PROPOSED RULES:
71 ... 23768
73 ... 23768
205 ... 24541, 24919
208 ... 26279
211 ... 23895, 24365, 24919
212 ... 24742
303 ... 25230
309 ... 25220

11 CFR

Ch. I ... 23832
Ch. II ... 23832, 25440
PROPOSED RULES:
Ch. II ... 23833

12 CFR

201 ... 23842
217 ... 24894
265 ... 25581
339 ... 25440
544 ... 25667
545 ... 25581, 25667, 25669
563 ... 25668, 25670
701 ... 25582, 26017
706 ... 25583
707 ... 25583
721 ... 25582
745 ... 25582
PROPOSED RULES:
7 ... 23874
204 ... 25031
206 ... 25031
217 ... 25031
220 ... 23768
226 ... 23896, 26571
228 ... 25603
329 ... 24918
544 ... 23895
545 ... 23896, 25030
555 ... 25030
564 ... 24755
612 ... 25474
701 ... 24205, 24755

13 CFR

107 ... 24354
116 ... 26259
305 ... 25801
307 ... 25441
313 ... 25671

13 CFR—Continued

PROPOSED RULES:

121 25831
117 25032
121 ..... 23843, 24210

14 CFR

39 ..... 23721–23723, 23843, 23990, 24176–24178, 24355, 24996, 25203, 25584, 25672, 25673, 26017, 26018, 26503
71 ..... 23724, 23990, 24179–24181, 24355, 24518, 24720, 24721, 24895, 24996, 24997, 25203, 25204, 25441, 25585, 25673, 26019–26022, 26504
73 ..... 25204, 25442, 26260
75 ..... 23724, 25204, 25441, 25442, 26023
93 26260
97 ..... 23843, 24181, 24997, 26022
121 25801
216 23844
222 25585
227 24998
228 26023
288 ..... 23844, 24518
377 24998

PROPOSED RULES:

1 ..... 24664, 26043
11 23897
21 24664
23 ..... 24664, 24802
25 ..... 23764, 24664
27 ..... 24664, 24802
29 ..... 24664, 24802
39 ..... 23764, 24363, 24364, 24914, 25027, 25479, 26541–26542
71 ..... 23765, 23766, 24019, 24204, 24364, 24365, 24914, 25027, 25028, 25218, 25480, 25601, 25687, 26043–26045, 26277, 26542–26543
73 ..... 25688, 26277
75 24914
91 ..... 24664, 26043
93 ..... 25028, 25219
121 ..... 24664, 24802
221 24740

15 CFR

4 24721
370 23990
371 23991
372 23991
374 29991
379 23994
385 23994
386 23994

PROPOSED RULES:

1202 23875

16 CFR

13 ..... 23724, 24895, 24999–25002, 25802–25805, 25808, 25810, 26261
14 23845
1031 ..... 23845, 26023

PROPOSED RULES:

3 25032
4 25032
437 23897
440 26646
444 25607
447 ..... 24031, 24755

16 CFR—Continued

PROPOSED RULES—Continued

502 26283
1500 25480
1512 25480

17 CFR

15 23994
18 23994
30 26504
200 26506
231 24896
240 25442
250 26026
257 26026
271 24896

PROPOSED RULES:

210 25605
211 25605
231 25230
239 ..... 23770, 25230
240 25494
241 25230
249 25230
271 24756
275 24756

18 CFR

1 25003
201 26506

PROPOSED RULES:

2 ..... 24542, 25691, 26568
3 26569
35 23768
154 ..... 24031, 24542, 25691, 26568
157 ..... 24542, 25691, 26568
154 25831
201 25831
206 25831
260 26569

19 CFR

1 ..... 24356, 26026, 26027
4 ..... 23845, 24518
24 24518

PROPOSED RULES:

4 24527
12 25595
141 23874

20 CFR

404 24357
405 ..... 24324, 24357, 25446, 25938, 26656
416 23846

PROPOSED RULES:

404 26532
405 ..... 23878, 23974, 24529, 24530, 26535, 26540

21 CFR

Ch. I 26027
1 ..... 23996, 26262
3 26262
11 23725
31 26266
37 26267
102 26267
121 ..... 23996, 23997, 25205, 25811, 26267–26269
123 26027
128c 24162
210 26508
430 26270

21 CFR—Continued

431 26270
436 26270
442 26270
510 25448
520 ..... 25812, 26273
522 25812
555 26273
558 25812
561 26027
630 25813
701 25585
1220 26508

PROPOSED RULES:

1 24909
3 24909
27 26276
130 26142
310 ..... 24328, 26142
314 ..... 26156, 26157, 26164
320 ..... 26157, 26164
700 ..... 24328, 25218
1020 ..... 24528, 24909, 25830, 26277
1030 23877
1040 25830
1308 24216

23 CFR

635 25585
658 24519
740 25585

PROPOSED RULES:

658 24532

24 CFR

82 ..... 23997, 26509
203 24216
207 23864
275 24818
570 ..... 23864, 24692
888 26509
1909 23864
1914 ..... 23725–23728, 23730, 23866–23872, 23977, 23978, 25003, 25464, 25585, 25588, 25590
1915 ..... 23979, 23982, 24183, 24722, 25206, 25207, 25467–25471
1916 24521
1920 23864

PROPOSED RULES:

867 24738
1909 25478
1911 25478
1914 25478
1915 25478
1917 25478
1925 23878

25 CFR

88 24183
256 24184

PROPOSED RULES:

431 26039

26 CFR

1 ..... 23721, 23738, 24361, 26028
9 25472
10 25590
11 ..... 24002, 24521
17 26028
301 23743

47 CFR—Continued

PROPOSED RULES—Continued

89 25601
91 24754
97 26048

49 CFR

173 ..... 24902, 25024
177 24903
178 24904
192 24361
571 ..... 24525, 25215, 25462, 25677
577 25463
590 24904
921 23758
1033 ..... 23872, 24005, 24006, 24526, 24906, 25215
1042 ..... 24906, 25024
1102 26032
1104 26033
1105 26035
1300 25678
1303 26035
1304 25678

49 CFR—Continued

1306 ..... 25678, 26036
1307 25678
1308 25678
1309 25678

PROPOSED RULES:

Ch. II 24365
216 25688
553 25480
571 ..... 23897, 24204, 24915
604 25304
605 25309
1106 25603
1249 25493

50 CFR

17 25217
28 ..... 24907, 25025, 26036
32 ..... 25217, 25464
91 25826

PROPOSED RULES:

17 25597
20 24527
227 26043

FEDERAL REGISTER PAGES AND DATES—JUNE

Pages	*Date*	*Pages*	*Date*
23717–23834	June 2	25197–25427	13
23835–23976	3	25429–25578	16
23977–24172	4	25579–25661	17
24173–24351	5	25663–25798	18
24353–24516	6	25799–26014	19
24517–24716	9	26015–26251	20
24717–24886	10	26253–26500	23
24887–24992	11	26501–26666	24
24993–25196	12		

rules and regulations

Title 7—Agriculture

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

[Valencia Orange Reg. 502, Amdt. 1]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

This regulation increases the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period June 13–19, 1975 [1]. The quantity that may be shipped is increased due to improved market conditions for California-Arizona Valencia oranges. The regulation and this amendment are issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 908.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674) and upon the basis of the recommendation and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for an increase in the quantity of oranges available for handling during the current week results from changes that have taken place in the marketing situation since the issuance of Valencia Orange Regulation 502 (40 FR 24994). The marketing picture now indicates that there is a greater demand for Valencia oranges than existed when the regulation was made effective. Therefore, in order to provide an opportunity for handlers to handle a sufficient volume of Valencia oranges to fill the current demand thereby making a greater quantity of Valencia oranges available to meet such increased demand, the regulation should be amended, as hereinafter set forth.

[1] This document was received by the office of the Federal Register at 11:11 a.m., June 19, 1975.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of Valencia oranges grown in Arizona and designated part of California.

(b) *Order, as amended.* The provisions in paragraph (b)(1) (i), and ii) of § 908.802 (Valencia Orange Regulation 502 (40 FR 24994)) are hereby amended to read as follows:

(i) District 1: 315,000 cartons;

(ii) District 2: 585,000 cartons.

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

Dated: June 18, 1975.

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

[FR Doc.75-16278 Filed 6-23-75;8:45 am]

[Avocado Reg. 17, Amdt. 1]

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

Maturity Requirements

This amendment revises the maturity requirements for specified varieties of avocados. Weights or diameters and picking dates are indices used at harvest to assure that avocados are mature and will ripen satisfactorily after picking.

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915), regulating the handling of avocados grown in South Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendation of the Avocado Administrative Committee, established under the aforesaid marketing agreement and order, and upon other available information, it is hereby found that the maturity requirements for the handling of avocados, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby 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 of this amended regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. Shipments of Florida avocados are regulated pursuant to Avocado Regulation 17 (40 F.R. 24006) effective June 9, 1975, and, unless sooner modified or terminated, will continue to be so regulated until April 30, 1976. The recommendation and supporting information for amendment of the regulation during the period specified herein were promptly submitted to the Department after an open meeting of the Avocado Administrative Committee on June 11, 1975; such meeting was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; it is necessary, in order to effectuate the declared policy of the act, to make this amended regulation effective during the period and in the manner hereinafter set forth so as to provide for appropriate regulation of the handling of such avocados; and it relieves restrictions by permitting shipment of Haile avocados at a lower minimum diameter during the period July 21 through July 27, 1975, and it provides specified minimum diameters for Beta and Blair avocados, which provide alternatives to minimum weight requirements for determining maturity.

The need for the amendment stems from the current avocado crop maturity situation. Weather conditions in the production area, particularly earlier during the growing season, included unseasonal temperatures and lower than normal amounts of rainfall. Heavy rainfall during the latter part of the season, however, has hastened maturity of Haile avocados. Maturity studies on the Haile variety completed recently indicate that avocados of such variety will now mature at 16 ounces or more during the period July 21 through July 27, 1975. Avocado Regulation 17 does not permit the shipment of Haile avocados during the period July 7 through July 27, unless they weigh 20 ounces or more. The studies have also

defined certain minimum diameters as alternatives to minimum weights as maturity indices for Bea and Blair avocados. The minimum diameter requirements will facilitate the maturity determination of these avocados on the tree and will enable pickers to "ring pick," thus assisting pickers to avoid harvesting of immature fruit. Haile, Beta, and Blair avocados of the specified weights or diameters for the periods hereinafter set forth will be mature, and fruit meeting such specifications is acceptable in the markets.

§ 915.317 [Amended]

Order. The provisions of paragraph (a) (2) of § 915.317 (Avocado Regulation 17; 40 FR 24006) are amended by revising in Table I minimum weights or diameters applicable to the Haile, Beta, and Blair varieties, so that after such revisions the portion of Table I relating to such varieties of avocados reads as follows:

Variety	Date	Minimum weight or diameter	Date	Minimum weight or diameter	Date	Minimum weight or diameter	Date
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Haile	7-7-75	20 oz.	7-21-75	16 oz.	7-28-75	14 oz.	8-18-75
Beta	8-18-75	18 oz. 3⅜ in.	8-25-75	16 oz. 3⅜ in.	9-15-75		
Blair	9-15-75	16 oz.	9-29-75	14 oz. 3⅜ in.	10-20-75		

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

Dated, June 19, 1975, to become effective July 7, 1975.

D. S. KURYLOSKI,
Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.75-16419 Filed 6-23-75;8:45 am]

[Nectarine Reg. 3]

PART 916—NECTARINES GROWN IN CALIFORNIA

Container and Pack Requirements

This regulation sets forth container and pack requirements applicable to fresh shipments of California nectarines effective June 30, 1975. The regulation is necessary to ensure shipment of containers of nectarines which are tightly packed and well-filled in accordance with the specifications of standard pack and to provide information to the trade by requiring that (1) the name of the variety, if known, or the words "unknown variety," if not known, be stamped on each container of nectarines, (2) the count of nectarines packed in molded forms in cartons, lug boxes, or flats and the size of nectarines loose-filled, loose-packed, or tight-filled in any container be stamped on each container, and (3) the specified net weights be stamped on standard lug boxes 22D and 22E of loose-filled or loose-packed nectarines. The regulation contains the same container and pack requirements prescribed in Amendment 3 of Nectarine Regulation 2, which is currently effective through June 29, 1975.

Notice was published in the FEDERAL REGISTER on May 22, 1975 (40 FR 22269), that consideration was being given to a proposed Nectarine Regulation 3, pursuant to the applicable provisions of the marketing agreement, as amended, and Order No. 916, as amended (7 CFR Part 916), regulating the handling of nectarines grown in California. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposed regulation was recommended by the Nectarine Administrative Committee, established under said amended marketing agreement and order as the agency to administer the terms and provisions thereof. The notice provided that all written data, views, or arguments in connection with the proposed regulation be submitted by June 13, 1975. None were received.

This regulation reflects the Department's appraisal of the need for container and pack requirements applicable to fresh shipments of California nectarines. The requirement that nectarines in closed containers meet the specifications of standard pack is primarily intended to ensure that containers of nectarines are tightly packed and well filled. Reports indicate that such requirements are necessary to guard against arrival of bruised fruit at destination. The container marking requirements are needed to provide the trade with information on the variety, count, size and weight of fruit in containers. The regulation is consistent with the objective of the act of promoting orderly marketing and protecting the interest of consumers.

After consideration of all relevant matter presented, including the proposal set forth in the aforesaid notice and other available information, it is hereby found that the container and pack requirements, as hereinafter set forth, are in accordance with said amended marketing agreement and order and will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for making this regulation effective at the time hereinafter set forth and for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) notice of proposed rulemaking concerning this regulation, including the effective date of June 30, 1975, was published in the FEDERAL REGISTER on May 22, 1975 (40 FR 22269), and no objection to such regulation or effective date was received; (2) the regulatory provisions are the same as those contained in said notice; and (3) compliance with the regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

§ 916.349 Nectarine Regulation 3.

Order. (a) On and after June 30, 1975, no handler shall handle any package or container of any variety of nectarines except in accordance with the following terms and conditions:

(1) Such nectarines, when packed in any closed container, shall conform to the requirements of standard pack.

(2) Each package or container of nectarines shall bear, on one outside end in plain sight and in plain letters, the name of the variety, if known or, when the variety is not known, the words "unknown variety."

(3) Each package or container of nectarines shall bear, on one outside end in plain sight and in plain letters, the following count or size description of the nectarines as applicable:

(i) The size of nectarines packed in molded forms (tray packs) in cartons, lug boxes, or flats shall be indicated in accordance with the number of nectarines in each container, such as "80 count," "88 count," etc.

(ii) The size of nectarines loose-filled, loose-packed, or tight-filled (not packed in rows) in No. 22D standard lug boxes shall be indicated according to the number of such nectarines when packed in molded forms in said boxes in accordance with the requirements of standard pack, such as "80 size," "88 size," etc.

(iii) The size of nectarines loose-filled, loose-packed, or tight-filled (not packed in rows) in any container, other than the No. 22D standard lug box, shall be indicated according to the number of such nectarines when packed in molded forms in a No. 22D standard lug box in accordance with the requirements of standard pack, such as "80 size," "88 size," etc.

(4) Each No. 22D standard lug box of loose-filled or loose-packed nectarines (not packed in rows) shall bear on one outside end, in plain sight and in plain letters, the words "25 pounds net weight."

(5) Each No. 22E standard lug box of loose-filled or loose-packed nectarines (not packed in rows) shall bear on one outside end, in plain sight and in plain letters, the words "35 pounds net weight."

(b) As used herein, "standard pack" shall have the same meaning as set forth in the U.S. Standards for Grades of Nectarines (§ 51.3145–51.3160 of this title); the terms "No. 22D standard lug box" and "No. 22E standard lug box" shall have the same meaning as set forth in § 1387.11 of the "Regulations of the California Department of Food and Agriculture"; and all other terms shall have the same meaning as when used in the marketing agreement and order.

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

Dated, June 19, 1975, to become effective June 30, 1975.

D. S. KURYLOSKI,
Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.75-16420 Filed 6-23-75;8:45 am]

PART 1207—POTATO RESEARCH AND PROMOTION PLAN

Expenses and Rate of Assessment

This document authorizes the National Potato Promotion Board to spend not more than $1,780,000 for its operations during the fiscal period ending June 30, 1976, and to collect $0.01 per hundredweight on assessable potatoes handled by designated handlers to defray expenses.

The Potato Board is the administrative agency established under the Potato Research and Promotion Plan (7 CFR Part 1207). This program is effective under the Potato Research and Promotion Act (7 U.S.C. 2611–2627).

Notice was published in the May 28 FEDERAL REGISTER (40 FR 23084) regarding the proposal. It afforded interested persons an opportunity to submit written comments not later than June 12, 1975. None was received.

After consideration of all relevant matter, including the proposal in the notice, it is found that the following expenses and rate of assessment should be approved.

It is hereby found that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because this part requires that the rate of assessment for a particular period shall apply to all assessable potatoes from the beginning of such period.

The regulation follows:

§ 1207.404 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period beginning July 1, 1975, by the National Potato Promotion Board for its maintenance and functioning, and for such other purposes as the Secretary may determine to be appropriate will amount to $1,780,000.

(b) The rate of assessment to be paid by each designated handler in accordance with this part shall be one cent ($0.01) per hundredweight or equivalent quantity of assessable potatoes handled by him as the designated handler thereof during the fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve.

(d) Terms used in this section have the same meaning as when used in the Potato Research and Promotion Plan and this part.

(Title III of Pub. L. 91-670; 84 Stat. 2041; 7 U.S.C. 2611–2627).

Dated June 19, 1975, to become effective July 1, 1975.

JOHN C. BLUM,
Associate Administrator.

[FR Doc.75-16421 Filed 6-23-75;8:45 am]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[Amendment 1]

PART 1423—PROCESSED AGRICULTURAL COMMODITIES

Minneapolis, Minn., Commodity Office Closing

The regulations appearing in this subpart which were published on February 18, 1969 (34 FR 2304) are hereby amended to reflect the closing of the Minneapolis Agricultural Stabilization and Conservation Service Commodity Office and the transfer of the functions of that office to the Prairie Village Agricultural Stabilization and Conservation Service Commodity Office, U.S. Department of Agriculture, Post Office Box 8377, Shawnee Mission, Kansas, 66208, effective June 30, 1975. Since the amendment does not change the substantive terms and conditions of the regulations, it is determined that compliance with the proposed rulemaking procedures is not necessary.

1. Paragraphs (b), (c), and (d) introduction, of § 1423.1 are revised to read as follows:

§ 1423.1 General statement and administration.

* * * * *

(b) Copies of the storage contract and other forms required to obtain approval under this subpart may be obtained from the Prairie Village Agricultural Stabilization and Conservation Service Commodity Office, U.S. Department of Agriculture, Post Office Box 8377, Shawnee Mission, Kansas, 66208 (hereinafter referred to as the "Prairie Village Office").

(c) A warehouse must be approved by the Prairie Village Office and a storage contract must be entered into by the Government and the warehouseman before such warehouse will be used by the Government. The approval of a warehouse or the entering into of a storage contract does not constitute a commitment that the warehouse will be used by the Government and no official or employee of the U.S. Department of Agriculture is authorized to make any such commitment.

(d) A warehouseman, in applying for approval under this subpart, shall submit to the Government at the Prairie Village Office:

* * * * *

2. Section 1423.6(c)(1) is revised to read as follows:

§ 1423.6 Approval of warehouses; requests for reconsideration.

* * * * *

(c)(1) If disapproval or withdrawal of approval by the Government is due to failure to meet the standards set forth in § 1423.2, other than the standard in paragraph (a) thereof, the warehouseman may at any time after receiving notice of such action, request reconsideration of the action and present to the Director of the Prairie Village Office, orally or in writing, information in support of his request. The Director, upon consideration of such information, shall notify the warehouseman in writing of his determination. The warehouseman may, if the Director's determination is adverse to the warehouseman, obtain a review of the determination and an informal hearing in connection therewith by filing an appeal with the Deputy Administrator, Commodity Operations, ASCS. The time for filing appeals, form of request for appeal, nature of the informal hearing, determination, and reopening of the hearing shall be as prescribed by §§ 780.6, 780.7, 780.8, 780.9, and 780.10, respectively, of the ASCS regulations governing appeals, Part 780 of this title. In connection with such regulations, the warehouseman shall be considered to be a "participant".

* * * * *

(Sec. 4, 62 Stat. 1070, as amended; (15 U.S.C. 714b))

Effective date: June 30, 1975.

Signed at Washington, D.C., on June 18, 1975.

E. J. PERSON,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc.75-16424 Filed 6-23-75;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 75-NE-18; Amdt. 39-2244]

PART 39—AIRWORTHINESS DIRECTIVES

Pratt & Whitney Model TF33 Engines

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive reducing the disk cyclic life on Pratt & Whitney TF33 aircraft engines containing certain thirteenth, fourteenth, fifteenth, and sixteenth stage compressor disks, was published in the FEDERAL REGISTER on May 9, 1975 (40 FR 20289).

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

PRATT & WHITNEY AIRCRAFT. Applies to all Pratt & Whitney Aircraft TF33-P-7 and TF33-P-7A turbofan engines containing thirteenth stage compressor disk, P/N 657913, fourteenth stage compressor disk, P/N 657914, fifteenth stage compressor disk, P/N 657915, and sixteenth stage compressor disk, P/N 657916.

To ensure adequate life limit margin, remove from service thirteenth, fourteenth, fifteenth, and sixteenth stage compressor disks prior to exceeding the revised life limit listed below.

Disk pt. No.	Previous life limit (cycles)	Revised life limit (cycles)
657913	15,000	8,500
657914	15,000	8,500
657915	15,000	8,500
657916	15,000	8,500

This amendment becomes effective July 3, 1975.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Burlington, Mass., on June 12, 1975.

WILLIAM E. CROSBY,
Acting Director,
New England Region.

[FR Doc.75-16263 Filed 6-23-75;8:45 am]

[Airspace Docket No. 75-NW-15]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Federal Airways

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to realign several airways via the relocated Moses Lake, Wash., VOR.

A revolving sprinkler irrigation system recently installed near the site of the Moses Lake VOR has rendered the VOR and associated airways unusable. Therefore, the Moses Lake VOR is being relocated approximately five miles to the Northwest at Latitude 47°12'23"N., Longitude 119°18'47"W., and action is taken herein to realign the associated airways via the relocated Moses Lake VOR. V-2 and J-34 will be realigned via the relocated Moses Lake VOR, but no change in their legal descriptions in necessary, since their alignments are via direct radials to adjacent VORs.

Since the expeditious realignment of the airway structure in the vicinity of Moses Lake is in the interest of safety, and since the distances the airways will be moved are not significant, notice and public procedure thereon is impracticable. However, as it is essential that the realignments appear on appropriate IFR charts, these amendments will become effective on the next date the charts will be published.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., August 14, 1975, as hereinafter set forth.

Section 71.123 (40 FR 307) is amended as follows:

1. V-357 is revised to read "From Baker, Oreg., via Walla Walla, Wash.; Moses Lake, Wash.; INT of Moses Lake 271° and Wenatchee, Wash., 132° radials; to Wenatchee; including a N alternate from Moses Lake via Ephrata, Wash., to Wenatchee.

2. In V-448, "Moses Lake 238° radials" is deleted, and "Moses Lake 231° radials" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. (c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Washington, D.C., on June 18, 1975.

B. KEITH POTTS,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.75-16264 Filed 6-23-75;8:45 am]

[Airspace Docket No. 75-NE-16]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On page 19484 of the FEDERAL REGISTER dated May 5, 1975 (40 FR 19484), the Federal Aviation Administration published a Notice of Proposed Rule Making which would alter the Auburn, Maine, 700-foot Transition Area.

Interested parties were given thirty (30) days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted effective 0901 G.m.t., October 9, 1975.

(Sec. 307(a), Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Burlington, Mass., on June 4, 1975.

QUENTIN S. TAYLOR,
Director,
New England Region.

In § 71.181 of Part 71 of the Federal Aviation Regulations (40 FR 449) the description of the Auburn, Maine 700-foot transition area is amended to read as follows:

AUBURN, MAINE

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Center, 44°03'00" N, 70°17'00" W of Auburn-Lewiston Municipal Airport; within 3 miles each side of the 204° and 024° bearing from the Poland Springs, Maine NDB, 43°57'42" N, 70°20'14" W, extending from the 5-mile radius area to 9 miles southwest of the NDB; within 2 miles each side of the 048° bearing from the Poland Springs, Maine NDB extending from the NDB to 13 miles northeast of the NDB.

[FR Doc.75-16265 Filed 6-23-75;8:45 am]

[Airspace Docket No. 75-NW-04]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On May 1, 1975, a Notice of Proposed Rulemaking was published in the FEDERAL REGISTER (40 FR 19019) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would (1) alter the description of the Portland, Oregon, Transition Area, and (2) delete the description of the Kelso, Washington, Transition Area from that of Portland, Oregon, making the Kelso description a separate entry in § 71.181.

Interested persons were given 30 days in which to submit written data, views, or arguments. No objections were received.

In consideration of the foregoing, the amendment is hereby adopted without change.

Effective Date. This amendment shall be effective 0901 G.m.t., on August 14, 1975.

(Sec. 307(a), Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Seattle, Wash., on June 16, 1655(c)))

C. B. WALK, Jr.,
Director,
Northwest Region.

In § 71.181 (40 FR 441) the description of the Kelso, Washington and the Portland, Oregon Transition Areas are amended to read as follows:

KELSO, WASHINGTON

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Kelso-Longview Airport (Latitude 46°-07'12" W; Longitude 122°53'58" W), within 9.5 miles west of and 4.5 miles east of the 012 degree bearing from the Kelso, Washington, NDB (Latitude 46°09'14" N; Longitude 122°54'40" W) extending from the NDB to 18.5 miles north of the NDB; within 5 miles each side of the 336 degree bearing from the Kelso NDB extending from the NDB 22.8 miles northwest.

PORTLAND, OREGON

That airspace extending upward from 700 feet above the surface bounded on the north by Latitude 46°00'00" N, on the east by Longitude 122°05'00" W, on the south by Latitude 45°10'00" N and on the west by Longitude 123°30'00" W; that airspace extending upward from 1200' above the surface bounded on the north by a line beginning at a point 3 miles offshore at Latitude 46°30'-30" N extending easterly via Latitude 46°30'-30" N to Longitude 121°40'00" W, thence easterly along the south edge of V-204 to Latitude 46°30'40" N, Longitude 120°36'00" W, on the east by V-25, on the south by V-536 to Corvallis, VOR thence via Latitude 44°-30'00" N to a point 3 miles offshore, and on the west by a line 3 miles offshore to the point of beginning.

[FR Doc.75-16266 Filed 6-23-75;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER I—COMMODITY FUTURES TRADING COMMISSION

PART 30—FRAUD IN CONNECTION WITH COMMODITY TRANSACTIONS

On April 25, 1975, the Commodity Futures Trading Commission published in the FEDERAL REGISTER, 40 F.R. 18187, notice that it was considering the adoption of antifraud rules applicable to the following types of transactions:

(A) Transactions that involve any commodity and that are of the character of, or are commonly known to the trade as, an "option", "privilege", "indemnity", "bid", "offer", "put", "call", "advance guaranty", or "decline guaranty";

(B) Transactions for the delivery of silver bullion, gold bullion, bulk silver coins or bulk gold coins that are executed pursuant to standardized contracts commonly known to the trade as margin accounts, margin contracts, leverage accounts or leverage contracts; and

(C) The solicitation or acceptance in the United States of orders for commodity futures contracts that are traded or executed upon boards of trade, exchanges or markets located outside the United States.

The Commission invited interested persons to participate in the rule-making process by providing written submissions to the Commission. The Commission has considered all of the comments and suggestions received and has determined to adopt rules in the form set forth below in lieu of the form proposed.

The operative language of the proposed rules tracked the antifraud provisions of Securities and Exchange Commission Rule 10b-5 under the Securities Exchange Act, 17 CFR 240.10b-5. While the Commission believes that the interpretive approach taken by the courts with respect to Rule 10b-5 would generally be satisfactory if applied to prevent deceptive acts and practices in connection with transactions covered by the options and foreign market antifraud rules, the Commission is persuaded, on the basis of comments it has received, that uniformity of rules in the commodity area is desirable. As a result, the Commission feels it would be inappropriate generally to apply the language of Rule 10b-5 to the commodity futures or other transactions regulated under the Commodity Exchange Act, as amended, since this might invite an uncritical application of security law principles and practices.[1]

The operative language of the antifraud provision contained in section 4b of the Commodity Exchange Act, as amended, 7 U.S.C. 6b, is no less broad than Rule 10b-5 with respect to misrepresentations and deceptive acts and practices. And, as a provision designed specially for commodities transactions, this language would not present a similar risk of inappropriate interpretation. Thus, by adopting rules patterned upon antifraud provisions that Congress has approved as part of the statutory scheme of the Commodity Exchange Act, the Commission can fairly expect that the courts will adopt a consistent and uniform approach to the prevention of fraudulent and deceptive acts and practices under the Commodity Exchange Act.[2]

Some of the comments received by the Commission contended that the Commission is required—not merely permitted—to utilize the antifraud standards set forth in section 4b of the Commodity Exchange Act, rather than a provision like Rule 10b-5. But the existence of other antifraud provisions in the Act, as amended, demonstrates the basic fallacy of that position.[3] More importantly, however, that argument ignores the broad rulemaking authority granted to the Commission under the recent statutory amendments.

For the foregoing reasons, the Commission has determined as an alternative to its proposals to adopt antifraud provisions relating to transactions in commodity options and relating to transactions in futures contracts other than on domestic designated contract markets which are based upon language contained in section 4b. They are set forth below as §§ 30.01 and 30.02.

Notwithstanding the Commission's approach to the foregoing matters, the Commission is satisfied that an antifraud approach based upon the language of Rule 10b-5 under the Securities Exchange Act is appropriate with respect to transactions for the delivery of silver bullion, gold bullion, bulk silver coins or bulk gold coins that are executed pursuant to standardized contracts commonly known to the trade as margin accounts, margin contracts, leverage accounts or leverage contracts. These are not transactions of a type commonly entered in the markets for commodity futures or cash commodities. Rather, they are transactions of a special type to which the antifraud provisions of the federal securities laws were sought to be applied by the Securities and Exchange Commission prior to the enactment of the Commodity Futures Trading Commission Act. The Commission sees no reason to disturb the applicability of these antifraud criteria to these specific transactions. Accordingly, the Commission has adopted Rule 17 CFR 30.03, relating to transactions for the delivery of silver bullion, gold bullion, bulk silver coins or bulk gold coins that are executed pursuant to standardized contracts commonly known to the trade as margin accounts, margin contracts, leverage accounts or leverage contracts.

The Commission has also determined that these rules should be contained in a separate part of the Commission's rules, which will concern fraud in connection with commodity transactions. Accordingly, the Commission is designating a new Part 30 to Title 17 of the Code of Federal Regulations.

In consideration of the foregoing, the Commission hereby amends Chapter I of Title 17 of the Code of Federal Regulations by adding a new Part 30, as follows:

Sec.
30.01 Fraud in connection with commodity options.
30.02 Fraud in connection with transactions in futures contracts other than on domestic contract markets.
30.03 Fraud in connection with certain transactions in silver or gold bullion or bulk coins.

AUTHORITY: (7 U.S.C. 2, 6c, 12a), 42 Stat. 998, 49 Stat. 1494, 1500, as amended by 49 Stat. 1491, 52 Stat. 205, 54 Stat. 1059, 68 Stat. 913, 69 Stat. 375, 82 Stat. 26, 413 and by sections 103, 201(b), 402(c), Pub. L. 93-463, 88 Stat. 1392, 1395, 1412; (7 U.S.C. 15a, 88 Stat. 1405).

§ 30.01 Fraud in connection with commodity options.

It shall be unlawful for any person, by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly,

(a) To cheat or defraud or attempt to cheat or defraud any other person;

(b) To make or cause to be made to any other person any false report or statement thereof or cause to be entered for any person any false record thereof;

(c) To deceive or attempt to deceive any other person by any means whatsoever;

in or in connection with an offer to enter into, the entry into or the confirmation of the execution of, any transaction involving any commodity regulated under the Commodity Exchange Act, as amended, but not specifically set forth in section 2(a) of the Commodity Exchange Act prior to the enactment of the Commodity Futures Trading Commission Act of 1974, which is or is held out to be of the character of, or is commonly known

[1] The Commission is particularly concerned with the possibility that determinations reached on commodity cases might misapply non-disclosure-of-information standards taken from securities laws decisions, although it fully appreciates that a failure to disclose information may operate as a fraud or deceit with respect to commodity transactions in certain circumstances.

[2] In the rules it has adopted, the Commission has not used the concept of willful behavior, which is reflected in the statutory language. The Commission notes that at least two courts may have taken a restrictive view of the purpose of section 4b because of the requirement of willfulness in the statute. See, *Economou* v. *U.S. Department of Agriculture*, 494 F. 2d 519 (2d Cir. 1974) (per curiam) and *McCurnin* v. *Kohlmeyer & Co.*, 347 F. Supp. 573, 575-576 (E.D. La. 1972), *affirmed*, 477 F. 2d 113 (5th Cir. 1973). The Commission does not believe these decisions should have continued vitality as applied to the Act as recently amended. It is appropriate—particularly in light of the Commodity Futures Trading Commission Act of 1974—that all provisions of the Commodity Exchange Act, as amended, be broadly construed to effectuate their remedial purposes. *J. Sutherland, Statutes and Statutory Construction*, section 3302 at 235 (3d ed., Horack rev., 1943). See, *e.g.*, *Tcherepnin* v. *Knight*, 389 U.S. 332, 336 (1967). The courts have frequently held in the context of remedial legislation that willfulness connotes no more than an awareness of an act or omission and not whether the act or omission is understood to be unlawful. See, *e.g.*, *Goodman* v. *Benson*, 286 F. 2d 896, 900 (7th Cir. 1961); *Tager* v. *Securities and Exchange Commission*, 344 F. 2d 5, 8 (2nd Cir. 1965); *cf. Butz* v. *Glover Livestock Comm'n Co.*, 411 U.S. 182, 187 n.5 (1973).

[3] In section 4o of the Commodity Exchange Act, as amended, 7 U.S.C. 6o, Congress imposed upon commodity trading advisors and commodity pool operators antifraud standards applicable to their relationships with their clients and participants which uses language contained in Rule 10b-5 (1) and (8).

to the trade as, an 'option,' 'privilege,' 'indemnity,' 'bid,' 'offer,' 'put,' 'call,' 'advance guaranty,' or 'decline guaranty.'

§ 30.02 Fraud in connection with transaction in futures contracts other than on domestic contract markets.

It shall be unlawful for any person, by use of the mails or by any means or instrumentality of interstate commerce, directly or indirectly, in or in connection with any account, agreement or transaction involving any contract of sale of a commodity for future delivery, traded or executed on any board of trade, exchange or market other than a contract market designated pursuant to section 5 of the Commodity Exchange Act, as amended:

(a) To cheat or defraud or attempt to cheat or defraud any other person;

(b) To make or cause to be made to any other person any false report or statement thereof or to enter or cause to be entered for any person any false record thereof;

(c) To deceive or attempt to deceive any other person by any means whatsoever in regard to any such account, agreement or transaction or the disposition or execution of any such account, agreement or transaction or in regard to any act of agency performed with respect to such account, agreement or transaction; or

(d) To bucket any order, or to fill any order by offset against the order or orders of any other person or without the prior consent of any person to become the buyer in respect to any selling order of such person, or become the seller in respect to any buying order of such person."

§ 30.03 Fraud in connection with certain transactions in silver or gold bullion or bulk coins.

It shall be unlawful for any person, by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly

(a) To employ any device, scheme, or artifice to defraud,

(b) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made in the light of the circumstances under which they were made, not misleading, or

(c) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person,

in, or in connection with (1) an offer to make, or the making of, any transaction for the purchase, sale or delivery of silver bullion, gold bullion, bulk silver coins or bulk gold coins pursuant to a standardized contract commonly known to the trade as a margin account, margin contract, leverage account or leverage contract or (2) the maintenance or carrying of any such contract.

The foregoing rules shall be effective on June 24, 1975.

The Commission is satisfied that it would be contrary to the public interest to delay the effectiveness of these rules for the thirty days normally required under the Administrative Procedure Act, as codified, 5 U.S.C. 553(d). The Commission has exclusive jurisdiction with respect to transactions that are the subject of these rules. Accordingly, until they become effective there will exist a regulatory gap that must be closed as quickly as possible. Moreover, since the rules adopted do no more than forbid fraudulent activities and impose no duty of affirmative action upon anyone, their immediate adoption will impose no hardships.

Issued: June 20, 1975:

By the Commission.

WILLIAM T. BAGLEY,
Chariman, Commodity Futures Trading Commission.

[FR Doc.75-16557 Filed 6-23-75;8:45 am]

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34-11474]

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Monitoring of Competitive Commissions

The Commission today announced the amendment of Article 30-3 [17 CFR 200.30-3] of the Commission's Statement of Organization; Conduct and Ethics; and Information and Requests (17 CFR 200). Article 30-3 delegates, pursuant to Pub. L. 87-592, 76 Stat. 394 [15 U.S.C. 78d-1, 78d-2], certain authority to the Director of the Division of Market Regulation.

Rule 17a-20 [17 CFR 240.17a-20] and related Form X-17A-20 [17 CFR 249.636] were adopted as part of the Commission's monitoring of competitive commission rates. Among other things, Rule 17a-20 requires notification of an intention to resign a membership interest in a national securities exchange and periodic reporting to the Commission of revenues and expenses and related financial and other information by brokers and dealers whose revenues exceed certain amounts. Section (c) of the rule provides that the Commission, on written request of a national securities exchange, registered national securities association, broker or dealer, or on its own motion, may grant an extension of time or an exemption, either unconditionally or on specified terms or conditions, from any of the requirements of Rule 17a-20 or Form X-17A-20.

Pursuant to Pub. L. 87-592, 76 Stat. 394 (15 U.S.C. 78d-1, 78d-2), 17 CFR 200.30-3 (a)(12) is hereby added to read as follows:

§ 200.30-3 Delegation of authority to Director of Division of Market Regulation.

* * * * *

(a) * * *

(12) Pursuant to Rule 17a-20(c) (§ 240.17a-20(c) of this chapter), to grant extensions of time and exemptions from any of the requirements of Rule 17a-20, (§ 240.17a-20 of this chapter), or Form X-17A-20, (§ 249.636 of this chapter), either unconditionally or on specified terms and conditions.

* * * * *

The Commission finds that the foregoing amendment involves matters of agency organization, procedure or practice and that notice or procedures under the Administrative Procedure Act (5 U.S.C. 553) are not required pursuant to 5 U.S.C. 553(b)(3)(A). The Commission also finds that the amendment is not a substantive rule within the meaning of 5 U.S.C. 553(d) and is, therefore, effective June 16, 1975.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

JUNE 16, 1975.

[FR Doc.75-16291 Filed 6-23-75;8:45 am]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

SUBCHAPTER F—ACCOUNTS, NATURAL GAS ACT

[Docket No. RM75-6; Order 529]

PART 201—UNIFORM SYSTEM OF ACCOUNTS FOR NATURAL GAS COMPANIES (CLASS A AND CLASS B)

Order Amending the Uniform System of Accounts for Class A and Class B Natural Gas Companies

JUNE 17, 1975.

On August 29, 1974, the Commission issued a notice of proposed rulemaking Docket No. RM75-6 (39 FR 32156, September 5, 1974), proposing to amend Account 166, Advances for Gas Exploration, Development and Production, to provide further assurances that gas produced from reserves developed or discovered as a result of advance payments will flow to the advancing pipeline company at a just and reasonable rate by requiring, as an element of determining rate treatment, that all advance payment agreements contain certain provisions for such assurance.

Views and comments were invited from interested parties to be submitted on or before October 15, 1974. Pursuant to this invitation, the Commission received comments from nineteen respondents.[1] One respondent requested a conference, but because of the completeness of the responses, no conference was held.

Basically, the proposed amendments to Account 166, Advances for Gas Exploration, Development and Production, were as follows:

(1) Paragraph A of the account would be amended to require, as an element of determining rate treatment:

(A) the pipeline shall have first call on gas produced under long-term contracts, and that (B) "the selling price of the committed gas shall be governed by and limited to the

[1] List filed as part of the original document.

applicable just and reasonable rate which has been prescribed by the Commission.

(2) Paragraph E of the account would be amended to require that:

Any revenues collected as a result of the advance being included in rate base shall be refunded by the pipeline company to its customers, together with interest at the rate of seven percent per annum, from the date of payment until refunded, within 12 months after the removal of the advance from this account, unless otherwise directed by the Commission.

The majority of the respondents opposing the rulemaking stated that the proposed revisions were either broader than necessary to accomplish the Commission's objectives or that the Commission already had adequate power to fully protect the ultimate consumer. They also stated that the promulgation of the rulemaking would have a substantial adverse impact on the Commission's advance payment program. We are not convinced. The Commission needs these guidelines to be specified so as to provide an element of certainty for parties entering into advance payment agreements.

Requests to delete or clarify the term "first call" were evident in the responses. The respondents stressed that this requirement could be interpreted to place unreasonable restrictions on certain types of provisions incorporated in the advance payment agreements. The Commission has not been persuaded that, as a prerequisite to rate base treatment, the provision for "first call" should be deleted, but a clarification may be needed at this time.

Since the staff has been reviewing the advance payment contracts for rate proceedings under Commission Order Nos. 465 and 499, with one of the requirements in the determination for rate base treatment to be whether a sufficient portion of the gas reserves found are dedicated to the pipeline making the advance, we believe the "first call" provision to be reasonable. If the ultimate consumer is going to pay the financing charges, then, in all equity, he should have the Commission's assurance that he will be the first party to receive, in proportion to the advance made, any gas produced, or, at least, all the gas that the producers receiving the advances and their co-interest holders have available for sale, which is attributable to the advance.

The question of whether an independent producer would have the right to refuse a Certificate of Public Convenience and Necessity containing conditions (the "first call" requirement) more onerous than that being imposed by the Commission with respect to other independent producers will be considered on a case-by-case basis under the appropriate producer regulations. With respect to equitable-apportioned arrangements between advancing and transporting pipelines or any other reasonable agreements, the staff should continue to consider these on an individual basis as to their just and reasonableness, as they are presented in a rate proceeding.

Most of the parties responding to the proposal indicated the Commission should either delete or define exactly what is meant by "long-term contracts." They objected to the requirement basically because they believe it was unnecessary, burdensome, and would impose an economic rigidity on the producer that would be a negative incentive to commit gas. The respondents also stated that even when advances are related to short-term dedications, the customers are adequately protected under the present procedures.[1]

The intentions of allowing advances to be related to short-term contracts were taken into consideration in Commission Opinion No. 699-B. In that order we reinstated and amended the emergency sales provisions and limited-term certificate authority, but restricted the gas which is subject to an advance payment agreement by stating:

Absent an advance demonstration of extraordinary circumstances, gas which is subject to an advance payments agreement, shall not be eligible for sale pursuant to the emergency sales or limited-term certification provisions herein reinstated.[2]

The respondents presented several different periods of time which they considered to be appropriate as a definition for "long-term." They suggested that the "long-term" contract should be defined so as to provide a much needed element of certainty for parties entering into advance payment contracts. We agree; therefore, we are providing in this order, for the sole purpose of determining rate base treatment of the advance payment agreements, that "long-term" shall mean a minimum initial term computed as the lesser of fifteen years or the life of the reserves in the field.

Most of the parties responding objected to the possibility that, as proposed, the revisions appear to preclude the producers from utilizing the optional pricing (§ 2.75, Statement of General Policy and Interpretations) and the special relief provisions (e.g., § 154.106(h) of the regulations) to justify a price in excess of the applicable area or national rate.

It was not our intention to expect the advance payment agreements to quote a specific price, but that the agreements should provide that the producer would have to agree to accept the Commission's just and reasonable rate. Also, it was not our intention to preclude the producers from seeking certification under the optional pricing and special relief procedures, but such certification should be subject to appropriate showing under special circumstances. Therefore, paragraph A of Account 166 has been revised to reflect our intentions in this regard.

[1] Account 166, Paragraph C, "* * * This account shall be credited with advances not fully recovered with the five-year period, and the unrecovered portion charged directly to Account 426.5, Other Deductions. * * *"

[2] Page 4 of Opinion No. 699-B (Docket No. R-389-B) issued September 9, 1974.

In order to clarify the price problem area connected with small producer contracts funded by advance payments agreements, the Commission shall consider that the "applicable just and reasonable rate" shall include small producers subject to the ultimate disposition of Docket No. R-393, and that advances under agreements with small producers will not be denied rate base treatment just because the agreement does not require a "prescribed rate." Therefore, paragraph A of Account 166 has been amended to incorporate this clarification.

Most of the respondents commented on the time element of the just and reasonable rate, in that a clarification was needed to insure that the date will not be the date the advance payment agreement is executed, particularly when the gas may not flow for three to five years hence. They believe such a requirement would adversely affect the bargaining power of the interstate purchaser and discourage producer participation in the advance payment program. We agree; it was originally our intention to generally apply the just and reasonable rate prescribed by the Commission at the time of certification or when gas starts to flow. Paragraph A of Account 166 has been amended accordingly.

It was the opinion of the majority of the respondents that the seven percent interest on refunds when gas does not flow to the advancing pipeline would make the advance payment program less attractive, as well as being unfair. We have carefully considered this issue and the position of the pipelines, and we are not convinced that the interest proposal should be deleted. Therefore, we believe it equitable that pipeline customers receive interest on amounts paid pipelines during the period of time that the advances are treated as rate base items to compensate them for the time value of their monies held by the pipelines. To be consistent with Commission Order No. 513 (Docket No. RM 75-18), issued October 10, 1974, we are adopting the nine percent (9%) interest rate on the amounts subject to refund when gas does not flow to the advancing pipeline.

Consistent with previous Commission orders on the advance payment program, the application of this order is limited to advance payment agreements executed after the issuance date of the order.

The Commission finds: (1) The notice and opportunity to participate in this proceeding with respect to the matters presently before the Commission through the submission, in writing, of data, views, comments and suggestions in the manner as described above are consistent and in accordance with all procedural requirements therefor as prescribed by 5 U.S.C. 553.

(2) The amendments of the Commission's Uniform System of Accounts herein prescribed are necessary and appropriate for the administration of the Natural Gas Act.

(3) Since the amendments prescribed here, which were not included in the notice of this proceeding, are consistent

with the prime purpose of the proposed rulemaking, further compliance with the notice provision of 5 U.S.C. 553 is unnecessary.

(4) Good cause exists for making the amendments to the Uniform System of Accounts for Natural Gas Companies ordered herein effective upon issuance of this order.

The Commission, acting pursuant to the provisions of the Natural Gas Act, as amended, particularly Sections, 4, 5, 7, 15 and 16, 52 Stat. 822, 823, 824, 825, 829 and 830; 56 Stat. 83, 84; 61 Stat. 459; 76 Stat. 72; 15 U.S.C. 717c, 717d, 717f, 717n and 717o, orders:

(A) The Commission's Uniform System of Accounts for Class A and Class B Natural Gas Companies prescribed by Part 201, Chapter I, Title 18 of the Code of Federal Regulations is amended as follows:

(1.) In the Balance Sheet Accounts section, amend the text of Paragraphs A and E, add a new Note E, and reletter the present Notes "E" and "F" as F and G, respectively, of Account 166, "Advances for Gas Exploration, Development and Production." As amended this portion of the text of Account 166 reads:

BALANCE SHEET ACCOUNTS

ASSETS AND OTHER DEBITS

* * * * *

3. Current and Accrued Assets

* * * * *

166 Advances for gas exploration, development and production.

A. This account shall include all advances made for gas (whether called "advances," "contributions" or otherwise) to independent producers, affiliated or associated companies, or others operating within the lower 48 states and Alaska; for exploration, development or production (but not to include lease acquisition) of natural gas. Under each agreement with payee, such payments must be made prior to initial gas deliveries, or if the agreement provides for advances on a well by well basis, each incremental payment must be made prior to deliveries from an incremental well, or prior to Federal and/or State authorization, as appropriate. All agreements executed after June 17, 1975, (issuance date of Order No. 259) shall specify that (1) the pipeline shall have first call on any gas produced, attributable to the advance payment, under a long-term contract which is for a minimum initial term computed as the lesser of fifteen years or the life of the reserve in the field, and (2) the selling price of the gas committed by producers whose sales are subject to price regulation shall be governed by and limited to the area rate or national rate or, under appropriate showing of special circumstance, such other rate as may be authorized by the Commission under the provisions of optional pricing and special relief. As a determination of the initial rate, the time of first delivery in interstate commerce to the purchaser shall govern. Non-current advances not to be repaid within a two-year period shall be reclassified and transferred to account 124, Other Investments, for balance sheet purposes. This transfer is for reporting purposes only and has no effect on accounting and ratemaking.

* * * * *

E. When an advance which is or has been included in this account and in rate base results in a source of proven reserves of natural gas, gas deliveries commence but no gas flows to the pipeline company making such advance, the amount of the advance shall be removed from this account (and from rate base) and recorded in account 167, Other Advances for Gas. Any revenues collected as a result of the advance being included in rate base shall be refunded by the pipeline company to its customers, together with interest, per annum, at the rate established by Order No. 513, issued October 10, 1974, or as subsequently revised by Commission Order, from the date of payment until refunded, within 12 months after the removal of the advance from this account, unless otherwise directed by the Commission. Where there is partial recovery of the advance by gas, in this situation, the amount of the advance transferred from this account to account 167 and the amount of revenues refunded, with interest, shall be appropriately apportioned.

* * * * *

NOTE E: All advances made pursuant to contractual commitments made on or after December 28, 1973 (issue date of Order No. 499), but prior to the date of issuance of Order No. 529, shall be subject to the provisions of Order No. 499.

NOTE F: * * *

NOTE G: * * *

* * * * *

(B) This order is effective immediately upon issuance and is applicable to advance payment agreements executed after the issuance date.

(C) The Secretary of the Commission shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-16409 Filed 6-23-75;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER C—DRUGS: GENERAL

PART 210—CURRENT GOOD MANUFACTURING PRACTICES IN MANUFACTURING, PROCESSING, PACKING, OR HOLDING OF DRUGS: GENERAL

Reorganization and Republication; Correction

In FR Doc. 75-7952 appearing at page 13996 in the issue of March 27, 1975, § 210.3, on page 14024, is corrected in the first line of paragraph (a) and the last line of paragraph (b) by changing the words "this part" to read "Parts 211 through 229 of this chapter," and in the first line of paragraph (c) by changing the words "this part" to read "Parts 225 and 226 of this chapter."

Dated: June 17, 1975.

WILLIAM F. RANDOLPH, *Acting Associate Commissioner for Compliance.*

[FR Doc.75-16275 Filed 6-23-75;8:45 am]

SUBCHAPTER I—REGULATIONS UNDER CERTAIN OTHER ACTS ADMINISTERED BY THE FOOD AND DRUG ADMINISTRATION

[Docket No. 75N-0115]

PART 1220—REGULATIONS UNDER THE TEA IMPORTATION ACT

Tea Standards

Pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the Tea Importation Act (secs. 3, 10, 29 Stat. 605, 607, 41 Stat. 712, 54 Stat. 1237, 67 Stat. 631 (21 U.S.C. 43, 50)) and delegated to the Commissioner of Food and Drugs (21 CFR 2.120), the regulations for the enforcement of the act (21 CFR Part 1220) are amended by revising § 1220.40(a) to read as follows:

§ 1220.40 Tea standards.

(a) Samples for standards of the following teas prepared, identified, and submitted by the Board of Tea Experts on March 4, 1975, are hereby fixed and established as the standards of purity, quality, and fitness for consumption under the Tea Importation Act for the year beginning May 1, 1975, and ending April 30, 1976:

(1) Formosa Oolong.

(2) Black Tea other than China, Formosa, Japan Type (to be used for all black teas except those from China, Formosa, and Japan).

(3) Black Tea, China, Formosa, Japan Type (to be used for black teas from China, Formosa, and Japan).

(4) Green Tea (to be used for all green teas).

(5) Canton Oolong Type (to be used for all Canton type teas of Formosa or China origin).

(6) Scented Black Tea.

(7) Spiced Tea.

These standards apply to tea shipped from abroad on or after May 1, 1975. Tea shipped prior to May 1, 1975 will be governed by the standards that became effective on May 1, 1974.

* * * * *

As this amendment is based upon the recommendation of the Board of Tea Experts, which is comprised of tea experts drawn from the Food and Drug Administration and the tea trade, to be representative of the trade as a whole, the Commissioner therefore find that notice, public procedure, and delayed effec-

tive date are not necessary prerequisites to the promulgation of this order.

Effective date. This order became effective May 1, 1975.

(Secs. 3, 10, 29 Stat. 605, 607, 41 Stat. 712, 54 Stat. 1237, 67 Stat. 631 (21 U.S.C. 43, 50).)

Dated: June 17, 1975.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.75-16274 Filed 6-23-75;8:45 am]

Title 24—Department of Housing and Urban Development

SUBTITLE A—OFFICE OF THE SECRETARY

[Docket No. R-75-318]

PART 82—REAL ESTATE SETTLEMENT PROCEDURES

The following amendment has been made to this part to clarify the application of this part to farms and other properties over 10 acres.

The Secretary has determined that the change is necessary to comply with the purposes and intent of the Real Estate Settlement Procedures Act of 1974, 12 U.S.C. 2601. Because of the need to have this clarification available at the earliest possible date, the Secretary has determined that it is impracticable and contrary to the public interest to engage in public rule-making and to postpone the effective date. The Secretary has, therefore, determined that advance notice and publication are unnecessary and that cause exists for making this amendment effective June 19, 1975.

Accordingly § 82.4(b) is amended to read as follows:

§ 82.4 Applicability.

* * * * *

(b) *Exempt transactions.* This part shall not apply to:

(1) Purchases of property for resale in the ordinary course of business.

(2) Loans financing the purchase or transfer of a property of 100 or more acres.

(3) Loans financing the purchase or transfer of a property of less than 100 acres but more than 10 acres where the lender reasonably determines that the value of the one to four family residence, including related residential facilities and a reasonable portion of land on which the residence is located, is less than the value of the remaining land and existing buildings and facilities, and buildings and facilities to be constructed with proceeds of the loan.

* * * * *

Effective date. This amendment is effective June 19, 1975.

CARLA A. HILLS,
Secretary of Housing and Urban Development.

[FR Doc.75-16505 Filed 6-23-75;8:45 am]

CHAPTER VIII—LOW INCOME HOUSING DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R 75-311]

PART 888—FAIR MARKET RENTS FOR HOUSING ASSISTANCE PAYMENTS PROGRAMS

Amendment of Schedule B; Interim Rule

On April 7, 1975, the Department published Fair Market Rents for Housing Assistance Payments Programs, section 8—Existing Housing and section 23—Existing Housing. That publication reflected approximately 100 changes to the Schedule B Fair Market Rents that were proposed January 9, 1975, 40 FR 1901, and to which interested parties submitted comments.

Since April 7, 1975, additional comments and data have been received indicating continuing need to revise these rents in light of the most recent data available. This material, submitted by interested members of the general public as well as HUD Field Offices, has generally indicated a need to increase the published rents in order to meet specific local housing market or submarket conditions. In particular, one such market has been identified as requiring immediate revision, the affected areas of which include Barnstable and Dukes Counties, Massachusetts. Immediate change in the applicable rents for this area is necessary to prevent distress among families who are threatened with eviction in that area, and these changes are needed to alleviate market pressures resulting from seasonal demand in the affected communities. Accordingly, it is impracticable and contrary to the public interest to provide for public comment with respect to this amendment, and good cause exists for making the changed rents effective upon publication. (June 24, 1975).

By nature, the Fair Market Rent Schedule is subject to continuous revision where data and information indicate change is needed. However, with respect to the revision for Barnstable and Dukes Counties, the Department is particularly inviting the submittal of such information and comment as interested persons may wish to file. If, upon consideration of the information and comments, it is determined that further revision of these rents is appropriate, Schedule B will again be amended to reflect those changes as soon as practicable.

Therefore, Schedule B of Part 888 of Title 24 is amended by including the entries for Barnstable and Dukes Counties set forth on the attached table to appear in the appropriate place under Region I for the Boston, Massachusetts Area Office.

(Sec. 7(d) Department of Housing and Urban Development Act, 42 USC 3535(d))

Effective date: This amendment is effective on publication in the FEDERAL REGISTER (June 24, 1975).

DAVID M. DEWILDE,
Acting Assistant Secretary for Housing Production and Mortgage Credit—FHA Commissioner.

Section 8 housing assistance payments program. Schedule B—Fair market rents for existing housing (including housing finance and development agencies program)

Region I	County group	0 bedrooms	1 bedroom	2 bedrooms	3 bedrooms	4 plus bedrooms
Boston, Mass., area office:						
Non-SMSA counties:						
County:						
Barnstable	00410 Nonelevator	180	200	240	270	300
	Elevator	198	220	264	297	330
Dukes	00410 Nonelevator	180	200	240	270	300
	Elevator	198	220	264	297	330

[FR Doc.75-16304 Filed 6-23-75;8:45 am]

Title 39—Postal Service

CHAPTER I—U.S. POSTAL SERVICE

MISCELLANEOUS AMENDMENTS TO CHAPTER

Regulations codified under § 21.2(e) are amended to provide updated information on international reply coupons.

The Treasury Department's regulations on gold and gold certificates have been rescinded. (40 FR 16844) (April 15, 1975). Accordingly, postal regulations codified under §§ 21.3(a)(8), 21.3(b)(1), 31.2(a)(7) and 31.2(b)(2), which impose restrictions on export by mail of gold coin, gold bullion and gold dust exceeding $100 in value, and gold and gold certificates, are revoked. In addition, the entire Part 54, which implements the Treasury Department's regulations, is revoked.

Regulations codified under § 21.4(b) are amended by providing a revised and updated facsimile of a Customs Declaration form 2976-A.

The air rate chart contained in the regulations codified under § 22.1(a) has been corrected. Also, regulations codified under § 25.3 are revised for clarification:

Regulations codified under § 61.5(h)(1) are amended by revising the address where dutiable mail is to be forwarded or returned.

The list of inspection stations and offices contained in the regulations codified under § 62.3 is revised and updated.

Regulations codified under § 259.1(a) are amended to conform the present policy statement on performing services for other agencies with actual policy and procedures. In addition, regulations codified under § 259.1(b) are amended to provide updated information reflecting organizational and title changes.

Regulations codified under § 259.2(b) are revised to reflect the recent agreement signed by the Postal Service and the Red Cross pertaining to cooperative disaster relief.

Regulations codified under § 775.1(c), the enforceability by suit against the Postal Service of regulations voluntarily adopted by it, are revoked.

In addition, a number of minor, technical and clarifying amendments are made to the regulations.

(39 U.S.C. 401.)

ROGER P. CRAIG,
Deputy General Counsel.

Accordingly, the following amendments are effective immediately:

PART 21—CONDITIONS APPLICABLE TO ALL CLASSES

§ 21.2 [Amended]

1. Section 21.2 is amended as follows:

a. Paragraph (e)(1) is amended by striking the word "purchase" in the first sentence thereof and substituting the word "order" in lieu thereof.

b. Paragraphs (e)(5) and (e)(6) are redesignated (e)(6) and (e)(7) respectively.

c. Paragraphs (e)(2)–(4) are revised and new paragraph (e)(5) is added reading as follows:

§ 21.2 Postage.

* * * * *

(e) * * *

(2) International reply coupons (in French, Coupon—Response International) are printed in blue ink on paper which has the letters UPU in large characters in the watermark. The front of each coupon is printed in French. The reverse side of the coupon shows the text relating to its use in German, English, Arabic, Chinese, Spanish and Russian.

(3) United States post offices requisition reply coupons the same way they obtain postage stamps. The coupons should be stocked at offices that have a demand for them. The post office postmarks the coupon in the left circle at the time of sale. Unused U.S. Coupons may be redeemed by the original purchaser at a discount of 1 cent on the purchase price. The post office redeeming the unused coupons postmarks them in the unpostmarked circle.

(4) International reply coupons sold in other countries are exchangeable at U.S. post offices for postage stamps, aerogrammes, postcards or envelopes at the rate of 18 cents each. The post office exchanging a foreign coupon postmarks it in the right circle.

(5) Coupons printed prior to January 1, 1975 have the circles for the postmarks of the selling and exchanging post offices either on the left and right-hand sides, or both circles on the right-hand side. These two types of old coupons will bear the postmark of the issuing post office in the foreign country. The U.S. post office exchanging these foregin coupons must postmark them. Foreign coupons not properly postmarked by the foreign post office may be exchanged if there is no apparent reason to doubt their authenticity. Post offices must not accept foreign coupons that already bear a U.S.P.S. postmark. These coupons can be easily distinguished from the coupons described in §§ 21.2(e)(2) and 21.2(e)(3) since the name of the country that sold the old coupon is printed on it. The period of exchange of international reply coupons issued by the Universal Postal Union is unlimited.

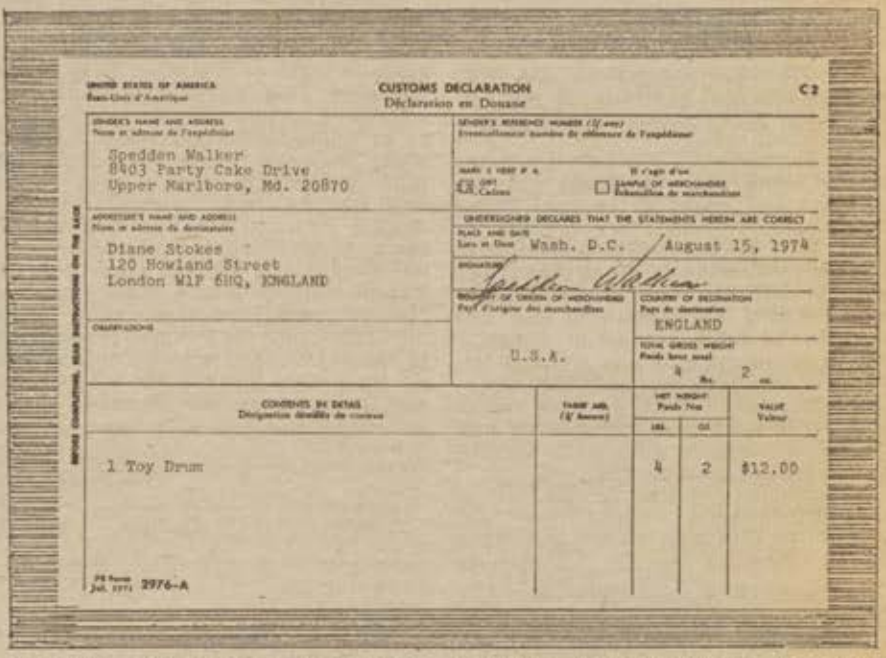
* * * * *

§ 21.3 [Amended]

2. In § 21.3, paragraphs (a)(8) and (b)(1) are revoked and reserved and paragraph (b)(6) is amended by striking out in the first sentence the words "Part 124 of this chapter" and substituting in lieu thereof the words "Postal Service Manual 124".

§ 21.4 [Amended]

3. In § 21.4, paragraph (b) is amended by deleting the present facsimile of a Customs Declaration form 2976–A and providing a revised and updated facsimile as follows:



UNITED STATES OF AMERICA
CUSTOMS DECLARATION
Déclaration en Douane
C2

Spedden Walker
8403 Party Cake Drive
Upper Marlboro, Md. 20870

Diane Stokes
120 Howland Street
London W1P 6HQ, ENGLAND

Wash. D.C. August 15, 1974

U.S.A.

ENGLAND

CONTENTS IN DETAIL		NET WEIGHT		VALUE
		LBS.	OZ.	
1 Toy Drum		4	2	$12.00

2976-A

PART 22—RATES AND CONDITIONS FOR SPECIFIC CLASSES

§ 22.1 [Amended]

4. In § 22.1, the air rate chart in paragraph (a)(2)(ii) is amended by striking in column 1 "1.10", the rate for 2½ ounces, and substituting "1.01" in lieu thereof.

PART 24—TREATMENT OF INCOMING POSTAL UNION MAIL

§ 24.4 [Amended]

5. Section 24.4 is amended as follows:

a. Paragraph (d)(1) is amended by striking "§ 159.4(b)" in the second sentence and substituting "Postal Service Manual 159.41b" in lieu thereof.

b. Paragraph (d)(2) is amended by striking "§ 159.4(a)" in the second sentence and substituting "Postal Service Manual 159.41a" in lieu thereof.

PART 25—ARTICLES MAILED ABROAD BY OR ON BEHALF OF SENDERS IN THE UNITED STATES

§ 25.2 [Amended]

6. In § 25.2, the first sentence is amended by striking the words "Finance Department" and substituting the words "Rates and Classification Department" in lieu thereof.

7. Section 25.3, is revised to read as follows:

§ 25.3 Mailing with U.S. postage not paid.

A mailing subject to § 25.1 received without payment of U.S. domestic postage having been made in advance will be held at the exchange office of receipt. The exchange office will report all such mailings to the International Mail Classification Branch, Mail Classification Division, Rates and Classification Department, U.S. Postal Service, Washington, D.C. 20260. Reports should contain (1) the title and/or nature of the articles, (2) identity of the mailer, (3) number of

pieces detained, (4) weight of a single piece, (5) foreign postage paid per piece and (6) the office of mailing. The exchange office will be advised to release the mailing when the applicable postage has been paid.

PART 31—OUTGOING PARCELS

§ 31.2 [Amended]

8. In § 31.2, paragraphs (a) (7) and (b) (2) are revoked and reserved.

PART 32—INCOMING PARCELS

§ 32.1 [Amended]

9. In § 32.1, paragraph (a) (5) (ii) is amended by deleting the words "§ 61.5 (d) or".

PART 54—[REMOVED]

10. Part 54—Treasury Department Regulations (Gold and Gold Certificates) is revoked in its entirety and reserved.

PART 61—CUSTOMS

§ 61.5 [Amended]

11. In § 61.5, paragraph (h) (1) is amended by adding the words "U.S. Customs Service" in the fifth sentence after the word "Division".

PART 62—PLANT QUARANTINE INSPECTION

12. Section 62.3, is revised to read as follows:

§ 62.3 Inspection stations and offices.

Inspectors of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, are stationed at the following places:

Anchorage, AL.
Astoria, OR.
Baltimore, MD.
Bangor, ME.
Baton Rouge, LA.
Blaine, WA.
Boston, MA.
Brownsville, TX.[1]
Buffalo, NY.
Calexico, CA.
Charleston, SC.
Chicago, IL.
Cleveland, OH.
Coos Bay, OR.
Corpus Christi, TX.
Dallas-Ft. Worth, TX.
Del Rio, TX.
Denver, CO.
Detroit, MI.
Douglas, AZ.
Dover AFB, DE.
Duluth, MN.
Eagle Pass, TX.[1]
El Paso, TX.
Fairfield, CA.
(Travis AFB).
Fort Lauderdale, FL.
Galveston, TX.
Atlanta Int'l Airport
(Hapeville, GA.).
Hidalgo, TX.
Hilo, HI.
Honolulu, HI.[1]
Houston, TX.
Jacksonville, FL.
Jamaica, NY.
(J. F. Kennedy Airport).[1]
Kansas City, MO.
Key West, FL.
Laredo, TX.[1]
Los Angeles, CA.[1]
McChord AFB, WA.
(Tacoma)
McGuire AFB,
(Wrightstown, NJ)
Memphis, TN.
Miami, FL.[1]
Milwaukee, WI.
Mobile, AL.
Morehead City, NC.
Nassau, BA.
New Orleans, LA.[1]
Newport News, VA.
New York, NY.[1]
Nogales, AZ.
Norfolk, VA.
Pensacola, FL.
Philadelphia, PA.
Phoenix, AZ.
Port Arthur, TX.
Port Canaveral, FL.
Portland, ME.
Portland, OR.
Presidio, TX.
Progreso, TX.
Roma, TX.
Rouses Point, NY.
St. Croix, VI.
St. Paul, MN.
St. Thomas, VI.
San Antonio, TX.
San Diego, CA.[1]
San Francisco, CA.[1]
San Juan, PR.[1]
San Luis, AZ.
Savannah, GA.
Seattle, WA.[1]
Tampa, FL.
Toledo, OH.
Tucson, AZ.
Wallingford, CT.
Warwick, RI.
Washington, DC.[1]
West Palm Beach, FL.
Wilmington, DE.
Wilmington, NC.

PART 222—DELEGATIONS OF AUTHORITY

§ 222.6 [Amended]

13. In § 222.6 paragraph (c) is amended by striking "§ 244.2" in the first line, and substituting "§ 244.1" in lieu thereof.

PART 259—SERVICES PERFORMED FOR OTHER AGENCIES

§ 259.1 [Amended]

14. In § 259.1:

a. Paragraph (a) is amended by striking the last sentence thereof and substituting the following in lieu thereof: "The Postal Service is reimbursed by the agency for which the work is performed."

b. Paragraph (b) is amended by striking the words "Communications and Public Affairs Department" in the first sentence and substituting the words "Customer Services Department" in lieu thereof.

[1] Inspection stations.

15. In § 259.2(b) is revised to read as follows:

§ 259.2 Red Cross.

* * * * *

(b) *Role of Postal Service.* The Postal Service and the Red Cross will share information on the whereabouts of persons displaced by disasters, and otherwise cooperate with each other, as follows:

(1) The Red Cross will use Form 3575, Change of Address Order, as a standard item in Red Cross disaster relief. It will urge disaster victims displaced from their homes to obtain and complete the forms, it will distribute the forms to disaster victims who need them, and it will collect from the victims and turn over to the Postal Service any completed forms received.

(2) The Postal Service will provide the Red Cross the blank forms needed.

(3) During each disaster and subsequent disaster relief efforts, the Postal Service will establish a separate file of change of address forms completed by disaster victims, and will make available to the Red Cross information in the file. This information will be used by the Red Cross only to locate individuals and families, to answer inquiries from relatives and friends concerning the whereabouts and welfare of the disaster victims, or to make contact with disaster victims who have applied for assistance from the Red Cross but who cannot be located because of a change of address.

(4) The Postal Service and the Red Cross will encourage appropriate local postal officials and Red Cross chapters to maintain contact with each other and to participate in local and community planning for disasters.

(5) When appropriate, the Postal Service and the Red Cross will meet and exchange information at the national headquarters level concerning the effectiveness of their joint efforts for disaster relief.

(6) Regional Postmasters General and Postal Inspectors in Charge are responsible for seeing that post offices implement these cooperative arrangements in disaster situations.

(7) The instructions in 259.2 serve as a broad framework within which field officials of both agencies may coordinate their facilities and resources. However, postal officials shall cooperate with Red Cross officials to the maximum feasible degree during times of natural disasters.

PART 775—ENVIRONMENTAL STATEMENT PROCEDURES

§ 775.1 [Amended]

16. In § 775.1, paragraph (c) is revoked.

PART 912—PROCEDURES TO ADJUDICATE CLAIMS FOR PERSONAL INJURY OR PROPERTY DAMAGE ARISING OUT OF THE OPERATION OF THE U.S. POSTAL SERVICE

§ 912.2 [Amended]

17. In § 912.2, paragraph (a) is amended by inserting the words "is considered" after the words "U.S. Postal Service,".

[FR Doc.75-16303 Filed 6-23-75;8:45 am]

Title 45—Public Welfare

SUBTITLE A—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE GENERAL ADMINISTRATION

PART 5—AVAILABILITY OF INFORMATION TO THE PUBLIC

Freedom of Information Regulations

On January 30, 1975, the Department issued a notice of proposed rule making (40 FR 4439) proposing to amend its regulation implementing the Freedom of Information Act in accordance with the Freedom of Information Amendments of 1974. In addition, on May 1, 1975, the Department published final amendments to the regulation implementing the decision of the United States Court of Appeals for the District of Columbia in Washington Research Project Inc. v. Department of Health, Education and Welfare (40 FR 18997). That amendment also adopted an agency-wide fee schedule. The Department is now considering other amendments to the regulation. Such further revision will require lengthy consideration prior to future publication as a proposed regulation. In the interim, the Department has decided to adopt the proposed regulation in final form in order to conform the regulation to the Freedom of Information Act Amendments of 1974. Unfortunately, the Department received no comments on the January 30 proposal, but because future amendments are being considered the Department again invites comments on the regulation in its entirety and in particular the statement of policy regarding nonavailability of certain grant applications expressed in the May 1 amendments.

In addition to the amendments proposed on January 30, certain other technical changes are being made. Certain organizational changes have been made since the last revision to the regulations. Those sections specifically making reference to the components of the Department are revised to reflect the current organization and also any section making reference to "operating agency" is deleted. The Department by internal order revised its organization terminology on September 3, 1974.

The Department also considers it necessary to revise §§ 5.72 and 5.73 regarding internal communications to resolve any ambiguity which may arise as a result of the clarification of the definition of agency in 5 U.S.C. 552(e).

The amendments are effective immediately.

Dated: June 19, 1975.

CASPAR W. WEINBERGER,
Secretary.

1. Section 5.2 is revised as follows:

§ 5.2 Department.

As used in this part, "Department" means the Department of Health, Education, and Welfare which consists of the Office of the Secretary and all components of the Department.

2. Section 5.3 is revised as follows:

§ 5.3 Principal operating components.

(a) Principal operating components are those major program organizations which report to the Secretary. There are five principal operating components: The Public Health Service, the Office of Human Development, the Education Division, the Social and Rehabilitation Service, and the Social Security Administration.

(b) The Public Health Service is comprised of the Office of the Assistant Secretary for Health, the Alcohol, Drug Abuse, and Mental Health Administration, Center for Disease Control, the Food and Drug Administration, the Health Resources Administration, the Health Services Administration, and the National Institutes of Health.

(c) The Education Division is comprised of the Office of the Assistant Secretary for Education, the Office of Education and the National Institute of Education.

(d) The Social Security Administration includes intermediaries and carriers performing functions under agreements entered into pursuant to sections 1816 and 1842 of the Social Security Act.

3. Section 5.4 is revised as follows:

§ 5.4 Heads of Office of the Secretary, Principal Operating Components, PHS Agencies and Education Agencies.

The heads of the Office of the Secretary and principal operating components are as follows:

Office of the Secretary—Secretary of Health, Education, and Welfare
Public Health Service—Assistant Secretary for Health
Office of Human Development—Assistant Secretary for Human Development
Education Division—Assistant Secretary for Education
Social and Rehabilitation Service—Administrator, Social and Rehabilitation Service
Social Security Administration—Commissioner of Social Security

The Secretary has delegated to the Assistant Secretary for Administration and Management those responsibilities vested by the regulation in heads of principal operating components.

4. Section 5.11 is revised as follows:

§ 5.11 Purpose and scope.

This part constitutes the regulation of the Department respecting the availability to the public, pursuant to the Act, of records of the Department. It informs the public what records are generally available. The components of the Department may issue implementing regulations which are consistent with this part. To the extent that they are consistent, existing implementing regulations remain in full force and effect.

5. Section 5.31 is amended as follows:

§ 5.31 Information centers or facilities.

(a) The Department maintains its Central Information Center at the following location:

Department of Health, Education and Welfare, North Building, 330 Independence Avenue, S.W., Washington, D.C. 20201.

* * * * *

(b) * * *

Region III—3535 Market Street, Philadelphia, Pa. 19104

* * * * *

Region V—300 South Wacker Drive, Chicago, Illinois 60606

(c) Centers are maintained for the principal operating components and their subsidiaries at the following locations:

* * * * *

Food and Drug Administration—
Public Records and Documents Center, 5600 Fishers Lane, Rockville, Md. 0852

* * * * *

Social and Rehabilitation Service
Mary E. Switzer Building
330 C Street, S.W., Washington, D.C. 20201
National Institute of Education
1200 19th Street, N.W., Washington, D.C. 20208

6. Section 5.32 (b) and (c) introduction are revised as follows:

§ 5.32 Information center officers.

* * * * *

(b) The Regional Information Center Officer in each Region shall have a like responsibility for records in his regional office. The Regional Information Center Officer in each Region shall be the Assistant Regional Director for Public Affairs.

(c) The Information Center Officer for each Information Center shall have a like responsibility for the records of his component. The Information Center Officer for the respective components shall be as follows:

* * * * *

7. Section 5.34 is revised as follows:

§ 5.34 Material in the information centers.

Materials maintained in information centers need not be uniform in each center. A center will normally have materials particularly related to the component's programs and mission. Every effort will be made by an information center to obtain, upon request, other materials available in the Department.

8. Section 5.51 is revised as follows:

§ 5.51 Procedure.

(a) A request for any information or record may be made at (1) The Department's Central Information Center, (2) any Regional Office Information Center, or (3) any subsidiary Information Center. A request may also be made at any appropriate office of the Department.

(b) Requests made at the Central or a Regional Office Information Center for information or records not located there shall, if reduced to writing by the requester, be forwarded to the proper office. If a request is made at any other Center or office of the Department and the information or record is not located where the request is made, the requester shall be referred to the proper Center or office,

or if the request is put in writing it may be forwarded to the proper office.

(c) A request should reasonably identify the requested record by brief description. Requesters who have detailed information which would assist in identifying the records requested are urged to provide such information in order to expedite the handling of the request. Envelopes in which written requests are submitted should be clearly identified as a Freedom of Information request.

(d) Determination of whether records will be released or withheld will be made within 10 working days from date of receipt in the office having custody of the records or the appropriate information center. This time may be extended by written notice for no longer than an additional 10 working days, only in unusual circumstances. Unusual circumstances mean:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(2) The need to search for, collect and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

If such extension is made, the requester will be notified in writing with an explanation of why the extension was necessary and the date on which a determination will be made.

9. Section 5.53 is revised as follows:

§ 5.53 Denial of request for records.

Written requests for inspection or copying of records shall be denied only by those officials listed in § 5.32, or their designees or as otherwise provided by regulation. Denials of requests shall be in writing and shall contain the reasons for the denial and provide the requester with appropriate information on how to exercise the right of appeal under Subpart G of this Part. Such notification shall also set forth the names and titles or positions of each person responsible for the denial of such request if such person or persons is other than the appropriate Information Center Officer.

10. Section 5.70 is revised as follows:

§ 5.70 Policy.

This subpart specifies the types of records which the Department shall, in keeping with its policy of fullest possible disclosure, make available for inspection and copying. For clarity and purposes of guidance, there are also set forth below the kinds or portions of records which generally will not be released, except as may be determined under § 5.74. The appendix to this part contains some examples of the kinds of materials which, in accordance with § 5.72, will generally be released and other materials which, in accordance with § 5.73, are not normally available. Implementing regulations (see § 5.11) may provide for disclosure of records beyond that provided for in § 5.72. In the event that any record contains both information which is disclosable and that which is not disclosable under this regulation, the nondisclosable information will be deleted and the balance of the record disclosed.

11. Section 5.71(a) is revised as follows:

§ 5.71 Protection of personal privacy and proprietary information.

* * * * *

(a) Except to the extent specifically otherwise provided by implementing regulations (see § 5.11), no disclosure will be made of information of a personal and private nature, such as information in personnel and medical files, in welfare and social security records and any other information of a private and personal nature.

* * * * *

12. Section 5.72(a) is revised as follows:

§ 5.72 Records available.

* * * * *

(a) *Correspondence.* Correspondence, relating to or resulting from the conduct of the official business of the Department, between the Department and individuals or organizations which are not agencies within the meaning of 5 U.S.C. 551(1) and 552(e).

* * * * *

13. Section 5.73 is revised as follows:

§ 5.73 Records not available.

The following types of records or information contained in any record, in addition to those prohibited by law from disclosure, are not available for inspection or copying, any provision of § 5.72 notwithstanding:

(a) *Intra-agency and inter-agency communications.* Communications within the Department other than those described in § 5.72(d) or between the Department or any other agency within the meaning of 5 U.S.C. 551(1) and 552(e), to the extent they reflect the views or judgment of the writer or of other individuals. If disclosure of any factual portion of the communication would indicate the views or judgment being withheld from disclosure, then such factual portions will also be withheld.

(b) *Investigatory files.* Investigatory files compiled for law enforcement purposes to the extent that production of such records would (1) interfere with enforcement proceedings, (2) deprive a person of a right to a fair trial or an impartial adjudication, (3) constitute an unwarranted invasion of personal privacy, (4) disclose the identity of a confidential source, and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (5) disclose investigative techniques and procedures or (6) endanger the life or physical safety of law enforcement personnel. For the purpose of this section "enforcement action" means any authorized action intended to abate, prevent, counteract, deter, or terminate violations of law and includes action involving possible civil, criminal, or administrative sanctions whether such sanctions involve adversary proceedings or other procedures, such as termination of benefits, protective measures, etc.

14. Section 5.74 is revised as follows:

§ 5.74 Further disclosure.

(a) Any official listed in § 5.4 and in the case of the Office of the Secretary, the Assistant Secretary for Administration and Management or their designees may in particular instances, except where prohibited by law, disclose documents or portions of documents described in § 5.73 if he determines that disclosure is in the public interest and is consistent with obligations of confidentiality and administrative necessity.

* * * * *

15. Section 5.81 is revised to read as follows:

§ 5.81 Time for initiation of request for review.

A person whose request has been denied may initiate a review by filing a request for review within (a) 30 days of receipt of the determination to deny or (b) within 30 days of receipt of records which are in partial response to his request if a portion of a request is granted and a portion denied, whatever is later.

16. Section 5.82 is revised to read as follows:

§ 5.82 By whom review is made.

(a) Requests for review of denials should be addressed to the Assistant Secretary for Administration and Management or his designee with respect to records of the Office of the Secretary and to the officials listed in § 5.4 with respect to records of their respective principal operating components.

(b) The decision on review, if adverse to the requester, shall be made only with the concurrence of the Assistant Secretary for Public Affairs or his designee and after consultation with the General Counsel or his designee.

17. Section 5.85 is revised to read as follows:

§ 5.85 Decisions on review.

(a) Decisions on review shall be in writing within 20 working days from receipt of the request for review. Extension of the time limit may be granted to the extent that the maximum 10-day limit on extensions has not been exhausted on the initial determination. Such extension may only be granted for the reasons enumerated in § 5.51(d).

(b) The decision, which constitutes final action of the Department, if adverse to the requester shall be in writing,

stating the reasons for the decision, and advising the requester of the right to judicial review of such decision.

(c) Failure to comply with time limits set forth in § 5.51 or in this subsection constitutes an exhaustion of the requester's administrative remedies.

[FR Doc.75-16323 Filed 6-23-75;8:45 am]

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 123—BILINGUAL EDUCATION

Interim Regulations

Notice of proposed rulemaking was published in the FEDERAL REGISTER on March 12, 1975 (40 FR 11590), setting forth amendments to the Bilingual Education Regulations published in the FEDERAL REGISTER on May 22, 1974 (39 FR 17963). As provided by section 431(b) of the General Education Provisions Act, as amended by section 509 of the Education Amendments of 1974, interested parties were invited to make comment upon the proposed regulation changes.

Pursuant to section 703(c) and section 732(c) of the Bilingual Education Act, the National Advisory Council on Bilingual Education, State and local educational agencies, appropriate organizations representing parents and children of limited English-speaking ability, and appropriate groups and organizations representing teachers and educators involved in bilingual education were consulted in the development of the regulations.

A. *Summary of Comments—Changes in the regulations.* The following written comments were submitted to the Office of Education regarding the content of the proposed amendments. After the summary of each comment, a response is set forth stating changes which have been made in the regulations, or the reasons why no change is deemed necessary. The comments are arranged in order of the sections of the final regulations.

1. *Section 123.02 Definitions—Comment.* One commenter suggested a change in the definition of the term "limited English-speaking ability" to include individuals who come from environments where a language other than English has a dominant influence. The commenter is concerned about Indian children who converse in the English language but are not fully competent in its written and oral usage.

Response. The term "limited English-speaking ability" as defined in § 123.02 of the proposed rule is taken from section 703(a)(1) of the amended Bilingual Education Act. It includes individuals who come from environments where a language other than English is dominant and, by reason thereof, have difficulty speaking and understanding instruction in the English language. Indian children who come from an environment where a language other than English is dominant would fall within the meaning of "limited English-speaking ability," if difficulty in speaking and understanding instruction in English results. Both the Act and regulations contain specific references to participation of Indian children (section 706 of the Act, 20 U.S.C. 880b-3a, and § 123.13(c) of the proposed regulation). Since the needs of such Indian children are already contemplated in the definition of "limited English-speaking ability" and, since the substitution of a phrase different from that in the statute would be unwarranted, no change is deemed necessary.

Comment. Two commenters objected to the requirement in the definition of the term "program of bilingual education" that, "In no event shall the program be designed for the purpose of teaching a foreign language to English-speaking children." One commenter suggested that the requirement be removed, because "* * * bilingual education should become part of the mainstream of American education * * * The child from limited English-speaking background and his classmate, who may be fluent in English, both benefit if each child's second language is given a place in the school curriculum." The other commenter suggested a liberal interpretation of the requirement so that participating English-speaking children be taught the native language of the limited English-speaking children. The commenter is concerned that the present requirement would "be used by reluctant school administrators as an excuse to further segregate students in a bilingual program, or it might be interpreted by those wanting bilingual education as a two-way street as prohibiting it."

Response. The requirement is taken from section 703(a)(4)(B) of the Bilingual Education Act, as amended by Pub. L. 93-380, and its inclusion is mandated by that section of the Act. It is explicitly mentioned in the Conference report on the amended Bilingual Education Act (Sen. Rept. No. 93-1026, at 149 (1974)). It is clearly appropriate that this provision be reflected in the program regulation.

The purpose of Title VII is not to provide general support for teaching a foreign language to children who speak English, but rather to provide assistance to local educational agencies in attempting to provide equal educational opportunity for children of limited English-speaking ability (section 702(a) of the Act). The statute and the regulations provide for the voluntary enrollment, in a program of bilingual education, of children whose language is English and who may already be receiving foreign language instruction in their regular curricula; such children may thereby acquire an understanding of the cultural heritage of children of limited English-speaking ability for whom the particular program of bilingual education is designed (Id. section 703(a)(4)(B) of the Act). However, such voluntary enrollment cannot alter the basic thrust of the program to aid those of limited English speaking ability.

The requirement that the program not be designed for the purpose of teaching a foreign language to English-speaking children is not intended to foster isolation of children of limited English-speaking ability nor preclude making bilingual education a "two-way street," but rather to prevent the diversion of program funds and energies to non-statutory purposes. The question of isolation or separation of children by langauge or ethnic background is addressed in § 123.12(d)(1) of the regulations. Since the regulation follows the statutory requirements, no change is deemed necessary.

Comment. One commenter recommended that various changes be made with respect to the definition of "teacher" with regard to State teacher certification requirements and suggested other requirements for consultation with teacher organizations or representatives concerning such matters as approval of bilingual education programs and consultation with teachers.

Response. The comment appears to relate to matters in the nature of local administration and is not appropriately within the purview of a program regulation in view of section 432 of the General Education Provisions Act.

2. *Section 123.12 Authorized activities—Comment.* Several commenters objected to the absence of any reference to inservice training in § 123.12.

Response. Section 123.12(a)(2) of the regulation (45 CFR 123.12(a)(2)), which provides for inservice training is not changed by the proposed regulation and remains in effect.

Comment. One commenter objected that there is no specific mention in § 123.12(h) that teachers employed in non-profit private schools working with children of limited English-speaking ability are eligible for teacher training activities and for fellowships under § 123.12-1.

Response. Section 123.15(a)(3) of the regulation requires that the local educational agency address the special educational needs of children of limited English-speaking ability enrolled in non-profit private schools to which the program is directed to the same extent as the special educational needs of children of limited English-speaking ability enrolled in the schools of the applicant local educational agency.

To the extent that such special educational needs (of non-public school children) include inservice or other training for teachers of children in non-public schools, nothing in the regulation precludes the local educational agency from addressing this type of need. Teachers in non-public schools would thus appear to be eligible to participate in LEA-administered teacher training activities, in accordance with the applicable provisions of the regulation.

With regard to the fellowship program, fellowships are awarded for a period of study in institutions of higher education for persons preparing to become trainers of teachers in bilingual education (viz. teachers of bilingual education in an institution of higher education). Fel-

lows are to pursue a program leading to an advanced degree in that field. Whether or not an applicant for a fellowship has (or has not) been affiliated with a non-public school (or for that matter, a public school) does not appear to be a relevant consideration with respect to the fellowship program. Presumably, the results of that program in terms of enhanced capacity for teacher training will inure to the benefit of children of limited English-speaking ability in public and non-public schools alike.

3. *Section 123.13 Applications. Comment.* Section 123.13(b)(5) of the current regulation provides for the submission of annual and other reports to the Commissioner. One commenter observed that more meaningful reports from project grantees are needed in order to assist the Office of Education in measuring overall program success, identifying projects which may warrant replication, and making meaningful funding decisions. The comment also recommended that OE establish specific minimum evaluation requirements, including the evaluation report format.

Response. The existing regulatory language provides a sufficient basis for requiring reports adequate to assist the Commissioner in the administration of the program. Current reporting forms and requirements (including evaluation reports) will be the subject of further review in light of the comment. In the event that amplifying or clarifying language is deemed necessary in the regulation, this will be considered in connection with the preparation of the regulation for fiscal year 1976.

Comment. One commenter noted the absence of reference to the requirement for State educational agency review of applications.

Response. Section 123.13(b)(8) of the current regulation, which is not altered by the March 12 proposed rule, provides that an application for assistance under the program must indicate that the appropriate State educational agency has been given a reasonable opportunity to review the proposed program.

4. *Section 123.14 Criteria. Comment.* One commenter questioned the advisability of criteria in § 123.14(a)(1)(i) and (ii) of the proposed regulation which set forth, as subcriteria for evaluating the relative need for assistance, the geographic distribution of children of limited English-speaking ability within the State and the relative need of persons in different geographic areas within the State for program services and activities. Alternatively, the commenter proposed that such criteria be based upon data furnished by State educational agencies, and that points awarded for such data should be applied to all applications submitted by school districts within the respective States.

Response. The geographic distribution of target children within the State and differences in relative need of children in various areas would appear to be appropriate and reasonable factors to assess in weighing relative need for assistance. Section 721(c) of the Bilingual Education Act, as amended by Pub. L. 93-380, provides that, in determining the distribution of funds under the Act, the Commissioner shall give priority to "areas having the greatest need for programs assisted under this title." The emphasis given this factor in the new legislation suggests the importance with which it is viewed by the Congress. The Office of Education is seeking to improve the data base upon which these criteria are applied by application reviewers to take into account data submitted by State educational agencies. Efforts at greater clarification with regard to these criteria will be pursued with respect to the fiscal year 1976 grant award cycle.

5. *Section 123.15 Participation of children enrolled in private schools—Comment.* One commenter suggested that the eligibility of children in a private school whose dominant language is not the dominant language of the children to be served in the public school by the proposed program be changed to include children in a private school "whose dominant language is effected (sic) by influences of another language which is not the dominant language of the children to be served in the public school by the proposed program."

Response. The thrust of the commenter's suggestion is to ensure that Indian children who converse in the dominant English language but are unable to comprehend and use the English language effectively be inclued in a program of bilingual education. Since Indian children are already included by the provisions of section 706(a) of the pre-Pub. L. 38-380 Act and such provision is implemented throughout the regulations, no change is deemed necessary.

Comment. A commenter objected to the provision in § 123.15(a) that gives an option to a local educational agency to provide bilingual education services to private school children whose dominant language is not the dominant language of the children served in the public school. The commenter feels that the Congressional intent does not permit any discretion on the part of the local educational agency and urges that the language "may at the option of the applicant" be deleted and be replaced by "shall."

Response. It is clear the Congressional intent is that eligible children enrolled in non-public schools share equitably in the benefits of the Bilingual Education Act (Sen. Rept. No. 93-1026, at 150). The statute states, "Applications for grants under this title may be approved by the Commissioner only if * * * the Commissioner determines * * * that, to the extent consistent with the number of children enrolled in non-profit private schools in the area to be served whose educational needs are of the type which this program is intended to meet, provision has been made for participation of such children." (§ 105(b)(3)(B) of the Act.)

This provision is susceptible to the construction that it applies only where the language served by the public school program is the same as the language to be served in the non-public school. Where the language served by the program in the public school and that served in the case of children attending non-public school are different, difficult problems of administration and consistency with statutory and other legal limitations are presented. This is particularly so where the differences in languages served preclude the applicant local educational agency from providing genuine and effective public supervision and direction with respect to services being provided to children in the non-public schools. In order to accommodate these competing considerations, the position worked out in the proposed rule is to authorize services, where the languages in question are different, at the option of the (relevant) local educational agency. The local educational agency electing this option must be in a position to provide the needed public supervision and direction necessary to ensure a quality program. This accommodation comports with the practice which has been followed to date under the program; its extension (or retrenchment) has been considered injurious to the purposes of the Act in meeting the needs of children in public and non-public schools alike.

The commenter also suggested various means of strengthening the regulation to carry out Congressional intent that equitable services be provided to children in non-public schools. However, the governing regulations for fiscal year 1975 already contain the provisions suggested by the commenter. (45 CFR § 123.15(c) and (d)).

6. Section 123.16 *Parent and community participation—Comment.* Numerous commenters objected to the requirement that the community advisory group be composed of, and selected by, parents of children of limited English-speaking ability. Strong objection was voiced to the absence of any provision for the participation of parents of children who are not of limited English-speaking ability, if these children participated in the program. In many cases, the commenters feel that the new statute would dismantle the advisory committees that have been established for bilingual education projects. The view was also expressed that English dominant parents should not be asked to enroll their children voluntarily in a bilingual education program, and at the same time be excluded from participating as advisory committee members.

Response. The composition of the community advisory group is governed by section 703(a)(4)(E) of the Act. The regulation reflects this provision, which clearly appears to reflect the intent of Congress on the point. However, the statute does not preclude the active participation of parents of participating English-speaking children, other than in terms of membership on the project committee, in advising, consulting, and working with the community advisory group in implementing a bilingual education program. In addition, § 123.16(a)(2)

of the regulations requires that, prior to submission of an application for assistance, an open meeting be held by the local educational agency to afford members of the public the opportunity to testify or otherwise comment regarding the subject matter of the application. Although parents of English-speaking children are not eligible to be formal members of the community advisory group, their active participation in the program is thus encouraged both before and after application. The Office of Education will continue to study closely whether other steps should be taken to accommodate the point of view of commenters with regard to this matter.

7. *Other comments.* Several commenters suggested requirements for which no authority can be found in the provision of the Bilingual Education Act effective in fiscal year 1975 and which, therefore could not be incorporated into the regulations, particularly with respect to implementation of or reference to various provisions of Part A of the Act, as amended by Pub. L. 93–380. In particular, comments calling for the implementation of provisions of section 721 of the Act relating to assistance to State educational agencies for programs of coordination of State technical assistance fall into this category. As stated in the notice of proposed rulemaking published in the FEDERAL REGISTER on March 12, 1975 (40 FR 11590), section 105(a)(2) of Pub. L. 93–380 directs that the provisions of the Bilingual Education Act in effect immediately prior to August 21, 1974 must form the basis for the grant-making authority in regulations except to the extent inconsistent with the amendments made by Pub. L. 93–380. New authority in Part A of the Act, as amended, is not implemented unless specifically authorized by law for fiscal year 1975 implementation.

The present regulation is an interim regulation applicable for fiscal year 1975. A regulation under the Bilingual Education Act is being prepared to implement the program for fiscal year 1976, the first fiscal year for which the act will be fully effective.

All comments received, including those suggesting further amplification and elaboration of requirements already set forth in the regulation, will be the subject of further consideration in connection with the development of the proposed rule relating to the program for fiscal years following fiscal year 1975.

It is expected that the new proposed regulation will be published early in fiscal year 1976 thus permitting a more ample opportunity for public comment and response thereto than has been possible with respect to the amendments published herein, given the time and legislative constraints applicable to rulemaking under the Bilingual Education Act for the current fiscal year. See e.g., section 431(d) of the General Education Provisions Act.

B. *Other changes.* A number of minor changes have been made to correct clerical errors or to affect technical matters.

After consideration of the above comments, Part 123 of Title 45 of the Code of Federal Regulations is amended to read as set forth below.

Effective date. Pursuant to section 431 (d) of the General Education Provisions Act, as amended (20 U.S.C. 1232 (d)), these amendments to part 123 of Title 45 CFR were submitted to the Congress concurrently with the publication of the notice of proposed rulemaking in the FEDERAL REGISTER on March 12, 1975. The time period set forth therein for congressional action has expired without such action having been taken. Therefore, these amendments are effective June 24, 1975.

(Catalog of Federal Domestic Assistance Program No. 13.403, Bilingual Education.)

Dated: June 5, 1975.

T. H. BELL,
U.S. Commissioner of Education.

Approved: June 19, 1975.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

Part 123 of Chapter I of Title 45 of the Code of Federal Regulations is amended as follows:

1. Section 123.01(b) is revised to read as follows:

§ 123.01 Purpose and scope

* * * * *

(b) This part applies only to the provision of assistance to eligible recipients under the Bilingual Education Act.

(20 U.S.C. 880b)

2. Section 123.02 is revised to read as follows:

§ 123.02 Definitions.

As used in this part (except as otherwise defined by an applicable statute or regulation):

"Act" means the Bilingual Education Act as amended.

(20 U.S.C. 880b–880b–12)

"Dependent" means any of the following persons over half of whose support, for the calendar year in which the school year begins, was received from the fellow or participant:

(a) A spouse,

(b) A child, or descendant of such child, or stepchild,

(c) A brother or sister,

(d) A brother or sister by the half blood,

(e) A stepbrother or stepsister,

(f) A parent, or ancestor of such parent,

(g) A stepfather or stepmother,

(h) A son or daughter of fellow's or participant's brother or sister,

(i) A brother or sister of fellow's or participant's father or mother,

(j) A son-in-law, or daughter-in-law, or father-in-law, or mother-in-law, or brother-in-law, or sister-in-law,

(k) A person (other than the fellow's or participant's spouse) who, during the fellow's or participant's entire calendar year, lives in the fellow's or participant's home and is a member of the fellow's or participant's household (but not if the relationship between the person and the fellow or participant is in violation of local law), or

(l) A cousin (descendant of a brother or sister of the fellow's or participant's father or mother) who, during the fellow's or participant's calendar year, is receiving institutional care on account of a physical or mental disability, and before receiving such care was a member of the same household as the fellow or participant,

(m) A legally adopted child or a child placed in the fellow's or participant's home for adoption by an authorized agency is considered to be a child by blood,

(n) A citizen of a foreign country may not be claimed as a dependent, unless he is a resident of the United States, Canada, Mexico, Panama or the Canal Zone, at some time during the calendar year in which the school year of the fellow or participant begins, or is a resident of the Philippines, born to or adopted by, a fellow or participant while he was a member of the Armed Forces, before January 1, 1956, or is an alien child legally adopted by and living with a fellow or participant as a member of his household for the entire calendar year.

(20 U.S.C. 880b–9(a)(2),(3))*

"Dominant langauge" means the language most relied upon for communication in the home.

(20 U.S.C. 880b–880b–5)

"Fellowship" means an award under this part to an individual to enable him to participate in a program of study in the field of training teachers for bilingual education.

(20 U.S.C. 880b–9(2))*

"Fellow" means an individual who has been awarded a fellowship under this Part.

(20 U.S.C. 880b–9(2))*

"Institution of higher education" means an educational institution in any State which meets the requirements set forth in section 881(e) of the Elementary and Secondary Education Act of 1965, as amended.

(20 U.S.C. 880b–3(a), 881(e))

"Limited English-speaking ability," when used with reference to an individual, means—(a) Individuals who were not born in the United States or whose native language is a language other than English, and (b) Individuals who come from environments where a language other than English is dominant, and by reason thereof, have difficulty speaking, and understanding instruction in, the English language.

(20 U.S.C. 880b–1(a)(1))*

"Local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service

function for, public elementary or secondary schools in a city, county, township, school district, or other political sub-division of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school. In addition, such term includes a non-profit institution or organization of an Indian tribe which operates on or near a reservation an elementary or secondary school for Indian children and which is approved by the Commissioner of Education for purposes of this part, and an elementary or secondary school for Indian children on a reservation which is operated or funded by the Department of the Interior.

(20 U.S.C. 880b-3a, 881(f))

"Low-income", when used with respect to a family, means an annual income (for such a family) which does not exceed the low annual income determined pursuant to section 103 of Title I of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 93-380 (on the basis of the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census).

(20 U.S.C. 880b-1 (a)(3))*

"Program of bilingual education" or "bilingual education program" means a program of instruction, designed for children of limited English-speaking ability in elementary and secondary schools, in which with respect to the years of study to which such program is applicable (a) there is instruction given in, and study of, (1) English and, (2) (to the extent necessary to allow a child to progress effectively through the educational system) the native language of the children of limited English-speaking ability; (b) such instruction is given with appreciation for the cultural heritage of such children, and, (c) with respect to elementary school instruction, such instruction is given, to the extent necessary, in all courses or subjects of study which will allow a child to progress effectively through the educational system. A program of bilingual education shall also meet the requirements of section 703(a)(4)(B)-(E) of the Act, which are as follows:

(1) A program of bilingual education may make provision for the voluntary enrollment to a limited degree therein, on a regular basis, of children whose language is English, in order that they may acquire an understanding of the cultural heritage of the children of limited English-speaking ability for whom the particular program of bilingual education is designed. In determining eligibility to participate in such programs, priority shall be given to the children whose language is other than English. In no event shall the program be designed for the purpose of teaching a foreign language to English-speaking children. (See § 123.12(d)(1))

(2) In such courses or subjects of study as art, music, and physical education, a program of bilingual education shall make provision for the participation of children of limited English-speaking ability in regular classes.

(3) Children enrolled in a program of bilingual education shall, if graded classes are used, be placed, to the extent practicable, in classes with children of approximately the same age and level of educational attainment, as determined after considering such attainment through the use of all necessary languages. If children of significantly varying ages or levels of educational attainment are placed in the same class, the program of bilingual education shall seek to insure that each child is provided with instruction which is appropriate for his or her level of educational attainment.

(4) An application for a program of bilingual education shall be developed in consultation with parents of children of limited English-speaking ability, teachers, and, where applicable, secondary school students, in the areas to be served, and assurances shall be given in the application that, after the application has been approved under this part, the applicant will provide for participation by a committee composed of, and selected by, such parents, and, in the case of secondary schools, representatives of secondary school students to be served.

(20 U.S.C. 880b-1(a)(4)*; Sen. Rep. No. 93-1026, at 148-49(1974))

"Special educational needs" means the particular educational requirements of children of limited English-speaking ability, the fulfillment of which will provide them with equal educational opportunity.

(20 U.S.C. 880b)

"State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(20 U.S.C. 881(j))

"Stipend" means the allowance paid to a participant in a training program or fellow for subsistence and other expenses for such participants and their dependents under this part.

(20 U.S.C. 880b-9 (2), (3)*, 880b-2(b))

"Teacher" means an individual providing instruction in a program of bilingual education and, for the purposes of this part, also includes other pupil-service personnel, such as librarians, counselors, school social workers, child psychologists, and educational media specialists participating in such programs.

(20 U.S.C. 880b-2(b))

"Teacher aide" means a person who assists a teacher in the performance of his professional teaching duties in a program of bilingual education. Such term does not include persons in positions such as clerk to a principal, food-handlers in a cafeteria or in other jobs not related to the teaching-learning process.

(20 U.S.C. 880b-2(b))

"Traineeships" means awards to individuals from grants to local educational agencies applying jointly with institutions of higher education to provide financial assistance in pursuing a degree and/or credentials in bilingual education.

(20 U.S.C. 880b-2(b))

3. Section 123.12 is amended as follows: Subparagraph (1) of paragraph (a) is revised, paragraph (d) is revised, and a new paragraph (h) is added. Such revisions read as follows:

§ 123.12 Authorized activities.

(a) * * *

(1) Planning for and taking other steps leading to the development of bilingual education programs (as defined in § 123.02) designed to meet the special educational needs of children of limited English-speaking ability in schools having a high concentration of such children from low-income families (as defined in § 123.02) including research projects, pilot projects, resource centers, materials development centers, and dissemination/assessment centers designed to test the effectiveness of plans so developed and to develop and disseminate special instructional materials (including tests) for use in bilingual education programs. For the purpose of this part: a resource center means a set of activities under a project designed to provide direct services such as personnel training in the use of materials and resources and field testing of materials for bilingual education programs for use by local educational agencies and institutions of higher education. A materials development center means a set of activities under a project designed to develop instructional materials for bilingual education programs and education personnel training materials for utilization in resource centers and other bilingual education projects. A dissemination/assessment center means a set of activities under a project designed to publish and distribute materials developed for bilingual education programs and to evaluate the appropriateness and effectiveness of materials for such programs.

(20 U.S.C. 880b-2(a); H.R. Rep. No. 93-1378, at 12 (1974); Sen. Rep. No 93-763, at 43 (1974))

* * * * *

(d)(1)(i) A program assisted under this Part shall include such provisions as are necessary to prevent the separation of children by language or ethnic background in any activity included in such programs, unless the applicant demonstrates that such separation for a portion of the school day for specific language learning activities is essential to the achievement of the purpose of this part.

(ii) Nothing in this part shall be interpreted or applied to authorize isolation of children of limited English-speaking ability by language or ethnic background for a substantial portion of the school day.

(2) No child of limited English-speaking ability attending a school having a high concentration of the children described in paragraph (a)(1) of this section shall be prohibited from participating in a program assisted under this part on the ground that such child is not a member of a low-income family as defined in § 123.02.

(20 U.S.C. 880b, 880b-2, 880b-3 (a)(3), 880b-3 (b)(3)(A); Sen. Rep. No. 91-634, at 56 (1970); 42 U.S.C. 2000d-2000d-4)

* * * * *

(h) *Training.* (1) Preservice training grants under paragraph (a)(2)(i) of this section may be awarded to an institution of higher education applying jointly with one or more local educational agencies to provide traineeships leading to a degree and/or credential, as appropriate, to persons preparing to participate in the conduct of programs of bilingual education. Selection of candidates for traineeships under this part shall be made jointly by the applicant local educational agency or agencies and the institution of higher education. They shall give priority to applicants who are participating in bilingual education programs and have demonstrated a high interest and competency in a bilingual education program. The traineeship under this section may not exceed $3,500. Allowable costs shall include stipends, tuition, books, travel, tutoring, counseling and other training costs related to the traineeship as required by the institution of higher education.

(2) For the purpose of obtaining an appropriate distribution of high quality programs for training bilingual education personnel, grants for training programs under this part may include assistance to institutions of higher education, which apply jointly with one or more local educational agencies, to pay part of the cost (not otherwise covered under this part) of developing or strengthening higher education or graduate programs in bilingual education which meet, or, as a result of the assistance received under this subsection, which will enable the institution to meet (i) individual needs and (ii) encourage reform, innovation, and improvement in applicable education curricula in graduate education, in the structure of the academic profession, and in recruitment and retention of higher education and graduate school faculties, as related to bilingual education.

(20 U.S.C. 880b-2(b), Sen. Rep. No. 93-763, at 43, 370 (1974))

4. A new § 123.12-1 is added after § 123.12. It reads as follows:

§ 123.12-1 Fellowships for teacher training.

(a) *General.* The Commissioner may arrange for awarding fellowships for persons preparing to become trainers of teachers in bilingual education pursuant to this section. For the fiscal year ending June 30, 1975, the Commissioner will undertake to award not less than 100 such fellowships.

(b) *Requests for participation by institutions.* (1) In order to effectuate the purposes of this section, the Commissioner will entertain requests for participation under this section from institutions of higher education proposing to carry out graduate or other programs leading to an advanced degree in the field of training teachers for bilingual education.

(2) Such requests for participation shall indicate the number of fellowships which the institution is prepared to sponsor and shall contain information as to the nature of the program to be carried out by such institution, including information with respect to the faculty, facilities and equipment pertaining to such program and such other information as the Commissioner deems necessary to enable him to assess the capacity of the institution and of such program to fulfill the purposes of the Act or to to make the determinations under this part.

(3) Notwithstanding the provisions of § 123.11(a), an institution of higher education submitting a request for participation under this paragraph may (but need not) submit such request jointly with one or more local educational agencies but must consult with one or more such agencies (having a substantial number of children of limited English-speaking ability) with respect to the program to be carried out by such institution. Such request shall describe such consultation.

(c) *Approval of requests.* (1) In approving requests under paragraph (b) of this section, and in making any allotment of fellowships which may be necessary, the Commissioner will consider the information specified in paragraph (b) of this section and the relative need for teachers, for programs of bilingual education, of various groups of individuals with limited English-speaking ability.

(2) The Commissioner will notify each institution of higher education which has submitted a request pursuant to paragraph (b) of this section whether such request has been approved.

(d) *Award of fellowships to individuals.* (1) An individual seeking a fellowship under this section shall submit an application for such fellowship (in such form and detail as prescribed by the Commissioner) through an institution of higher education with a request approved under paragraph (c).

(2) From among those individual applicants which it accepts for study, such institution shall make nominations to the Commissioner. Wherever possible the institution should nominate alternates in addition to the regular nominations.

(3) To be eligible for a fellowship, an individual must (i) be willing to pursue a full-time graduate or other program leading to an advanced degree in bilingual education teacher training and (ii) be either a citizen or national of the United States or be in the United States for other than a temporary purpose and have the intention of becoming a permanent resident thereof, or be a permanent resident of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands.

(4) The commissioner will award fellowships to individuals selected by him from among those nominated as described in this paragraph. In making such selections, the Commissioner will be guided by the relative need for teachers, for programs of bilingual education, of various groups of individuals with limited English-speaking ability and by available indicia as to the likelihood that individual nominees will, after the fellowship period, pursue a permanent career in bilingual education teacher training. Each individual nominated will be advised as soon as practicable of the action taken by the Commissioner on his nomination.

(e) *Stipends.* (1) A fellowship under this section will include a stipend, and, where applicable, an allowance for dependents as defined in § 123.02. Such allowance shall be consistent with that provided under comparable Federally supported programs, as determined by the Commissioner. Tuition and fees will be paid out of the fellowship award. A fellowship under this section shall not exceed $6,000 per annum.

(2) A stipend shall be paid only to a fellow who is enrolled and in good standing in a graduate or other program leading to an advanced degree in bilingual education teacher training.

(3) In order to remain eligible for payment of stipends, a fellow must maintain satisfactory progress in the program of study for which the fellowship was awarded and must continue to pursue a full-time course of study without gainful employment except as provided in paragraph (e)(4) of this section.

(4) A fellow may not engage in gainful employment during the period of a fellowship award under this part which will delay satisfactory progress toward completion of the course of study.

(20 U.S.C. 880b-9(a)(2), (3); Sen. Rep. No. 93-1255, at 18 (1974); Sen. Rep. No. 93-1026, at 151-52 (1974))

5. Section 123.13 is revised by adding a new paragraph (b)(11) and a new paragraph (c). Such revisions read as follows:

§ 123.13 Applications.

* * * * *

(b) * * *

(11) *Identification of target children and needs.* The manner and methods by which the applicant has identified the children with limited English-speaking ability who are to be reached, has measured the degree of such limited English-speaking ability for such children, and has assessed the need of such children.

(c) *Information pertaining to Indian institutions and organizations.* In addition to the assurances and information required in paragraph (b), applications

submitted by non-profit institutions or organizations of Indian tribes operating elementary and secondary schools for Indian children shall include (1) evidence that the schools operated prior to the request for funds under this part and description of such schools, and (2) evidence of their non-profit status in order for the Commissioner to approve such organizations as eligible applicants for the purposes of section 706 (a) of the Act, as added by Pub. L. 91-230. Any of the following shall be acceptable evidence of non-profit status:

(i) A reference to the organization's listing in the Internal Revenue Service's most recent cumulative list of organizations described in section 501(c)(3) of the Internal Revenue Code as tax exempt,

(ii) A copy of currently valid Internal Revenue Service tax exemption certificate,

(iii) A statement from a State taxing body or the State attorney general certifying that the organization is a non-profit organization operating within the State and that no part of its net earnings may lawfully inure to the benefit of any private shareholder or individual,

(iv) A certified copy of the organization's certificate of incorporation or similar document if it clearly establishes the non-profit status of the organization,

(v) Any of the evidence described in paragraph (c)(2) (i) through (iv) of this section which applies to a State or national parent organization, and a statement by the parent organization that the applicant organization is a local non-profit affiliate.

(20 U.S.C. 880b-3a(a))

6. Section 123.14 is amended as follows: Paragraph (a) is revised, paragraph (b) is revised, and new paragraphs (c), (d) and (e) are added. Such revisions read as follows:

§ 123.14 Criteria for competition for assistance.

(a) *General criteria.* In approving applications for assistance under this part (except as provided in paragraph (b)), the Commissioner will apply 225 points distributed according to the following criteria:

(1) *Relative need for assistance.* (50 points) The extent to which the educational needs identified and addressed in the application are for programs reaching areas having the greatest need for assistance under this part determined on the basis of the following:

(i) (10 points) The geographic distribution of children of limited English-speaking ability within the State;

(ii) (10 points) The relative need of persons in different geographic areas within the State for the kinds of services and activities described in § 123.12;

(iii) (10 points) The extent to which the educational approach, method, or technique to be demonstrated by the program has not previously been the object of assistance under the Act in the project area;

(iv) (10 points) The extent to which there is a need for additional demonstration of the educational approach, method, or technique involved in the program with respect to the target population for which the program is designed and with respect to bilingual education programs for children with the particular dominant language concerned;

(v) (10 points) The relative intensity of the educational needs of the children for whom the project is designed.

(Sen. Rep. No. 93-763, at 43-45 (1974); Sen. Rep. No. 93-1255, at 18 (1974); Sen. Rep. No. 93-1026, at 151 (1974))

(2) *Target population and program objectives.* (25 points)

(i) (5 points) The extent to which the educational needs identified and addressed in the application are clear and specific and relate the purpose of § 123.01.

(ii) (15 points) The extent to which evidence presented by documented objective data demonstrates the existence of students with needs described in § 123.12(a)(1) by indicating:

(A) (5 points) The number and percentage of children of limited English-speaking ability between the ages of 3 and 18 inclusive, residing in the school district served by the applicant agency; and

(B) (5 points) The numbers of such children enrolled in the school or schools which the proposed project is intended to serve, both public and non-public; and

(C) (5 points) The percentage of such children for which funds are being requested within the project school or schools, both public and non-public.

(iii) Statement of objectives. (5 points) The extent to which the application sets forth unattained objectives and plans for attaining them in relation to the needs assessed and to specific identified paragraphs in § 123.12, which are interrelated, specific, measurable, and realistically attainable within the specified periods.

(3) *Results or benefits expected.* (25 points) (i) Evaluation. (20 points) The extent to which the application sets forth quantifiable measurement of the success of the proposed program in attaining the stated objectives including: (A) a statement of the criteria by which attainment of objectives is to be measured; (B) a description of the instruments to be used to collect data for evaluation of the proposed program (and the method to be used to validate such instruments where necessary), or a description of the procedure to be employed in selecting such instruments; (C) an assessment of the validity of such instruments when used to evaluate the language skills, academic achievement, academic aptitude, or general intelligence of children whose dominant language is other than English; (D) a time table for the collection of data for evaluation, and a description of the method to be used to review the program in light of such data; and (E) provisions for comparison of evaluation results with norms, control group performance, results of other programs, or other external standards.

(ii) Dissemination. (5 points) The extent to which the application sets forth provisions for (A) disseminating the results of the program and (B) making materials, techniques, and other outputs resulting therefrom available to persons residing in the school district served by the applicant local educational agency, the general public, and those concerned with the educational opportunities of children of limited English-speaking ability.

(4) *Approach.* (65 points) (i) Activities. (20 points) (A) The extent to which the activities included in the proposed program (I) are defined in reference to authorized activities specified in § 123.12 and (II) assure positive results in the attainment of the applicant's stated objectives, and (B) in the case of an applicant which received assistance under this part during the fiscal year prior to the fiscal year for which assistance is sought, the extent to which the applicant demonstrates, by evaluation reports and other objective evidence, that any program proposed to be continued has made substantial progress in meeting the special educational needs of children of limited English-speaking ability;

(ii) Use of educational resources. (5 points) The extent to which the applicant proposes to utilize the expertise and cultural and educational resources described in § 123.13(b)(7).

(iii) Parent and community involvment. (10 points) The extent to which the application (A) delineates specific opportunities for the participation of the community advisory group described in § 123.16 in the planning, implementation, operation, and evaluation of the proposed program and (B) includes evidence that such participation has been encouraged and has in fact occurred;

(iv) Concentration. (5 points) The degree to which the program is sufficiently restricted in size and scope in relation to the nature of the program to avoid jeopardizing its effectiveness in meeting its objectives.

(v) Program administration. (5 points) The extent to which the application sets forth (A) a plan for meeting the logistical requirements of the proposed activities including a description of adequate and conveniently available facilities and equipment; (B) a statement of methods of administration that will ensure the proper and efficient operation of the proposed program; and (C) a statement of fiscal control and fund accounting for funds made available under this part;

(vi) Resource management. (10 points) The extent to which the application contains evidence that (A) the costs of program components are reasonable in relation to the expected benefits; (B) the proposed program will be coordinated with existing efforts; and (C) all possible efforts have been made to minimize the amount of funds requested for purchase of equipment necessary for implementation of the proposed program;

(vii) Continuation of program. (10 points) The extent to which the proposed

program is designed in such a manner as to facilitate the continuation of such program as part of the regular school program of the applicant local educational agency upon the unavailability of assistance under this part.

(5) *Staffing.* (60 points) The extent to which the application:

(i) (10 points) Sets forth an adequate staffing plan which includes provisions for making maximum use of the best available staff capabilities, including the director,

(ii) (10 points) Provides for the continuing training of professional and paraprofessional staff which will assist the applicant in increasing the effectiveness of the proposed program,

(iii) (40 points) Indicates that the personnel to be employed in the program possess qualifications relevant to the objectives of the program.

(20 U.S.C. 880b-1(b), 880b-3(a) (2), (3), (5), (6), and (8), 880b-3(b) (1) and (2), 880b-3(b) (3) (A), 1231d; Sen. Rep. No. 90-726, 49 (1967); Sen. Rep. No. 91-634, 57 (1970))

(b) *Funding categories.* (1) The Commissioner may make awards for bilingual education programs under this part on a project period basis. (See § 100.1) The duration of the project will reflect only the minimum period needed to carry out the demonstration or other approved objective involved in the program. Award decisions for fiscal years during the project period but subsequent to the initial fiscal year of award will be based upon an evaluation of the progress of the program in meeting its objectives.

(2) Applications for such "continuation awards" in subsequent fiscal years during the project period will not be competitive with applications for new programs and will be rated under the criteria in this section only if funds are insufficient to support all satisfactory continuation programs.

(3) Following the expiration of the project period for a particular program, an application for further assistance with respect to such program shall be evaluated and rated in accordance with the criteria in this section in competition with other applications evaluated thereunder.

(4) In approving applications for assistance under this part, the Commissioner shall take into consideration any recommendations offered by the appropriate State educational agency to the extent such recommendations are consistent with the criteria set out in this section.

(20 U.S.C. 880b-1(b), 880b-3(a)(3), 880b-3(b)(1), (b)(2), Sen. Rept. No. 93-763, at 43-45, (1974); Sen. Rep. No. 93-1255, at 18 (1974))

(c) *Criteria for training activities.* The Commissioner will apply the following criteria to projects involving training activities under § 123.12 in cases where institutions of higher education apply jointly with a local educational agency, (90 points distributed as follows):

(1) (10 points) The extent to which the applicant (or applicants) possesses demonstrated competence and experience in the field of bilingual educational training as evidenced by such factors as (i) the number of bilingual students enrolled (ii) the number of bilingual personnel employed (iii) the nature and type of involvement within bilingual education local educational agency(s);

(2) (10 points) The extent to which a program or project leads toward a degree or credential in bilingual education;

(3) (10 points) The extent to which a program or project is an integral part of the institution;

(4) (10 points) The extent to which the program or project will increase the capability of an institution to train educational personnel in bilingual education;

(5) (10 points) The extent to which the proposed program or project is coordinated with, or supportive of, local educational agency projects or other projects funded under the Act;

(6) (10 points) The extent to which the proposed program or project is directed toward the educational personnel needs of a particular school district(s) serving children of limited English-speaking ability;

(7) (10 points) The extent to which the proposed program includes effective procedures for evaluating the impact of the program or project;

(8) (10 points) The extent to which the trainees will be trained and be able to teach in academic subjects in the non-English language involved;

(9) (10 points) The extent to which the proposed program or project is directed toward training education personnel to identify and deal with individual learning problems related to limited English speaking ability.

(20 U.S.C. 880b-3(a)(3), 880b-3(b)(2))

(d) *Criteria for curriculum activities.* In addition to the criteria in paragraph (a), the Commissioner shall apply the following criteria to those applications which propose centers as described in § 123.12(a)(1):

(1) The extent to which the center will result in the development of educational services, materials and curricula for bilingual education in the areas of greatest need and with respect to language groups for which the need for curriculum materials development is particularly acute;

(2) The extent to which the center will have an effective and efficient delivery system of services for bilingual education programs;

(3) The extent to which the center will have the administrative capability to respond to the need for bilingual education programs; and

(4) The extent to which the center has the resources to carry out the proposed activities.

(20 U.S.C. 880b-3(a)(3), 880b-3(b)(2))

(e) *Application of criteria.* (1) In the case of a program involving training to be carried out in whole or in part by an institution of higher education, the training component of the application shall be evaluated in accordance with the criteria in paragraph (c) of this section. Applications for training assistance will be rated and ranked in accordance with such evaluation, except that consideration will be given only to applications involving instructional components in the fundable range as determined in accordance with the criteria in paragraph (a) of this section through the establishment of a minimum point score. Approval of the instructional component of a program will not, however, necessarily lead to approval of the training component.

(2))The Commissioner will reserve $16,000,000 of that part of the appropriations to carry out the provisions of this part which does not exceed $70,000,000 for all training activities and will reserve for such activities 33⅓ per centum of that part which is in excess of $70,000,000.

(3) In the case of a project involving a center as described in § 123.12(a)(1), the application involving the project will first be evaluated, in its entirety, in accordance with the criteria in paragraph (a) except that all applications proposing such a center applying jointly as a consortia composed of two or more local educational agencies applying jointly with one or more institutions of higher education shall receive up to 20 additional points for the proposed center component only. Such project will also be evaluated in accordance with the criteria in paragraph (d) of this section. Applications will be ranked on the basis of such rating in paragraph (a) of this section and the evaluation under paragraph (d) of this section. Consideration will be given only to applications which receive a point score in excess of a minimum point score established on the basis of available funds.

(20 U.S.C. 880b-3(b)(2), 880b(b)(3)*, Sen. Rep. No. 93-763 at 43-45 (1974))

7. Paragraph (a) of § 123.15 is revised to read as follows:

§ 123.15 Participation of children enrolled in private schools.

(a) *Assurances.* (1) Applications submitted under this part shall contain an assurance that, to the extent consistent with the number of children of limited English-speaking ability enrolled in nonprofit private schools in the area to be served, provision has been made for the participation of such children in the proposed program. Such participation may, at the option of the applicant, involve children in a private school whose dominant language is not the dominant language of the children to be served in the public school by the proposed program.

(2) An applicant shall provide satisfactory assurance that it is in a position to maintain administrative direction and control over the components of the proposed program in which such private school children participate and is in a position to provide such public school or other publicly provided personnel (hav-

ing competence in the dominant language of such private school children) as are necessary for the implementation of a quality bilingual education program for such children.

(3) Applications shall contain a description of the provisions which have been made for such participation. Such provisions shall assure that the special educational needs of such children enrolled in private schools to which the program is directed are addressed to the same extent as the special educational needs of children of limited English-speaking ability enrolled in the schools of the applicant local educational agency.

(20 U.S.C. 880b-3(b)(3)(B), Sen. Rep. 93-1026, at 150 (1974))

8. § 123.16 is amended as follows: Paragraph (a) is revised and paragraph (c) is revised. Such revisions read as follows:

§ 123.16 Parent and community participation.

(a) *Assurances.* (1) Applications submitted under this part shall contain an assurance (i) that parents of children of limited English-speaking ability, teachers, and where applicable, secondary school students, in the areas to be served, were consulted in the development of an application for a program of bilingual education; (ii) that the applicant local educational agency will consult with a community advisory group established in accordance with paragraph (c) of this section at reasonable intervals (in formal meetings open to the public) with respect to the administration and operation of any program assisted under this part; (iii) that such agency will provide such group with a reasonable opportunity periodically to observe (upon prior and adequate notice to such agency and at such time or times as such groups and such agency may agree) and comment upon all activities included in any program assisted under this part; and (iv) that such agency will make such provisions as are necessary to insure the participation of such group in the evaluation of any program assisted under this part.

(2) No application for assistance under this Act may be considered unless the local educational agency making such application certifies to the Commissioner that members of the public have been afforded the opportunity upo. reasonable notice to testify or otherwise comment regarding the subject matter of the application.

* * * * *

(c) *Composition of community groups.* The community advisory group required by this section shall be composed of, and selected by, parents of children of limited English-speaking ability in the areas to be served, and in the case of secondary schools, representatives of secondary school students to be served.

(20 U.S.C. 1231(d); 20 U.S.C. 880b-1(a)(4)(E)*; 20 U.S.C. 887c; Sen. Rep. No. 91-634, 57 (1970))

[FR Doc.75-16324 Filed 6-23-75;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[ECC 75-688]

PART 0—COMMISSION ORGANIZATION

Chief, Cable Television Bureau; Delegation of Authority

1. In February 1975, the Commission revised and expanded its delegations of authority to the Chief, Cable Television Bureau. Delegations of Authority, FCC 75-199, 51 FCC 2d 297 (1975). Since that time we have noted an increase in the number of petitions for special relief, filed pursuant to § 76.7 of the Commission's Rules, that seek rule waivers akin to those more frequently raised in the context of an application for a certificate of compliance. In many of these instances, new § 0.288(t) of the Rules would permit the Chief, Cable Television Bureau to act on such matters if they had been raised in a certificating context. Since the substance of these waiver requests is the same, we see no need to differentiate the manner in which they are handled. Accordingly, we are amending § 0.288 to delegate authority to the Chief, Cable Television Bureau to act on petitions for special relief seeking waiver of a rule concerning which delegated authority to act already exists in the context of an application for a certificate of compliance.

2. Since this amendment relates to Commission organization and procedures, the prior notice and effective date provisions of Section 4 of the Administrative Procedure Act, 5 USC 553, do not apply.

Authority for the rule amendment adopted herein is contained in Sections 2, 3, 4 (i) and (j), 5 (b) and (d), 301, 303, 307, 308, and 309 of the Communications Act of 1934, as amended.

Accordingly, *it is ordered*, That effective June 26, 1975, Part O of the Commission's rules and regulations is amended as set forth below.

(Secs. 2, 3, 4, 5, 301, 303, 307, 308, 309, 48 Stat., as amended, 1064, 1065, 1066, 1068, 1081, 1082, 1083, 1084, 1085 (47 U.S.C. 152, 153, 154, 155, 301, 303, 307, 308, 309))

Adopted: June 10, 1975.

Released: June 18, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

APPENDIX

Part 0 of Chapter I, Title 47 of the Code of Federal Regulations, is amended as follows:

A new paragraph (u) is added to § 0.288, to read:

§ 0.288 Authority delegated.

* * * * *

(u) To act on petitions for special relief seeking waiver of a rule concerning which delegated authority to act already exists in the context of an application for a certificate of compliance.

[FR Doc.75-16311 Filed 6-23-75;8:45 am]

[Docket No. 19753; 2055; 35615]

SPECIAL INDUSTRIAL RADIO SERVICE

Allocation of Frequencies; Correction

In the Matter of amendment of Parts 2, 89 and 91 of the Commission's rules and regulations to allocate to the Special Industrial Radio Service the frequencies 151.490 and 157.725 MHz.

1. This Order is to correct a crossover of documents which resulted in the adoption of limitation (17) in paragraph (e) of § 89.459 with two different definitions. Both definitions apply and, by this Order, we are designating one as (e)(18). The documents in which this crossover took place are:

a. Report and Order in Docket 19753, FCC 73-1100, released October 30, 1973, and published in the FEDERAL REGISTER on November 7, 1973 (38 FR 30741).

b. Report and Order in Docket 20042, FCC 74-768, released July 25, 1974, and published in the FEDERAL REGISTER on July 31, 1974 (39 FR 27667).

2. It is intended to permit the report and order in Docket 20042 to stand as adopted. However, with this Order, we are modifying the action in the Report and Order in Docket 19753 by redesignating the limitation adopted therein as (e)(18).

3. Inasmuch as this Order is to clarify formal action previously taken, the prior notice and effective date provisions of the Administrative Procedure Act (5 U.S.C. 553) do not apply. Authority for this amendment is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and in section 0.231 (d) of the Commission's rules and regulations.

4. Accordingly, *it is ordered*, effective June 20, 1975, that § 89.459 is amended as follows:

§ 89.459 Frequencies available to the Forestry-Conservation Radio Service.

* * * * *

(d) * * *

Frequency or band	Class of station(s)	Limitations
MHz		
*	*	*
151.475	Base and mobile	16
151.490	do	16, 18
159.225	do	
*	*	*

* * * * *

(e) * * *

(18) The frequency is shared with the Special Industrial Radio Service and interservice coordination is required.

* * * * *

Adopted: June 9, 1975.

Released: June 10, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] RICHARD D. LICHTWARDT,
Executive Director.

[FR Doc.75-16310 Filed 6-23-75;8:45 am]

[Docket Nos. 19828, 19823; RM-1910, 2282, 2233; FCC 75-701]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations, Missouri; Table of Assignments

1. The Commission here considers (1) the notice of proposed rulemaking in Docket No. 19828, adopted September 19, 1973 (FCC 73-981, 38 FR 27303) and (2) the Petition for Reconsideration of the Report and Order in Docket No. 19823 (44 F.C.C. 2d 782 (1974)), requesting reconsideration of the assignment of Channel 288A to Butler, Missouri, filed by S & M Investments, Inc.

2. The notice invited comments on a proposal by KLEX, Inc. (KLEX), to substitute Class C Channel 293 for Channel 292A at Lexington, Missouri. Lexington (pop. 5,388)[1], the seat of Lafayette County (pop. 26,626), is located approximately 35 miles east of Kansas City, Missouri. KLEX, licensed to operate on Channel 292A (Station KBEK(FM), formerly KLEX-FM), and the licensee of full-time AM Station KLEX, Lexington, avers that gaps exist in the FM coverage that it provides to the area and that automobile reception is spotty. It contends that these problems are caused by the rolling and undulating terrain of Lafayette County and adjacent Ray County (pop. 17,599). KLEX asserts that these coverage problems would be eliminated if it could change to a Class C channel and that such an operation would enable Station KBEK to better meet the anticipated future needs of these two counties, neither of which has any other full-time local aural service.

3. As set out in the notice, the Commission requires petitioners requesting Class C assignments for communities which ordinarily would receive Class A assignments to submit a coverage showing with respect to unserved and underserved areas within the 1 mV/m contour of the proposed assignment. (See Policy to Govern Requests for Additional FM Assignments, 8 F.C.C. 2d 79 (1967).) The KLEX showing indicates that a maximum Class A facility at Lexington would serve 26,419 persons in 661 square miles, while a Class C facility would serve 211,140 persons in 3,421 square miles within the respective 1 mV/m contours. Currently, KBEK serves 22,529 people in 453 square miles within its 1 mV/m contour. The KLEX showing also indicates that the proposed KBEK operation would provide a first FM service to 1,010 persons in a 19-square-mile area, a second FM service to 9,280 persons in a 271-square-mile area and a third FM service to 28,417 persons in a 1,076-square-mile area based upon reasonable or existing facilities (Roanoke Rapids, N.C., 9 F.C.C. 2d 672 (1967)).

4. The notice listed six communities that would be within preclusion areas caused by this proposal that would merit an assignment of their own and asked KLEX to indicate whether other channels were available for assignment to those communities. During the pendency of this proceeding an assignment of Channel 292A to Clarinda, Iowa, reduced the preclusion area leaving only three of the six cities, Butler and Macon, Missouri, and Osceola, Iowa, within this area. Butler was assigned Channel 288A and a license for this channel has been granted to Bates County Broadcasting Co. KLEX has demonstrated that Channel 261A could be assigned to Macon and that both Channels 292A and 296A could be assigned to Osceola.

5. The only opposition to assignment of a Class C channel to Lexington was filed by Charles Norman, licensee of Station WGNU-FM, Granite City, Illinois.[2] The Norman objection, filed on November 1, 1973, asserted that he was then working on an application to move his transmitter site to a higher location and increase his transmitter power. He averred that adoption of the KLEX proposal would preclude him from carrying out this modification because shortspacing with the new Lexington assignment would occur. However, to date no such application for modification of his present license has been received by the Commission.

6. KLEX's showing regarding new FM service to unserved and underserved areas and the removal of local reception difficulties provide a good basis for assignment of a Class C channel to Lexington. However, for reasons stated below, we are assigning Channel 297 rather than 293 to that community.

7. A counterproposal to the KLEX proposal was filed by S & M Investments, Inc. (S & M), licensee of daytime-only station KBIL, Liberty, Missouri. The counterproposal raises no objections to the assignment of a Class C channel to Lexington. However, it proposes that Class C Channel 297 be assigned to Lexington and that Channel 293 be assigned to Liberty. If it is so assigned, S & M avers that it will apply for licensing on that channel.[3] Liberty (pop. 13,679), an incorporated municipality and the seat of Clay County (pop. 123,322), is part of the Kansas City Urbanized Area (pop. 1,101,789). Approximately 11 percent of the Kansas City population (55,238) resides in Clay County. S & M describes Liberty and Clay County as being part of what is locally known as the "Northland" which is that portion of Clay and adjacent Platte County that at one time was fully outside of the City of Kansas City, lying to the north of the Missouri River where it makes its bend around Kansas City. Its description points out that until 1947 the city limits of Kansas City stopped at the Missouri River. Commencing then the city began annexations which included part of the present Northland area and extended the city limits of Kansas City to Liberty's western border.

8. S & M contends that Liberty and Clay County cannot be considered as mere bedroom facilities for Kansas City. Both had a high growth rate of 53.5 percent and 41 percent, respectively, between 1960 and 1970. In addition, local studies of the area submitted by S & M indicate that there is substantial local activity in Liberty and Clay County. Excelsior Springs, which has prominence throughout the nation because of mineral springs with presumably therapeutic ingredients, and the Elms Hotel, a resort hotel, are located in Clay County. S & M has submitted information indicating that the local governing bodies are studying and proposing significant plans for provision of additional services.

9. Assignment of Channel 293 to Liberty would foreclose future assignments on Channels 292A and 294 and assignment of Channel 297 to Lexington would foreclose future assignments on Channels 296A, 297 and 298. S & M shows that there are a number of Class A channels available for assignment to communities which have no FM assignments or full-time AM stations within these preclusion areas.

[1] All population figures are from the 1970 U.S. Census.

[2] An opposition to the KLEX proposal was submitted by Ray County Radio Co. indicating that this proposal was in conflict with a proposal advanced by it in a separate rule making. However, Ray County Radio Co. requested and obtained a dismissal of its petition for rule making upon entering into a contract for the purchase of an existing station. Also, an opposition was filed by Daryl Fredine, licensee of Station KESM-FM, Eldorado Springs, Missouri. The opposition was, in the most part, directed to the S & M Investments, Inc., counterproposal and not to the KLEX proposal. In response to an *Order to Show Cause*, Daryl Fredine withdrew his opposition to the S & M counterproposal on the condition that he be reimbursed for the reasonable and necessary costs incurred by the change in his channel of operation resulting from the S & M counterproposal. S & M has agreed to reimburse Daryl Fredine for these costs and will be required to do so if it is granted a construction permit for Channel 293 (its counterproposal) at Liberty. If it is not, the successful applicant at Liberty will be required to reimburse Daryl Fredine for his costs. (See also paragraph 16, infra.)

[3] In order to effectuate the S & M counterproposal it is necessary to make changes elsewhere in the FM Table of Assignments. S & M proposes substitution of Channel 221A for 288A at Butler, Missouri, and Channel 288A for 296A at Eldorado Springs, Missouri. Daryl Fredine, licensee of Station KESM-FM, operating on Channel 296A at Eldorado Springs has consented to this substitution. See note 2. A grant of a license to Bates County Broadcasting Corp. (Bates) for Channel 288A at Butler (BLH-6558) was conditioned upon acceptance by Bates of any modification requiring use of a channel other than Channel 288A as a result of whatever action the Commission may take in the instant proceeding. S & M objected to an outright assignment of Channel 288A to Butler and therefore filed a Petition for Reconsideration of that assignment and simultaneously filed a Request for Postponement [of further action on applications for the Butler assignment] or Imposition of Condition [on the Butler construction permit]. Because the condition has already been imposed on the construction permit and carried over to the license, all of the above mentioned filings are moot.

10. There are no FM channels assigned anywhere in Clay County. S & M's daytime-only AM station is the only local aural service in the county. Platte County, which would be served by the proposed assignment, has no local radio service of any kind. S & M avers that a Liberty station, operating with 75 kilowatts power and an antenna height of 400 feet above average terrain would provide a first FM service to 2,659 persons in an area of 58.7 square miles and a second FM service to 340 persons in an area of 23 square miles. It avers that a local full-time Class C station is needed for emergency service to the area which it contends is made essential by the area's location near the middle of the tornado belt.

11. Although Clay County receives a 1 mV/m signal from many Kansas City FM stations, S & M argues that the Kansas City stations cannot adequately serve the Northland's local needs. It points out that there are 20 separate municipalities in Clay County, and more than 15 in neighboring Platte County, each of which have local government elections. It contends that the Kansas City stations do not have the time or space to give local candidates pre-election exposure nor do they have the time for break-down results of the local contests in these many municipalities. Aside from what it deems to be insufficient Northland coverage, S & M asserts that the annexation moves that brought much of the Northlands within Kansas City city limits have left a residue of divisiveness between Kansas City south-of-the-river and the Northlands enhancing what it considers to be a natural disparity of views, problems, and identity created by the Missouri River lying between the two regions. As an example, S & M cites a local referendum involving bonds and financing measures totaling 129 million dollars that it contends the south-of-the-river media view from a Kansas City south-of-the-river vantage point, irrespective of the views that Northland residents may have of the effects and import of the proposal on their area. S & M states that the only voice attentive to these local views is its daytime-only station and that, while its station attempts to give good coverage there would be significant advantage to having a full-time FM station in the county.

12. KLEX opposes the S & M counterproposal.[4] It argues that Liberty and Clay Counties are adequately served by twelve full-time commercial aural services assigned to cities within the Kansas City Urbanized Area and ten full-time aural facilities presently providing service to Liberty. Moreover, KLEX contends that a Channel 297 assignment at Lexington fails to meet the minimum separation requirements of the Commission's Rules and Regulations because Station KXTR at Kansas City, operating on Channel 243, is located less than 28 miles from Lexington. However, it stated that Station KXTR is located 30.2 miles west of the present KBEK transmitter site and that Station KBUR, operating on Channel 297 in Burlington, Iowa, is located 182 miles northeast of the KBEK transmitter site. The proposed Channel 297 assignment would require at least 30 miles separation from KXTR and 180 miles from KBUR (FCC Rules and Regulations § 73.207(a)). KLEX asserts that there is no assurance that the substantially taller tower required for the contemplated improved facilities can be accommodated at the existing KBEK transmitter site, nor is there any assurance that any site is available within what it considers to be a limited permissible zone. KLEX has not shown that it cannot accommodate the new facilities at the present KBEK transmitter site and the Commission does not believe that mere speculation should stand in the way of an assignment deemed to be in the public interest. In addition, there is substantially more area available southeast of the present Station KBEK transmitter site that would meet the minimum spacing requirements.

13. As indicated above, assignment of Channel 293 to Liberty would provide a first and second FM service to 2,659 persons and 340 persons respectively; would bring a first local full-time aural service to Liberty; and would have no adverse preclusionary effect. In addition, if Channel 297 is assigned to Lexington and Channel 293 is not used at Liberty it cannot be otherwise used in the region.[5] In view of the aforementioned facts regarding the proposed Liberty and Lexington assignments, the Commission finds it in the public interest to assign Channel 293 to Liberty and Channel 297 to Lexington. In response to an Order to Show Cause, KLEX has consented to modification of its license to specify operation on Channel 297 if the Commission finds it in the public interest to substitute that channel for Channel 292A at Lexington. A transmitter for the Liberty Channel 293 assignment must be located at least fifteen miles northeast of Liberty and a transmitter for the Lexington Channel 297 assignment must be located at least two miles east of Lexington.

§ 73.202 [Amended]

14. Accordingly, pursuant to the authority contained in sections 4(i), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, *it is ordered*, That effective July 28, 1975, the FM Table of Assignments, § 73.202(b) of the Rules, is amended to read as follows for the cities listed below:

City:	Channel No.
Liberty, Mo.	293
Lexington, Mo.	297
Eldorado Springs, Mo.	288A
Butler, Mo.	221A

15. It is ordered, That pursuant to section 316(a) of the Communications Act of 1934, as amended, the outstanding license held by Daryl Fredine for Station KESM-FM, Eldorado Springs, Missouri, is modified, effective July 28, 1975, to specify operation on Channel 288A instead of Channel 296A. The licensee shall inform the Commission in writing no later than July 28, 1975, of its acceptance of this modification. Station KESM-FM may continue to operate on Channel 296A until 45 days after grant of an application for a construction permit for the use of Channel 293 at Liberty, Missouri, or until it is ready to operate on Channel 288A at an earlier date, or until the Commission sooner directs, subject to the following conditions:

(a) At least 30 days before commencing operation on Channel 288A, the licensee of Station KESM-FM shall submit to the Commission the technical information normally required of an applicant for Channel 288A;

(b) At least 10 days prior to commencing operation on Channel 288A the licensee of Station KESM-FM shall submit the measurement data required of an applicant for a broadcast station license;

(c) The licensee of Station KESM-FM shall not commence operation on Channel 288A without prior Commission authorization; and

(d) An application for renewal of license of Station KESM-FM shall specify operation on Channel 288A instead of Channel 296.

16. *It is further ordered*, That pursuant to section 316(a) of the Communications Act of 1934, as amended, the outstanding license held by KLEX, Inc., for Station KBEK(FM), Lexington, Missouri, IS MODIFIED, effective July 28, 1975, to specify operation on Channel 297 instead of Channel 292A. The licensee shall inform the Commission in writing no later than July 28, 1975, of its acceptance of this modification. Station KBEK(FM) shall continue to operate on Channel 292A until such time as Station KESM-FM, Eldorado Springs, Missouri, commences operation on Channel 288A. Thereafter it may continue to channel 292A for a period of not more than 45 days by which time it shall change its operation to Channel 297, unless the Commission otherwise directs, subject to the following conditions:

(a) At least 30 days before commencing operation on Channel 297, the licensee of Station KBEK(FM) shall submit to the Commission the technical information normally requested of an applicant for Channel 297;[6]

[4] Some of the reasons for the KLEX opposition have become moot. In addition KLEX avers that the transmitter for a Liberty assignment would have to be located near the Excelsior Springs airport and that S & M has failed to show that a suitable site will be available for its proposed facilities. It is the Commission's view that § 73.208(a)(4) of the FCC Rules and Regulations does not require such a showing in this case at this stage in the proceeding. Such matters are appropriate for discussion at the application stage.

[5] Also, the S & M counterproposal would not foreclose relocation of the WGNU-FM, Granite City, Illinois, transmitter as would the KLEX proposal. See paragraph 5 *supra*.

[6] With this submission the licensee shall also file the environmental information required by Section 1.1311 of the Rules.

(b) At least 10 days prior to commencing operation on Channel 297, the licensee of Station KBEK(FM) shall submit the measurement data required of an application for a broadcast station license;

(c) The licensee of Station KBEK(FM) shall not commence operation on Channel 297 without prior Commission authorization; and

(d) An application for renewal of license of Station KBEK(FM) shall specify operation on Channel 297 instead of Channel 292A. If action on an application for the Liberty assignment is not imminent (e.g., if a comparative hearing situation develops) and if the licensee of Station KBEK(FM) should wish to hasten the date on which it commences operation on Channel 297, it may inform the Commission in writing that it is willing to reimburse the licensee of Station KESM-FM, Eldorado Springs, Missouri, for the reasonable costs of changing the operation of Station KESM-FM from Channel 296A to Channel 288A, subject to the KBEK(FM) licensee's being reimbursed by the party that is the successful applicant for construction permit of the Liberty, Missouri, Channel 293 assignment, and the Commission will give consideration to the issuance of appropriate orders.

17. *It is further ordered*, That the outstanding licensee held by Bates County Broadcasting Co. for Station KMOE (FM), Butler, Missouri, IS MODIFIED to specify operation on Channel 221A instead of Channel 288A. The licensee shall inform the Commission in writing no later than July 28, 1975, of its acceptance of this modification. Station KMOE (FM) may continue to operate on Channel 288A until February 1, 1977, or until it is sooner ready to operate on Channel 221A, or until the Commission sooner directs, subject to the following conditions:

(a) At least 30 days before commencing operation on Channel 221A, the licensee of Station KMOE(FM) shall submit to the Commission the technical information normally requested of an applicant for Channel 221A.

(b) At least 10 days prior to commencing operation on Channel 221A, the licensee of Station KMOE(FM) shall submit the measurement data required of an applicant for a broadcast station license; and

(c) The licensee of Station KMOE (FM) shall not commence operation on Channel 221A without prior Commission authorization.

18. *It is further ordered*, That the Petition for Reconsideration (Docket No. 19823) and the Request for Postponement or Imposition of Condition (BPH-8817) submitted by S & M Investments, Inc., are dismissed as moot.

19. The Secretary is directed to send a copy of this Report and Order to KLEX, Inc., licensee of Station KBEK (FM), Lexington, Missouri; Daryl Fredine, licensee of Station KESM-FM, Eldorado Springs, Missouri; and Bates County Broadcasting Co., licensee of Station KMOE(FM), Butler, Missouri.

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

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

Adopted: June 10, 1975.

Released: June 19, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-16313 Filed 6-23-75;8:45 am]

[Docket No. 20112; FCC 75-706]

PART 97—AMATEUR RADIO SERVICE

Automatic Control of Repeater Stations

1. On July 17, 1974, the Commission adopted a notice of proposed rulemaking in the above-entitled matter which was published in the FEDERAL REGISTER on July 31, 1974 (39 FR 27705). Proposals in this proceeding contemplated amendment of Part 97 of the Commission's rules to authorize the automatic control of repeater stations and auxiliary link stations used in repeated systems in the Amateur Radio Service, i.e., the operation of such stations whether or not a control operator is on duty at a control point. Comments as to these proposals were submitted by the parties listed below. Each of these comments has been carefully considered as indicated in the following discussion.

2. By way of background, in 1972, the Commission formalized specific rule provisions for the operation and technical development of amateur radio stations which can receive and automatically retransmit the signals of other amateur stations. (See the Report and Order in Docket No. 18803, 37 FCC 2d 225, 1972.) Prior to these rule changes, repeater stations had been authorized in the Amateur Radio Service under limited general rules that related primarily to any remotely controlled station. The new repeater provisions took cognizance of many of the special requirements for these stations and led to tremendous increase in the interest, use, and sophistication of repeater facilities for amateur radiocommunications. In many areas, this demand for repeater capability necessitated a 24-hour per day operational schedule. However, the number of persons available to serve as duty control operators for repeater systems on an around-the-clock basis is limited, and where these people could not be found, repeater stations had to shut down, sometimes for extended periods. To relieve this situation, amateur licensees are developing techniques for use of repeater stations that are automatically controlled and do not require a control operator to be on duty. The Commission has examined these recent advancements in technological capabilities and improvements in methods of remotely controlling amateur stations and we have found that these developments justify rule provisions to permit automatic control of repeater stations and auxiliary link stations used in repeater systems on a regular basis, provided that certain conditions are met. Essentially, the conditions proposed in the Notice of Proposed Rule Making would require: (a) control operators to employ devices and procedures that would reasonably assure compliance with the technical and operational standards for amateur radio stations; (b) all transmissions of an automatically controlled repeater station to be monitored in real-time, or be recorded and reviewed within a reasonable period by the station control operator for improper operation; and (c) procedures to be implemented for discontinuing operations in the event of malfunction or improprieties.

3. The comments substantially supported proposals to allow automatic control methods as being timely and in general conformance with today's practical requirements for amateur repeater operations. There was concern, however, with certain of the requirements related to the responsibility of the station licensee and the control operator for monitoring transmissions by licensees who utilize the repeater facility. Here, a number of parties argued that recording and reviewing transmissions over an automatically controlled repeater station when they were not monitored by a control operator would involve expense and time which were not warranted since "user" violations could be controlled by the long-standing self-policing mechanism which prevails in the amateur bands. It was recommended, therefore, that this requirement be modified by eliminating or relaxing the recording and review procedure we had proposed, and by relying, instead, upon other amateurs to monitor the repeater operation and report violations to the control operator. The delayed review procedure is not mandatory since other options are available. Accordingly, it is retained to permit use of this method for late hour emergency repeater access.[1]

4. The Commission recognizes that it is often not feasible to follow-up effectively on transmissions that will have occurred hours earlier and that in these instances the amateur self-policing effort could be beneficial. In the Notice, we acknowledged that the success of an automatic repeater control program would depend to a great extent upon the Amateurs' demonstrated ability to monitor and effectively control their group. In light of these factors, it is felt that an exception is warranted to apply to the operation of "closed repeaters," i.e., repeaters used only by persons specifically authorized by the control operator with means provided to limit use of the repeaters. This will afford amateurs considerable flexibility in the operation of automatically controlled repeaters. A

[1] Inter-linked multiple repeater systems designed primarily for emergency communications will be considered for exception on a case-by-case basis.

control operator can monitor the repeater in real-time; or the transmissions can be recorded and review by the control operator; or a closed repeater can be employed without any monitoring requirement; or a combination of these.

5. We will delete the requirement that, as a condition for automatic control, the names of designated control operators, duty control operators and station licensee be filed with the Engineer-in-Charge of the radio district in which the station is located. We believe that the safeguards incorporated in our Rules and the desire by amateurs to be self-regulating are sufficient to insure compliance with our Rules. Should problems develop, we will, of course, reopen this matter and consider revision of § 97.88 of our rules to require posting additional information at the transmitter location.

6. Implementation of automatic control will require no special license applications, modifications or showings. In order to operate a repeater station or an auxiliary link station as part of a repeater system by automatic control, the station(s) must first be licensed in the conventional manner, for either local control or for remote control. Licensees may then use any or all of the various options permitted under the Rules.

7. A number of parties recommended additional limitations or requirements for automatic control of amateur repeater stations. For example, there were suggestions for special logging requirements and, also, for restrictions on the number of continuous hours that a repeater station could be operated under automatic control. However, the Commission does not envision any present purpose to be served by provisions of this nature.

Environmental considerations. 8. In accordance with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321–4327, we are required to prepare an environmental impact statement when the adoption of a rule appears to carry with it significant environmental consequences. As regards existing amateur radio station facilities and operations, we find that the rule changes proposed in this proceeding will not have any significant impact on the environment. It is possible, however, that these rule amendments could result in requests to license additional stations. In this respect, applicants under Part 97 may be required to provide environmental information as specified in §§ 1.1305 and 1.1311 of the Commission's rules so that for the proposed facilities, the potential environmental consequences may be carefully examined on a case-by-case basis.

9. In consideration of the foregoing, the Commission finds that adoption of rules to permit the automatic control of amateur repeater stations under specified conditions and limitations is in the public interest, convenience, and necessity. The specific rule amendments are set forth below.

10. Accordingly, pursuant to authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, *it is ordered* That, effective July 28, 1975, Part 97 of the Commission's Rules is amended as shown below. *It is further ordered*, That this proceeding is terminated.

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

Adopted: June 11, 1975.

Released: June 19, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

RESPONDENTS TO NPRM, DOCKET 20112

1. Southern California Repeater Association
2. Vineland FM Association, Inc.
3. Charles F. Bino
4. Howard W. Kelly
5. Pioneer Amateur Radio Club and the Pioneer Repeater
6. T. M. Kulas
7. Lyle B. Juroff
8. Arthur B. Reis
9. Pittsburg Repeater Organization, Inc.
10. MO-KAN Amateur Repeater Club, Inc.
11. James E. Arconati
12. Missouri Repeater Council
13. Joseph M. Hood
14. Ronald K. Long
15. Colorado Council of Amateur Radio Clubs, Inc.
16. Peter E. Olson
17. Richard D. Wilson
18. Upper New York Repeater Council
19. Douglas J. White
20. Robert A. Buaas
21. West Park
22. John C. Dyckman
23. Richard L. Neish
24. The Florida Repeater Council
25. Allan B. Crites
26. Texas VHF-FM Society
27. Iowa Repeater Council
28. The St. Charles ARC
29. Olin K. McDaniel, Jr.—Pee Dee FM Repeater Association
30. Ralph E. Andrea
31. Monument Peak Radio Club
32. Mid America FM, Incorporated
33. Palisades Amateur Radio Club, Inc. of Culver City
34. The Carolinas-Virginia Repeater Association, Inc.
35. Society Radio Operators
36. Nevada UHF Experimental Society, Inc.
37. Gordon Schlesinger
38. Illinois Repeater Council
39. James P. Taylor
40. Paul R. Emeott
41. Frank M. Boyd & Charles E. DePoe
42. The Sulfur Mountain Repeater Association
43. Northern Virginia FM Association, Inc.
44. Carson Haines, Jr.
45. Herbert Drake, Jr.
46. Roy E. Lilley
47. Jon J. O'Brien & The Mt. Vaca Radio Club, Inc.
48. Alan Bingenheimer
49. Chandler S. Eaton, Jr.
50. Grizzly Peak VHF Amateur Radio Club
51. Long Island Mobile Amateur Radio Club, Inc.
52. Northern Illinois Amateur Repeater Club, Inc.
53. Robert H. Strid
54. Huntington VHF FM Association
55. Denver Radio League
56. Public Service Communications Association
57. St. Louis Repeater Inc.
58. Clyde E. Glass
59. Pacific Communications Society
60. Kenton E. Marshall and Michael T. Patton
61. A. E. Ogburn
62. Rochester Amateur Radio Association
63. The American Radio Relay League, Inc.
64. Ronald P. Pitts
65. Edgewood Amateur Radio Society
66. Central Missouri Amateur Repeater Assn.
67. Belton Emergency Communications and Civil Defense Repeater
68. Harry F. Matthews
69. W. N. McKenzie, Jr.
70. Tulsa Repeater Organization
71. Southern Marine Radio Council

Part 97 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. Section 97.3(n) is revised to read as follows:

§ 97.3 Definitions.

* * * * *

(n) *Control.* Techniques for accomplishing the prerequisite responsibilities for the immediate operation of an amateur radio station. Must be one or more of the following:

(1) *Local control.* Manual control, with the control operator monitoring the operation on duty at the control point located at a station transmitter with the associated operating adjustments directly accessible. (Direct mechanical control, or direct wire control of a transmitter from a control point located on board any aircraft, vessel, or on the same premises on which the transmitter is located, is also considered local control.)

(2) *Remote control.* Manual control, with the control operator monitoring the operation on duty at a control point located elsewhere than at the station transmitter, such that the associated operating adjustments are accessible through a control link.

(3) *Automatic control.* The use of devices and procedures for control so that a control operator does not have to be present at the control point at all times. (Only rules for automatic control of repeater systems have been adopted. Automatic control of all other types of amateur radio stations must be approved by the Commission on a case-by-case basis.)

* * * * *

2. § 97.79(b) is revised to read as follows:

§ 97.79 Control operator requirements.

* * * * *

(b) Every amateur radio station, when in operation, shall have a control operator at an authorized control point. The control operator shall be on duty, except where the station is operated under automatic control. The control operator may be the station licensee, if a licensed amateur radio operator, or may be another amateur radio operator with the required class of license and designated by the station licensee. The control operator shall also be responsible, together with the station licensee, for the proper operation of the station.

* * * * *

3. § 97.88(c) is revised to read as follows:

§ 97.88 Operation of a remotely controlled station.

* * * * *

(c) Except for operation under automatic control, as provided by §§ 97.110 (c) and 97.111(g), a control operator designated by the licensee must be present at an authorized control point while the station is being remotely controlled. Immediately prior to, and during the periods the remotely controlled station is in operation, the frequencies used for emission by the remotely controlled transmitter must be continuously monitored by the control operator. The control operator must terminate transmission upon any deviation from the rules.

* * * * *

4. In § 97.110, paragraph (a) is revised, and new paragraph (c) is added to read as follows:

§ 97.110 Operation of an auxiliary link station.

(a) An auxiliary link station may use amateur frequency bands above 220 MHz, excepting 435 to 438 MHz, for emissions. Except as provided in § 97.110(c), frequencies below 225 MHz used by an auxiliary link station shall be monitored by the control operator immediately prior to, and during, periods of operation.

* * * * *

(c) An auxiliary link station licensed either for operation by local control or remote control may also be operated by automatic control when it is licensed as a part of a repeater station system which is being operated under automatic control. Both the auxiliary link station and the repeater station must appear on the system network diagram on file with the Commission.

5. In § 97.111, paragraphs (a) and (b) are revised, and new paragraph (g) is added to read as follows:

§ 97.111 Operation of a repeater station.

(a) Emissions from a repeater station shall be discontinued within 5 seconds after cessation of radiocommunications by the user station. Provisions to automatically limit the access to a repeater station may be incorporated, but are not mandatory.

(b) Except for automatic control operations as provided in paragraph (g) of this section, the transmitting and receiving frequencies utilized by the repeater station shall be continuously monitored by the control operator immediately prior to, and during, periods of operation.

* * * * *

(g) A repeater station licensed either for local control or for remote control may also be operated under automatic control where:

(1) Devices and procedures have been implemented to assure that compliance with the rules can be accomplished without the duty control operator present at the control point at all times the station is in operation.

(2) All radiocommunications transmitted by the station are monitored by the duty control operator in real-time, or are recorded so that they can be reproduced and reviewed within 72 hours. The recordings shall be preserved for a period of at least 30 days, in the possession of the station licensee, and must be made available to the Commission upon request. However, real-time monitoring, or recording and review of repeater operation is not required when the facility is operated as a closed repeater, i.e., the repeater station employs means to restrict usage to persons specifically authorized by the control operator or station licensee.

(3) Upon notification by the Commission of improper operation of a station under automatic control, said operation must be immediately discontinued until all deficiencies have been corrected.

[FR Doc.75-16312 Filed 6-23-75;8:45 am]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 100—REACTOR SITE CRITERIA

Population Center Distances

Since their promulgation by the Atomic Energy Commission (AEC) in April, 1962, the site criteria set forth in 10 CFR Part 100 have served as the framework for evaluations of proposed sites for stationary power and test reactors from the standpoint of protection of the health and safety of the public. Part 100 includes three quantitative site criteria centered around the concepts of: an "exclusion area" surrounding the reactor in which, subject to certain exceptions, the licensee has the authority to determine all activities including exclusion or removal of personnel and property, 10 CFR 100.3(a); a "low population zone" immediately surrounding the "exclusion area" which contains residents the total number and density of whom are such that there is a reasonable probability that appropriate protection measures could be taken in their behalf in the event of a serious accident, 10 CFR 100.3(b); and a "population center distance" which is defined as "the distance from the reactor to the nearest boundary of a densely populated center containing more than about 25,000 residents" 10 CFR 100.3(c). Under Part 100, site suitability is strongly dependent upon whether certain calculated doses from postulated hypothetical accidents at the boundaries of the "exclusion area" and "low population zone" are within specified dose guideline values, 10 CFR 100.11(a) (1) and (2), and whether the "population center distance" is at least one and one-third times the distance from the reactor to the outer boundary of the low population zone, 10 CFR 100.11(a)(3).

As the Statement of Considerations which accompanied publication of the effective Part 100 in the FEDERAL REGISTER indicated, the effective Part was intended to reflect current AEC siting practices. The Statement of Considerations indicated a concern on the part of the AEC with cumulative exposure dose to large numbers of people as a consequence of nuclear reactor accidents. The population center distance criterion in 10 CFR 100.11(a)(3), in particular, was added to the effective Part in order to provide additional protection to people in large centers (27 FR 3509, April 12, 1962).

In light of this underlying concern for cumulative exposure dose to large numbers of people in population centers, the AEC has applied the population center distance criterion with a view to consideration of population distribution. Indeed 10 CFR 100.11(a)(3) specifically provides that "in applying this [population center distance] guide, due consideration should be given to the population distribution within the population center." The "boundary" of a densely populated center has been determined on a case-by-case basis. Generally, where it has not appeared that the population center distance criterion would be crucial to site suitability because the site was located far from any densely populated area, the "boundary" of the population center was, for convenience, taken as the corporate or political boundary. However, it is clear that a wide variety of political, economic, and social factors are applied by State and local jurisdictions in selecting corporate or political boundaries. Thus, there is no necessary correlation between corporate or political boundaries and population distribution. Indeed, even if a particular corporate or political boundary had been chosen on the basis of population distribution, there would be no assurance that the boundary would continue to reflect actual population distribution. Consequently, in cases where the population center distance criterion might weigh heavily in the overall site suitability evaluation, a more refined definition of the population center boundary has been utilized. In defining the boundary, consideration has not been confined to the location of the political or corporate boundary of the population center, but distribution of people within and even beyond the political or corporate boundary has been given even greater significance.

A general examination of power reactor siting regulations and policies is underway as a separate matter. In the interim, the Commission is firmly of the opinion that continued implementation of its population center distance criterion is required. However, the recent decision of the United States Court of Appeals for the Seventh Circuit in *Izaak Walton League v. AEC*, ——— F. 2d ———, No. 74-1751 (April 1, 1975), expresses the view that such implementation is inconsistent with the present language of the regulation. In that decision the Court held that while a population center boundary under the meaning of Part 100 may extend beyond the political or corporate limits because of population distribution considerations, "there is neither reason nor sound safety policy to cut down the boundaries of that unit and make some hopeless attempt to construct imaginary boundaries." Slip Opinion at 13-14. The AEC held in that licensing proceeding, and the NRC maintained before the Court on review, that

the boundary of the population center within the meaning of Part 100 must be determined in light of considerations of population distribution, rather than determined on the basis of acceptance of the political or corporate boundary.

In light of the above, the Commission wishes to amend Part 100 to restore and make clear the intended meaning of the rule. The amendment which follows provides that in applying the population center distance criterion in 10 CFR 100.11(a)(3), the "boundary" of the population center, as that term appears in 10 CFR 100.3(c), shall be determined upon consideration of population distribution (rather than determined solely upon consideration of location of the political or corporate boundaries). The proposed amendment is interpretative in nature and reflects the current and consistent siting practice of the Commission.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, and section 553 of Title 5 of the United States Code, notice is hereby given of adoption of the following amendment to 10 CFR Part 100.

Because the amendment is interpretative in nature, and merely reflects the current siting practice of the Commission, and because of the immediate adverse effect of the Bailly reading, the amendment is made immediately effective. However, the Commission is providing an opportunity for public comment upon the amendment. All interested persons who desire to submit written comments should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Attention: Docketing and Service Section, Washington, D.C. 20555, by July 24, 1975. Copies of comments received will be available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

1. Section 100.11(a)(3) of 10 CFR Part 100 is revised to read as follows:

§ 100.11 Determination of exclusion area, low population zone, and population center distance.

(a) * * *

(3) A population center distance of at least one and one-third times the distance from the reactor to the outer boundary of the low population zone. In applying this guide, the boundary of the population center shall be determined upon consideration of population distribution. Political boundaries are not controlling in the application of this guide. Where very large cities are involved, a greater distance may be necessary because of total integrated population dose consideration.

* * * * *

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

Dated at Washington, D.C., this 20th day of June, 1975.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.75-16589 Filed 6-23-75;9:09 am]

proposed rules

DEPARTMENT OF THE INTERIOR

National Park Service

[36 CFR Part 7]

MOUNT RAINIER NATIONAL PARK, WASHINGTON

Backcountry Camping Regulations

The National Park Service proposes to amend the Code of Federal Regulations to regulate backcountry camping at Mount Rainier National Park, State of Washington.

A National Park Service study of backcountry use at Mount Rainier National Park has determined that unrestricted backcountry campers tend to camp in the more accessible and more scenic portions of the park, especially in the high meadows. Since these scenic meadows are the most fragile ecological units of the park, a great deal of damage has been done. Trampling and unauthorized fires have caused a severe loss of meadow vegetation. Crowding has not only put a strain on the resources, but virtually destroyed the possibility of a quality wilderness experience. The above findings are included in the "Backcountry Use and Operations Plan for Mount Rainier National Park" dated January 15, 1973.

The purpose of the proposed backcountry camping regulations is to protect and preserve the lands and resources of Mount Rainier National Park from damage and potential damage by effectively managing and controlling the use of the backcountry for camping. A determination has been made pursuant to NEPA and pertinent regulations based on the study of January 15, 1973, and related files, that the proposed regulations will have no significant impact but will be beneficial on the quality of the human environment and, therefore, no environmental impact statement is required. A copy of this determination is on file and may be examined in the Superintendent's office for Mount Rainier National Park.

It is the policy of the Department of the Interior, when ever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed addition to: Superintendent, Mount Rainier National Park, Longmire, Washington 98397, on or before July 24, 1975.

This amendment is proposed under the authority contained in section 3 of the Act of August 25, 1916, 36 Stat. 535, as amended (16 U.S.C. 3); section 2 of the Act of March 2, 1899, 30 Stat. 993, as amended (16 U.S.C. 92); 245 DM 1 (34 FR 138879, as amended); National Park Service Order No. 77 (38 FR 7378, as amended); and Pacific Northwest Region Order No. 3 (37 FR 6325, as amended).

Specifically, in consideration of the foregoing, it is proposed to amend Part 7 of 36 CFR Chapter 1, by adding paragraph (d) to § 7.5 *Mount Rainier National Park*, as follows:

* * * * *

(d) *Backcountry Camping.*

(1) *Definitions.* "Backcountry camping" at Mount Rainier National Park is defined as any use of portable shelter or sleeping equipment in the backcountry. "Backcountry" is defined as those areas of the park which have been designated as "wilderness area" under the provisions of the Wilderness Act (Sec. 4, Pub. L. 88-577, 78 Stat. 890, 16 U.S.C. 1133) and all areas of the park which are more than 250 yards from a paved road and more than one-half mile from any park facility other than trails, unpaved roads, trail shelters, backcountry toilets, campsite facilities, Camp Muir or Camp Shurman.

(2) *Backcountry camping permits required.* No person or group of persons traveling together may camp in the backcountry without a valid backcountry camping permit. Permits may be issued to each permittee or to the leader of the group for a group of persons. The permit must be attached to the pack or camping equipment of each permittee in a clearly visible location. No person may camp in any location other than that designated in the permit for a given date.

(3) *Campsite limitations.* Within the backcountry, the Superintendent may designate sites at which camping is permitted and define camping zones within which limited camping is permitted at other than designated sites. The location of such backcountry campsites and camping zones shall be designated on maps made available to the public at the Superintendent's office, visitor centers, and ranger stations. The Superintendent may establish limits for the number of persons, groups and horses which may enter the backcountry, or any portion of the backcountry when deemed necessary to protect the park resources from potential damage or to prevent disruption or degradation of other park uses, and operate a permit reservation system to meet these objectives.

(4) *Group size limitations.* Groups exceeding five persons must camp at a group site, but groups may not exceed twelve persons. The Superintendent may, however,

(i) Waive group size limitations on routes in the climbing zone when he determines that it will not result in environmental degradation; and

(ii) Establish special zones and group size limitations during the winter season to balance the impact of cross-country skiers, snowshoers, and snowmobilers on the resource.

Dated: April 22, 1975.

DANIEL J. TOBIN, Jr.,
Superintendent,
Mount Rainier National Park.

[FR Doc.75-16349 Filed 6-23-75;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 29]

TOBACCO; NONQUOTA MARYLAND BROADLEAF, U.S. TYPE 32

Identification and Certification

Notice is hereby given that the United States Department of Agriculture has under consideration the amendment of regulations governing the identification and certification of nonquota Maryland Broadleaf Tobacco, U.S. Type 32, produced and marketed in quota areas, pursuant to the authority contained in the Tobacco Inspection Act (49 Stat. 731; 7 U.S.C. 511 et seq.).

Statement of consideration. Subpart F—Policy Statement and Regulations Governing the Identification and Certification of Nonquota Maryland Broadleaf Tobacco, U.S. Type 32, Produced and Marketed in a Quota Area was issued in the Federal Register for October 9, 1973 (38 FR 27817). Past certifications of nonquota Maryland tobacco produced in quota areas had shown the need for establishing procedures to follow in certifying such tobacco as to type and for use in distinguishing Type 32 tobacco from quota tobacco. The regulations issued in Subpart F established procedures to accomplish proper type classification and certification through the use of the applicable U.S. official standards after examination of a crop-lot arrangement of the tobacco. They applied to mandatory and permissive inspection as authorized or required under sections 5 and 6 of the Tobacco Inspection Act. The procedures established in those regulations provided that determinations with respect to certification on nonquota Type 32 tobacco shall be based on the Official Standard Grades for Maryland Broadleaf Tobacco, U.S. Type 32.

Pub. L. 93-411 was passed by Congress and enacted into law on September 3,

1974. That statute provides that, beginning with the 1975 crop, any kind of tobacco for which marketing quotas are not in effect that is produced in an area where producers who are engaged in the production of a kind of tobacco traditionally produced in the area have approved marketing quotas under the Agricultural Adjustment Act of 1938, shall be subject to the quota for the kind of tobacco traditionally produced in the area. If marketing quotas are in effect for more than one kind of tobacco in an area, any nonquota tobacco produced in the area shall be subject to the quota for the kind of tobacco, traditionally produced in the area, having the highest price support under the Agricultural Act of 1949. The statute also provides that it shall not apply in cases where the Secretary or his designee finds any such nonquota tobacco is readily and distinguishably different from any kind of tobacco produced under quota through the application of the Federal Standards of Inspection and Identification of quota types and that the tobacco does not possess any of the distinguishable characteristics of a quota type. Another proposed amendment provides for an additional 60-day certification period beginning September 15 of each calendar year and changes the present 90-day certification period beginning February 15 to a 60-day period beginning February 1 of each calendar year. These proposed amendments are intended to more adequately accommodate growers of Maryland tobacco in all quota areas. Type 32 tobacco is presently nonquota tobacco. Pub. L. 93-411, therefore, requires an amendment to Subpart F to change the provisions with regard to the method by which determinations with respect to certifications of nonquota Type 32 tobacco are made. The amendments which are proposed herein provide that determinations with respect to certifications on nonquota Type 32 tobacco shall be based on the Official Standard Grades for the kind of tobacco grown under quota in the county in which the producer grew the tobacco which he seeks to have certified as nonquota Maryland Broadleaf Tobacco, U.S. Type 32. The procedures also provide that if marketing quotas are in effect for more than one kind of tobacco grown in a county, determinations with respect to certifications on nonquota Type 32 tobacco shall be based on the Official Standard Grades for the kind of tobacco having the highest price support under the Agricultural Act of 1949.

All persons who desire to submit written data, views, or arguments in connection with the proposed revision should file the same, in duplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 122 Administration Building, Washington, D.C. 20250 on or before July 24, 1975. All written submissions pursuant to the notice will be made available for public inspection at the Office of the Hearing Clerk during official hours of business (7 CFR 1.27(b)).

The proposed amendments are as follows:

1. Section 29.9221 is revised as follows:

§ 29.9221 Policy statement.

Nonquota Maryland tobacco, U.S. Type 32, is being produced and marketed in the burley and flue-cured areas. Both burley and flue-cured tobaccos are produced under the quota system. The Official Standard Grades developed for all major tobacco types produced in the United States and Puerto Rico are adequate for inspection and grading at the market centers. However, the enactment of Pub. L. 93-411 on September 3, 1974, requires a change in the method by which certifications on nonquota Type 32 tobacco are made. Accordingly, the regulations in this subpart contain a procedure to follow in the certification of nonquota Maryland tobacco, Type 32. Certification services shall be made available to an interested party or his authorized agent following receipt of appropriate application. These services will be provided at approved receiving stations during two 60-day periods beginning September 15 and February 1 of each calendar year. This will allow producers of such tobacco in a quota area adequate time to bring the tobacco to the normal stage of cure and moisture content before certification. The determination with respect to certifications on nonquota Type 32 tobacco produced in a county where producers who are engaged in the production of a kind of tobacco traditionally grown in that county have approved marketing quotas under the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281, et seq.) shall be based on the Official Standard Grades for the quota tobacco. If marketing quotas are in effect for more than one kind of tobacco in a county, the determination with respect to certifications on nonquota Type 32 tobacco shall be based on the Official Standard Grades for the quota tobacco produced in that county having the highest price support under the Agricultural Act of 1949 (7 U.S.C. 1421, et seq.), Provided, That, if the Secretary or his designee finds, that: (a) Type 32 tobacco is readily and distinguishably different from any kind of tobacco produced under quota, through the Federal Standards of Inspection and Identification; and (b) that Type 32 tobacco does not possess any of the distinguishable characteristics of a quota type, the determination with respect to certification shall be based on the Official Standard Grades for Type 32 tobacco.

2. Section 29.9233 is revised as follows:

§ 29.9233 When certification will be made.

Certification services for the nonquota tobacco shall be made available during two 60-day periods beginning September 15 and February 1 of each calendar year. This section shall not affect provisions of existing cooperative agreements with the various tobacco producing states or state agencies.

3. Section 29.9261 is revised as follows:

§ 29.9261 Procedure to be followed.

In permissive or mandatory inspections and certifications of nonquota Maryland tobacco the inspector shall use the Official Standard Grades for the type of quota tobacco produced in the county in which the tobacco for which certification is sought has been produced or to determine whether the crop-lot can or cannot be classified as and certified to be that kind of tobacco. If there are marketing quotas in effect, in that county, for more than one kind of tobacco, the inspector shall use the Official Standard Grades for the kind of tobacco, having the highest price support under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), to determine whether the crop-lot can or cannot be classified as and certified to be that kind of quota tobacco. When the inspector determines that each individual pile, basket, or sheet in the crop-lot can be graded in one of the Official Standard Grades for that type of quota tobacco, he shall certificate the entire crop-lot to be that type. If the inspector determines that each individual pile, basket, or sheet in the crop-lot cannot be graded in one of the standard grades for that type of quota tobacco he shall then establish which Official Standard Grades are applicable and certify each pile, basket, or sheet to show the appropriate class and type.

Done at Washington, D.C., this 19th day of June, 1975.

E. L. PETERSON,
Administrator,
Agricultural Marketing Service.

[FR Doc.75-16422 Filed 6-23-75;8:45 am]

[7 CFR Part 921]

FRESH PEACHES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

Grade and Size Standards

This notice proposes to continue the grade, maturity, size, and pack requirements for Washington peaches presently in effect in § 921.311 Peach Regulation 11 (39 FR 25331) through July 31, 1975, throughout the 1975 season. These requirements are designed to provide consumers with acceptable quality peaches. Under the regulation peaches are required to grade Washington Extra Fancy grade except that peaches packed in the western lug or the standard peach box need only meet the requirements of the Washington Fancy grade. The minimum diameter requirement for all varieties is 2¾ inches, except the Elberta varieties and peaches of any variety other than Elberta when packed in the standard peach box, is 2¼ inches. All peaches are required to be well matured and have a reasonably uniform degree of firmness. Loose or jumble packs are permitted for containers with a net weight of 26 pounds and in containers of less capacity if the packages are well filled.

The proposed continuance of regulation was recommended by the Washington Fresh Peach Marketing Committee, pursuant to the marketing agreement

and Order No. 921 (7 CFR Part 921) regulating the handling of fresh peaches grown in designated counties in Washington, under which the current regulation is effective. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

All persons who desire to submit written data, views, or arguments in connection with the proposal should file the same in quadruplicate with the Hearing Clerk, Room 112A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than July 14, 1975. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The recommendations of the Washington Fresh Peach Marketing Committee reflect its appraisal of the current and prospective crop and market conditions. Washington's 1975 peach crop is estimated at 18,900 tons, compared with commercial production in 1974 of 13,000 tons. Total fresh market shipments are expected to be 15,400 tons. The regulation, hereinafter set forth, is designed to prevent the handling on and after August 1, 1975, of lower quality and smaller size peaches and provide orderly marketing in the interest of producers and consumers, consistent with the objectives of the act.

Such proposal reads as follows:

§ 921.312 Peach Regulation 12.

Order. (a) During the period August 1, 1975, through July 31, 1976, no handler shall handle any lot of peaches unless such peaches meet the following applicable requirements, or are handled in accordance with paragraph (a)(6) of this section.

(1) *Minimum grade.* Such peaches shall grade at least Washington Extra Fancy Grade: Provided, That peaches which grade Washington Fancy Grade or better may be handled if they are packed in the Western lug box or the standard peach box.

(2) *Minimum size.* (i) Such peaches of any variety, except peaches of the Elberta varieties and varieties other than Elberta when packed in any container except the standard peach box, shall measure not less than 2⅜ inches in diameter;

(ii) Such peaches of any variety when packed in a standard peach box shall measure not less than 2¼ inches in diameter; and

(iii) Such peaches of the Elberta varieties, packed in any container shall measure not less than 2¼ inches in diameter.

(3) *Minimum maturity.* Such peaches shall be well matured, except that any lot of peaches shall be deemed to have met such minimum maturity requirement if not more than 25 percent, by count, of the peaches in such lot are mature but not well matured.

(4) *Uniform firmness.* Such peaches in individual containers shall have a reasonably uniform degree of firmness.

(5) *Pack.* (i) Such peaches in loose or jumble packs shall be in containers of a capacity equal to or greater than that of a Western lug box and shall contain not less than 26 pounds net weight of peaches: *Provided,* That such containers of peaches having less than 26 pounds net weight may be handled if such containers are well filled, and

(ii) Such peaches other than peaches in loose or jumble packs in any container shall meet the standard pack requirement as set forth in the Washington Standards for Peaches (Order No. 1212) or the U.S. Standards for Peaches (7 CFR 51.1210 et seq.).

(6) Notwithstanding any other provision of this section, any individual shipment of peaches sold by the producer or at an established packinghouse which meets each of the following requirements may be handled without regard to the provisions of this paragraph, of § 921.41 (Assessments), and of § 921.55 (Inspection and Certification) if:

(i) The shipment consists of peaches sold for home use and not for resale;

(ii) The shipment does not, in the aggregate, exceed 500 pounds, net weight, of peaches; and

(iii) Each container is stamped or marked with the handler's name and address and with the words "not for resale" in letters at least one-half inch in height.

(b) The terms "Washington Extra Fancy Grade", "Washington Fancy Grade", and "mature" shall have the same meaning as when used in the Washington Standards for Peaches (effective October 18, 1971), issued by the State of Washington Department of Agriculture; the term "well matured" shall mean peaches which will yield very slightly to moderate pressure at the suture or blossom end, have shoulders and sutures that are well filled out, and have skin and flesh colored sufficiently that it will show characteristic varietal color when ripe; the term "loose or jumble pack" shall mean that the peaches are not placed in the container in rows, cups, compartments, or otherwise placed in the container in symmetrical order; the term "standard peach box" shall mean a container with inside dimensions of 4¼ to 6 by 11½ by 16 inches; the term "Western lug box" shall mean any container with inside dimensions of 7 by 11½ by 18 inches; the term "well filled" shall mean that the level of fruit is filled at least to the top edge of the container; the term "diameter" shall mean the greatest distance measured through the center of the peach at right angles to a line running from the stem to the blossom end; and terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in the marketing agreement and order.

Dated: June 19, 1975.

D. S. KURYLOSKI,
Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.75-16423 Filed 6-23-75;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 85a]

OCCUPATIONAL SAFETY AND HEALTH INVESTIGATIONS OF PLACES OF EMPLOYMENT

Notice of Proposed Rulemaking

Section 20 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 669) directs the Secretary of Health, Education, and Welfare to conduct research, experiments and demonstrations relating to occupational safety and health. To conduct such activities in a scientific and efficient manner, it has been necessary for the National Institute for Occupational Safety and Health (NIOSH) to conduct investigations of places of employment.

Notice is hereby given that the Assistant Secretary for Health, with the approval of the Secretary of Health, Education, and Welfare, proposes to amend Title 42, Code of Federal Regulations, by adding a new Part 85a which sets forth the manner in which such investigations will be conducted. The regulation is intended to cover those aspects and procedures of investigations of places of employment that have generally and informally been utilized by NIOSH since the adoption of the Act. The regulation, therefore, would not impose additional manpower or financial burdens on employers. In addition, the regulation would clarify how the results of the investigations are utilized, including how the results are used in NIOSH's research effort and how they are made available to the Occupational Safety and Health Administration, employers, employees and State agencies for their use in dealing with occupational safety and health problems. This regulation would not apply to NIOSH investigatory activities for which specific regulations have already been promulgated (e.g., health hazard evaluations pursuant to 42 CFR Part 85).

Interested persons may participate in this rulemaking by submitting written comments (in triplicate) ot the Regulations Officer, NIOSH, 5600 Fishers Lane (Park Bldg. 3–32), Rockville, Maryland 20852. All relevant comments received not later than July 24, 1975, will be considered. Comments received will be available for public inspection at the foregoing address.

Dated: June 2, 1975.

THEODORE COOPER,
Assistant Secretary for Health.

Approved: June 19, 1975.

CASPAR W. WEINBERGER,
Secretary.

It is proposed to add Part 85a as follows:

PART 85a—OCCUPATIONAL SAFETY AND HEALTH INVESTIGATIONS OF PLACES OF EMPLOYMENT

Sec.
85a.1 Applicability.
85a.2 Definitions.

Sec.
85a.3 Authority for investigations of places of employment.
85a.4 Procedures for initiating investigations of places of employment.
85a.5 Conduct of investigations of places of employment.
85a.6 Provision of suitable space for employee interviews and examinations.
85a.7 Imminent dangers.
85a.8 Reporting of results of investigations of places of employment.

AUTHORITY: Sec. 8(g), 84 Stat. 1600; 29 U.S.C. 657(g).

§ 85a.1 Applicability.

(a) Except as otherwise provided in paragraph (b) of this section, the provisions of this part are applicable to investigations of places of employment which are conducted by NIOSH pursuant to sections 20 and 8 of the Occupational Safety and Health Act of 1970.

(b) The provisions of this part do not apply to those activities covered by Part 85 of this title.

§ 85a.2 Definitions.

Any term defined in the Occupational Safety and Health Act of 1970 and not defined below shall have the meaning given it in the Act. As used in this part:

(a) "Act" means the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(b) "Assistant Regional Director" means any one of the ten Occupational Safety and Health Administration Assistant Regional Directors for Occupational Safety and Health who are located at the addresses specified in Part 1913 of Title 29, Code of Federal Regulations.

(c) "Investigation" means research projects, experiments, demonstrations, studies and similar activities of NIOSH which are conducted pursuant to section 20 of the Act.

(d) "NIOSH" means the National Institute for Occupational Safety and Health of the Center for Disease Control, Public Health Service, Department of Health, Education, and Welfare.

(e) "NIOSH authorized representative" means a person authorized by NIOSH to conduct investigations of places of employment, including any person that is fulfilling a contract agreement with NIOSH or is serving as an expert or consultant to NIOSH pursuant to the Act.

(f) "NIOSH Regional Office" means any one of the ten Department of Health, Education, and Welfare Regional Offices, the addresses of which are specified in § 5.31 of Title 45, Code of Federal Regulations.

(g) "Place of employment" means any factory, plant, establishment, construction site, or other area, workplace or environment where work is performed by any employee of an employer.

§ 85a.3 Authority for investigations of places of employment.

(a) NIOSH authorized representatives who have been issued official NIOSH credentials are authorized by the Director, NIOSH, for the purpose of section 20 of the Act and this part and pursuant to section 8 of the Act: To enter without delay any place of employment for the purpose of conducting investigations of all pertinent processes, conditions, structures, machines, apparatus, devices, equipment, and materials within the place of employment; and to conduct medical examinations, anthropometric measurements and functional tests of employees within the place of employment as may be directly related to the specific investigation being conducted. Such investigations will be conducted in a reasonable manner, during regular working hours or at other reasonable times and within reasonable limits. In connection with any investigations, such NIOSH authorized representatives may question privately any employer, owner, operator, agent, or employee from the place of employment; and review, abstract, or duplicate employment records, medical records, other records required by the Act and regulations, and other related records.

(b) Areas under investigation which contain information classified by any agency of the United States Government in the interest of national security will be investigated only by NIOSH authorized representatives who have obtained the appropriate security clearance and authorization.

§ 85a.4 Procedures for initiating investigations of places of employment.

(a) Except as otherwise provided in paragraph (b) of this section, NIOSH authorized representatives will contact an official representative of the place of employment prior to any site visits and will provide the details of why an investigation of the place of employment is being conducted. Prior to the initiation of a site visit of a place of employment:

(1) The appropriate State agency designated under section 18(b) of the Act, or if the State has been preempted as provided under the Act, the State agency which would benefit the most from the investigation's findings, will be notified of the investigation.

(2) If there is a local union at the place of employment, generally the local president or business manager will be notified of the investigation.

(3) The appropriate Assistant Regional Director will be notified of the investigation.

(b) Advance notice of site visits will not be given to the place of employment or local union at the place of employment when, in the judgment of the NIOSH authorized representatives, giving such notice would adversely affect the validity and effectiveness of an investigation. After the site visit has been initiated, and, as soon as possible thereafter, the NIOSH authorized representatives will contact those individuals stipulated in paragraph (a)(2) of this section about the nature and details of the site visit.

(c) In those instances where site visits are not necessary to the conduct of an investigation, the NIOSH authorized representatives will contact an official representative of the place of employment either verbally or through a written communication and provide the details of why an investigation of the place of employment is being conducted. If appropriate, the NIOSH authorized representatives will contact those individuals stipulated in paragraphs (a)(1), (a)(2), and (a)(3) of this section about the nature and details of the investigation.

§ 85a.5 Conduct of investigations of places of employment.

(a)(1) Prior to beginning a site visit, NIOSH authorized representatives will present their credentials to the employer, owner, operator or agent in charge at the place of employment, explain the nature, purpose and scope of the investigation and the records specified in § 85a.3 which they wish to review, abstract or duplicate.

(2) In those instances where site visits are not necessary to the conduct of an investigation and the initial contact is made verbally, NIOSH authorized representatives will, at the request of the employer, owner, operator or agent in charge at the place of employment, provide a written explanation of the nature, purpose and scope of the investigation and the records specified in § 85a.3 which they wish to review, abstract or duplicate.

(b) At the commencement of an investigation, the employer, owner, operator or agent in charge at the place of employment shall precisely identify that information which is trade secret and might be seen or obtained by the NIOSH authorized representatives during the investigation. If the NIOSH authorized representatives have no clear reason to question such identification, such information will not be disclosed by NIOSH in accordance with the provisions of section 15 of the Act. Generally, NIOSH will not question trade secret designations; however, if NIOSH at any time does question such identification, not less than 15 days' notice to the employer, owner, operator or agent will be given of the intention to remove the trade secret designation from such information. The employer, owner, operator or agent may within that period submit a request to the Director, NIOSH, to reconsider this intention and may provide additional information in support of the trade secret designation. The Director, NIOSH, will notify the employer, owner, operator or agent in writing of the decision which will become effective no sooner than 15 days after the date of such notice.

(c)(1) NIOSH authorized representatives will be in charge of site visits conducted pursuant to this part.

(2) Where there is a request by the representative of the State agency and/or employees, who was notified pursuant to § 85a.4(a)(1) or § 85a.4(a)(2), respectively, to accompany the NIOSH authorized representatives during the site visit of the place of employment, the NIOSH authorized representatives will allow this request if they determine that this will aid the investigation: *Provided, however,* That access by such person(s)

to areas described in § 85a.5(c)(4) shall be in accordance with the requirements of such provision and, in regard to the representative of the employees, access to areas described in § 85a.5(c)(5) shall be with the consent of the employer, owner, operator or agent in charge at the place of employment.

(3) NIOSH authorized representatives are authorized to deny the right of accompaniment under this paragraph to any person whose conduct in their judgment interferes with a fair and orderly site visit.

(4) With regard to information classified by an agency of the United States Government in the interest of national security, only persons authorized to have access to such information may accompany NIOSH authorized representatives in areas containing such information.

(5) Upon request of an employer, owner, operator or agent in charge at a place of employment, any representative authorized under this section by the employees to accompany the investigation in any area containing trade secrets shall be an employee in that area or an employee authorized by the employer, owner, operator or agent to enter that area.

(d)(1) NIOSH authorized representatives are authorized: to collect environmental samples and samples of substances; to measure environmental conditions and employee exposures; to take or obtain photographs, motion pictures or video tapes related to the purpose of the investigation; to employ other reasonable investigative techniques, including medical examinations, anthropometric measurements and standardized and experimental functional tests of employees with the consent of such employees; to review, abstract and duplicate such personnel records as are pertinent to mortality, morbidity, injury, safety and other similar studies; and to question and interview privately any employer, owner, operator, agent or employee from the place of employment. The employer, owner, operator or agent shall have the opportunity to review photographs, motion pictures and video tapes taken or obtained for the purpose of identifying those which contain or might reveal a trade secret.

(2) Prior to the conduct of medical examinations, anthropometric measurements or functional tests of any employees, the NIOSH authorized representatives will obtain approval of the procedures to be utilized from the NIOSH Human Subjects Review Board and no employee examination, measurement or test will be undertaken without the informed consent of such employee.

(e) NIOSH authorized representatives will comply with all safety and health rules and practices at the place of employment and all NIOSH and Occupational Safety and Health Administration regulations and policies during a site visit and will provide and use appropriate protective clothing and equipment. In situations requiring specialized or unique types of protective equipment, such equipment shall be furnished by the employer, owner, operator or agent in charge at the place of employment.

(f) The conduct of site visits will be such as to preclude unreasonable disruption of the operations of the place of employment.

§ 85a.6 Provision of suitable space for employee interviews and examinations.

An employer, owner, operator or agent in charge at the place of employment shall, on request of the NIOSH authorized representatives, provide suitable space at the place of employment, if such space is reasonably available, to NIOSH to conduct private interviews with, and medical examinations, anthropometric measurements and functional tests of employees. NIOSH authorized representatives will consult with the employer, owner, operator or agent as to the time and place of the private interviews, medical examination, anthropometric measurements and functional tests and will schedule same so as to avoid undue disruption of the place of employment. NIOSH will conduct and assume the medical costs of interviews, measurements, examinations and tests conducted under this part.

§ 85a.7 Imminent dangers.

Whenever, during the course of, or as a result of, an investigation under this part, the NIOSH authorized representatives believe there is a reasonable basis for an allegation of an imminent danger, NIOSH will immediately advise the employer, owner, operator or agent in charge at the place of employment and those employees who appear to be in immediate danger of such allegation and will inform the appropriate Assistant Regional Director and the appropriate State agency designated under section 18(b) of the Act, or if there is no State agency designated under section 18(b) of the Act, the appropriate State labor or health agency.

§ 85a.8 Reporting of results of investigations of places of employment.

(a)(1) Specific reports of investigations of a given place of employment under this part, with identification of the place of employment, will be made available by NIOSH to the employer, owner, operator or agent in charge at the place of employment, with copies to the appropriate officials and Agencies notified pursuant to § 85a.4(a). Prior to release of such reports, a preliminary report will be sent by NIOSH to the employer, owner, operator or agent for review for trade secret information that may inadvertently be presented in the report.

(2) All specific reports of investigations of a given place of employment under this part will be available to the public from the NIOSH Regional Consultant for Occupational Safety and Health in the appropriate NIOSH Regional Office.

(b)(1) Any specific findings of individual employee medical examinations, anthropometric measurements and functional tests will be released by NIOSH authorized representatives to the company physician, private physician, or other person only pursuant to the written authorization of the employee; otherwise, the specific findings and other personal records concerning individuals will be kept confidential pursuant to Part 1 of this Title and the Privacy Act of 1974 (5 U.S.C. 552a).

(2) In cases where an employee shows positive significant medical findings, the employee and the designated physician(s) mentioned in § 85a.8(b)(1) will be immediately notified by NIOSH.

(3) A summary of the findings of the examinations for each employee will be sent by NIOSH to the individual.

(c) The findings of a total investigation generally will be disseminated as part of NIOSH criteria documents, NIOSH technical reports, NIOSH information packets, scientific journals, presentations at technical meetings, or in other similar manners. These findings will be presented in a manner which does not identify any specific place of employment; however, it should be noted that investigative findings and reports are subject to mandatory disclosure, upon request, under the provisions of the Freedom of Information Act (5 U.S.C. 552).

[FR Doc.75-16325 Filed 6-23-75;8:45 am]

Social Security Administration

[20 CFR Part 404]

[Regulations No. 4]

FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

Retirement Test Monthly Exempt Amount and Contribution and Benefit Base for Years After 1974

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 553), that the amendments to the regulations set forth in tentative form below are proposed by the Commissioner of Social Security with the approval of the Secretary of Health, Education, and Welfare. The proposed amendments reflect and implement sections 203(f)(8) and 230 of the Social Security Act (42 U.S.C. 403(f)(8) and 430), as amended by section 3(j) and (k) of Public Law 93-233, enacted December 31, 1973. The law requires the Secretary to determine and promulgate the retirement test monthly exempt amount and the contribution and benefit base whenever he increases benefits based on an increase in the cost-of-living, unless a law is enacted increasing the exempt amount or providing a general benefit increase.

The contribution and benefit base is the maximum annual amount of earnings on which an employee or a self-employed person must pay social security tax contributions. It is also the maximum annual amount which may be credited toward benefits payable under the social security program.

The retirement test monthly exempt amount is the amount that a beneficiary under title II of the Social Security Act

who is subject to the retirement test may earn in any month without part of his benefit for the month being deducted because of excess earnings. The corresponding annual exempt amount, equal to 12 times the monthly amount, is the maximum amount a beneficiary may earn in a year and still receive all of his benefits for the year.

The law also specifies a formula which automatically produces a mathematical result based upon reported statistics.

Section 203(f)(8) of the Act provides that the retirement test monthly exempt amount for a given year shall be the larger of: (1) such exempt amount in effect for months in the taxable year in which the new exempt amount is determined; or (2) such retirement test exempt amount multiplied by the ratio of (a) the average amount, per employee, of the taxable wages of all employees reported under the program for the first calendar quarter of the calendar year in which the new exempt amount is determined to (b) the average amount of such wages reported for the first calendar quarter of the most recent calendar year in which an increase in the exempt amount was enacted or a determination resulting in such an increase was made. The section further provides that if the amount so determined is not a multiple of $10, it shall be rounded to the nearest multiple of $10.

Similarly, section 230 of the Act provides that the contribution and benefit base for a given year shall be the larger of: (1) The contribution and benefit base of the calendar year in which the new contribution and benefit base is determined; or (2) such contribution and benefit base multiplied by the ratio of (a) the average amount, per employee, of the taxable wages of all employees reported under the program for the first calendar quarter of the calendar year in which such new contribution and benefit base is determined to (b) the average amount of such wages reported for the first calendar quarter of the most recent calendar year in which an increase in the contribution and benefit base was enacted or a determination resulting in such an increase was made. The section further provides that if the amount so determined is not a multiple of $300, it shall be rounded to the nearest multiple of $300.

The data used to make the necessary computations of such average taxable wages are derived from reports submitted to the Social Security Administration of taxable wages paid to employees by their employers. Each quarter, taxable wages are posted to the record of earnings of each individual employee for whom wages were reported. As the wages are posted to such records of earnings, the data are tabulated on a 100-percent basis to obtain the total amount of reported taxable wages and the total number of employees for whom such wages were reported.

Because of the requirement in the law that the retirement test monthly exempt amount and contribution and benefit base be promulgated on or before November 1, the tabulated data on taxable wages reported for the first calendar quarter of that year are necessarily limited to those wages that are reported and posted to such records of earnings by the end of the quarterly updating operations completed in September of that year. In order that the required ratio referred to above be based on data reflecting comparable reporting and posting periods, the proposed amendments provide that the tabulated data on taxable wages reported for the first calendar quarter of the prior year are limited to those wages that were reported and posted to such records by the end of the quarterly updating operations completed in September of the prior year.

For example, about 70.6 million employees had taxable wages reported for the first calendar quarter of 1973 that were posted to such records of earnings by the end of September 1973, and the average amount of their taxable wages was $1,895.04 per employee. The corresponding number of employees and average amount of taxable wages for the first calendar quarter of 1974 were 71.1 million and $2,007.69, respectively. The ratio of average taxable wages reported for the first quarter of 1974 to average taxable wages reported for the first quarter of 1973 is therefore 1.059445. Multiplying the 1974 retirement test monthly exempt amount of $200 by the ratio of 1.059445 produces the amount of $211.89, which is rounded to $210. Accordingly, the retirement test exempt amount for taxable years ending in calendar year 1975 is $210 on a monthly basis, or $2,520 on an annual basis. Multiplying the 1974 contribution and benefit base of $13,200 by the ratio of 1.059445 produces the amount of $13,984.67, which is rounded to $14,100. Accordingly, the contribution and benefit base for remuneration paid in, and taxable years beginning in, calendar year 1975 is $14,100.

Consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare, Social Security Administration, P.O. Box 1585, Baltimore, Maryland 21203, on or before July 24, 1975. The regulation will be effective June 24, 1975.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue, SW., Washington, D.C. 20201.

The proposed amendments are issued under the authority of sections 203(f)(8), 205(a), 215(i), 230, and 1102 of the Social Security Act; 86 Stat. 1341, as amended, 53 Stat. 1368, as amended, 86 Stat. 412, as amended, 86 Stat. 416, as amended, and 49 Stat. 647 as amended; 42 U.S.C. 403(f)(8), 405(a), 415(i), 430, and 1302.

(Catalog of Federal Domestic Assistance Program Nos. 13.803–4, Social Security Retirement and Survivors Insurance.)

Dated: May 23, 1975.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: June 19, 1975.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

Part 404 of Chapter III of Title 20 of the Code of Federal Regulations, as amended, is further amended as follows:

1. Paragraph (c) introduction and (c)(1) of § 404.429 are revised to read as follows:

§ 404.429 Earnings; defined.

* * * * *

(c) *Wages defined.* Wages include the gross amount of an individual's wages rather than the net amount paid after deductions by the employer for items such as taxes and insurance. For purposes of this section, an individual's wages are determined under the provisions of Subpart K of this part, except that, notwithstanding the provisions of Subpart K, wages also includes:

(1) Remuneration of over $14,000 in the calendar year 1975, or over $13,200 in the calendar year 1974, or over $10,800 in the calendar year 1973, or over $9,000 in the calendar year 1972, or over $7,800 in a calendar year 1968 through 1971, or over $6,600 in calendar years 1966 and 1967, or over $4,800 in a calendar year 1959 through 1965, or over $4,200 in a calendar year 1955 through 1958, or over $3,600 in a calendar year 1951 through 1954; and

* * * * *

2. Section 404.430 is revised to read as follows:

§ 404.430 Excess earnings; defined for taxable years ending after December 1972.

(a) *Method of determining excess earnings for years ending after December 1972.* For taxable years ending after December 1972, an individual's excess earnings for a taxable year are 50 percent of his earnings (as described in § 404.429) for such year in excess of the product obtained by multiplying the applicable monthly exempt amount by the number of months in such year in which earnings exceeded the following applicable monthly exempt amount:

(1) $175 for taxable years ending after December 1972 and before January 1974;

(2) $200 for taxable years beginning after December 1973 and before January 1975; and

(3) the exempt amount for taxable years ending after December 1974, as determined in accordance with paragraph (c) of this section. However, earnings in and after the month an individual attains age 72 will not be used to figure excess earnings for retirement test purposes. For the employed individual, his wages for months prior to the month of attainment of age 72 are used to figure his excess earnings for retirement test purposes. For the self-employed individual, the pro rata share of the net earnings or net loss for the taxable year for

the period prior to the month of attainment of age 72 is used to figure his excess earnings. If the beneficiary was not engaged in self-employment prior to the month of attainment of age 72, any subsequent earnings or losses from self-employment in the taxable year will not be used to figure his excess earnings. Where the excess amount figured in accordance with the provisions of this section is not a multiple of $1, it is reduced to the next lower dollar.

Example 1. The self-employed beneficiary attained age 72 in July 1975. His net earnings for 1975, his taxable year, were $6,000. The pro rata share of such net earnings for the period prior to July is $3,000. His excess earnings for 1975 for retirement test purposes are $240. This is computed by subtracting $2,520 ($210×12) from $3,000 and dividing the result by 2.

Example 2. The beneficiary attained age 72 in July 1975. His wages for the period prior to July were $3,000. From August through December 1975 he engaged in self-employment and derived net earnings in the amount of $2,000. His net earnings from self-employment are not used to figure his excess earnings. Only his wages for the period prior to July 1975 ($3,000) are used to figure his excess earnings. As in example 1, his excess earnings are $240.

Example 3. The facts are the same as in example 2 except that the beneficiary had a net loss in the amount of $500 from self-employment activity in which he engaged throughout 1975. The pro rata share of such net loss for the period prior to July is $250. His earnings for the taxable year for figuring excess earnings are $2,750. This is computed by subtracting the $250 loss from the $3,000 in wages. The excess earnings are $115 (($2,750—$2,520) 2).

(b) *Definition.* The retirement test monthly exempt amount is the amount which a title II beneficiary may earn in any month without part of his monthly benefit being deducted because of excess earnings (see paragraph (a) of this section and §§ 404.431–404.433).

(c) *Method of determining monthly exempt amount for taxable years ending after December 1974.* (1) For purposes of paragraph (a) (3) of this section, the applicable monthly exempt amount effective for an individual's taxable year that ends in the calendar year after the calendar year in which an automatic cost-of-living increase in old-age, survivors, and disability insurance benefits is effective, is the larger of: (i) The exempt amount in effect for months in the taxable year in which the exempt amount determination is being made; or (ii) the amount determined by multiplying the monthly exempt amount effective during the taxable year in which the exempt amount determination is being made by the ratio of:

(A) The average amount, per employee, of the taxable wages of all employees as reported to the Secretary for the first calendar quarter of the calendar year in which the exempt amount determination is made, to

(B) The average amount, per employee, of the taxable wages of all employees as reported to the Secretary for the first calendar quarter of the most recent calendar year in which an increase in the exempt amount was enacted or a determination resulting in such an increase was made, and rounding such ratio to the nearest multiple of $10.

(2) For purposes of paragraph (c) (1) of this section, "reported for the first calendar quarter" means reported for such first calendar quarter and posted to the earnings records by the Secretary on or before the last day of the Social Security Administration's quarterly updating operations in September of that same year. Earnings items received or posted thereafter are not counted even though they pertain to the first quarter.

3. Section 404.1049 is added, reading as follows:

§ 404.1049 Contribution and benefit base after 1974.

(a) *Method of determining contribution and benefit base (maximum creditable remuneration) after 1974.* The contribution and benefit base as determined after 1974 pursuant to section 230 of the Act with respect to remuneration paid after (and taxable years beginning after) any calendar year after 1974 for which an automatic cost-of-living increase in old-age, survivors, and disability insurance benefits is effective, is the larger of:

(1) The contribution and benefit base in effect for the calendar year in which the determination of the contribution and benefit base is being made; or

(2) The amount determined by multiplying the contribution and benefit base which is in effect for the calendar year in which the determination of contribution and benefit base is being made by the ratio of:

(i) The average amount, per employee, of the taxable wages of all employees as reported to the Secretary for the first calendar quarter of such calendar year, to

(ii) The average amount, per employee, of the taxable wages of all employees as reported to the Secretary for the first calendar quarter of the most recent calendar year in which an increase in the contribution and benefit base was enacted or a determination resulting in such an increase was made, and rounding such ratio to the nearest multiple of $300.

(b) *Meaning of term "reported for the first calendar quarter".* For purposes of paragraph (a) (2) of this section, "reported for the first calendar quarter" means reported for such first calendar quarter and posted to earnings records by the Secretary on or before the last day of the Social Security Administration's quarterly updating operations in September of that same year. Earnings items received or posted thereafter are not counted even though they pertain to the first quarter.

4. Section 404.1068(b) and (c) are revised to read as follows:

§ 404.1068 Self-employment income.

* * * * *

(b) *Maximum self-employment income.* (1) The maximum self-employment income of an individual for any taxable year (whether a period of 12 months or less) is the excess of—

(i) For taxable years ending before 1955, $3,600,

(ii) For taxable years ending after 1954 and before 1959, $4,200,

(iii) For taxable years ending after 1958 and before 1966, $4,800,

(iv) For taxable years ending after 1965 and before 1968, $6,600,

(v) For taxable years ending after 1967 and before 1972, $7,800,

(vi) For taxable years ending in 1972, $9,000,

(vii) For taxable years beginning in 1973 and for taxable years ending in 1973, $10,800,

(viii) For taxable years beginning in 1974, $13,200,

(ix) For taxable years beginning after 1974, an amount equal to the contribution and benefit base as determined under section 230 of the Act which is effective for such year,

over the amount of any wages (as defined in section 209 of the Act) paid to such individual in such taxable year. For example, if during the taxable year ending in 1968 no such wages are paid and the individual has $8,000 of net earnings from self-employment, he has $7,800 of self-employment income for such taxable year. If, in addition to having $8,000 of net earnings from self-employment, such individual is paid $1,000 of such wages, he has only $6,800 of self-employment income for the taxable year.

(2) For the purpose of the limitation described in paragraph (b) (1) of this section, the term "wages" includes such remuneration paid to an employee for services covered by:

(i) An agreement entered into pursuant to section 218 of the Act, which section provides for extension of the Federal old-age, survivors, and disability insurance system to State and local government employees under voluntary agreements between the States and the Secretary of Health, Education, and Welfare; or

(ii) An agreement entered into pursuant to the provisions of section 3121 (l) of the Internal Revenue Code of 1954, relating to coverage of citizens of the United States who are employees of foreign subsidiaries of domestic corporations, as would be wages under section 209 of the Act if such services constituted employment under section 210(a) of the Act. For an explanation of the term "wages," see §§ 404.1026 and 404.1027.

(c) *Minimum net earnings from self-employment.* Self-employment income does not include the net earnings from self-employment of an individual when the amount of such earnings for the taxable year is less than $400. Thus, an individual having only $300 of net earnings from self-employment for the taxable year would not have any self-employment income. However, an individual having net earnings from self-employment of $400 or more for the taxable year may have less than $400 of self-employment income. This could occur in a case

in which the amount of the individual's net earnings from self-employment is $400 or more for a taxable year and the amount of such net earnings from self-employment plus the amount of the wages paid to the individual during that taxable year exceed an amount equal to the contribution and benefit base as determined under section 230 of the Act for taxable years beginning after 1974 ($3,600 for taxable years ending before 1955, $4,200 for taxable years ending after 1954 and before 1959, $4,800 for taxable years ending after 1958 and before 1966, or $6,600 for taxable years ending after 1965 and before 1968, $7,800 for taxable years ending after 1967 and before 1972, $9,000 for taxable years ending in 1972, $10,800 for taxable years beginning in 1973 and for taxable years ending in 1973, $13,200 for taxable years beginning in 1974). For example, if an individual has net earning from self-employment of $1,000 for 1974 and also is paid wages of $12,900 during that taxable year, his self-employment income for that taxable year is $300.

* * * * *

[FR Doc.75-16328 Filed 6-23-75;8:45 am]

[20 CFR Part 405]

[Regulations No. 5]

FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Payment to Providers-Retroactive Adjustment in Case of Administrative Error

Notice is hereby given pursuant to the Administrative Procedure Act (5 U.S.C. 553) that the amendments to the regulations set forth below are proposed by the Commissioner of Social Security with the approval of the Secretary of Health, Education, and Welfare. The proposed regulation is designed to correct inequities that could result for certain providers of services when the methodology used by the Social Security Administration to determine the providers' reasonable costs of furnishing services to Medicare beneficiaries is found to be inappropriate. Ordinarily, revision or modification of a legal interpretation or administrative rule relating to the principles of reimbursement does not constitute cause for reopening settled determinations on the amount of program reimbursement. Any such change is usually effective with a provider's reporting period beginning after the date such a change has been announced. Under the proposal, however, when the Social Security Administration determines that a principle, guideline, or policy in effect prior to a change was erroneous, the revised principle, guideline, or policy may be applied retroactively. Retroactivity, however, will be limited to the provider's cost-reporting period in which the change was announced, and the two reporting periods immediately preceding such period. Within these limits, the changed policy will be applied where applicable without regard to the monetary advantage or disadvantage resulting therefrom.

Prior to the final adoption of the proposed amendments to the regulations, consideration will be given to any data, views or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Maryland 21203, on or before July 24, 1975.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue, SW, Washington, D.C. 20201.

The proposed amendments are to be issued under the authority contained in sections 1102, 1861(v), and 1871 of the Social Security Act, 49 Stat. 647, as amended, 79 Stat. 322, as amended, 79 Stat. 331, 42 U.S.C. 1302, 1395x(v), and 1395hh.

(Catalog of Federal Domestic Assistance Program No. 13.800, Health Insurance for the Aged—Hospital Insurance)

Dated: May 23, 1975.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: June 19, 1975.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

Part 405 of Chapter III of Title 20 of the Code of Federal Regulations (20 CFR Part 405) is further amended as follows:

In § 405.454, the heading of paragraph (f) is revised and paragraph (i) is added. The revised and added provisions read as follows:

§ 405.454 **Payments to providers.**

* * * * *

(f) *Retroactive adjustment to take into account excessive or inadequate interim payments.* * * *

* * * * *

(i) *Adjustment where a principle for determining reasonable cost is changed—*(1) *Effect of a change.* Where there is a change of a legal interpretation or administrative rule with respect to the principles of reimbursement, reimbursement guidelines, or related policies, such change will be effective for the purpose of determining a provider's reasonable cost in the provider's reporting period that begins after the date of such change unless the Social Security Administration finds, upon making such change, that the legal interpretation or administrative rule in effect prior to such change was in error. In such case of error, a provider may request, within 180 days of the publication of the notice of change or within such additional time as the Social Security Administration may allow, that such change be taken into account in determining the amount of program reimbursement for reporting periods prior to such change. Such change, if found to be applicable, will be effective with respect to the provider's reporting period during which the change was made and the two reporting periods immediately preceding. A change shall not apply to any reporting period if such application results in a net program reimbursement disadvantage to the provider of services unless the newly stated legal interpretation or administrative rule is published as an amendment to the Code of Federal Regulations.

(2) *Determination of an error.* In determining whether any former principle, guideline, or related policy is erroneous, the Social Security Administration shall not consider it erroneous if the new principle, guideline, or related policy is merely a more desirable interpretation of the law or regulations and the former principle, guideline, or related policy is not an unreasonable interpretation of the law or regulations.

* * * * *

[FR Doc.75-16329 Filed 6-23-75;8:45am]

[20 CFR Part 405]

[Regulations No. 5]

FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Providers of Services, Independent Laboratories, Suppliers of Portable X-ray Services, and End-Stage Renal Disease Treatment Facilities; Determinations and Appeals Procedure

Notice is hereby given pursuant to the Administrative Procedure Act (5 U.S.C. 553) that the amendments to the regulations set forth in tentative form below are proposed by the Commissioner of Social Security with approval of the Secretary of Health, Education, and Welfare. The proposed regulation amends Subpart 0 to provide procedures for making and reviewing determinations with respect to whether a facility meets the conditions (including the documentation of need for the services) for coverage of end-stage renal disease services reimbursable under the Medicare program. The determinations will be made and reviewed in the manner currently available to independent laboratories and portable x-ray suppliers, that is, as determinations which do not pertain specifically to the definition of provider of services or to a termination made pursuant to section 1866(b)(2) of the Social Security Act. This includes an initial determination and reconsideration by the Bureau of Health Insurance and the Bureau of Quality Assurance, and hearing and review of the hearing by the Bureau of Hearings and Appeals.

On April 22, 1975, amendments and an appendix to Subpart B were published in the FEDERAL REGISTER (40 FR 17746), to implement section 299I of the Social Security Amendments of 1972, Pub. L. 92-603 (which amends section 226 of the Social Security Act, 42 U.S.C. 426). This Appendix to Subpart B sets out interim conditions (including documentation of need for the service) facilities must meet to initiate or expand end-stage renal disease services under the Medicare program after June 1, 1973. The amend-

ments to Subpart O herein proposed set out the procedure for making and reviewing determinations under the Regulations published on April 22, 1975 and, when published in final form, these amendments to Subpart O will apply to the long-term regulations which have been published as a Notice of Proposed Rule Making in Subpart U and will set out conditions for coverage of all end-stage renal disease facilities and replace the above mentioned Appendix to Subpart B.

Prior to the final adoption of the proposed amendments to the regulations, consideration will be given to any data, views or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare, Social Security Administration, P.O. Box 1585, Baltimore, Maryland 21203, on or before July 24, 1975.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue, SW., Washington, D.C. 20201.

The proposed amendments are to be issued under the authority contained in sections 1102, 1866, 1871, 1872, 49 Stat. 647, as amended; 79 Stat. 327; 79 Stat. 330–332; 42 U.S.C. 1302, 1395cc, 1395hh, 1395ii.

(Catalog of Federal Domestic Assistance Program No. 13.800, Health Insurance for the Aged—Hospital Insurance; No. 13.801, Health Insurance for the Aged—Supplementary Medical Insurance.)

Dated: May 30, 1975.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: June 19, 1975.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

Subpart O of Part 405, Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

1. The heading for Subpart O is revised to read as follows:

Subpart O—Providers of Services, Emergency Service Hospitals, Independent Laboratories, Suppliers of Portable X-Ray Services, and End-Stage Renal Disease Treatment Facilities; Determinations and Appeals Process

2. In § 405.1501 the section heading and paragraphs (a) and (c) are revised to read as follows:

§ 405.1501 Providers of services, emergency service hospitals, independent laboratories, suppliers of portable x-ray services, end-stage renal disease treatment facilities; determinations and appeals procedures.

(a) The provisions contained in this Subpart O shall govern the procedure for making and reviewing determinations with respect to:

(1) Whether an institution, agency, or clinic is a provider of services (i.e., a hospital, skilled nursing facility, home health agency, or for purposes of furnishing outpatient physical therapy or speech pathology services, a clinic, rehabilitation agency, or public health agency) within the meaning of title XVIII of the Social Security Act and Subparts J, K, L, or Q of this Part 405, as appropriate, and is certified as set out in Subpart S of this part;

(2) Whether an institution is a hospital, as such term is included in section 1861(e) for purposes of sections 1814(d) and 1835(b) of the Act (see § 405.152 (a)(1)), qualified to elect to claim payment for all emergency hospital services furnished in a calendar year (see § 405.658);

(3) The termination of the Secretary's agreement with a provider of services for cause (see §§ 405.604, 405.614, and 405.1905);

(4) Whether an institution continues to remain in compliance with the qualifications for claiming emergency service reimbursement for a calendar year under the provisions of sections 1814(d) and 1835(b) of the Act; and

(5) Whether an independent laboratory, supplier of portable X-ray services, or end-stage renal disease treatment facility meets the appropriate conditions for coverage of its services (see Subparts M, N, and Appendix to Subpart B of this Part 405).

* * * * *

(c) Any independent laboratory, supplier of portable X-ray services, or any end-stage renal disease treatment facility which is dissatisfied with an initial determination (see § 405.1502) that the services subject to the determination do not meet the conditions for coverage (see Subparts M, N, and Appendix to Subpart B of this Part 405) may request a reconsideration of that determination (§ 405.1510). If dissatisfied with the reconsidered determination or where a determination had been made that an independent laboratory's portable x-ray suppliers's, or end-stage renal disease treatment facility's services met the respective conditions for coverage with an initial determination thereafter that the services subject to the determination no longer meet the respective conditions for coverage a laboratory, portable X-ray supplier or end-stage renal disease treatment facility may request a hearing thereon (see § 405.1530), and if dissatisfied with the decision of the Administrative Law Judge may request Appeals Council review. The statute does not offer a laboratory, portable X-ray supplier, or end-stage renal disease treatment facility a judicial review of the Secretary's final decision after such hearing and review.

* * * * *

3. Paragraph (b) of § 405.1502 is revised to read as follows:

§ 405.1502 Initial determinations.

(b)(1) Whether an independent laboratory, supplier of portable X-ray services, or the end-stage renal disease treatment facility meets the respective conditions for coverage (see Subparts M, N, and Appendix to Subpart B of this Part 405); if the laboratory, portable X-ray supplier, or renal disease treatment facility has filed a written request for such a determination; or

(2) Whether the services of an independent laboratory, supplier of portable X-ray services, or an end-stage renal disease treatment facility continues to meet their respective conditions for coverage of the services subject to the determination; and

* * * * *

4. Section 405.1503 is revised to read as follows:

§ 405.1503 Notice of initial determinations.

Written notice of an initial determination (§ 405.1502) will be mailed to an institution, agency, clinic, laboratory, portable X-ray supplier or end-stage renal disease treatment facility (§§ 405.1510 and 405.1530) with respect to:

(a) Whether the institution, agency, or clinic is or is not a provider;

(b) Whether the institution is or is not a hospital for purposes of the emergency service reimbursement provisions of sections 1814(d) and 1835(b) of the Act;

(c) The termination of an agreement for cause;

(d) Whether an institution continues to remain in compliance with the qualifications for claiming emergency services reimbursement for a calendar year under the provisions of sections 1814(d) and 1835(b) of the Act; or

(e) Whether an independent laboratory, supplier of portable X-ray services, or end-stage renal disease treatment facility meets the respective conditions for coverage of the services subject to the determination (see Subparts M, N, and Appendix to Subpart B of the Part 405).

5. Introductory text is added and paragraph (a) of § 405.1505 is revised to read as follows:

§ 405.1505 Administrative actions which are not initial determinations.

Administrative actions which shall not be considered initial determinations under any provision of the regulations in this Subpart O include, but are not limited to, the following:

(a) The finding that: (1) An institution, agency, or clinic determined to be a provider has deficiencies with respect to one or more conditions of participation, or (2) That an independent laboratory, supplier of portable X-ray services, or end-stage renal disease treatment facility determined to be in substantial compliance with the conditions, has deficiencies with respect to one or more conditions for coverage of the services subject to the finding.

* * * * *

6. Section 405.1510 is revised to read as follows:

§ 405.1510 Reconsideration: right to reconsideration.

(a) (1) Any institution, agency, or clinic which is dissatisfied with an initial determination (see § 405.1502) that it does not qualify as a provider of services; or

(2) Any institution which is dissatisfied with an initial determination that it does not qualify to elect to claim payment for all emergency hospital services furnished in a calendar year; or

(3) Any independent laboratory, supplier of portable X-ray services, end-stage renal disease treatment facility which is dissatisfied with an initial determination that the services subject to the determination do not meet the respective conditions for coverage (see Subparts M, N, and Appendix to Subpart B of this Part 405) may request that the Secretary reconsider the determination.

(b) The Secretary will reconsider an initial determination if a written request for reconsideration is filed by the institution, agency, clinic, laboratory, portable X-ray supplier, or end-stage renal disease treatment facility concerned, as provided in § 405.1511.

7. Paragraph (a) of § 405.1511 is revised to read as follows:

§ 405.1511 Time and place of filing request for reconsideration.

(a) A request for reconsideration must be in writing (see § 405.1512) and should state the issues or findings of fact with which the institution, agency, clinic, laboratory, portable X-ray supplier, or end-stage renal disease treatment facility, as appropriate, disagrees and the reasons for disagreement.

* * * * *

8. Section 405.1512 is revised to read as follows:

§ 405.1512 Proper party for filing request for reconsideration.

The legal representative or other authorized official of the institution, agency, clinic, laboratory, portable X-ray supplier, or end-stage renal disease treatment facility which was a party to an initial determination shall file the request for reconsideration of such determination (see §§ 405.1510 and 405.1511).

9. Section 405.1513 is revised to read as follows:

§ 405.1513 Withdrawal of request for reconsideration.

A request for reconsideration may be withdrawn prior to the mailing of notice of the reconsidered determination (see § 405.1516) if a written request for withdrawal is filed with the Secretary by the institution, agency, clinic, laboratory, portable X-ray supplier, or end-stage renal disease treatment facility which filed the request for reconsideration and the Secretary approves the request.

10. Section 405.1515 is revised to read as follows:

§ 405.1515 Submission of evidence.

The Secretary will receive in evidence any documents or written statements which are relevant and material to the matters at issue and which are submitted within a reasonable time after the filing of a request for reconsideration. The reconsidered determination will be based on the evidence considered in making the initial determination and whatever other written evidence that is submitted prior to the time of the reconsidered determination, taking into account facts relating to the status of the institution, agency, clinic, laboratory, portable X-ray supplier, or end-stage renal disease treatment facility as of a date subsequent to the initial determination.

11. Section 405.1516 is revised as follows:

§ 405.1516 Notice of reconsidered determination.

Written notice of a reconsidered determination (see § 405.1514) will be mailed to the institution, agency, clinic, laboratory, portable X-ray supplier, or end-stage renal disease treatment facility concerned. The notice of the reconsidered determination will contain findings on conditions with respect to which the institution, agency, clinic, laboratory, portable X-ray supplier, or end-stage renal disease treatment facility fails to meet the requirements of the law and regulations, if such be the case, and a statement of the reasons for the determination, and will inform the institution, agency, clinic, laboratory, portable X-ray supplier, or end-stage renal disease treatment facility of its right to a hearing (see § 405.1530).

12. Section 405.1519 is revised to read as follows:

§ 405.1519 Revision of initial or reconsidered determinations.

Except in the case of a determination that an institution, agency, or clinic qualifies as a provider of services, or that an institution qualifies to elect to claim payment for all emergency hospital services furnished in a calendar year, an initial or reconsidered determination which is otherwise final under § 405.1504 or § 405.1517 may be reopened by the Secretary upon its own motion within 12 months after the date of the notice of the initial determination (see § 405.1503). Notice of the reopening of a determination and any revision thereof shall be given to the institution, agency, clinic, laboratory, portable X-ray supplier, or end-stage renal disease treatment facility which was a party to the determination (see § 405.1520).

13. Section 405.1520 is revised to read as follows:

§ 405.1520 Notice of revision.

Written notice of the revision of an initial or reconsidered determination (see § 405.1519) will be mailed to the institution, agency, clinic, laboratory, portable X-ray supplier, or end-stage renal disease treatment facility which was a party to the determination. The notice of revision will state the basis or reasons for the revised determination and, if the determination be that an independent laboratory, supplier of portable X-ray services, or end-stage renal disease treatment facility does not meet the conditions for coverage of the services subject to the determination (see Subparts M, N, and Appendix to Subpart B, of this Part 405), will contain findings on conditions with respect to which the laboratory, portable X-ray supplier, or end-stage renal disease treatment facility fails to meet the requirements of the law and regulations and will inform the laboratory, portable X-ray supplier, or end-stage renal disease treatment facility of its right to a hearing as provided in § 405.1530.

14. Section 405.1530 is revised to read as follows:

§ 405.1530 Hearing: right to hearing.

After an initial and reconsidered determination that it does not qualify as a provider of services, or that an independent laboratory, supplier of portable X-ray services, or end-stage renal disease treatment facility does not meet the conditions for coverage of its services, or that an institution does not qualify to elect to claim payment for all emergency hospital services furnished in a calendar year (see §§ 405.1502(a), (b)(1), and (d)(1), and 405.1514); or after an initial determination described in § 405.1502(b)(2), (c), and (d)(2); or after a revised determination described in § 405.1519, an institution, agency, clinic, laboratory, portable X-ray supplier, or end-stage renal disease treatment facility shall be entitled to a hearing with respect to such determination, if the representative of the institution, agency, clinic laboratory, portable X-ray supplier or end-stage renal disease treatment facility files a written request for hearing as provided in § 405.1531.

15. Section 405.1531 is revised to read as follows:

§ 405.1531 Filing a request for a hearing; time and manner of filing.

The request for a hearing shall be made in writing, signed by a proper official of the institution, agency, clinic, laboratory, portable X-ray supplier, or end-stage renal disease treatment facility concerned and filed at an office of the Department of Health, Education, and Welfare or with an Administrative Law Judge or the Appeals Council of the Bureau of Hearings and Appeals. The request must be filed within 6 months after the date on which written notice of an initial determination provided for in § 405.1502(b)(2), (c), or (d)(2), or a reconsidered or revised determination is mailed to the institution, agency, clinic, laboratory, portable X-ray supplier, or end-stage renal disease treatment facility (see §§ 405.1503, 405.1516, and 405.1520), except where the time is extended for "good cause" (see § 405.1569).

16. Section 405.1532 is revised to read as follows:

§ 405.1532 Parties to the hearing.

The parties to the hearing shall be the institution, agency, clinic, laboratory, portable X-ray supplier, or end-stage renal disease treatment facility which was a party to the prior determination (see §§ 405.1502(b)(2), (c) and (d)(2), 405.1514, and 405.1519) and the Bureau of Health Insurance (as well as the Bureau of Quality Assurance in the case of a determination regarding an end-stage renal disease treatment facility) as representing the Secretary. The Bureau of Health Insurance shall be represented at the hearing (see § 405.1543).

17. Section 405.1534 is revised to read as follows:

§ 405.1534 Disqualification of Administrative Law Judge.

No Administrative Law Judge shall conduct a hearing in a case in which he is prejudiced or partial with respect to the institution, agency, clinic, laboratory, portable X-ray supplier, or end-stage renal disease treatment facility, or where he has any interest in the matter pending for decision before him. Notice of any objection which a party to the hearing may have to the Administrative Law Judge who will conduct the hearing shall be made at the earliest opportunity. The Administrative Law Judge shall consider the objection(s) and shall, in his discretion, either proceed with the hearing or withdraw. If the Administrative Law Judge withdraws, another Administrative Law Judge shall be designated (see § 405.1533) to conduct the hearing. If the Administrative Law Judge does not withdraw, the objecting party may, after the hearing, present his objections to the Appeals Council as reasons why he believes the Administrative Law Judge's decision should be revised or a new hearing held before another Administrative Law Judge.

18. Section 405.1536 is revised to read as follows:

§ 405.1536 Time and place of prehearing conference.

The Administrative Law Judge shall fix a time and place for the prehearing conference, written notice of which shall be mailed to the parties not less than 10 days prior to the conference date. The notice shall inform the parties of the purpose of the prehearing conference and the issues sought to be resolved, stipulated to, or excluded. If a party has information which will involve additional issues for consideration at the prehearing conference, other than those set forth in the notice of determination (see §§ 405.1503, 405.1516, and 405.1520) and the request for hearing by the institution, agency, clinic, laboratory, portable X-ray supplier, end-stage renal disease treatment facility, timely notice of such information should be given to the Administrative Law Judge and the other party. The Administrative Law Judge may also raise any additional issues by including them in his notice of the prehearing conference or during the conference.

19. Section 405.1537 is revised to read as follows:

§ 405.1537 Conduct of prehearing conference.

The prehearing conference shall be open to the representatives of the institution, agency, clinic, laboratory, portable X-ray supplier, or end-stage renal disease treatment facility and the representatives of the Secretary, to their technical advisors, and to such other persons as the Administrative Law Judge deems necessary or proper. The Administrative Law Judge may accept the agreement of the parties as to those facts which are not in controversy and as to questions which have been resolved favorably to the institution, agency, clinic, laboratory, portable X-ray supplier, or end-stage renal disease treatment facility subsequent to the determination in dispute. The Administrative Law Judge may accept the agreement of the parties as to the remaining issues to be resolved. The parties may be requested to indicate what witnesses will be present to testify at the hearing, the qualifications of such witnesses,and the nature of other evidence to be submitted.

20. Paragraph (a) of § 405.1542 is revised to read as follows:

§ 405.1542 Hearing on new issues.

(a) On the application of either party, or on his own motion, the Administrative Law Judge may give notice at any time after a request for hearing has been filed (see § 405.1531), but prior to the closing of the record, that he will consider any specific new issue which may affect the rights of the institution, agency, clinic, laboratory, portable X-ray supplier, or end-stage renal disease treatment facility, even though the Secretary has not made an initial and reconsidered determination with respect to the issue and even though the issue arose after the request for hearing or prehearing conference. Except that, in the case of an initial determination described in § 405.1502(b)(2), (c), or (d)(2), the Administrative Law Judge shall not consider any issue which arose on or after:

(1) The effective date of the termination of an institution's, agency's, or clinic's agreement with the Secretary, or

(2) The date on which it is determined that a laboratory, portable X-ray supplier, or end-stage renal disease treatment facility no longer meets their respective conditions for coverage of its services, or

(3) The effective date of the notification to an institution of its failure to remain in compliance with the qualifications for claiming emergency service reimbursement for a calendar year under the provisions of sections 1814(d) and 1835(b) of the Act. Notice of the time and place of the hearing on any new issue shall, unless waived (see § 405.1550), be given to the parties within the time and manner prescribed in § 405.1540. Upon giving of such notice, the Administrative Law Judge shall, except as otherwise provided, proceed to hearing on such new issues in the same manner as he would on an issue in which an initial and reconsidered determination had been made by the Secretary and a hearing request with respect thereto had been filed.

* * * * *

21. Section 405.1543 is revised to read as follows:

§ 405.1543 Joint hearings.

When two or more institutions, agencies, clinics, laboratories, portable X-ray suppliers, or end-stage renal disease treatment facilities have requested hearings and the same or substantially similar matters are in issue, the Administrative Law Judge may, if all parties agree, fix the same times and places for each prehearing conference or hearing and conduct all such proceedings jointly. Where joint hearings are held, a single record of the proceedings shall be made and a separate decision issued with respect to each institution, agency, clinic, laboratory, portable X-ray supplier, or endstage renal disease treatment facility.

22. Section 405.1545 is revised to read as follows:

§ 405.1545 Conduct of the hearing.

The hearing shall be open to the representatives of the institution, agency, clinic, laboratory, portable X-ray supplier, or end-stage renal disease treatment facility and the representatives of the Bureau of Health Insurance, their technical advisors, and to such other persons as the Administrative Law Judge deems necessary or proper. The Administrative Law Judge shall inquire fully into all of the matters at issue (see § 405.1542) and shall receive in evidence the testimony of witnesses and any documents which are relevant and material to such matters. If the Administrative Law Judge believes that there is relevant and material evidence available which has not been presented at the hearing, the Administrative Law Judge may at any time prior to the mailing of notice of the decision, reopen the hearing for the receipt of such evidence. The order in which the evidence and the allegations shall be presented and the conduct of the hearing shall be at the discretion of the Administrative Law Judge.

23. Section 405.1550 is revised to read as follows:

§ 405.1550 Waiver of right to appear and present evidence.

If the institution, agency, clinic, laboratory, portable X-ray supplier, or end-stage renal disease treatment facility waives its right to appear before the Administrative Law Judge and present testimony, it shall not be necessary for the Administrative Law Judge to give notice of and conduct an oral hearing. A waiver of this right shall be made in writing and filed with the Administrative Law Judge. A waiver may be withdrawn by an institution, agency, clinic, laboratory, portable X-ray supplier, or end-stage renal disease treatment facility for good cause shown, at any time prior to the mailing of notice of the decision in the case. Even though an institution, agency, clinic, laboratory, portable X-ray supplier, or

end-stage renal disease treatment facility has filed a waiver of a hearing before an Administrative Law Judge, the Administrative Law Judge may nevertheless give notice of a time and place and conduct a hearing if he believes that testimony of the representatives of the institution, agency, clinic, laboratory, portable X-ray supplier, or end-stage renal disease treatment facility or other persons is needed to clarify the facts in issue, or on a showing of good cause by the Bureau of Health Insurance (as well as the Bureau of Quality Assurance in the case of a determination regarding an end-stage renal disease treatment facility) as representing the Secretary, of the need to present oral evidence. When such a waiver has been filed and no testimony received, the Administrative Law Judge shall make a record of the relevant written evidence, including applications, written statements, certificates, affidavits, reports, and other documents which were considered in connection with the initial, reconsidered, or revised determination (see §§ 405.1502, 405.1514, and 405.1519), and whatever additional relevant and material evidence was submitted by the parties for consideration by the Administrative Law Judge. Any additional evidence submitted by either party shall be furnished to the other party and that party shall be given a reasonable opportunity to submit further evidence in rebuttal. The parties may submit briefs or other written statements of evidence and/or proposed findings of fact or conclusions of law, copies of which shall be sent in accordance with § 405.1595. After the Administrative Law Judge sets the case for oral hearing and gives notice of the time and place set for the hearing, the request for hearing shall be dismissed in accordance with § 405.1552 where the institution, agency, clinic, laboratory, portable X-ray supplier, or end-stage renal disease treatment facility fails to appear without good cause.

24. Section 405.1551 is revised to read as follows:

§ 405.1551 Dismissal of request for hearing.

The Administrative Law Judge, at any time prior to the mailing of notice of the decision (see § 405.1557), may dismiss a hearing request where a party withdraws its request for a hearing or where the institution, agency, clinic, laboratory, portable X-ray supplier, or end-stage renal disease treatment facility may request a dismissal by filing a written notice with the Administrative Law Judge.

25. Section 405.1552 is revised to read as follows:

§ 405.1552 Dismissal by abandonment.

The Administrative Law Judge may dismiss a request for hearing upon its abandonment by the institution, agency, clinic, laboratory, portable X-ray supplier, or end-stage renal disease treatment facility on whose behalf it was filed. An institution, agency, clinic, laboratory, portable X-ray supplier, or end-stage renal disease treatment facility may be deemed to have abandoned a request for hearing if the representative or proper official:

(a) Does not appear at the prehearing conference or hearing and, prior to that time, has not shown good cause as to why he could not appear; or

(b) Within 10 days after the Administrative Law Judge mails a show cause notice to the representative, did not show good cause for failing to appear or to notify the Administrative Law Judge prior to the prehearing conference or hearing that he could not appear.

26. Paragraphs (a) and (c) of § 405.1553 are revised to read as follows:

§ 405.1553 Dismissal for cause.

* * * * *

(a) *Res judicata.* Where there has been a previous determination or decision by the Secretary with respect to the rights of the same institution, agency, clinic, laboratory, portable X-ray supplier, or end-stage renal disease treatment facility on the same facts and law pertinent to the same issue or issues which has become final either by judicial affirmance or, without judicial consideration, upon failure of the institution, agency, clinic, laboratory, portable X-ray supplier, or end-stage renal disease treatment facility timely to request reconsideration, hearing, or review, or to commence a civil action with respect to such determination or decision.

* * * * *

(c) *Hearing request not timely filed.* Where an institution, agency, clinic, laboratory, portable X-ray supplier, or end-stage renal disease treatment facility has failed to file a hearing request timely and the time for filing such request has not been extended.

27. Section 405.1554 is revised to read as follows:

§ 405.1554 Notice of dismissal and right to request review thereof.

Notice of the Administrative Law Judge's dismissal action shall be mailed to the parties. Such notice shall advise the institution, agency, clinic, laboratory, portable X-ray supplier, or end-stage renal disease treatment facility of its right to request review by the Appeals Council as provided in §§ 405.1561 and 405.1562.

28. Section 405.1563 is revised to read as follows:

§ 405.1563 Action by the Appeals Council on request for review.

The review or denial of the Administrative Law Judge's decision shall be conducted by a panel of at least two members of the Appeals Council designated by the Chairman or Deputy Chairman and one person from the U.S. Public Health Service designated by the Secretary. Except as provided in § 405.1568, the Appeals Council shall review the Administrative Law Judge's decision or dismissal where an institution, agency, clinic, laboratory, portable X-ray supplier, or end-stage renal disease treatment facility files a request for review. The Appeals Council may dismiss, deny, or grant a request for review filed by the Bureau of Health Insurance as representing the Secretary. If the review is granted, the Appeals Council may either modify, affirm, or reverse the Administrative Law Judge's decision. Notice of the action by the Appeals Council shall be mailed to the institution, agency, clinic, laboratory, portable X-ray supplier, or end-stage renal disease treatment facility and the Bureau of Health Insurance.

29. Section 405.1567 is revised to read as follows:

§ 405.1567 Effect of the Appeals Council decision.

The decision of the Appeals Council shall be final and binding unless a civil action (see § 405.1501 (b) and (e)) is filed by the institution, agency, or clinic in a district court of the United States as authorized by section 1869(c) of the Act or unless the decision is revised in accordance with § 405.1570. (Section 1869(c) of the Act does not grant judicial review of the Secretary's decision with respect to whether an independent laboratory, supplier of portable X-ray services, or end-stage renal disease treatment facility meets the conditions for coverage, as required by Subparts M, N, or Appendix to Subpart B.)

30. Section 405.1569 is revised to read as follows:

§ 405.1569 Extension of time to request a hearing or review or begin civil action.

(a) Any institution, agency, clinic, laboratory, portable X-ray supplier, or end-stage renal disease treatment facility which is a party to an initial determination described in § 405.1502(b)(2), (c), or (d)(2); or to a reconsidered determination that it does not qualify as a provider of services or does not qualify to elect to claim payment for all emergency hospital services furnished in a calendar year or does not meet the conditions for coverage; or to a revised determination described in § 405.1519; or which is a party to a decision of an Administrative Law Judge may request an extension of time for filing a request for hearing or review, as the case may be, although the time for filing the request has passed. If an extension of time for filing a request for hearing before an Administrative Law Judge is sought, the request may be filed with the Administrative Law Judge. In any other case, the request shall be filed with the Appeals Council. The request shall be in writing and shall state the reasons why the request was not filed within the required time. An institution, agency, or clinic which is a party to a decision of the Appeals Council, may ask the Appeals Council for an extension of time for commencing civil action in a district court within 60 days from the date of the notice of the Appeals Council action and shall state the reasons an extension is re-

quired. For good cause shown, the Administrative Law Judge may extend the time for filing a request for hearing or the Appeals Council may extend the time for filing a request for review or civil action.

(b) The statute does not offer an independent laboratory, supplier of portable X-ray services, or end-stage renal disease treatment facility a judicial review of the Secretary's final decision after the hearing and review.

31. Section 405.1590 is revised to read as follows:

§ 405.1590 Representation.

An institution, agency, clinic, laboratory, portable X-ray supplier, or end-stage renal disease treatment facility may appoint as its representative any individual except an individual disqualified or suspended from acting as a representative in proceedings before the Secretary or otherwise prohibited by law. Except where the representative appointed is an attorney, an institution, agency, clinic, laboratory, portable X-ray supplier, or end-stage renal disease treatment facility must give written notice of the appointment of a representative. The notice of appointment shall be filed at an office of the Secretary, or with the Administrative Law Judge or the Appeals Council. Where the representative appointed is an attorney, in the absence of information to the contrary, his representation that he has the authority to represent the party shall be accepted as evidence of his authority.

[FR Doc.75-16330 Filed 6-23-75;8:45 am]

[20 CFR Part 405]

[Regs. No. 5]

FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Provider Reimbursement Review Board and Provider Appeals

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 553), that the amendments to the regulations set forth below in tentative form are proposed by the Commissioner of Social Security with the approval of the Secretary of Health, Education, and Welfare. The proposed amendments to Regulations No. 5 (1) implement the provisions of section 3 of Pub. L. 93-484 amending section 1878(f) of the Social Security Act and granting providers the right to obtain judicial review of any final decision of the Provider Reimbursement Review Board, or of any reversal, affirmance, or modification by the Secretary; (2) modify the language in § 405.1845(d) to more clearly show that Board hearings may be conducted by one or more Board members; (3) correct the cross-reference in § 405.371(c); and (4) amend § 405.1875(e) to provide that any further review action by the Secretary after a remand to the Board shall be limited to the same 60 days applicable to an initial Board decision.

Section 3 of Pub. L. 93-484 amends section 1878(f) of the Act to provide:

A decision of the Board shall be final unless the Secretary, on his own motion, and within 60 days after the provider of services is notified of the Board's decision, reverses, affirms, or modifies the Board's decision. Providers shall have the right to obtain judicial review of any final decision of the Board, or of any reversal, affirmance, or modification by the Secretary, by a civil action commenced within 60 days of the date on which notice of any final decision by the Board or of any reversal, affirmance, or modification by the Secretary is received.

Prior to the amendment, section 1878(f) afforded a provider the right to judicial review only where the Secretary's modification of a Board decision resulted in a decision that was more unfavorable to the provider. Since a provider can now appeal any final Board decision or any subsequent review decision by the Secretary, regulations § 405.1877 is being amended to reflect the change. At the same time, § 405.1875 is being modified to make clear that a remand action by the Secretary will not operate to extend the 60-day period permitted for the Secretary's review (after which time appeal to the Federal courts may be brought by the provider).

Section 3 of Pub. L. 93-484 also provides that where a provider seeks judicial review, the amount in controversy shall be subject to interest. Further, this interest shall not be deemed income or cost for purposes of determining reimbursement. The new regulation section being proposed explains how the interest rate will be computed, and when the interest period begins.

Our modification of § 405.1845(d) would make clear that the Chairman of the Board, with provider approval, may designate one or more Board members to preside at Board hearings. This point is clouded in the regulations as presently written. The volume of hearings before the Board may make it virtually impossible for a quorum of the Board to be physically present at each and every hearing held by the Board. However, the regulations would still require that a quorum of the Board shall render the final Board decision, after having given full consideration to the findings set out in the written recommended decision of the presiding board member or members (in those cases where less than a quorum was physically present at the hearing).

The proposed amendments described herein are to be effective for cost reporting periods ending on or after June 30, 1973.

Prior to the final adoption of the proposed amendments to the regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare, Social Security Administration, P.O. Box 1585, Baltimore, Maryland 21203, on or before July 24, 1975.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue SW., Washington, D.C. 20201.

The proposed amendments are to be issued under the authority contained in sections 1102, 1871, and 1878 of the Social Security Act, 49 Stat. 647, as amended, 79 Stat. 331, as amended, and 86 Stat. 1421 as amended; (42 U.S.C. 1302, 1395 hh, and 1395oo).

(Catalog of Federal Domestic Assistance Program No. 13.800, Health Insurance For the Aged—Hospital Insurance.)

Dated: May 30, 1975.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: June 19, 1975.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

Regulations No. 5 of the Social Security Administration (20 CFR Part 405), as amended, is further amended as follows:

1. Paragraph (c) of § 405.371 is revised to read as follows:

§ 405.371 Proceeding for suspension.

* * * * *

(c) *Notice of amount of program reimbursement.* The provisions of paragraph (a) of this section shall not apply where the intermediary, after furnishing a provider a written notice of the amount of program reimbursement pursuant to § 405.1803, suspends payment under paragraph (b) of such § 405.1803.

2. Paragraphs (a) and (b)(2(iii) of § 405.419 are revised to read as follows:

§ 405.419 Interest expense.

(a) *Principle.* Necessary and proper interest on both current and capital indebtedness is an allowable cost. However, interest cost incurred as a result of judicial review by a Federal court (as described in § 405.454(l) is not an allowable cost.

(b) *Definitions.* * * *

(2) *Necessary.* Necessary requires that the interest: * * *

(iii) Be reduced by investment income except where such income is from gifts and grants, whether restricted or unrestricted, and which are held separate and not commingled with other funds. Income from funded depreciation or provider's qualified pension fund is not used to reduce interest expense. Interest received as a result of judicial review by a Federal court (as described in § 405.454(l) is not used to reduce interest expense.

* * * * *

3. Section 405.454(l) is added to read as follows:

§ 405.454 Payments to providers.

* * * * *

(l) *Interest payments resulting from judicial review.* (1) *Application.* Where a provider of services seeks judicial re-

view by a Federal court (see § 405.1877) of a decision rendered by the Provider Reimbursement Review Board or subsequent reversal, affirmance, or modification by the Secretary, the amount of any award of such Federal court shall be increased by interest payable by the party against whom the judgment is made (see § 405.419 for treatment of interest). The interest is payable for the period beginning on the first day of the first month following the 180th-day period which began on either the date the intermediary made a final determination or the date the intermediary would have made a final determination had it been done on a timely basis (see §§ 405.1835(b) and 405.1841(a)).

(2) *Amount due.* Section 1878(f) of the Act, 42 U.S.C. 139500(f), authorizes a court to award interest in favor of the prevailing party on any amount due as a result of the court's decision. If the intermediary withheld any portion of the amount in controversy prior to the date the provider seeks judicial review by a Federal court, and the health insurance program is the prevailing party, interest is payable by the provider only on the amount not withheld. Similarly, where the health insurance program seeks to recover amounts previously paid to a provider, and the provider is the prevailing party, interest on the amounts previously paid to a provider is not payable by the health insurance program since that amount had been paid and is not due the provider.

(3) *Rate.* The amount of interest to be paid is equal to the rate of return on equity capital (see § 405.429) in effect for the month in which the civil action is commenced.

Example: An intermediary made a final determination on the amount of health insurance program reimbursement on June 15, 1974, and the provider appealed that determination to the Provider Reimbursement Review Board. The Board heard the appeal and rendered a decision adverse to the provider. On October 28, 1974, the provider commenced civil action to have such decision reviewed. The rate of return on equity capital for the month of October 1974 was 11.625 percent. The period for which interest is computed begins on January 1, 1975, and the interest beginning January 1, 1975, would be at the rate of 11.625 percent per annum.

4. Paragraph (d) of § 405.1845 is revised to read as follows:

§ 405.1845 Composition of Board.

* * * * *

(d) A quorum shall be required for the rendering of Board decisions. Three members, at least one of whom is representative of providers of services, shall be required to constitute a quorum. The Chairman of the Board, with approval of the provider, may designate one or more Board members to conduct any hearing (see § 405.1869) and to prepare a recommended decision (where less than a quorum conducts the hearing).

5. Paragraph (b) of § 405.1871 is revised to read as follows:

§ 405.1871 Board hearing decision and notice.

* * * * *

(b) The decision of the Board provided for in paragraph (a) of this section shall be final and binding upon all parties to the hearing before the Board unless the Secretary, on his own motion, reverses, affirms, or modifies said decision, or unless it is remanded to the Board by the Secretary and revised by such Board (see § 405.1875), or unless it is revised in accordance with § 405.1885.

6. Paragraphs (a), (d), and (e) of § 405.1875 are revised to read as follows:

§ 405.1875 Secretary's review.

(a) The Secretary, on his own motion and at his discretion, may elect to review any decision of the Board. A right to such review does not vest in parties to the Board's hearing.

* * * * *

(d) If the Secretary reverses, affirms, or modifies a decision of the Board, he must do so within 60 days after notification to the provider of the Board's decision.

(e) The Secretary may remand the case to the Board with a request that the Board further consider the matter at issue. A decision issued by the Board after such remand by the Secretary constitutes a final Board decision for purposes of § 405.1877. Any further review by the Secretary must also be made within the 60-day period applicable to initial Board decisions as described in paragraph (d) of this section.

7. Section 405.1877 is revised to read as follows:

§ 405.1877 Judicial review.

Section 1878(f) of the Act, 42 U.S.C. 1395oo(f), permits providers to obtain judicial review of any final decision of the Board, or of any reversal, affirmance, or modification of a Board decision by the Secretary, by a civil action commenced within 60 days of the date on which notice of any final decision by the Board or of any reversal, affirmance, or modification by the Secretary is received. Such action shall be brought in the District Court of the United States for the judicial district in which the provider is located or in the District Court for the District of Columbia.

[FR Doc.75-16327 Filed 6-23-75;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 75-CE-12-AD]

BEECH 18 SERIES AIRPLANES

Proposed Airworthiness Directive; Extension of Comment Period

The Federal Aviation Administration proposed in Docket No. 75-CE-12-AD published in the FEDERAL REGISTER on April 29, 1975, (40 FR 18562, 18563) to amend Part 39 of the Federal Aviation Regulations by adding an Airworthiness Directive (AD) applicable to Beech 18 series airplanes, including all military counterparts thereof and those modified under Supplemental Type Certificates (STC). The AD proposes to establish fatigue or safe life for the basic wing configuration based upon original design, gross weight, and stress/G data.

Interested persons were invited to participate in the making of the proposed rule by submitting such written data, view or arguments as they may desire and were given until June 30, 1975, to do so. The National Business Aircraft Association, National Air Transportation Associations, and the Aircraft Owners and Pilots Association have jointly requested a thirty (30) day extension of time for the submission of comments. One of the reasons given for the extension is to enable these associations, many of whose members would be directly affected by rulemaking based on the notice, to receive additional comments from their members and to permit additional time for the development of comments on the proposed amendment.

In view of the foregoing I find that the petitioners have shown a substantive interest in the proposed rule, that good cause exists for the extension, and that the extension is consistent with the public interest.

Therefore, pursuant to the authority delegated to me by the Administrator, (14 CFR 11.89) the time within which comments on Docket No. 75-CE-12-AD will be received is extended to July 30, 1975.

Issued in Kansas City, Missouri, on June 16, 1975.

GEORGE R. LACAILLE,
Acting Director, Central Region.

[FR Doc.75-16268 Filed 6-23-75;8:45 am]

[14 CFR Part 39]

[Docket No. 75-NE-20]

PRATT & WHITNEY AIRCRAFT WASP JR. AND R-985 MODEL ENGINES

Proposed Airworthiness Directive

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to Pratt & Whitney Aircraft Wasp Jr. and R-985 model engines. An increasing number of cylinder head to cylinder barrel separations on the Wasp Jr. and R-985 model engines have been reported. The majority of these engines were manufactured 25 to 30 years ago; and over the years, chrome plating has been used as a means of returning the internal diameter of the cylinder to original limits. This negates the necessity of periodically replacing the cylinder barrel; and consequently, the threads between the head and barrel are not inspected during engine overhaul. As a result, the possibility exists that corrosion

in the threaded area can result in fatigue cracks and eventual separation of the cylinder head from the barrel.

Since this condition is likely to exist or develop in other engines of the same design, the proposed airworthiness directive would require that the cylinder heads be removed prior to 8000 hours time in service. The proposed 8000 hour time limit has been based on the available data. Any additional data received with comments to the NPRM will be considered in making a final determination as to the reasonableness of the 8000 hour limit.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803. All communications received on or before September 9, 1975, will be considered before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Office of the Regional Counsel for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

PRATT & WHITNEY AIRCRAFT. Applies to Pratt & Whitney Aircraft Wasp Jr. and R-985 model engines

Compliance required as indicated.

To prevent cylinder head to cylinder barrel separations due to fatigue cracks in the cylinder head threads, accomplish the following:

A. Remove cylinder heads from service prior to the accumulation of 8000 hours total time in service or within the next 1600 hours time in service after the effective date of this AD, whichever is later.

B. Scribe AD number on each cylinder head followed by drill dot above intake port for each 1000 hours total time in service on the effective date of this AD and for each 1000 hours time in service thereafter. This may be accomplished next time cylinder assembly is removed.

Operators who have not kept records of total time in service on cylinder heads shall use the times listed below for the total time in service on the effective date of the AD as applicable:

1. 3000 hours for cylinder assemblies with standard size cylinder head threads, and non-chrome plated cylinder barrels.

2. 5000 hours for cylinder assemblies which have been chrome plated or are non-chrome plated with oversize barrels.

3. 4000 hours for rebarreled cylinder assemblies plus time in service since rebarreling.

Upon submission of substantiating data through an FAA maintenance inspector by an owner or operator, the Chief, Engineering and Manufacturing Branch, FAA, New England Region, may adjust the compliance time.

Issued in Burlington, Massachusetts, on June 12, 1975.

JACK ORMSBEE,
Acting Director,
New England Region.

[FR Doc.75-16267 Filed 6-23-75;8:45 am]

[14 CFR Part 39]

[Airworthiness Docket No. 75-SW-33]

MOONEY MODEL M20 SERIES AIRPLANES

Proposed Airworthiness Directive

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to all Mooney, Model M20 series airplanes equipped with Mooney Electric Gear Systems incorporating a Dukes electric landing gear actuator, P/N 4196-00-1C. There have been failures of the Dukes electric landing gear actuator on at least seven (7) airplanes that resulted in disabling both the normal and emergency landing gear retraction and extension system. Since this condition is likely to exist or develop in other airplanes of the same design, the proposed airworthiness directive would require inspection and servicing of the Dukes electric landing gear actuator at specific intervals.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in triplicate to the Federal Aviation Administration Regional Counsel, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before July 24, 1975 will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this Notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments in the Office of Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas, for examination by interested persons.

This amendment is proposed under the authority of Sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new Airworthiness Directive:

MOONEY. Applies to all Mooney, Model M20 series airplanes equipped with Mooney Electric Gear Systems incorporating a Dukes electric landing gear actuator, P/N 4196-00-1C.

Compliance required within the next 25 hours time in service after the effective date of this AD, unless already accomplished within the last 75 hours time in service, and thereafter at intervals not to exceed 100 hours time in service from the last inspection, except as noted in Paragraph (a).

To prevent further failures of the electric landing gear actuator, Dukes P/N 4196-00-1C, accomplish the following:

(a) Within the next 25 hours time in service accomplish Parts I and III and thereafter at every 200 hours time in service accomplish Part I of Mooney Aircraft Corporation Service Bulletin M20-190, dated January 16, 1975, or later FAA approved revision, or by an equivalent procedure approved by the Chief, Engineering and Manufacturing Branch, Southwest Region, Federal Aviation Administration, Fort Worth, Texas.

(b) Within the next 25 hours time in service and thereafter at every 100 hours time in service accomplish Part II of Mooney Aircraft Corporation Service Bulletin M20-190 dated January 16, 1975, or later FAA approved revision, or by an equivalent procedure approved by the Chief, Engineering and Manufacturing Branch, Southwest Region, Federal Aviation Administration, Fort Worth, Texas.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 522(a)(1). All persons affected by this directive who have not already received this document from the manufacturer may obtain a copy upon request to Mooney Aircraft Corporation, P.O. Box 72, Kerrville, Texas 78028. This document may also be examined at the office of the Regional Counsel, Southwest Region, FAA, 4400 Blue Mound Road, Fort Worth, Texas, and at FAA Headquarters, 800 Independence Avenue, SW, Washington, D.C. A historical file on this A.D., which includes the incorporated material in full, is maintained by the FAA at its headquarters in Washington, D.C., and at the Southwest Regional Office in Fort Worth, Texas.

Issued in Forth Worth, Texas on June 16, 1975.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.75-16271 Filed 6-23-75;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 75-WE-10]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the San Diego, California Transition Area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261. All communications received on or before July 24, 1975, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials

may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 92061.

An instrument landing system (ILS) at Palomar Airport and a localizer with fan markers at Gillespie Field are to be installed in the near future. New instrument approach procedures are being developed for these airports. The additional 700 foot transition area would provide airspace for these new approach procedures and for radar vector routes to the approach fixes. The transition area is designed to protect aircraft utilizing these procedures while operating down to 1000 feet above the terrain.

In consideration of the foregoing, the FAA proposes the following airspace action.

In § 71.181 (40 FR 441) the description of the San Diego, California 700 foot transition area is amended to read as follows:

Delete all before "* * *, thence W along the United States/Mexican Border" and substitute therefor "That airspace extending upward from 700 feet above the surface bounded by a line beginning at latitude 30° 15' 00" N., longitude 117° 30' 30" W., to latitude 33° 15' 00" N., longitude 117° 02' 00" W., to latitude 33° 00' 00" N., longitude 116° 45' 00" W., thence S along longitude 116° 45' 00" W., to the United States/Mexican Border * * *"

(Sec. 307(a), Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Los Angeles, California, on June 16, 1975.

LYNN L. HINK,
Acting Director, Western Region.

[FR Doc.75-16269 Filed 6-23-75;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 75-SO-60]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Oxford, N.C., transition area.

Interested persons may submit such written data, views or arguments as they desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before July 24, 1975 will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 645, 3400 Whipple Street, East Point, Ga.

The Oxford transition area would be designated as:

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Oxford-Henderson Airport (Lat. 36°21'50" N., Long. 78°31'42" W.); within 3 miles each side of the 244° bearing from Huntsboro RBN (Lat. 36°31'52" N., Long. 78°31'29" W.), extending from the 6.5-mile radius area to 8.5 miles southwest of the RBN.

The proposed designation is required to provide controlled airspace protection for IFR operations at Oxford-Henderson Airport. A prescribed instrument approach procedure to this airport, utilizing the Huntsboro (Private) Nondirectional Radio Beacon, is proposed in conjunction with the designation of this transition area.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in East Point, Ga., on June 12, 1975.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.75-16270 Filed 6-23-75;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 75-SW-32]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to designate a 700-foot transition area at San Marcos, Tex.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before July 24, 1975 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Texas. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (40 FR 441), the following transition area is added:

SAN MARCOS, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the San Marcos Municipal Airport (latitude 29°53'38" N., longitude 97°51'45" W.).

The proposed transition area will provide controlled airspace for aircraft executing the proposed VOR/DME-A original instrument approach procedure.

This notice will also change the category of the San Marcos Municipal Airport from VFR to IFR.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Fort Worth TX, on June 17, 1975.

ALBERT H. THURBURN,
Acting Director, Southwest Region.

[FR Doc.75-16272 Filed 6-23-75;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 1]

[Docket No. 20521; FCC 75-710]

ANNUAL OWNERSHIP AND DISCLOSURE REPORTS

Proposed Rule Making

In the matter of corporate ownership reporting and disclosure by broadcast licensees.

1. Notice is hereby given of proposed rule making in the above entitled matter.

2. The Commission is concerned with the problems encountered with securing accurate and meaningful information regarding the ownership of large corporate licensees whose stock is publicly traded and information regarding the other business interests of such corporations and their officers and directors as well as the interlocking relationships by the principals of such companies with financial institutions and other corporate or business entities. Such information is vital to the Commission's statutory responsibilities of determining the qualifications of broadcast applicants and in making the determinations as to whether the public interest, convenience, and necessity would be served by the initial granting or renewal of such broadcast authorizations under the Communications Act of 1934, 47 U.S.C. sec. 151 et seq.

3. We are taking related actions today in terminating the Conglomerate Study

Inquiry (Docket 18449, FCC 75-711) and adopting a Notice of Proposed Rule Making concerning the size of holdings of broadcast securities by institutional owners (Docket 20520, FCC 75-709).

4. In Chairman Wiley's testimony on June 25, 1974 before the Subcommittee on Budgeting, Management and Expenditures and the Intergovernmental Relations Subcommittee of the Senate Committee on Government Operations, he pointed out some of the problems the Commission was encountering with the ownership reporting and disclosure by corporate broadcast licensees, especially with respect to those companies whose stock is publicly traded on an active basis. He noted that the Commission was undertaking a study of ownership reporting requirements and practices, at the conclusion of which we would probably propose rules designed to tighten and improve our requirements in this area. The Commission had begun its analyses of the problems in this area, but had deferred the institution of Rule Making proceedings pending the issuance of the "Model Corporate Disclosure Regulations" by the Interagency Steering Committee on Uniform Corporate Reporting.[1] The Model Corporate Disclosure Regulations (hereinafter referred to as the MCDR) were adopted by the Steering Committee in January 1975, and were transmitted to Senator Lee Metcalf, Chairman of the Subcommittee on Budgeting, Management and Expenditures. Senator Metcalf subsequently transmitted these model regulations to the various Federal regulatory bodies. These model regulations represent an effort by the Steering Committee, working closely with the staff of Senator Metcalf's subcommittee, to suggest to the regulatory agencies ways to improve the collection of data on corporate entities and to make such data more easily retrievable and comprehensible by interested parties. One of the salient features of the MCDR is the aspect of uniformity. We think that this feature will be beneficial to those corporations which must file ownership information with more than one governmental agency or commission.

5. We have now analyzed the MCDR in the light of our peculiar needs and requirements and we find that the implementation of many of its provisions would help significantly in curing the problems and deficiencies in our reporting requirements and practices with respect to publicly-held companies. In this document, we will first outline the major problems and deficiencies in our present reporting requirements and practices. We then will present our evaluation of the MCDR provisions together with our proposed solutions to these problems based upon the requirements of the Communications Act, our rules and policies thereunder, the MCDR, the Privacy Act of 1974, 5 USC Section 552 (A), the Federal Reports Act, 44 USC Section 3512 and other pertinent factors.

Nominee, "street name" and custodial accounts. 6. The major problems in the area of corporate reporting and disclosure are those which stem from the fact that large blocks of stock of publicly-held companies are held in "street name" or "nominee" accounts by brokers, investment houses and banks. In such situations the licensee's records may show the nominee or record owner but not the beneficial owner or the person with the voting rights to such stock. Information regarding voting rights is required by § 1.615 of our rules and is essential to the proper application and administration of our Multiple Ownership Rules (§§ 73.35, 73.240 and 73.636 for AM, FM and TV, respectively) which are geared primarily to persons who exercise the voting rights in stock of broadcasting companies. The Commission has required licensees to obtain from such institutions the identity of any holders of 1% or more of the licensee's (or its parent's) stock. In most instances the institution is able to report that the stock is held for the benefit of customers, no one of whom owns as much as 1% of the licensee's total outstanding stock or to report those who may hold 1% or more stock interests. The problem with such reporting practices is that the licensee is unable to accurately determine and report to the Commission the holders of 1% or more of its outstanding stock. For instance, it is possible that an individual investor may have several accounts of less than 1% each with different brokers, banks or investment houses which would not be reported but which in the aggregate could exceed 1% of the licensee's outstanding stock. The MCDR would partially cure this problem by requiring the licensee to report the 30 largest record holders and, with respect to the shares over which such record owners have no voting rights, the identity of the persons empowered to vote the ten largest blocks of stock. If, for example, a particular bank is one of the 30 largest record holders of a licensee's stock, that bank would be compelled to disclose the identity of those persons entitled to vote the ten largest blocks of the licensee's stock held by that bank.

Monthly reports re: minor stock transactions. 7. Under § 1.615 of our rules, licensees must file a complete Form 323 Ownership Report every three years which, in the case of a corporation, shows, inter alia, the name, residence, citizenship and stockholdings of the officers, directors, stockholders, trustees, executors, administrators and receivers. For corporations having more than 50 stockholders, such information need be filed only for officers and directors and those stockholders who hold as much as 1% of the voting or non-voting stock. The rule also provides that a supplemental Ownership Report must be filed within 30 days after any change occurs in the information previously reported. Thus, any change at all in the holdings of the officers and directors or 1% stockholders must be reported in a supplemental Ownership Report, even where such changes are minuscule and involve changes of a small fraction of a percent of stock ownership. Because of the present requirement that such transactions be fully reported, the Commission is burdened with masses of monthly filings which cannot be adequately processed and computerized. We are also concerned that the present system imposes a burden on both the Commission and the licensee which is disproportionate to the public benefit. Also, such cumulative filings over a three-year period serve to create and perpetuate errors in our ownership records.

8. We think that the implementation of an annual ownership report for publicly-held corporations which would be required to be updated only to report changes in officers and directors, would resolve this problem. Such a change in our reporting rules will eliminate this mass of monthly-change data, while still providing the Commission with the required information to administer its Multiple Ownership Rules and other regulatory functions. Licensees, are reminded, however, that such annual reporting would not relieve them of their obligations under section 310(b) of the Act, to seek the Commission's prior consent for transfer of control and to comply with other requirements of the Act and our Rules and Policies (e.g. citizenship, Multiple Ownership, etc.).

Different reporting requirements in Commission forms. 9. The Commission's forms and rules have been the subject of criticism because of the different levels of ownership which govern different reporting requirements. For instance:

(a) The Form 323 Ownership Reports' requirement for reporting of 1% or more stockholders in corporations with over 50 stockholders, whereas Tables I and II of Forms 301, 314 and 315 applications[2] (our "long form" applications) require information only for the 3% or more owners of corporations with more than 20 stockholders;

(b) Table II of section II of our "long form" applications requires the listing of other business interests in which the

[1] The Interagency Steering Committee on Uniform Corporate Reporting is comprised of representatives concerned with corporate disclosure regulations from the Civil Aeronautics Board, Federal Communications Commission, Federal Energy Administration, Federal Maritime Commission, Federal Power Commission, Federal Reserve System, Federal Trade Commission, General Accounting Office, Interstate Commerce Commission and the Securities and Exchange Commission. The Committee was established at a meeting held at the request of the Honorable Phillip S. Hughes, Assistant Comptroller General of the United States on June 3, 1974.

[2] *FCC Form 301* "Application for Authority to Construct a New Broadcast Station or Make Changes in an Existing Broadcast Station," *FCC Form 314* "Application for Consent to Assignment of Broadcast Station Construction Permit or License," *FCC Form 315* "Application for Consent to Transfer of Control of Corporation Holding Radio Broadcast Station Construction Permit or License."

principals listed on Table I have 25% or greater interest or any official relationship, whereas the Form 303 Renewal Application requires other business information for officers, directors and persons owning 25% or more of applicant's stock. The renewal application does not ask for information with respect to a principal's "official relationships" such as directorships and does not ask for any information regarding the principals of a licensee's parent corporation.

(c) The Ownership Report instructions and the provisions of § 1.615 of our rules require full ownership information with respect to corporations or entities which own 25% or more of the licensee, whereas the Forms 301, 314 and 315 require legal qualifications and Table I and II information for any corporation or entity which controls or owns as much as 10% of the applicant's stock.

10. While in each particular application form, these different reporting requirements, when standing alone, are unambiguous, they can be confusing to licensees and their counsel who are conscientiously trying to keep abreast of their reporting obligations. However, such different requirements do lessen the reporting burden on existing licensees by requiring less information regarding other business interests of renewal applicants and their principals than from applicants for purchase or construction of a broadcast station. The basis for such different treatment is that the renewal applicant has a record of past performance which can be evaluated which may obviate the full scrutiny which applies to those who wish to construct or purchase a station. In order to eliminate some of this confusion we propose to standardize these reporting requirements as much as possible by having essentially the same reporting requirements in our Annual Ownership Reports as in our "long form" applications.

Model corporate disclosure regulations. 11. Turning now to the specific provisions of the MCDR, we note that these model regulations are the result of the combined effort of the representatives of many Federal regulatory bodies. We appreciate the efforts which have resulted in this consensus and we expect that it will lead to a large measure of uniformity in the corporate ownership and disclosure requirements of government agencies. The largest possible measure of uniformity in such reporting requirements will be a boon to the respondent corporation, the agencies and the public. We recognize, however, as did the Interagency Steering Committee, that complete uniformity may not be possible, because of the different regulatory responsibilities of the agencies involved. Because of the requirements of the Communications Act, and our basic regulatory policies and goals as well as other statutory requirements, our reporting rules must be tailored to meet our own informational needs. We are also mindful of our statutory obligations under The Federal Reports Act, Chapter 44, section 3512, of the United States Code which, in substance, requires that the Commission collect only information which is necessary in carrying out its statutory responsibilities. With these thoughts in mind, we now consider how each of the MCDR provisions may improve our ownership disclosure regulations. We have attached hereto a copy of the MCDR which we shall be referring to by section in the paragraphs below.

Definitions. 12. Initially, the MCDR definitions of "Annual Reporting", "Control",[1] "Financing Lease", and "Parent of Respondent" give us no substantial problems and we shall include them in our proposed annual disclosure report for publicly-held corporations. This annual report will be required to be filed by April 1st of each year and will contain up-to-date and accurate data as of December 31st of each calendar year. Since we are proposing annual reporting only for publicly-held companies, we shall define such companies as any company whose stock is held by 500 or more persons. We have considered the possibility of using a gross revenue standard (of perhaps $10,000,000) to define those entities which would be required to file Annual Ownership Reports. At this time we do not propose to adopt such a standard, but we invite comments thereon.

Elimination of "50 Stockholder" level. 13. As noted above, § 1.615 of our present reporting rules provides that companies with more than 50 stockholders need only report stockholders with 1 percent or more of the outstanding voting or non-voting stock. Our Multiple Ownership Rules apply only to the 1 percent or more stockholders of such companies. To preclude further complexity in our reporting requirements which would be caused by a three-tier system with different reporting obligations for companies with up to 50 stcokholders, those between 50 and 500 stockholders and those with 500 or more, we propose to discard the 50 stockholder level entirely. However, we realize that this attempt to maintain the simplicity of a two-tier reporting system will result in a greater reporting burden for some companies. Those with between 50 and 500 stockholders under our proposed rules would be required to report all stockholders and all such stockholders would be subject to our Multiple Ownership Rules. It should be noted that in a pilot study to determine how many companies have more than 50 but fewer than 500 stockholders, we found only one such company among 80 licensees chosen at random. We specifically encourage the filing of comments on this facet of our proposed rules and, if we find the proposal to be unduly burdensome, we will consider alternate courses.

Annual reporting requirements. 14. The MCDR in section I "Corporate Structure," would require the listing of all parent and controlling corporations and all subsidiaries and joint ventures with listings of their business activities, copies of their balance sheets and income statements and organizational charts. The format of the MCDR is such that the information pertaining to the respondents, parents and subsidiaries and the officers and directors of all such companies would seem to be confined within a single report. The inclusion of information regarding all of such companies on a single report would appear to be confusing especially where we require reporting by substantial but non-controlling investors in the licensee or its controlling companies. We propose a listing of the respondent licensee's subsidiaries and principal businesses and a listing of parent or controlling companies. Our proposal would require a separate annual report for each parent or controlling company and for each company which has as much as a 10% interest in such licensee, parent or controlling company. The reporting requirement for companies with 10% interests is consistent with the present requirements of our "long form" applications. (See paragraph 15 of section II of FCC Forms 314, 315 and 301.) Under § 1.615 of our Rules, our present FCC Form 323 Ownership Report is required to be filed for "X" corporation which controls or holds as much as 25% of the licensee's stock (voting or non-voting) and for "Y" corporation which controls or holds as much as 25% of "X" corporation and for "Z" corporation which controls or holds as much as 25% or more of "Y" corporation and so on back to natural persons. (See § 1.615(a)(3)(iv), Examples (b) and (c). In large publicly-held companies a 10% holding could result in de facto control. By requiring reports for companies with such 10% stock interests, licensees and their parent and controlling companies will be relieved of the difficult and sometimes impossible decision, of determining the degree to which the companies' management may be influenced or affected by a substantial minority stockholder. This is not to say that licensees and their parents are relieved of responsibility for seeking the Commission's prior consent for transfer of control under section 310 (b) of the Act. It is just that we recognize that in some circumstances management is loath to admit that it is being affected or unduly influenced by a 10% or 15% minority stockholder. A corporation which holds such a minority interest in excess of 10% often specifically disclaims that it is in a position to control the company in which it holds such a stock interest. Yet in such circumstances we think it is necessary for the exercise of our regulatory responsibilities that we have full information regarding companies with such minority interest. Thus, in this instance, we think that a more stringent requirement than that proposed by the MCDR is necessary for meeting our own informational needs.

15. With regard to the list of principal business activities (MCDR I-3(a)), we do not see any justification for imposing the requirement of listing them in order of their dollar value. While we are of the opinion that a listing of the principal business activities is appropriate to our

[1] See paragraph 14, infra, concerning an addition to that definition.

regulatory purposes, to require placing those activities in order of value would appear to disclose closely guarded competitive information without providing any benefit to the Commission. We think that the use of the SIC Codes as proposed in MCDR I(3)(b) is unnecessary for our purposes and may be unduly burdensome for some licensees and, therefore, we propose to make this SIC requirement optional with the respondent companies.

Balance sheets and income statements. 16. With regard to the balance sheets and income statements required by MCDR I(A)(4), we presently require that balance sheets for the licensee company be filed triennially with the station's renewal application. We do not, however, require the filing of balance sheets on a regular basis for parent or controlling corporations. Our review of financial qualifications at renewal time is generally limited to an evaluation of current assets and current liabilities to determine whether sufficient funds are available for the continued operation of the station. Applications to purchase or construct a new station must contain balance sheets of the applicant and its parent or controlling corporation. Since we only review financial qualifications every three years, we do not deem it necessary to require the filing of balance sheets on a regular basis. Because the business of broadcasting, unlike rate-regulated industries such as telephone, trucking or railroads, is a highly competitive industry, we propose to continue generally to treat broadcast financial data as confidential proprietary information.

17. However, the need for confidentiality does not apply to a corporation which is otherwise required to make public its financial reports. In our proposed annual disclosure report, we will require respondents to indicate whether such balance sheets and/or income statements are on file and publicly available at another government agency and if so to attach a copy of such statement.

Inter-corporate charts. 18. Section I.A5 of the MCDR requires the filing of a copy of any chart or other graphic material showing the relationship of the respondent to its parents and subsidiary corporations. We believe that such charts, where available, will be helpful tools for the Commission and the public, especially with respect to large corporations with multiple affiliates and subsidiaries.

Voting stock ownership. 19. As indicated above, one of the ever present problems with which we are faced in corporate reporting is the matter of attributing the stock to the person or entity with the power to vote it (or direct the manner in which it is voted) and the proper aggregation of separately held blocks of a company's stock to such person or entity. Our rules require the reporting of persons with the beneficial and/or voting interests in 1% or more of a company's stock. We have been requiring that licensees obtain from institutional investors and brokers the indentity of any person who owns or votes as much as 1% of the licensee's or parent's outstanding stock. This of course is not the best solution to the attribution-aggregation problem because of the inability of the licensee to properly aggregate the accounts of less than 1% which go unreported. The MCDR provisions on Voting Stock Ownership (MCDR–II) is not a perfect solution to the problem. However, its formula of reporting the top-30 record holders and disclosure of the ten largest blocks of stock in which the record holder has no voting control (MCDR II C), will enable companies to more accurately fulfill their obligation to report the true voting ownership of their stock. Another method of solving the attribution-aggregation problem would be a rule or perhaps legislation which would require brokers and institutional investors to report to the licensee all of the persons for whom they hold broadcasting stock. We think that the MCDR top-30 formula is a reasonable alternative at this time to such a requirement of total stockholder disclosure by brokers and institutional investors. The mechanics of the MCDR top-30 formula are as follows:

(a) *Top-30 holder.* Here the MCDR would require the identity of the 30 largest holders of voting shares (not to include holders with less than one-tenth of one percent). In determining the top-30 holders the respondent must aggregate the nominee and other accounts (including accounts held by depository trust companies (CEDE & CO., SICO VAM, Pacific Coast Stock Exchange Clearing Corp., etc.)) which hold stock in accounts for the benefit of participating members e.g., brokers, investment houses and banks, to the name of the institution or other identified shareholder.

(b) *Attribution of stock not voted by Top-30 holder.* With respect to each Top-30 holder, MCDR II B&C require the company to (1) obtain and report the number and percentage of shares over which the stockholder has sole voting power, shared voting power or no voting power; and (2) report the identity of the persons empowered to vote the ten largest blocks of stock over which the Top-30 holder has no voting power and to list in each case the number of shares and percentage involved.

20. We believe that the MCDR formula should be supplemented to seek attribution for stock over which the Top-30 holder has only partial voting power. Thus, a bank may be one of many trustees and, without requiring the identity of the other trustees, we would be unable to determine who controls very sizable blocks of a company's stock. Thus, we would require the attribution under MCDR II C be applied also to stock over which the Top-30 holder has shared voting power. We recognize that the implementation of the attribution and aggregation of this Top-30 formula will be no simple task. However, the formula is workable and we think the alternative of complete disclosure of broadcast interests by brokers and institutional investors would be much more burdensome. Since it is conceivable that the MCDR formula would not result in the reporting of all 1% or more interests, we would add the requirement that all 1% or more interests be reported in any event. We note that our Common Carrier Bureau is presently requiring ownership information on the Top-30 stockholders of its licensees and two other Federal Agencies have Top-30 reporting requirements—they are the Interstate Commerce Commission (railroads) and the Federal Maritime Commission (water carriers). Additionally, the Federal Power Commission has proposed rules which would change its reporting requirements from the "Top-10" to the "Top-30" for both electric utilities and gas pipeline companies. Thus, the trend at this time is definitely toward a uniform Top-30 disclosure requirement by the various Federal Agencies. We think that this is a desirable goal and that the MCDR Top-30 formula is a functional vehicle for achieving such uniformity.

Other business interests. 21. The MCDR in section 1–B would require reporting of the other businesses in which the respondent has a more than 5% interest and in Section III, for officers and directors, the principal occupation or business affiliation and all affiliations with any other business or financial organization firm or partnership. We think that the MCDR requirement of reporting 5% does not meet our needs. In the case of broadcasting and broadcast related businesses we need more information. With regard to other business interests we propose a 10% level. We invite comment on whether some other standard (perhaps as low as 5% or as high as 25%) may be more appropriate. We also note that the MCDR does not require any reporting of the other business interests of the company's stockholders or the other investment interests of its officers and directors. We think that such information is necessary for our regulatory purposes. Therefore we propose disclosure of other business interests and investments of officers, directors and holders of 3% of the stock of the reporting company.

22. In proposing the use of a 3% standard to define that group of stockholders whose other business interests are important to the Commission, we are following the current provisions of section II of our "long-form" applications.[4] For large, widely held corporations that are likely to be few holdings of 3% or more and those stockholders may be quite influential. While questions could be raised concerning the possibility of

[4] Section II in our "long-form" applications requires the listing of companies in which the respondent or its officers, directors or stockholders (those with 3% or more of respondent's stock) have a 25% or greater interest or any official relationship during the past 5 years. Our renewal application requires the reporting of 25% or greater non-broadcasting business interests of the applicant, its officers, directors and its principal stockholders (owners of 25% or more of the applicant's stock).

using a higher percentage of 5%, 10% or even the 25% standard presently used in our renewal application, we think 3% is more appropriate as a general reporting standard.

23. Turning now to the question of what other business interests should be reported, we note that the MCDR would require no information concerning the other business interests and investments of a company's stockholders. With regard to officers and directors, the MCDR does not specifically require the reporting of their other business interests or investments. Instead it requires the reporting of their affiliations with any other business and financial organization, firm or partnership. We think that this is an ambiguous requirement in that it does not specifically include investment interests, yet it could be construed to include all investments and all relationships no matter how small or how limited. We believe that we should continue our present practice of requiring information regarding investment interests of stockholders, officers, and directors. With regard to the minimum level of non-broadcasting or broadcast related interests to be reported, we would require the reporting of information regarding such party's principal business and occupation and for any business or financial enterprise in which the party has a 10% or greater interest or any official relationship during the past five years. Comments are invited on the proposed use of Social Security numbers. We are presently of the opinion that they would significantly improve our ability to manage the ownership information.[2]

[2] Because this proposed system of records, which for the first time, proposes the use of social security numbers, was not in existence before January 1, 1975, the provisions of section 7 of the Privacy Act of 1974 (Public Law 93-579), 5 U.S.C. 552(a) note, prohibit the Commission from adopting a rule which would mandatorily require disclosure of social security numbers. Therefore, any rule concerning the disclosure of social security numbers must be voluntary in nature. However, we are of the opinion that voluntary disclosure will assist us in our regulatory duties pursuant to the Communications Act of 1934, as amended, supra. The provisions of section 7 of the Privacy Act of 1974, supra, concerning the use of social security numbers that are disclosed, read as follows:

Sec. 7. (a)(1) It shall be unlawful for any Federal, State, or local government agency to deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his social security number.

(a)(2) The provisions of paragraph (1) of this subsection shall not apply with respect to—

(A) Any disclosure which is required by Federal statute, or

(B) The disclosure of a social security number to any Federal, State, or local agency maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted prior to such date to verify the identity of an individual.

(b) Any Federal, State, or local government agency which requests an individual to disclose his social security account number shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it.

24. In view of our multiple ownership rules it is necessary that we continue the requirement of reporting all other broadcast interests (limited to 1% or more widely held companies) and require the reporting of all interests in daily newspapers and CATV companies. Additionally, we propose the reporting by respondent's principals of all interests in and official relationships with companies engaged in broadcasting related activities (e.g. advertising representatives, recording companies, record promotion companies and programming and talent producers and suppliers).

Subsidiary companies. 25. The MCDR in section III requires the listing of the other business interests of the officers and directors (or other exercising similar functions) of the subsidiaries of the respondent or any company, firm or organization which the respondent controls. We think that for our regulatory purposes it is unnecessary to obtain such information regarding entities which are not in the direct line of control between the licensee and its parent or ultimate controlling companies. Our concern is with the possible influence on the broadcast policies and management of broadcast stations. Such subsidiaries or entities not in the direct line of control will be listed together with the nature of the business and any cross-directorships or officerships will appear under the "any official relationship" requirement discussed above. This is enough information for our purposes and any additional requirements could unduly burden our files with voluminous data which is of little or no use to our regulatory purposes.

Contracts and agreements. 26. The MCDR section III C would require the listing of and description of "each contract agreement or other business arrangement" exceeding an aggregate value of one million dollars between the respondent company and any business or financial organization firm or partnership in which any officer, director, partner, etc. of respondent, its parent or controlling companies and subsidiaries, has an interest. Section III D of the MCDR would require the reporting of contracts in excess of $600 (other than compensation related to position with respondent) between respondent and each of its officers and directors and those of its controlling companies and its subsidiaries. The Commission's Rules, § 1.613, presently require the filing of contracts which pertain to the station operations such as network service, those relating to ownerhip or control, mortgage or loan agreements with restrictive provisions, and certain contracts relating to operation of the station. We think that our proposed annual disclosure report should require a listing of the operational contracts and agreements which are on file pursuant to § 1.613. However, we do not think that our reporting rules should be broadened to include the filing or annual listing of other agreements specified under III C & D of the MCDR. Such additional requirements would be of little use to the Commission's regulatory functions because the Commission is more interested in the possible influence over broadcast policies and station management than the economic arrangement of a licensee. The information sought by these sections of the MCDR appear to be more germane to industries such as common carriers whose rates are subject to regulation.

Debt holdings. 27. Section IV–A of the MCDR seeks information with respect to each long term debt in excess of one million dollars, including, where such debt is widely held, the identity of the holder of more than 5% of each debt issuance. Also required under MCDR IV B are descriptions of each short term debt (excluding accounts payable). Under § 1.613 of our Rules, only mortgage or loan agreements which contain restrictive provisions or which relate to future ownership or control of the company need be filed. In our long-form applications loan commitments must show the repayment terms, rate of interest and nature of security, but such information is not required where the loan has already been made.

28. The Commission has not generally been concerned with pure debt instruments which do not create any present or future ownership or control interests and which do not contain any provisions which would restrict the licensee's freedom and flexibility to operate his station in the public interest. The MCDR, in requiring descriptions of long-term debts in excess of one million dollars and all short-term debts (excluding accounts payable) without any monetary limitations, is obviously based upon the recognition that public disclosure of debtholders is appropriate because of the leverage or potential to influence control that such holders may have. The Comission's present rules require disclosure where the terms of the debt instrument creates the potential for the influence of control or for future ownership of the licensee's equity securities.

29. Thus, our present rules now require the filing of all debt instruments which contain restrictive provisions and those which involve ownership rights to a company's stock. It is our experience that most long term debt agreements for large corporations do contain such provisions and thus are already required to be filed with us. The MCDR requirement for listing all long term debts over $1,000,000 would not impose significant additional burdens upon our licensees. We would thus include this MCDR requirement in our proposed rules with the minor change that all debts of "a million dollars or more" be listed in the annual report. We think that a million dollars or more rather than "in excess of a one million dollars" would be in accord with the other numerical reporting levels which we propose in this document and will result in greater uniformity and clarity in our own reporting requirements.

30. With regard to short term debt, we note that the requirements of § 1.613 of our Rules apply equally to short term debt. We recognize the potential for influence over a company's policies by holders of its short term operating capital. Additionally, we find many instances where what is essentially long term debt appears on a corporate balance sheet as a current liability because the agreement

provides that the note is due and payable in 6 months or one year subject to renewal or renegotiation thereafter—often to reflect the fluctuations of the bank's interest rate. We note that the MCDR imposes no limitation on the amount of such short term debt which would be required to be reported and would require the listing of such short term debts that were in existence during the past year, even though such debts have been paid off. We think that a limitation of $10,000 should be applied to the listing of such short term debt agreements. We do not see the need for listing in our annual report of such short term debts which have been retired. Where the company is no longer obligated to a creditor there would thus be no further potential for affecting or influencing its policies. Thus, we propose a listing of such short term debt of $10,000 (excluding accounts payable) which existed as of the close of the previous year.

Financing leases. 31. The MCDR in section IV C requires descriptions of each financing lease arrangement, equipment trust, conditional sales contract or major liability with respect to the capital assets which involves in excess of one million dollars. The MCDR equates such "financing lease" arrangements and contracts with debt agreements. Section 1.613(b)(5) of our rules presently requires disclosure of equipment trust, conditional sales contracts or other major liabilities referred to in IV-B where they contain restrictive covenants. However, our rules would not specifically cover the financing lease arrangements and since such arrangements are in the nature of debt, § 1.613(b)(5) should be amended to specifically provide for their filing. We propose to treat financing leases similarly to long term debt.

Non-voting stock. 32. The MCDR is silent with respect to reporting of interests in non-voting stock. The Commission's present rules require the reporting of interests of "1% or more of either the voting or non-voting stock * * *" (§ 1.615(d)). We recognize that the characteristics of non-voting stock vary from case to case and that such stock may sometimes resemble voting stock and other times more nearly resemble long-term debt. Comments on the types of non-voting stock presently used by publicly held corporations engaged in broadcasting and on the most appropriate way to require reporting of such holdings are requested.

Beneficial interests. 33. The MCDR is also silent with respect to reporting beneficial interests. We agree with the judgment that voting rights should be the primary focus of our attention. In terms of potential influence on broadcasting policies or management of broadcast stations, we think that holders of beneficial interests are more likely to play a significant role in closely held corporations than in those widely held corporations subject to the reporting requirements under consideration. We question whether it is necessary to require widely held corporations to report income beneficiaries of a trust or other types of beneficial interests. Comments on that subject are specifically invited. We are concerned, however, that someone may avoid disclosure by never acquiring or temporarily divesting himself of voting rights while retaining actual control of the stock. We think that possibility is prevented by our proposal to require disclosure of "indirect" holdings of 1% or more of voting stock.

Discussion. 34. The foregoing discussions, as well as the general and specific proposals, are indicative of the manifold problems in the field of broadcasting which relate to disclosure of information by corporate broadcast licensees. The primary legal guideline that the Commission must face concerning disclosure is the Communications Act, especially when read in the light of the Federal Reports Act. There are other statutory guidelines: e.g. the Privacy Act of 1974. We are of the opinion that the proposals contained herein conform to the requirements of applicable statutory criteria.

35. In summary, we believe that by creating a two-tier system of corporate ownership disclosure, we shall be significantly moving toward one of the major goals of MCDR: government-wide uniformity of reporting for widely held corporations. Also, it appears that by using a two-tier system, the burden of compliance with disclosure requirements by the broadcast licensee will be reduced for the widely-held licensees. For the smaller licensees, there will be no reduction in burden of compliance; however, had we changed to annual reporting for such licensees, their filing burden would have increased over the present method of continuous reporting, because there are such few changes for these corporations. Should this two-tier system of reporting be adopted (and, it is our strong tentative conclusion to do so), we believe the information will be more accessible to and comprehensible by the public. Finally, the Commission's cost of compiling and managing this data, in this apparently more useful form, will not greatly increase.

36. Comments are requested on all aspects of the proposal, including the MCDR (attached hereto) as transmitted by Senator Metcalf. The Commission hopes that it will receive comments from institutional holders of broadcast securities, as well as licensees, because their continued and increased cooperation will assist licensees in filing accurate data with respect to stock ownership.

37. Accordingly, the Commission invites comments on the proposed amendments to the Commission's rules as set forth in the Appendix. The Commission also invites comments on any areas outlined herein; e.g. by licensees with over 50 stockholders, but less than 500 stockholders who will possibly have a somewhat greater reporting burden under the proposed revision (paragraph 13). The Commission also invites any comments on the Model Corporate Disclosure Regulations, which are attached hereto.

38. Authority for the institution of this proceeding and adoption of rules concerning the matters involved, is contained in sections 4(i) and 303 of the Communications Act of 1934, as amended.

39. Pursuant to applicable procedures set forth in § 1.415 of the Commission's Rules and Regulations, interested persons may file comments on or before August 11, 1975, and reply comments on or before August 26, 1975, relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this Notice.

40. In accordance with the provisions of § 1.419 of the Rules, an original and 14 copies of all comments, replies, pleadings, briefs, and other documents shall be furnished the Commission. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

Adopted: June 11, 1975.

Released: June 23, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

A new § 1.616 of the Commission's Rules and Regulations is added and reads as follows:

§ 1.616 Annual ownership and disclosure reports.

Each licensee of a standard, FM or television station (as defined in Part 3 of this chapter) shall file an annual ownership and disclosure report with respect to each of the following which has 500 or more stockholders: itself, any parent or controlling company. This report shall be filed on or before April 1st of each year and shall give the information required by this Section as of December 31st of the previous year.

(a) *Definitions.*—(1) *Annual reporting.* The term "annual reporting" means as of December 31 of each calendar year.

(2) *Control.* The term "control" (including the terms "controlling," "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a person, natural or artificial. Sources of power may include, but are limited to: equity security ownership; debtholdings; sole or partial voting arrangements; common directors, officers, or stockholders; or lease, purchase, lines of credit, supply, distribution, or operating agreements. For purposes of the reporting requirements of this section an equity interest of 10% or more shall be considered "control" without regard to whether such control actually exists or is exercised in any form.

(3) *Financing lease.* The term "financing lease" shall refer to any lease which during the noncancelable lease pe-

riod, either (1) covers 75 percent or more of the economic life of the property or (2) has terms which assure the lessor of a full recovery of the fair market value (which would normally be represented by his investment) of the property at the inception of the lease plus a reasonable return on the use of the assets invested subject only to limited risk in the realization of the residual interest in the property and the credit risks generally associated with secured loans.

(4) *Parent of respondent.* "Parent of respondent" shall refer to every firm, holding company or other person or combination of persons who ultimately control the respondent, as well as any intermediary-controlling entity.

(b) *Corporate structure.* (1) The Company's name and address.

(2) Basis of control (to be answered with respect to companies other than the licensee entity).

(3) A listing and description of the company's principal business activities, including all activities which generated 10% or more of the company's gross revenues. (Four digit industry SIC codes and short titles may be used if desired.)

(4) Whether the company's balance sheet and income statements are on file with and publicly available from another governmental agency or body and if so, attach copies of such documents to this report.

(5) A copy of any available chart or other graphic material showing the relationship of the respondent company to such parents, subsidiaries and other organizations listed, (where multiple annual reports are filed for related companies only one such chart need be submitted).

(6) State of incorporation.

(7) Capitalization, with a description of the classes and voting power of its authorized stock and the number of shares of each class issued and outstanding:

(c) *Other business interests of corporation.* List every corporation, partnership, joint venture or other business or financial organization or association in which the company has a 10% or greater interest showing (a) the firm name, (b) principal place of business, (c) the nature of the business engaged in and (d) the extent and nature of the interest.

(d) *Voting stock ownership.* (1) In descending order, the 30 largest holders of voting shares (not to include any holder with less than one-tenth of one percent of the outstanding shares) in the corporation, identified as to:

(i) Name.

(ii) Address.

(iii) Type (bank, broker, holding company, individual or other specified category).

(iv) The number of voting shares held and its percentage relationship to total outstanding shares. (If some shares—such as preferred issues—carry limited voting rights described the limitation and the number of shares affected.) (In determining the number of shares held, all nominee and other accounts of each shareholder, including accounts held by depository trust companies (CEDE & CO., SICOVAM, Pacific Coast Stock Exchange Clearing Corp., Midwest Stock Exchange Clearing Corp.) shall be aggregated and reported as one account in the name of the bank, broker, holding company, individual or other identified share holder.)

(2) With respect to each of the 30 largest holders, the number of shares (and percentage relationship to total outstanding voting shares) over which the holder has:

(i) Sole voting power.

(ii) Shared voting power.

(iii) No voting power under any circumstances.

(3) With respect to shares over which the stockholder has no voting power or shared voting power, the names and addresses of all persons empowered to vote the ten largest blocks of stock, showing the number of shares and the percentage involved.

(4) In addition, in responding to paragraph (d) (2) and (3) of this section provide full information about any other direct or indirect holding of 1% or more of the outstanding voting shares.

(e) *Business interests and affiliations of offices, directors and stockholders.* (1) List the name, address, date and place of birth, citizenship, and social security number of each of the company's officers, directors, trustees, partners, or persons exercising similar functions and each of the stockholders having a direct or indirect interest in 1% or more of the company's outstanding voting stock. State any family relationship between or among any of the persons listed in response to this section.

(2) For each party listed under paragraph (e)(1) of this section, list all their present and past interests in or connections with any broadcasting station and all of their present interests and connection with newspaper publishing and CATV companies and companies engaged in broadcasting related activities (e.g., advertising representatives, recording companies, record promotion companies, programming and talent producers and suppliers).

(3) For each party listed under paragraph (e)(1) of this section except:

(i) Holders of less than 3% of the outstanding voting stock; and

(ii) Officers who are not principal officers and who have no duties, functions or responsibilities which pertain to broadcasting operations; state the principal occupations. State the principal occupations or businesses in which the party is engaged and, in addition, state any other business or financial enterprise in which such party has either a 10% or greater interest or any official relationship, giving the name of the firm, principal place of business, nature of the business and the extent and nature of the party's interest.

(f) *Contracts and other instruments.* List all contracts and other instruments, still in effect, which are required to be filed with the Commission pursuant to § 1.613 of the Commission's Rules, giving a brief description of the instrument, the party with whom the contract is made, and the dates of execution and expiration.

(g) *Debt.* (1) A description of each long-term debt (debt due after one year) of the respondent of one million dollars or more, including the name and address of the creditor, the character of the debt, nature of the security, if any, the date of origin, the date of maturity, the total amount of the debt, the rate of interest, the total amount of interest to be paid. Where such indebtedness is widely held, such as bonds and debentures, provide the name of the trustee in place of the creditor. With respect to each holder of more than five percent of each issue reported provide the name, address and type of holder—bank, broker, holding company, individual or other specified category and amount of debt held.

(2) A description of each short-term (under one year) debt of ten thousand dollars or more excluding accounts payable of the respondent, including the name and address of the creditor, nature and character of the liability, period of the debt, rate of interest, total amount of such short-term debt, nature of the security, and date when such debt must be paid.

(3) State with respect to paragraph (g)(1) and (2) of this section whether the debt instrument has been filed in accordance with the provisions of § 1.613 of the Commission's Rules.

(h) *Financing leases.* A description of each financing lease arrangement, equipment trust, conditional sales contract, or major liability with respect to the capital assets of the respondent and involving aggregate payments in excess of one million dollars. State whether the instrument covering such arrangement has been filed pursuant to the requirements of § 1.613 of the Commission's Rules.

(i) *Interim reports.* Any change in the directors, principal officers or other officers (except those other officers having no duties, functions or responsibilities which pertain to broadcasting operations) shall be reported to the Commission by an amendment filed within 30 days of such change.

MODEL CORPORATE DISCLOSURE REGULATIONS
JANUARY 1975

DEFINITIONS

Annual reporting. The term "annual reporting" means as of December 31 of each calendar year.

Control. The term "control" (including the terms "controlling," "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a person, natural or artificial. Sources of power may include, but are not limited to: equity security ownership; debtholdings; sole or partial voting arrangements; common directors, officers, or stockholders; or lease, purchase, lines of credit, supply, distribution, or operating agreements.

Financing lease. The term "financing lease" shall refer to, any lease which during the noncancelable lease period, either (1) covers 75 percent or more of the economic

life of the property or (2) has terms which assure the lessor of a full recovery of the fair market value (which would normally be represented by his investment) of the property at the inception of the lease plus a reasonable return on the use of the assets invested subject only to limited risk in the realization of the residual interest in the property and the credit risks generally associated with secured loans.

Parent of Respondent. "Parent of respondent" shall refer to every firm, holding company or other person or combination of persons who ultimately control the respondent, as well as any intermediary controlling entity.

ANNUAL REPORTING REQUIREMENTS

I. *Corporate structure.* A. For each respondent, parent of respondent, susbidiaries (and/or organizations controlled) of the respondent, joint ventures involved in by the respondent, and subsidiaries (and/or organizations controlled) of joint ventures involved in by the respondent, the following information shall be submitted:

1. Name and address.
2. Basis of control.
3. *Principal business activities.* a. List and describe by 4-digit SIC Code and short title each industry in which the respondent's activities generated 10% of gross revenues or $5 million dollars (during the reporting year). 4-digit industry SIC codes and short titles are listed in the most recent *Standard Industrial Classification Manual* as published by the Executive Office of the President, Office of Management and Budget.

b. 4-digit SIC Codes and short titles should be listed in order of significance relative to the total activities of respondent, based upon the percentage of gross revenues generated within each 4-digit industry.

4. Copy of the latest balance sheet and income statement and consolidated balance sheet and income statement, if available.

5. A copy of any chart or other graphic material showing the relationship of the respondent to such parents, subsidiaries, and other organizations listed.

B. In addition to subparagraph (A) above, list every corporation, partnership, or other business organization in which the respondent owns more than five percent of the outstanding voting securities or other ownership interests and indicate the percentage so owned.

II. *Voting stock ownership.* A. In descending order, the 30 largest holders of voting shares (not to include any holder with less than one-tenth of one percent of the outstanding shares) in the respondent, identified as to

1. Name
2. Address
3. Type (bank, broker, holding company, individual or other specified category)
4. The number of voting shares held (as of the end of the calendar year) and its percentage relationship to total outstanding shares. (If some shares—such as preferred issues—carry limited voting rights describe the limitation and the number of shares affected.)

(In determining the number of shares held, all nominee and other accounts of each shareholder, including accounts held by depository trust companies (CEDE & CO., SICOVAM, Pacific Coast Stock Exchange Clearing Corp., Midwest Stock Exchange Clearing Corp.) shall be aggregated and reported as one account in the name of the bank, broker, holding company, individual or other identified shareholder.)

B. With respect to each of the 30 largest holders, the number of shares (and percentage relationship to total outstanding voting shares) over which the holder has

1. Sole voting power
2. Shared voting power (if voting power is shared with any of the thirty largest shareholders, identify the shareholder and the number of shares held)
3. No voting power under any circumstances.

C. With respect to shares over which the stockholder has no voting power, the name and address of the person(s) empowered to vote the ten largest blocks of stock, the number of shares and the percentage of stock in relation to the total outstanding voting shares.

D. With respect to the 30 largest holders of voting shares in any parent, holding company or other organization or person controlling the respondent, provide the information required in subparagraphs (A), (B) and (C) above.

III. *Affiliations of officers and directors.* A. The name, address and social security number of each of the principal officers and each director, trustee, partner or person exercising similar functions, of the respondent and parent together with his title and position with the respondent and with any parent, holding company, person, or combination of persons, controlling the respondent, and with any subsidiary of the respondent and any other company, firm or organization which the respondent controls.

B. For each of the officials named under subparagraph (A) above, list the principal occupation or business affiliation if other than listed in subparagraph (A), and all affiliations with any other business or financial organizations, firm or partnership.

C. A list of each contract, agreement or other business arrangement exceeding an aggregate value of one million dollars entered into between the respondent and any business or financial organizations, firm or partnership named in subparagraph (B) above, identifying the parties, amounts, dates and product or service involved.

D. A list of each contract, agreement or other business arrangement in excess of $600 entered into during the calendar year (other than compensation related to position with respondent) between the respondent and each officer and director listed in subparagraph (A), identifying the parties, amounts, dates and product or service involved. In addition, provide the same information with respect to professional services for each firm, partnership, or organization with which the officer or director is affiliated.

IV. *Debt holdings.* A. A description of each long-term debt (debt due after one year) of the respondent in excess of one million dollars, including the name and address of the creditor, the character of the debt, nature of the security, if any, the date of origin, the date of maturity, the total amount of the debt, the rate of interest, the total amount of interest to be paid, and a copy of any and all restrictive covenants attached to the indebtedness (where such indebtedness is widely held, such as bonds and debentures, provide the name of the trustee in place of the creditor).

1. With respect to each holder of more than five percent of each issue reported provide the name, address, and type of holder—bank, broker, holding company, individual or other specified category and amount of debt held.

B. A description of each short-term debt (under one year) excluding accounts payable of the respondent, including the name and address of the creditor, nature and character of the liability, period of the debt, rate of interest, total amount of such short-term debt, nature of the security, and date when debt was paid, or date when such debt must be paid, and a copy of any and all restrictive covenants attached to the indebtedness.

C. A description of each financing lease arrangement, equipment trust, conditional sales contract, or major liability with respect to the capital assets of the respondent and involving aggregate payments in excess of one million dollars and a copy of any and all restrictive covenants attached to the indebtedness.

SUPPLEMENTAL RECOMMENDATIONS

The design of the basic model legislation incorporates only the minimum requirements for corporate disclosure that the Committee members felt were appropriate for the participating agencies and commissions. In many areas suggestions were made to expand these minimum requirements beyond those presented and additions were proposed to clarify the model wording. Some Committee members also desired certain requirements to be designated as being subject to each agency's or commission's discretion. Therefore, the Committee decided to present supplemental recommendations in areas where either a single member or group of members felt strongly that further comments were necessary but where a consensus of the necessity for these comments by all groups represented could not be reached. These supplemental recommendations are designed only to call attention to areas that may provide further meaningful information if modified or to clarify existing requirements.

Annual Reporting. Each agency or commission which now receives reports from respondents based on a fiscal year rather than calendar year reporting period should determine whether converting to a calendar year basis would be unduly burdensome.

I. *Corporate structure—Subparagraph A 3(a).* The 10% of gross revenues or $5 million criterion for reporting industries in which the respondent has activities should be reviewed for its appropriateness by each agency or commission.

Subparagraph A 4. The respondent and parent of respondent could be required to submit a consolidated balance sheet and income statement. The format of the statements should show adjacent to the classification column, in separate columns, the related dollar amounts corresponding to each individual company making up the consolidation. The figures for the consolidated column of this statement would be a summation of the combined accounts of the parent and/or respondent and each subsidiary company as shown by their books of account after eliminating inter-company open accounts, security holdings, interest, dividends, rents, and other inter-company transactions, to include a disclosure of the eliminations at the bottom of the statements.

An additional subparagraph could be added requiring the respondent to provide the following information on each subsidiary.

a. Date investment in subsidiary was acquired.

b. Amount of investments in subsidiary at the beginning of the year.

c. Amount of investments in subsidiary at the end of the year.

d. Amount of gain or loss on disposing of investments in subsidiaries during year.

e. Revenues received from subsidiaries during year.

f. Full disclosure of any securities, notes and accounts pledged for subsidiary during year.

III. *Affiliations of officers and directors—Subparagraph A.* The information reported could be expanded to be made applicable to officers and directors of subsidiary companies.

Subparagraph B. Business or financial organizations, firm or partnership should be interpreted to include financial and charitable foundations engaged in investment activities.

Subparagraph D. Each agency and commission should consider the broad scope of information required in the second sentence

and make a determination of the extent to which the information is necessary.

IV. *Debt holdings—Subparagraphs A, B, and C.* The information reported could be expanded to be made applicable to the debt holdings of parents of the respondents.

Subparagraph A. In cases where voting rights are involved in the holding of long-term debt the person controlling the voting rights should be disclosed to the extent required by Paragraph II.

The one million dollar criterion for long term debt reporting should be reviewed for its appropriateness by each agency or commission. It may be appropriate to expand debt reporting to issues below the one million dollar level.

[FR Doc.75-16317 Filed 6-23-75;8:45 am]

[47 CFR Part 73]

[Docket No. 20520; RM-2169 etc.; FCC 75-709]

MULTIPLE OWNERSHIP OF STANDARD, FM, TELEVISION BROADCAST STATIONS AND CROSS-OWNERSHIP OF CABLE TELEVISION SYSTEMS

Notice of Proposed Rule Making

In the matter of amendment of §§ 73.35, 73.240, 73.636, and 76.501 of the Commission's rules relating to multiple ownership of standard, FM, television broadcast stations and cross-ownership of cable television systems (stock held by insurance companies, mutual funds, and other institutional investors). RM-2169, RM-2193, RM-2197, RM-2198, RM-2234, RM-2343.

1. Notice of proposed rulemaking is hereby given with respect to petitions filed requesting the amendment of §§ 73.35, 73.240, 73.636, and 76.501 of the Commission's rules relating to multiple ownership of standard, FM and TV broadcast stations and cross-ownership of cable television systems.

2. Six parties filed petitions requesting amendment of the Commission's ownership rules. Insurance companies and associations filing are: Aetna Life & Casualty Company (Aetna), on March 20, 1973 (RM-2169) The Teachers Insurance and Annuity Association of America and College Retirement Equities Fund (TIAA/CREF) on August 9, 1972 (RM-2197); The Prudential Insurance Company of America (Prudential) on November 3, 1972 (RM-2198); American Life Insurance Association (ALI) on July 19, 1973 (RM-2234); and The National Association of Independent Insurers (NAII) on March 11, 1974 (RM-2343). The Investment Company Institute (ICI) on May 22, 1973 (RM-2193) also filed a petition requesting amendment of these rules.

History of Current Institutional Owner Benchmarks

3. The one percent benchmark for the purposes of application of the multiple ownership rules (§§ 73.35; 73.240; and 73.636) as to corporations which have over 50 voting stockholders was adopted in 1953. See 9 R.R. 1563, 1571 (1953). In 1964, on the Commission's own motion, a proceeding was commenced (Notice of Inquiry and Notice of Proposed Rule Making, Docket No. 15627, FCC 64-861, released September 18, 1964) to determine if the 1% benchmark was realistic in view of the greater number of publicly traded licensees and the fact that institutional owners—mutual funds, banks, and brokerage houses—held interests exceeding the 1% standard. The proceeding was terminated by the Report and Order in Docket No. 15627 which was released June 17, 1968 (FCC 68-627, 13 F.C.C. 2d 357). This major revision in the multiple ownership rules permitted mutual funds to hold, as passive investments, interests in broadcast corporations of up to 3% for the purposes of the multiple ownership rules.[1] Also certain reporting practices with respect to stock held by brokers for the benefit of customers were adopted.

4. On May 11, 1972, acting pursuant to a petition by the American Bankers Association, the Commission issued a Report and Order in Docket No. 18751 (FCC 72-391, 34 F.C.C. 2d 889) which permitted banks, as passive investors to hold up to 5% for the purposes of the multiple ownership rules, provided the bank files disclaimers of its holdings over 1% and up to 5%.[2]

The TIAA/CREF Pleadings

5. The Teachers Insurance and Annuity Association of America and College Retirement Equities Fund (TIAA/CREF) filed a petition for waiver and for declaratory ruling concerning its holdings in broadcast companies and requested that the multiple ownership benchmark be set at 5% as to its holdings. By letter of April 11, 1973, they asked that their joint petition be considered as a petition for rule making.

6. TIAA/CREF had received permission from the Commission (see paragraph 9, infra) to hold securities in broadcast companies up to the 3% benchmark (the benchmark presently applicable to mutual funds), rather than the 1% general standard of the multiple ownership rules. A 5% standard is requested, because they claim that TIAA/CREF is a non-profit organization that acts as a specialized insurance carrier to provide pensions for teachers in higher education. It is averred that they are passive investors and that their investments are managed for the benefit of their participants in pension programs. They stress that New York state law and their own charters place a 5% ownership limitation in any single portfolio company to prevent acquisition of control of any company whose stock is acquired for investment. TIAA/CREF also contend that requiring them to adhere to the 3% standard would have substantial adverse effect upon their investments which would require additional divestiture of approximately $3 million. It is also contended that the 3% limitation will substantially and unnecessarily impair the ability of TIAA/CREF to discharge their duty to invest and manage funds in the furtherance of their responsibility to invest and manage the funds to provide maximum pension benefits for the educational community.

7. Also set forth in its pleading is a lengthy statement regarding the nature and origin of TIAA/CREF. For our purposes, the most significant facts are that TIAA and CREF are tax-exempt organizations. TIAA provides fixed annuities, while CREF provides variable annuities to its educator participants. It is pointed out that TIAA and CREF are "sister" institutions serving the same general purpose, but they are financially separate, in that they have separate portfolios with their own investment managers and board of trustees. Because of their wide ranging use by educational institutions for pension funding, it is contended that the TIAA/CREF program serves an important function in the nation's educational system.

8. It is stated that, because of the costs of research and management, CREF has adopted a policy that the minimum stock investment must be five or six million dollars to justify such expense and make a meaningful contribution to the growth of the pension fund. Illustrative of this point, at the end of 1971, there were 137 companies in the CREF portfolio with a market value of $2,064,299,000.[3]

9. TIAA/CREF also recognizes the related question of whether the portfolios of the two companies should be aggregated, even though, as noted before, the portfolios are separately managed and each company has its own governing board. If the holdings of the two companies must be aggregated, further divestitures would be required beyond the amounts that have been divested pursuant to the direction of the Commission issued in connection with the Metromedia transfer (WTCN(TV)), Minneapolis-St. Paul, Minnesota station wherein CREF was treated as a mutual fund (and therefore subject to the 3% standard) for the purposes of the multiple ownership rules.

10. TIAA/CREF argues that any percentage limitation should be related to the size of the portfolio company. In other words, any benchmark would likely never be reached in acquisitions of large broadcast companies such as General Electric or Westinghouse, but could easily be reached in the smaller publicly owned broadcast companies such as Cox Broadcasting, Storer Broadcasting and several others. TIAA/CREF further argues that a low benchmark prevents them from investing in the smaller companies, which have greater growth potential and perform in cyclical trends, and this acts as a damper on the per-

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[1] Similar restrictions were incorporated into the cable television rules with the adoption of Section 74.1131. See Second Report and Order in Docket 18397, FCC 70-673, 23 F.C.C. 2d 816 (1970). The provision was redesignated Section 76.501 with the adoption of the Cable Television Report and Order, FCC 72-108, 36 F.C.C. 2d 143 (1972).

[2] The change has not yet been incorporated into the cable television rules.

[3] This amounts to an average investment of $15 million in each portfolio company.

formance of their function to better support the funding for their annuity participants. They also note that a low benchmark will narrow equity financing for the smaller broadcast companies, and other small diversified companies with broadcast interests, which would restrict licensees from acquiring capital to improve their broadcast facilities. It is concluded that this limitation on investments has an adverse effect on providing retirement security for the nation's higher educational institutions.

11. TIAA/CREF state that they do not presently, and do not intend in the future, to participate in the management or control of any companies with broadcast properties, and accordingly have executed an appropriate disclaimer in line with that statement. They say that because of their obligation to their annuity participants, even though they are passive investors, they do exercise their voting rights as stockholders. They do state: "Insofar as they do formulate and express opinions, institutional owners confine themselves to areas in which they have the necessary qualifications, such as financial planning, dividend policy, security offerings, executive compensation, capital structure, financial reporting and stockholder rights." They follow up this statement concerning the financila-type issues by saying that the institutional owners can make a contribution to the quality of the portfolio company descisions as to "the equitable consideration" of stockholder interests. They mean by this that they have no broadcasting expertise, and therefore their holdings would not impinge on the Commission's concern to avoid undue concentration of control of the mass communications media, which is the objective of the multiple ownership rules.

12. TIAA and CREF then outline, in some detail, the method of selection and the duties of their separate governing boards. Also submitted with the pleading is a list of their trustees, as well as a listing of their outside business interests, which is a required submission for compliance with the insurance laws of New York. It is stated that these trustees perform functions equivalent to directors of a corporation.

13. TIAA/CREF note that they have characteristics in common with mutual funds, but argue that because of special characteristics, they merit special consideration to authorize the greatest flexibility and highest "benchmark" for investment consistent with the requirements of the multiple ownership rules. They base this contention on the grounds of their non-profit character in performing pension and estate planning services for the educational community as well as the investment and reporting limitations contained in the insurance laws of New York and their own charters. They aver that they also have some of the characteristics of the trust departments of banks; *i.e.*, the management of pension funds; they are passive investors; and are subject to other strict governmental regulation. They urge that, subject to disclaimers of intent to exercise control over the management or policies of a broadcast company, investments of up to 5% be permitted.

THE PRUDENTIAL PLEADING

14. The Prudential Insurance Company of America (Prudential) filed a petition for waiver and other relief that would permit investment by Prudential, in corporations holding broadcast licenses, up to the 5% benchmark, the standard now applicable to banks acting in a trust capacity. Prudential states that it is a passive investor that holds such broadcast stock solely for investment purposes and with no intent to exercise control over the management or policies of the portfolio company. They also requested interim relief in the form of being subject to the 5% benchmark during the pendency of the proceeding, so as to avoid divestitures. We are treating the Prudential pleading as one for rule making, but will act on the matter of relief with respect to the interim period.

15. Prudential avers that it holds stock (a) solely for purposes of investment and with no intent to exercise control over the management and policies of portfolio companies; (b) subject to stringent state regulations, as a mutual insurance company, for the benefit of its policyholders; and (c) in substantial part for the purpose of funding pension and profit-sharing plans.

16. Prudential outlines the features of its portfolios, stating that part of its investment assets are represented by its general account, and the remainder in "separate" or "variable contract" accounts. The general account supports its traditional insurance and annuity obligations, which are funded primarily by fixed income securities. Prudential notes that, under the laws of New Jersey to which it is subject, it may not invest more than 15% of its general assets in common stocks.

17. Prudential states that its separate accounts are maintained under relatively recent amendments to the insurance laws of New Jersey. It is these separate accounts that support Prudential's variable benefit contracts. These accounts are principally funded by equity securities. Prudential outlines, in some detail, the various types of its separate accounts, and states that the investments in those accounts, with few exceptions, are made pursuant to policies with the objective of capital appreciation over the long term.

18. Prudential submitted a listing of the holdings in broadcast licensee corporations, and then pointed out the unusual nature of its holdings in Rollins, Inc. and Metromedia, Inc., both which are in excess of the 1% benchmark. These holdings will be treated later in this Notice. (Paragraph 52)

19. Prudential contends that it should be allowed to purchase stocks up to the 5% benchmark applicable to banks because it does not hold stock for the purpose of controlling corporate policies or management. Its investment judgment is based on investment considerations. It then quotes a passage from the prospectus of one of the separate accounts, as follows: "No investment in the securities of a company will be made for the account of the Investment Fund for the purpose of exercising control of management over such company." It states that the other separate accounts contain similar disclaimers. Even though, Prudential does not publish a prospectus with respect to its general account, it follows the same policy with respect to that fund. According to Prudential, it is subject to the New Jersey insurance law that prohibits acquisitions by an insurance company of more than 8%, in the aggregate in all accounts (general and separate) of the voting stock of any corporation. As owners of corporate stock, Prudential states that it exercises the voting rights, but does so only in connection with proxy solicitations, and not with the intent to control particular corporate policies or management.

20. However, Prudential cites the New Jersey law that permits an insurance company to relinquish voting rights with respect to stock held in certain separate accounts maintained for certain group contracts. What is involved is that Prudential remains the legal and beneficial owner, but the voting rights may be exercised at the direction of persons designated in the contracts participating in that separate account. Prudential requests that, as to this stock which it does not vote, that such stock not be attributed to it, as provided in present Note 6 to the multiple ownership rules.

21. Prudential states that it would be willing to execute an appropriate disclaimer of intent to exercise control over the management and policies of the companies in which it holds stock, if required in order to qualify for the 5% benchmark. Based on the foregoing presentation, Prudential believes that it should not be limited to the 1% benchmark, but should be subject to the 5% standard that is applicable to banks holding in their trust capacity.

22. Prudential contends that it should be subject to the 5% benchmark so that it will receive comparable treatment in its management and investment of pension assets held for funding such plans. Prudential notes that one of its separate accounts and its Gibraltar Fund are registered as investment companies, and, so are subject to the 3% benchmark under the multiple ownership rules. It is stated that in the remaining separate accounts and also the general account, the investment and management policies as to the accounts are also for the benefit of others and held with no intent to control corporate policies or management. So, except for not being registered, these other funds would qualify for the 3% standard in the multiple ownership rules.

23. But, Prudential urges that a 5% benchmark is more appropriate because these equity investments are held, in substantial part, for the purpose of funding various pension and profit-sharing plans. Prudential feels that it should receive comparable treatment with banks because pension and profit-sharing plans constitute a major activity of bank trust

departments. It is stated that 97% of the separate account assets are held in contracts funding such pension and profit-sharing plans. Also set forth is the fact that as of 1971, while such separate account assets represent only 25% of the total assets of Prudential, it represents 63% of all common stocks held by it.

24. It is argued that banks and insurance companies are direct competitors in the pension and profit-sharing field, and that both state and Federal legislation has been adopted along that line, and that the Commission should also permit insurance companies to compete with banks in this field. Thus, it is contended that the 5% bank standard, rather than the 3% mutual fund standard, should be made applicable to insurance companies.

25. Prudential also requests interim relief which would permit investment to 5% during the pendency of the proceedings to avoid divestiture, and states that it will file appropriate disclaimers of intent to control policies or management, and if necessary, refrain from voting such shares.

THE AETNA PETITION

26. Aetna Life and Casualty Company (Aetna), filed a petition for declaratory ruling or alternative relief with respect to the multiple ownership rules. In one manner or another, Aetna requests that the 5% benchmark be made applicable to its holding of stock. We shall treat the Aetna pleading as a petition for rule making. After pointing out that it is a multiline insurance company whose stock is traded on the New York Stock Exchange, Aetna sets forth its various subsidiaries and other associated companies. In support of its request for a 5% benchmark, Aetna contends that being subject to the 1% benchmark places it at a competitive disadvantage with banks and mutual funds, and that such a 5% standard for insurance companies would be in furtherance of the Commission's goals and the public interest.

27. Aetna then outlines its types of investments, which like Prudential, are held in general corporate and separate accounts. The general corporate investments support both insurance and annuity obligations, while the separate accounts, both comingled and single customer, principally support pension and profit-sharing accounts. Aetna Variable, which is registered under the Investment Company Act, supports variable annuities and life insurance policies.

28. Aetna then sets forth the stage regulatory laws that it must comply with. Even though Aetna and its subsidiaries are domiciled elsewhere, because it does business in New York, it must comply with the laws of that state. For example, any common stock investments must be in stocks that have earned 4% on par or issue value for the last seven years, common stocks (other than of banks, trust companies and insurance companies) must meet certain registration requirements, the net income of the issuing company for the most recent year must be at least $300,000, and the total assets must exceed $2,000,000, with the stock being held by at least 900 persons; it must have paid 3¼ on par or stated value for the five years; and investments in such stocks, in the aggregate, must not exceed 5% of the total of outstanding common stock of the portfolio company.

29. After reviewing the Commission's multiple ownership rules and the reasons for raising the benchmark for banks and mutual funds. Aetna urges that there be a parity among all institutional owners. Aetna, as does TIAA/CREF, notes that investments in the smaller broadcast companies are curtailed with a low benchmark and also points out that insurance companies provide private financing for the communications industries. The financing quite often involves warrants and a low benchmark provides potential conflict with the multiple ownership rules.

30. Aetna states that Aetna Life and Casualty (the parent) and Aetna Casualty (a 100% subsidiary) own 11% and 24% respectively in Aetna Fund, Inc., a registered mutual fund. Because of this amount of ownership, Aetna asks that the Commission rule, as it did in the mutual fund decision of 1968 (FCC 68-627, 13 F.C.C. 2d 357) that stock held by Aetna Fund should not be attributed to and aggregated with the investments of the Aetna family of companies, because the total holding is less than 50% in the fund. Aetna also requests a clarifying ruling with respect to Aetna Investment Management, Inc., the investment adviser to the Aetna Fund, the mutual fund discussed above. We shall dispose of these requests later in this document. Since Aetna has an interest in a mutual fund, as well as its insurance operation, and because of the similar investment safeguards, it is contended that all institutional owners should be subject to the same ownership benchmark.

31. Regarding cable television interests, Aetna asks that the Commission amend the investment percentages to be the same as for broadcast holdings and asks, further, that the Commission adopt an across-the-board 5% level of ownership test in the interest of administrative ease. It states that the prohibition benchmark of common ownership in Section 76.501 should be raised since the diversity of ownership which is sought, at least regarding the networks, is insured by their size. It offers statistics supporting the proposition that the publicly traded securities of the three major networks are broadly based in both the institutional investment community and in the public at large (for example, 139 institutional investors hold over six million of the 28 million shares of CBS that are publicly held) and concludes that such ownership diversity "makes nearly impossible" control by a particular investor. It argues that the current 1% benchmark is a "grave restraint" on an insurance company's ability to provide capital to the capital intensive cable television industry, that it has extended loans under conditions which create potential ownership of more than 7% in three cable television companies, and that it may be forced to divest its holdings (1.22) percent in CBS, thereby making investments in cable television companies less attractive. Because the cable-broadcast issue cuts across industry lines, states Aetna, the possibility of abuses by third party institutional owners is reduced.

32. Aetna also raises the question of telephone company cross-ownership with cable systems. Aetna recognizes that this is not a significant problem because of divestiture of cable by telephone companies, and because channel service is not a prevailing method of cable construction. We appreciate the Aetna candor with respect to this problem, but we do not believe that we have sufficient facts before us that would warrant the proposing of a rule at this time, in this area.

33. Aetna raises a problem with respect to disclaimer of intent to control management or policies of a company. This is the increasing concern that corporations are required to give to social responsibility issues. What Aetna raises is whether such disclaimers benefit the general public. In other words, is there validity to silencing institutional shareholders with respect to the policies of a portfolio corporation, especially, in view of Aetna's contention that the benchmark alone insures against concentration of control?

THE ALI PETITION

34. The American Life Insurance Association (ALI) states that it is a national trade association with a membership of 355 life insurance companies which account for 90% of the legal reserve life insurance in force in the United States. ALI asks that insurance companies be permitted to own up to 5% of the outstanding voting stock of broadcast corporations.

35. ALI then outlines the nature and extent of life insurance company investment activities and the effects on them of the multiple ownership rules. At the end of 1972, life insurance companies held $21.8 billion in common stocks, both in the general accounts (supporting fixed payment contracts), and the separate accounts (supporting variable payment contracts). As pointed out by Aetna and Prudential, the general account common stock assets, while not making up a large percentage of the assets of a company, do comprise a significant dollar amount. The much greater use of common stock funding is for the reserves for the separate accounts, the history and use of which are described by ALI, and are outlined below.

36. The separate accounts were originally developed in connection with pension contracts issued to fund corporate pension plans that meet the Internal Revenue Code requirements. In addition to this funding, life insurance companies also sell individual variable annuity contracts for individual retirement plans and other types of variable annuities. Therefore, over the last decade, the insurance companies because of the increasing demand for pension benefits and inflation.

have had a growing need to invest in equity securities to fund these contracts. Also, companies are investigating the marketing of variable life insurance, which will be funded by those separate accounts, and it is expected that this type of insurance will be a significant product in insurance company sales, possibly up to as much as 25% during the 1980's.

37. It is averred by ALI that insurance companies are passive investors, who do not make or intend their investments to influence management or corporate decisions. They say that their investment decisions are influenced by the desirability of a security in terms of potential income and capital appreciation. Also, as a matter of policy, they are not involved in corporate decision making or management decisions so as to be in any control position.

38. ALI then outlines its evaluation of the impact of the multiple ownership rules on the holdings of members of the life insurance industry. It notes that retention of the 1% benchmark will necessite the divestiture of a sizeable amount of stock which may be over the 1% benchmark, which would have adverse economic consequences for the life insurance companies, the issuing corporations, and the investing public. Retention of the 1% standard would place a continuing hardship on life insurance companies in terms of investment opportunities, and result in a loss of capital for the communications industry. It is also contended that retention of the 1% standard perpetuates unequal treatment among institutional investors and discriminates against life insurance companies and the policy and contract participants.

39. ALI states that it conducted a survey to determine the extent of broadcast holdings both above and below the 1% benchmark, and the impact of its retention. Of the insurance companies surveyed, there were 30 holdings in excess of 1% in 23 broadcast corporations. In the majority of such holdings, there was only one holding exceeding the benchmark. Of the companies surveyed, if the 1% standard were retained, as of the close of 1972, divestiture would amount to $158 million, and at 5%, it would be $3.3 million.

40. ALI contends that a 5% benchmark is necessary for life insurance companies. They also stress that insurance companies are passive investors, who are subject to anti-control regulations at the state level, which provides for quantitative restrictions limiting common stock ownership. The New York law is then set forth because so many companies are subject to the insurance laws of that state. As to the general accounts, New York restricts acquisition in a company to 5% of the total outstanding common stock of the issuer, and to 1% of the admitted assets of the life insurance company. As to aggregate investments in stocks, investments cannot exceed either the lesser of the surplus applicable to policy holders or 10% of the admitted assets of the company. As to the separate accounts, such holdings are not subject to quantitative restrictions, but a life insurance company cannot hold, in the aggregate for all accounts, both general and separate, more than 5% of the outstanding common stock of the issuing company.

41. ALI, as well as the petitioning companies, then cites the Institutional Investor Study made by the Securities and Exchange Commission, which found that institutions do not involve themselves in decision making of their portfolio companies, and generally liquidate their holdings when corporate policies appear inappropriate. ALI states that life insurance companies have no expertise in broadcasting matters, generally, and have no inclination to become involved in broadcast management.

42. It is contended that retention of the 1% benchmark may cause a particular investment to be insufficient in size to justify research and other expenses involved. A survey of 80 broadcast stocks out of a list of 112 stocks, reveals that over half of these companies have less than 5 million shares outstanding. Out of the 80 companies surveyed, 31 of the companies have less than 3 million shares outstanding. The point urged by ALI is that the existing rules discriminate against smaller broadcast companies which meet the investment criteria of the insurance companies. So they contend that this discriminates against the emerging companies, because it places them at a disadvantage in securing funds from institutional investors who are usually a less expensive source of financing than the public market. ALI states that a further hardship is imposed on life insurance companies because this rule curtails investment in companies where broadcasting is only a very minor activity, and one that is not easily identifiable.

43. ALI argues strenuously that life insurance companies should be treated equitably with other institutional owners, especially banks, because they are direct competitors in the pension field. Thus, ALI contends that life insurance companies should be subject to the 5% benchmark.[4] ALI concludes its pleading by stating that it is prepared to meet with the Commission and make available the expertise of life insurance companies to discuss its contentions and requests.

THE NAII PETITION

44. The National Association of Independent Insurers (NAII) states that it is a voluntary association of nearly 600 insurers which represent a cross-section of the property and casualty insurance business in the United States. They point out, as do the other petitioners, that the insurers are passive owners with no desire to control corporations with communications interests. NAII stresses that the differentiations in benchmark amount to an inequity between property and casualty insurers and mutual funds and banks.

45. Unlike life insurance companies, property and casualty insurers seek to increase investment income vis-a-vis underwriting profits to provide the income for stockholders or to create more surplus for the benefits of policyholders. Accomplishment of this objective cuts down the overall costs of the underwriting activities. Also stressed is the fact that property and casualty insurers are subject to strict regulation at the state level, especially the limitations on common stock investments. NAII concludes by requesting a 5% benchmark for property and casualty companies because the 1% standard is an arbitrary exclusion of willing investors in the communications field, which has an adverse effect on the industry and ultimately the public.

THE ICI PETITION

46. The Investment Company Institute (ICI) states that it is the national association of the American mutual fund industry, with a membership of 382 open-end investment companies, their investment advisers and principal underwriters, which comprise almost 90% of the industry's assets. They entitle their petition as a petition for declaratory ruling which requests that the broadcast multiple ownership limits be raised from 3% to 10% for mutual funds and to permit broader cross-ownership as to cable television companies and telephone common carriers than now permitted. The reasons they state for the request is that the 3% limit is (1) too low in order to make maximum capital available to broadcast organizations while guarding against concentration of control; (2) inequitable in the light of the higher limit for banks; and (3) the extension of the 3% limit to cable television and telephone common carrier holdings require re-examination of the 3% benchmark for mutual funds in the multiple ownership rules.

47. ICI's argument that the 3% limit is too low to achieve its purpose is, in the main, grounded on the contention that the 3% standard was set to avoid large scale divestiture, but it had the effect of foreclosing harmless and useful investment by mutual funds. ICI also sets forth the history of the mutual fund proceeding (Docket No. 15627) and again outlines the federal and state regulatory laws concerning mutual funds. The main laws are the Investment Company Act of 1940 which provides that no more than 10% of the outstanding stock of a corporation may be held as to 75% of the assets of the mutual fund, and the various state "Blue Sky" laws that impose the 10% limit as to 100% of the mutual funds assets. The second main federal regulatory law is that when a mutual fund owns 5% or more of a single issuer, it then becomes an "affiliate person", and then almost all transactions between the fund and the "affiliated person" must receive prior approval of the SEC. ICI sets out

[4] ALI notes that no special benchmark has yet been adopted for banks in the cable television rules, but states "the public interest would be well served by subjecting all institutional investors to a single uniform rule which provides for a benchmark of at least 5 percent."

the standards that such transactions must then meet.

48. ICI sets forth again, the fundamental policy of most mutual funds that they may not under any circumstances invest in securities for the purpose of management or exercise of control. They point out that a violation of such stated policies could give rise to substantial liabilities under state and federal law. ICI submits that the "affiliated person" safeguard and the non-control policies are sufficient to assure non-control once a fund has 5% or more of a given company's stock. They refer to the special study prepared by the Wharton School of Finance and Commerce concerning mutual funds with particular reference to exercising control over management and policies of portfolio companies. They also quote a 1966 SEC report to the House Committee on Interstate and Foreign Commerce along the same lines. As did most other petitioners, ICI then refers to the 1971 Institutional Investor Study of the SEC, which ICI concludes supports its contention that a 10% benchmark would not contravene the concentration of control policies of the Commission.

49. ICI argues that since the mutual funds are subject to a 3% benchmark, while banks are subject to a 5% standard, they are treated inequitably, especially since the same reasons were given, in both cases, for raising the 1% benchmark. They contend that this constitutes discrimination between different types of institutional owners.

50. As Aetna did, ICI raises the question whether the 3% benchmark should be applied to cross-ownership of cable by networks and broadcast companies, and whether such 3% standard inhibits the flow of mutual fund capital into the cable industry. It states that the present rule precludes a mutual fund owning 3% of a national network, a situation "not uncommon for mutual funds," from investing in more than 3% of any cable television system, thereby prejudicing the cable industry, which tends to be young and small. It argues that the three percent rule forces funds to choose between ownership of network stock and ownership of cable television stock; that the rule is too likely to place institutional investors in situations of unwitting lawbreaking (where, for example, a portfolio company acquires a 50% or greater interest in a cable television company); and that institutional investors have no interest in the management or feuds of the broadcast and cable industries. It proposes that the Commission raise the benchmark to 10% and allow even broader concentration of ownership for mutual funds.

51. For the reasons set forth above in the discussion of the Aetna pleading, we shall not, at this time, propose rules with respect to telephone common carriers.

DISCUSSION

52. Because this proposed Notice, if adopted, would permit holdings by insurance companies up to 5% in corporations with over 50 shareholders,* existing holdings by such insurance companies that exceed 1% but are less than 5% in companies that are covered by the multiple and cross-ownership rules, can continue to be held during the pendency of this rule making proceeding. Insurance companies are cautioned against increasing holdings of broadcast securities in reliance on the ultimate adoption of the proposed rules. Insurance companies which already have holdings in excess of the 5% benchmark should divest to that limit as expeditiously as possible. We presently foresee no circumstances which would cause us to adopt any standard higher than 5% or grant waivers of that limit and it can be anticipated that only a limited period will be permitted for divestiture subsequent to termination of this proceeding.

53. Another collateral matter that was raised by Aetna concerned the Aetna Fund, a regulated investment company (mutual fund). The issue is whether holdings in broadcast or newspaper corporations by the Aetna Fund should be aggregated with holdings by the Aetna insurance companies. We believe that since Aetna insurance group owns less than 50% of the Fund, that it should be considered as an intermediate company as defined in Note 5 to §§ 73.35, 73.240 and 73.636. We shall propose such modification concerning intermediate companies and propose its application to banks and insurance companies as well as to mutual funds.

54. The Commission is again considering the necessity of filing disclaimers by banks as to its broadcast holdings in excess of 1% but less than 5%, as well as by mutual funds that do not have the disclaimer language in a prospectus. Because of the absence of any indication that mutual funds and banks have attempted to influence the management or broadcast policies of the companies in which they hold stock, we here propose that the filing of such disclaimers by banks and mutual funds be eliminated. While we shall not propose a rule requiring filing of disclaimers by insurance companies as to their holdings in separate segregated accounts, we shall, to preclude any possible misunderstandings, incorporate a proviso stating that all institutional holdings must be passive.

55. There is an additional type of institutional holding that has developed recently that requires the Commission's attention. The management companies of mutual funds, in addition to managing the regulated investment companies under their common control, are managing stock owned by pension funds on a revocable proxy basis. Two questions are presented: (1) Are these investment accounts managed by a mutual fund manager to be aggregated with the stocks owned by the mutual fund manager to be aggregated with the stocks owned by the mutual fund, and (2) what benchmark should the separate accounts be subject to? Initially, we believe that they should not be aggregated with the stock owned by the mutual funds, and that each such investment account should be subject to the 1% general benchmark. Comments are specifically requested on this tentative conclusion.

56. We also believe that the various parties have presented sufficient data to institute rule making proceedings as to whether the cable television cross-ownership rules (§ 76.501) should be amended to incorporate a similar 5% benchmark for stock held by banks as trust investments, for stock held by mutual funds and for stock held by insurance companies in separate segregated accounts. Our tentative conclusion is that the passive nature of institutional ownership of stock which we have observed within the broadcast industry would be no different if the ownership were of stock among the broadcast and cable industries. Preservation of a 3% benchmark for mutual funds and a 1% benchmark for similarly situated banks and insurance companies seems an undue limitation on the capital market open to the communications industry, and especially in the cable area. However, consistent with our policy of "special caution" in relaxing the multiple and cross-ownership rules, institutional ownership of the subject communications interests beyond a 5% benchmark does not appear wise. Accordingly, the petitions for Aetna, ICI and ALI are granted in part and denied in all other respects.

57. Since we are instituting rule making that proposes that stock held by insurance companies in separate segregated accounts be subject to the 5% benchmark that stockholdings of banks acting through their trust departments are now subject to, their petitions for rule making and other relief are granted to the extent indicated above.

58. The Investment Company Institute has requested an increase in the benchmark for mutual funds from 3% to 10%. They have not advanced sufficient reasons to warrant an increase to the 10% level, but we do agree that this rule making should also be instituted proposing that the benchmark for mutual funds should increase to 5% to remove discrimination among passive institutional owners. Its petition is granted in part and denied in all other respects.

59. In another proceeding relating to corporate disclosure (Docket No. 20521), the Commission proposes to initiate a two-tier system of filing broadcast ownership reports and other disclosure information. Rather than the "over 50" stockholder standard, which is the basis for administering the broadcast multiple ownership rules (§§ 73.35, 73.240 and 73.636) for widely held broadcast corporations, we proposed in the related proceeding, to set the new annual reporting standard for widely held corporations for those entities with "500 or more" stockholders. We also believe that the "500 or more" stockholder standard is a more

* See paragraph 59, infra, wherein it is proposed to raise the number of shareholders from "over 50" to "500 or more" for a widely-held corporation.

realistic one for the administration of the multiple ownership and cross-ownership rules. It is recognized that there may be a few corporate broadcast licensees and cable television systems with over 50 stockholders but less than 500 stockholders that would be subject to a new standard for attributable ownership under the multiple ownership rules. A revision in Note 3 to the broadcast multiple ownership and cable television cross-ownership rules to reflect this new standard is proposed. Even though a pilot study indicates that there are few corporate broadcast licensees in the category of over 50 stockholders but less than 500 stockholders, the Commission hopes it will receive comments from this class of licensees, and similarly situated cable television systems on the proposed revision concerning the administration of the multiple and cross-ownership rules.

60. Accordingly, the Commission invites comments on the amendments to §§ 73.35, 73.240, 73.636 and 76.501 of the Commission's rules as set forth below. Additionally, the Commission requests comments on the questions set forth in paragraph 55 above.

61. Authority for the institution of this proceeding and adoption of rules concerning the matters involved, is contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended.

62. Pursuant to applicable procedures set forth in § 1.415 of the Commission's Rules and Regulations, interested persons may file comments on or before August 11, 1975, and reply comments on or before August 26, 1975. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this Notice.

63. In accordance with the provisions of § 1.419 of the rules, an original and 14 copies of all comments, replies, pleadings, briefs, and other documents shall be furnished the Commission. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

It is proposed to amend Part 73 of Chapter I of Title 47 of the Code of Feedral Regulations as follows:

1. In § 73.35, Note 5 is redesignated Note 6; Note 6 is redesignated Note 5; and Notes 3 and 4, and Notes 5 and 6 as redesignated, and oNte 7 are amended to read as follows:

§ 73.35 Multiple ownership.

* * * * *

NOTE 3: Except as provided in Notes 4 and 5 of this section, in applying the provisions of paragraphs (a), (b) and (c) of this section to the stockholders of a corporation which has 500 or more voting stockholders, only those stockholders need be considered who are officers or directors or who directly or indirectly own 1 percent or more of the outstanding voting stock.

NOTE 4: In applying the provisions of paragraphs (a), (b) and (c) of this section to the stockholders of a corporation which has 500 or more voting stockholders, an investment company as defined in 15 U.S.C. section 80a-3 (commonly called a mutual fund), need be considered only if it directly or indirectly owns 5 percent or more of the outstanding voting stock or if officers or directors of the corporation are representatives of the investment company, *Provided, however*, That the investment company exercises no control over the management or policies of the corporation. Holdings by investment companies under common management shall be aggregated.

NOTE 5: In applying the provisions of paragraphs (a), (b) and (c) of this section to the stockholders of a corporation which has 500 or more voting stockholders, a bank holding stock through its trust department in trust accounts or an insurance company holding stock in tis separate segregated accounts need be considered only if such bank or insurance company directly or indirectly owns 5 perecnt or more of the outstanding voting stock, *Provided, however*, That the bank or insurance company exercise no control over the management or policies of the corporation. Holdings by banks and insurance companies shall be aggregated if the banks or insurance companies have any right to determine how the stock will be voted.

NOTE 6: In calculating the percentage of ownership of voting stock under the provisions of Notes 4 and 5, if an investment company, bank or insurance company, directly or indirectly owns 50 percent or more of the voting stock of a corporate broadcast licensee or corporate daily newspaper, the investment company, bank or insurance company shall be considered to own the same percentage of outstanding shares of the corporate broadcast station licensee or corporate daily newspaper as it owns of the outstanding voting shares of the company standing between it and the licensee corporation or corporate daily newspaper. If the intermediate company owns less than 50 percent of the voting stock of a corporate broadcast station licensee or corporate daily newspaper, the holding of the investment company, bank or insurance company, need not be considered under the 5-percent rule, but, officers or directors of the licensee corporation or of the corporate daily newspaper who are representatives of the intermediate company shall be deemed to be representatives of the investment company, bank or insurance company.

NOTE 7: In cases where record and beneficial ownership of voting stock of a corporate broadcast station licensee or corporate daily newspaper which has 500 or more voting stockholders are not identical, e.g., bank nominees holding stock as record owners for the benefit of mutual funds, brokerage houses holding stock in street names for the benefit of customers, trusts holding stock as record owners for the benefit of designated parties, and insurance companies holding stock in their separate segregated accounts, the party having the right to determine how the stock will be voted will be considered to own it for the purposes of these rules.

2. In § 73.240, Note 5 is redesignated Note 6; Note 6 is redesignated Note 5; and Notes 3 and 4, Notes 5 and 6, as redesignated, and Note 7 are amended to read as follows:

§ 73.240 Multiple ownership.

* * * * *

NOTE 3: Except as provided in Notes 4 and 5 of this section, in applying the provisions of paragraphs (a)(1), (a)(2) and (c) of this section to the stockholders of a corporation which has 500 or more voting stockholders, only those stockholders need be considered who are officers or directors or who directly or indirectly own 1 percent or more of the outstanding voting stock.

NOTE 4: In applying the provisions of paragraphs (a)(1), (a)(2) and (c) of this section to the stockholders of a corporation which has 500 or more voting stockholders, an investment company as defined in 15 U.S.C. section 80a-3 (commonly called a mutual fund), need be considered only if it directly or indirectly owns 5 percent or more of the outstanding voting stock or if officers or directors of the corporation are representatives of the investment company, *Provided, however*, That the investment company exercises no control over the management or policies of the corporation. Holdings by investment companies under common management shall be aggregated.

NOTE 5: In applying the provisions of paragraphs (a)(1), (a)(2) and (c) of this section to the stockholders of a corporation which has 500 or more voting stockholders, a bank holding stock through its trust department in trust accounts or an insurance company holding stock in its separate segregated accounts need be considered only if such bank or insurance company directly or indirectly owns 5 percent or more of the outstanding voting stock, *Provided, however*, That the bank or insurance company exercise no control over the management or policies of the corporation. Holdings by banks and insurance companies shall be aggregated if the banks or insurance companies have any right to determine how the stock will be voted.

NOTE 6: In calculating the percentage of ownership of voting stock under the provisions of Notes 4 and 5, if an investment company, bank or insurance company, directly or indirectly owns 50 percent or more of the voting stock of a corporate broadcast licensee or corporate daily newspaper, the investment company, bank or insurance company shall be considered to own the same percentage of outstanding shares of the corporate broadcast station licensee or corporate daily newspaper as it owns of outstanding voting shares of the company standing between it and the licensee corporation or corporate daily newspaper. If the intermediate company owns less than 50 percent of the voting stock of a corporate broadcast station licensee or corporate daily newspaper, the holding of the investment company, bank or insurance company, need not be considered under the 5-percent rule, but, officers or directors of the licensee corporation or of the corporate daily newspaper who are representatives of the intermediate company shall be deemed to be representatives of the investment company, bank or insurance company.

NOTE 7: In cases where record and beneficial ownership of voting stock of a corporate broadcast station licensee or corporate daily newspaper which has 500 or more voting stockholders are not identical, e.g., bank nominees holding stock as record owners for the benefit of mutual funds, brokerage houses holding stock in street names for the benefit of customers, trusts holding stock as record owners for the benefit of designated parties, and insurance companies holding stock in their separate segregated accounts, the party having the right to determine how the stock will be voted will be considered to own it for the purposes of these rules.

3. In § 73.636, Note 5 is redesignated Note 6; Note 6 is redesignated Note 5; and Notes 3 and 4, Notes 5 and 6, as redesignated, and Note 7 are amended to read as follows:

§ 73.636 Multiple ownership.

* * * * *

NOTE 3: Except as provided in Notes 4 and 5 of this section, in applying the provisions of paragraphs (a)(1), (a)(2) and (c) of this section to the stockholders of a corporation which has 500 or more voting stockholders, only those stockholders need be considered who are officers or directors or who directly or indirectly own 1 percent or more of the outstanding voting stock.

NOTE 4: In applying the provisions of paragraphs (a)(1), (a)(2) and (c) of this section to the stockholders of a corporation which has 500 or more voting stockholders, an investment company as defined in 15 U.S.C. section 80a-3 (commonly called a mutual fund), need be considered only if it directly or indirectly owns 5 percent or more of the outstanding voting stock or if officers or directors of the corporation are representatives of the investment company, *Provided, however*, That the investment company exercises no control over the management or policies of the corporation. Holdings by investment companies under common management shall be aggregated.

NOTE 5: In applying the provisions of paragraphs (a)(1), (a)(2) and (c) of this section to the stockholders of a corporation which has 500 or more voting stockholders, a bank holding stock through its trust department in trust accounts or an insurance company holding stock in its separate segregated accounts need be considered only if such bank or insurance company directly or indirectly owns 5 percent or more of the outstanding voting stock, *Provided, however*, That the bank or insurance company exercise no control over the management or policies of the corporation. Holdings by banks and insurance companies shall be aggregated if the banks or insurance companies have any right to determine how the stock will be voted.

NOTE 6: In calculating the percentage of ownership of voting stock under the provisions of Notes 4 and 5, if an investment company, bank or insurance company, directly or indirectly owns 50 percent or more of the voting stock of a corporate broadcast licensee or corporate daily newspaper, the investment company, bank or insurance company shall be considered to own the same percentage of outstanding shares of the corporate broadcast station licensee or corporate daily newspaper as it owns of the outstanding voting shares of the company standing between it and the licensee corporation or corporate daily newspaper. If the intermediate company owns less than 50 percent of the voting stock of a corporate broadcast station licensee or corporate daily newspaper, the holding of the investment company, bank or insurance company, need not be considered under the 5-percent rule, but, officers or directors of the licensee corporation or of the corporate daily newspaper who are representatives of the intermediate company shall be deemed to be representatives of the investment company, bank or insurance company.

NOTE 7: In cases where record and beneficial ownership of voting stock of a corporate broadcast station licensee or corporate daily newspaper which has 500 or more voting stockholders are not identical, e.g., bank nominees holding stock as record owners for the benefit of mutual funds, brokerage houses holding stock in street names for the benefit of customers, trusts holding stock as record owners for the benefit of designated parties, and insurance companies holding stock in their separate segregated accounts, the party having the right to determine how the stock will be voted will be considered to own it for the purposes of these rules.

Part 76 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

4. In § 76.501(a), Notes 3, 3 (b) and (c) are amended; Note 3(c) is redesignated Note 3(d); new Notes 3 (c) and (d) are added.

§ 76.501 Cross-ownership.

* * * * *

NOTE 3: In applying the provisions of paragraph (a) of this section to the stockholders of a corporation which has 500 or more stockholders:

* * * * *

(b) Stock ownership by an investment company, as defined in 15 U.S.C. Section 80a-3 (commonly called a mutual fund), by a bank holding stock through its trust accounts or by an insurance company holding stock in its separate segregated accounts need be considered only if officers or directors of the corporation are representatives of the investment company, bank or insurance company or if it directly or indirectly owns 5 percent or more of the outstanding voting stock: *Provided, however*, That the investment company, bank or insurance company exercise no control over the management or policies of the corporation. Holdings by a bank or insurance company shall be aggregated if the bank or insurance company has any right to determine how the stock will be voted. Holdings by investment companies shall be aggregated if under common management.

(c) In calculating the percentage of ownership of voting stock under the provisions of (b), if an investment company, bank or insurance company directly or indirectly owns voting stock in an intermediate company which in turn directly or indirectly owns 50 percent or more of the voting stock of the corporation, the investment company, bank or insurance company shall be considered to own the same percentage of outstanding shares of such corporation as it owns of the intermediate company: *Provided, however*, That such holdings need not be considered where the intermediate company owns less than 50 percent of the voting stock, but officers or directors of the corporation who are representatives of the intermediate company shall be deemed to be representatives of the investment company, bank or insurance company.

(d) In cases where record and beneficial ownership of voting stock is not identical (e.g., bank nominees holding stock as record owners for the benefit of mutual funds, brokerage houses holding stock in street names for the benefit of customers, trusts holding stock as record owners for the benefit of designated parties, and insurance companies holding stock in their separate segregated accounts), the party having the right to determine how the stock will be voted will be considered to own it for the purposes of these rules.

[FR Doc.75-16306 Filed 6-23-75;8:45 am]

[47 CFR Part 1]

[Docket No. 20522, FCC 75-712]

TELEPHONE COMPANIES AND TELEGRAPH CARRIERS

Forms; Information on Corporate Ownership

In the matter of amendment of Annual Report Form M for telephone companies, Form O for wire-telegraph and ocean-cable carriers, Form R for radiotelegraph carriers, and Form H for holding companies to provide for more comprehensive information on corporate ownership.

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. This rule making proposal results primarily from hearings held in 1974 by the Subcommittee on Budgeting, Management, and Expenditures (BME Subcommittee) and the Subcommittee on Intergovernmental Relations of the Senate Committee on Government Operations with respect to the matter, among others, of disclosure of corporate ownership information in reports to the independent Federal regulatory agencies. In addition, Senator Lee Metcalf, Chairman of the BME Subcommittee, has forwarded recently to the Commission Model Corporate Disclosure Regulations (MCDR) as developed by the Interagency Steering Committee on Uniform Corporate Reporting. In line with the MCDR and the Commission's intent to maintain comprehensive data in reports filed with it, the Commission proposes to amend its annual report forms for communication common carriers and holding companies. This Notice proposes specific changes to schedules presently included in Annual Report Form M. However, to the extent any of these changes are subsequently adopted, similar changes, as appropriate, will be made in Annual Report Forms O, R, and H.

3. It is proposed to amend the identity schedule to include the principal activities of the respondent. The control schedule is proposed to be amended to include (1) the identity of organizations controlled by the respondent, and (2) the relationship of the respondent to parents, subsidiaries, and other organizations controlled by the respondent. Further, it is proposed to amend the board of directors and principal general officers schedules and to require the reporting therein of (1) data pertaining to positions held and other business affiliations of directors, officers, trustees, partners, or other persons exercising similar functions in any business organization; (2) data pertaining to agreements exceeding an aggregate amount of $1,000,000, except for the provision of tariffed services, entered into by the respondent and any of the businesses with which a director or officer is affiliated; (3) data pertaining to agreements, except for the provision of tariffed services, in excess of $600 entered into between the respondent and each named official where payments are made for other than salaries; and (4) data pertaining to agreements in excess of $600 for the furnishing of professional services to the respondent by each business organization with which an official is affiliated. Further, it is proposed to revise the security holders and voting powers and election schedules in order to provide for the reporting of the identity of those persons or institutions that hold voting power in the thirty largest blocks of each class of stock held in each reporting company. In addition, it is proposed to provide for re-

porting the identity of certain long-term and short-term debt holders, and holders of other forms of indebtedness, and to require the reporting of information on restrictive covenants attached to the respondent's indebtedness. Other minor revisions of the annual report forms are also being proposed.

4. It is proposed to amend Schedule 1, Identity of Respondent, to include provision for the respondent to list, by Standard Industrial Classification Code and short title, each industry in which the respondents' activities generated ten percent of gross revenues or $5 million.

5. It is proposed to delete present Schedule 2, Control Over Respondent, and to substitute a new schedule entitled Control Over and By Respondent to include, in addition to information pertaining to the person who controls the respondent, the name and address of subsidiaries (and/or organizations controlled) of the respondent, joint ventures involved in by the respondent, and subsidiaries (and/or organizations controlled) of joint ventures involved in by the respondent together with the basis of control of each of these relationships. It is proposed further to require the respondent to submit a copy of a chart or other graphic material which will show the relationship of the respondent to parents, subsidiaries, and organizations controlled, as well as a consolidated balance sheet and statement of income when the respondent is a member of a group of companies considered as one system.

6. It is proposed to revise Schedule 3, Board of Directors, and Schedule 4, Principal General Officers, to require the reporting of certain information pertaining to positions held by directors and officers in any other business organization. Further, it is proposed to require information pertaining to contracts or business arrangements, except for the provision of tariffed services, exceeding an aggregate amount of $1 million entered into by the respondent and any business with which such officials are affiliated and information pertaining to contracts or business arrangements, except for the provision of tariffed services, in excess of $600 entered into during the year between the respondent and each official. In addition, it is proposed to include in the instructions provision for reporting the same information with respect to professional services furnished the respondent by each business organization with which the official is affiliated. Also it is proposed that the social security number be reported for each officer and director in order to facilitate computerization of the reported data. Because this system of records which was in existence before January 1, 1975 proposes the use of social security numbers for the first time which requirement was not in effect before January 1, 1975, the provisions of Section 7 of the Privacy Act of 1974 (Pub. L. 93-579), 5 U.S.C. § 552(a) note, prohibit the Commission from adopting a rule which would mandatorily require disclosure of social security numbers of officers and directors. Therefore, any rule concerning the disclosure of such social security numbers must be voluntary in nature. However, we are of the opinion that voluntary disclosure, if extensive, will assist us in our regulatory duties pursuant to the provisions of section 219 of the Communications Act of 1934, as amended, 47 U.S.C. 219. The provisions of Section 7 of the Privacy Act of 1974, supra, concerning the use of social security numbers that are disclosed, read as follows:

> Sec. 7. (a)(1) It shall be unlawful for any Federal, State or local government agency to deny to any individual any right, benefit or privilege provided by law because of such individual's refusal to disclose his social security number.
>
> (a)(2) the provisions of paragraph (1) of this subsection shall not apply with respect to—
>
> (A) any disclosure which is required by Federal statute, or
>
> (B) the disclosure of a social security number to any Federal, State or local agency maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted prior to such date to verify the identity of an individual.
>
> (b) Any Federal, State, or local government agency which requests an individual to disclose his social security account number shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it.

Specific comments are invited as to the extent voluntary compliance can be expected.

7. It is proposed to revise the security holders and voting powers and election schedules to make it mandatory for each reporting company to report the voting shares of security holders and the identity of principal or beneficial owners of the securities of the company where the record holders are nominees or trustees. In determining the number of voting shares held, all nominee or other accounts of each stockholder, including accounts held by depository trust companies, shall be aggregated and reported as one account.

8. It is proposed to delete the present Schedule 6 and to substitute a new Schedule 6, entitled Long-Term Debt and Other Holdings, to provide for reporting the names and addresses of trustees of long-term debt issues and information pertaining to each holder of more than five percent of each issue of long-term debt. In addition, this schedule will provide for reporting information with respect to each financing lease arrangement, equipment trust, conditional sales contract or major liability pertaining to the capital assets of the respondent where the aggregate payments are in excess of $1 million. Information on any and all restrictive covenants attached to long-term debt and other forms of indebtedness will also be required to be reported.

9. It is proposed to amend Schedule 17, Investments, to require the reporting of the percentage of total voting rights of all investments included in this schedule.

10. It is proposed to include in the instructions to Schedule 24, Long-Term Debt, a cross reference to Schedule 6 for information on long-term debt holders.

11. It is proposed to amend Schedule 28, Notes Payable, to provide for reporting therein information on each short-term debt outstanding at the end of the year amounting individually to $10,000 or more, including the name and address of the creditor, and information on any and all restrictive covenants.

12. It is proposed to amend Annual Reports Form O for wire-telegraph and ocean-cable carriers, Form R for radiotelegraph carriers, and Form H for holding companies, to include, as appropriate, revisions herein proposed to Annual Report Form M.

13. If the foregoing proposals are adopted, the Table of Contents and the Index for the annual report forms will be amended accordingly. In this regard, the overriding caption for the first seven schedules in the Table of Contents of Form M will be retitled General, Corporate Structure, and Corporate Control Information.

14. In view of the foregoing, it is proposed to amend Annual Report Form M for telephone companies as set forth in the attached appendix and Form O for wire-telegraph and ocean-cable carriers, Form R for radiotelegraph carriers and Form H for holding companies, in a similar manner, as appropriate. Amendments made as a result of this proceeding will be made effective in the report forms for the year 1975.

15. This Notice of proposed rulemaking is issued under authority contained in sections 4(i) and 219 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 219.

16. Pursuant to applicable procedures set forth in 47 CFR 1.415, interested persons may file comments on or before July 28, 1975, and reply comments on or before August 8, 1975. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account relevant information before it, in addition to the specific comments invited by this notice. Comments in response to the Notice will be available for public inspection in the Commission's Broadcast and Dockets Reference Room.

17. In accordance with the provisions of 47 CFR 1.419, an original and fourteen copies of all statements or briefs shall be furnished to the Commission.

Adopted: June 11, 1975.

Released: June 20, 1975.

[SEAL] FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

It is proposed to amend Part 1 as follows:

§ 1.785 [Amended]

I. Annual Report Form M for Telephone Companies is amended as follows:

1. In Schedule 1, Identity of Respondent, Instruction 1 is amended and a new Instruction 6 is added to read as follows:

1. Exact name and address of respondent. Use the words "The" and "Company" or "Co." only when they are parts of the corporate name.

6. *Principal business activities.* List and describe by 4-digit SIC code and short title each industry in which the respondent's activities generated 10% of gross revenues or $5 million (during the reporting year). Four-digit industry SIC codes and short titles are listed in the most recent Standard Industrial Classification Manual as published by the Executive Office of the President, Office of Management and Budget. Four-digit SIC codes and short titles should be listed in order of significance relative to the total activities of respondent, based upon the percentage of gross revenues generated within each 4-digit industry.

2. Schedule 2, Control Over Respondent, is deleted and the following schedule is substituted therefor:

a. The title reads as follows:

2. Control Over and By Respondent.

b. The instructions read as follows:

1. For the purpose of this schedule, "Control," including the terms "controlling," "controlled by," and "under common control with," means the possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a person, natural or artificial. Sources of power may include, but are not limited to: equity security ownership, debtholdings, sole or partial voting arrangements, common directors, officers, or stockholders, or lease, purchase, lines of credit, supply distribution, or operating agreements. "Parent of respondent" shall refer to every firm, holding company, or other person or combination of persons who ultimately control the respondent, as well as any intermediary controlling entity.

2. Report the name and address of the parent of respondent, subsidiaries (and/or organizations controlled) of the respondent, joint ventures involved in by the respondent and the form, basis, and extent of control. (See Schedule 17 for amounts of investments of the respondent and the percentage of total voting rights in these investments.)

3. In any controlling organization or person named in response to query 2 above held control as trustee, give the name and address of the beneficiary (or beneficiaries) for whom the trusts is maintained and the purpose of the trust.

4. Attach a copy of any chart or other graphic material showing the relationship of the respondent to such parents, subsidiaries, and other organizations listed. If more convenient, this chart may be attached for a group of companies considered as one system and shown only in the report of the principal company in the system, with reference thereto in the reports of the other companies.

5. Attach a copy of the latest consolidated balance sheet and income statement if the respondent is a member of a group of companies considered as one system and prepares consolidated statements. Consolidated statements may be shown in the report of the principal company in the system, with references thereto in the reports of the other companies.

c. The column headings are inserted to read as follows:

1. For lines 1 to 10 column (a) shall read:

(a): Name and Address of Organization or Person Controlling Respondent

2. For lines 11 to 40 column (a) shall read:

(a): Name and Address of Organizations Controlled by Respondent

3. For all lines columns (b) through (g) shall read:

(b): Form of Control (sole or joint)
(c): Basis of Control
(d): Manner in which Control Was Established
(e): Extent of Control
(f): Direct or Indirect Control
(g): Other Parties to Joint Control and Intermediaries to Indirect Control

3. Schedule 3, Board of Directors, is amended as follows:

a. A caption is added to override the instructions, the present instruction is amended and becomes instruction 1, and a new instruction 2 is added to read as follows:

SECTION I

1. Give the data called for in columns (a) through (g) for each person who was a member of the board of directors at any time during the year, indicating with an asterisk (*) in column (a) those directors who were members of the Executive Committee (if any), and by a double asterisk (**) the Chairman, if any, of that committee, at the end of the year. Columns (f) and (g) relate to Board meetings only.

2. Report separately in column (c) the principal occupation or business affiliation of each director, and all other affiliations with any business or financial organization, firm, or partnership other than the respondent. Indicate in a footnote if any of these affiliations are with companies controlling or controlled by the respondent.

b. The heading of column (b) is amended to read as follows:

(b): Name, Address (City and State) and Social Security Number

c. A new column (c) is added and columns (c) through (f) are redesignated columns (d) through (g). Column (c) reads as follows:

(c): Principal Occupation and Business Affiliations

d. Caption overriding the instruction and the instruction reads as follows:

SECTION II

List each contract, agreement or other business arrangement, except for the provision of a tariffed service, exceeding an aggregate amount of $1,000,000 entered into between the respondent and any business or financial organization, firm or partnership named in Section I above, identifying the parties, amounts, dates and product or service rendered.

e. The column headings read as follows:

(a): Description of Contract
(b): Date Entered
(c): Date Terminated
(d): Other Parties Involved
(e): Amount

f. Caption overriding the instruction and the instruction reads as follows:

SECTION III

List each contract, agreement, or other business arrangement, except for the provision of a tariffed service, in excess of $600 entered into during the year (other than compensation related to position with respondent) between the respondent and each director listed in Section I identifying the parties, amounts, dates, and product or service involved. In addition, provide the same information with respect to professional services for each firm, partnership, or organization with which the director is affiliated.

g. The column headings read as follows:

(a): Description of Contract
(b): Date
(c): Individual or Organization
(d): Amount

4. Schedule 4, Principal General Officers is amended as follows:

a. A caption is added to override the present instructions and new instructions 3 and 4 are added to read:

SECTION I

* * * * *

3. Show period of service in column (c) also if for other than the full year.

4. Show in a footnote to Section I the principal occupation or business affiliation of each officer reported in column (c) if other than listed in column (a) and all other affiliations with any business or financial organization, firm or partnership. Indicate further whether any of these affiliations are with companies controlling or controlled by the respondent.

b. Column (c) is amended to read as follows:

(c): Name and Social Security Number of Person Holding the Office During the Year

c. Caption overriding the instruction and the instruction reads as follows:

SECTION II

List each contract, agreement, or other business arrangement, except for the provision of a tariffed service, exceeding an aggregate amount of $1,000,000 entered into between the respondent and any business or financial organization, firm, or partnership named in Section I above, identifying the parties, amounts, dates and product or service rendered.

d. The column headings read as follows:

(a): Description of Contract
(b): Date Entered
(c): Date Terminated
(d): Other Parties Involved
(e): Amount

e. Caption overriding the instruction and the instruction reads as follows:

SECTION III

List each contract, agreement, or other business arrangement, except for the provision of a tariffed service, in excess of $600 entered into during the year (other than compensation related to position with respondent) between the respondent and each officer listed in Section I identifying the parties, amounts, dates, and product or service involved. In addition, provide the same information with respect to professional services for each firm, partnership, or organization with which the officer is affiliated.

f. The column headings read as follows:

(a): Description of Contract
(b): Date
(c): Individual or Organization
(d): Amount

5. Schedule 5, Voting Powers and Elections, is revised to read as follows:

a. The title is amended to read as follows:

SCHEDULE 5. STOCKHOLDERS AND VOTING POWERS

b. The instructions are amended to read as follows:

1. This information shall be compiled as at December 31.

2. State whether or not each share of stock has the right to one vote; if not, give full particulars in a footnote. ____

3. Are voting rights proportional to holdings? ____ If not, state in a footnote the relation between holdings and corresponding voting rights.

4. Is cumulative voting permitted? ____ If so, full particulars shall be stated in a note.

5. State the total number of stockholders of record and the total voting power of all such stockholders of each class of stock of the respondent as at December 31 as follows:

Date	Class of stock	Number of stockholders of record	Total voting power

6. If any voting right, applicable to any class of stock, has been consolidated under a voting trust agreement, indicate by an asterisk (*) in column (a) for the class of stock so consolidated and show in a note:

(a) The nature and purpose of the agreement;

(b) The duration of the agreement;

(c) The nature and extent of the voting restrictions imposed under the agreement or arrangement;

(d) The names and addresses of the voting trustees and their powers, duties and liabilities;

(e) The names and addresses of any depositories, agents, or other parties to the agreement; and

(f) The nature and extent of the respondent's liability for the compensation and expenses of the trustees, depositories, or other parties to the agreement.

7. If during the year any special privileges in the election of directors, trustees, or managers, or in the determination of any corporate action of the respondent were held by any person whatsoever other than by control through ownership of the respondent's securities having voting rights, such as by the provisions of contracts or other understandings or conditions based upon, or arising because of indebtedness or other circumstances, give full particulars in a note.

8. Are voting rights attached to any securities other than stock? ____ If so, report the data called for in columns (a) and (g) and name in a footnote each security for which data are reported and state in detail the relation between holdings and corresponding voting rights, stating whether voting rights are actual or contingent, and if contingent showing the contingency.

9. (a) List in descending order the thirty (30) largest holders of each class of voting stock of the respondent, identified as to:

(1) Name
(2) Address
(3) Classification (bank, broker, holding company, individual, etc.)

(4) The number of voting shares held (as of December 31) and its percentage relationship to total outstanding shares, with such shares classified as among those over which the holder has (i) sole voting power, (ii) shared voting power, and (iii) no voting power. (In determining the number of shares held, all nominee and other accounts of each stockholder, including accounts held by depository trust companies (CEDE & Co., SICOVAM, Pacific Coast Stock Exchange Clearing Corp., Midwest Stock Exchange Clearing Corp.) shall be aggregated and reported as one account in the name of the bank, broker, holding company, individual or other identified stockholder.)

(b) With respect to shares over which the stockholder has no voting power, indicate in column (a) the name and address of the person(s) empowered to vote the stock, if the total of such shares amounts to one percent or more of the total outstanding voting shares of that class of stock.

(c) If any stockholder was a trustee for other persons who held the beneficial interest in the securities, the name and address of each person who was the principal owner or who had the beneficial interest shall be shown in a note.

10. The names of the listed stockholders who were also officers or directors shall be indicated by appropriate symbols.

11. If not otherwise disclosed, the names and addresses of the thirty (30) largest holders of each class of nonvoting stock and the number of shares held by each such holder shall be shown in a note.

12. State the total number of votes cast at the *latest* general meeting for the election of directors of the respondent ____, and state the number of shares voted by proxies ____

13. Give the date and place of such meeting. ____

c. The column headings are amended to read as follows:

(a): Name, Address, and Classification of Stockholder
(b): Number of Voting Shares Held
(c): Percentage to Total Shares Outstanding

Caption overriding columns (d), (e), and (f) reads as follows:

NUMBER OF VOTES, CLASSIFIED ACCORDING TO VOTING POWER

(d): Sole Voting Power
(e): Shared Voting Power
(f): No Voting Power
(g): Number of Voting Rights Held in Other Securities

6. Schedule 6, Stockholders, is deleted and the following schedule is substituted therefor:

a. The title reads as follows:

6. Long-Term Debt and Other Holdings

b. Caption overriding the instructions and the instructions read as follows:

SECTION I

1. For each issue of long-term debt reported in Schedule 24, report the name and address of the trustee. If there is no trustee it should be so indicated. For each holder of more than five percent of each issue of long-term debt, the name, address and type of holder (bank, broker, holding company, individual or other specified category) and the amount of debt held should be reported. (See Schedule 28 for short-term debt holdings.)

2. Show in a note or attach a copy of any and all restrictive covenants attached to each issue of long-term debt.

c. The column headings read as follows:

(a): Description of Obligation
(b): Name and Address of Holder or Trustee
(c): Type of Holder
(d): Amount Held

d. Caption overriding the instructions and the instructions read as follows:

SECTION II

1. Give a description of each financing lease arrangement, equipment trust, conditional sales contract, or major liability with respect to the capital assets of the respondent where the aggregate payments are in excess of $1,000,000. For the purpose of reporting data in this schedule, the term "financing lease" shall refer to any lease which, during the noncancelable lease period, either (1) covers 75% or more of the economic life of the property, or (2) has terms which assure the lessor of a full recovery of the fair market value (which would normally be represented by his investment) of the property at the inception of the lease plus a reasonable return on the use of the assets invested subject only to limited risk in the realization of the residual interest in the property and the credit risks generally associated with secured loans.

2. Show in a note or attach a copy of any and all restrictive covenants attached to the indebtedness.

e. The column headings read as follows:

(a): Description of Obligation
(b): Date of Agreement
(c): Date of Expiration
(d): Total Dollar Amount

7. In Schedule 17, Investments, the heading in column (h) is amended to read as follows:

(h): Percentage of Total Voting Rights

8. In Schedule 24, Long-Term Debt, a cross reference to Schedule 6 is added after instruction 1 so that instruction 1 reads as follows:

1. Show amounts only to the nearest dollar. (See Schedule 6 for information on holders of long-term debt.)

9. In Schedule 28, Notes Payable, the instruction and the column heading in column (a) are amended to read as follows:

a. The instruction is amended to read as follows:

List each item included in account 158.1 or account 158.2 at the end of the year amounting individually to $10,000 or more and show in a note or attach a copy of any and all restrictive covenants attached to the indebtedness.

b. Column heading in column (a) is amended to read as follows:

(a): Name and Address of Creditor

[FR Doc.75-16318 Filed 6-23-75;8:45 am]

[47 CFR Part 73]

[Docket No. 19879; RM-2020 etc.]

FM BROADCAST STATIONS, ARKANSAS AND MISSOURI

Table of Assignments; Order Extending Time for Filing Comments and Reply Comments

In the matter of amendment of § 73.202(b), table of assignments, FM

broadcast stations. (Little Rock, Benton, Batesville and Mountain View, Arkansas. Also Cherokee Village, Dardanelle, Dumas, Fayetteville, Lonoke, Malvern, Morrilton, Pine Bluff, Russellville, Sheridan and Van Buren, Arkansas, and Neosho, Missouri) RM-2020, RM-2064, RM-2113, RM-2226, RM-2177, RM-2264, RM-2288, RM-2299, RM-2305, RM-2313, RM-2381, RM-2404, RM-2487, RM-2527.

1. On April 18, 1975, the Commission adpoted a further notice of proposed rulemaking and order to show cause in the above-entitled proceeding. Publication was made in the FEDERAL REGISTER on April 28, 1975, 40 FR 18452. The dates for filing comments and reply comments are presently June 13 and July 2, 1975, respectively.

2. On May 22, 1975, KBTN, Inc. requested that the time for filing comments and reply comments be extended to and including July 14 and July 22, 1975, respectively. KBTN, Inc. states the proceeding has become exceedingly complex because of mutual conflicts between many of the proposals reviewed in the Commission's Further Notice and the additional time requested will be necessary for KBTN to complete its engineering studies and prepare additional data required to be submitted.

3. We are of the view that the public interest would be served by extending the time in this proceeding. Accordingly, *it is ordered*, That the dates for filing comments and reply comments, are extended to and including July 14 and July 22, 1975, respectively.

4. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended and §§ 0.281 and 1.46 of the Commission's rules.

Adopted: June 10, 1975.

Released: June 16, 1975.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.75-16307 Filed 6-23-75;8:45 am]

[47 CFR Part 73]

[Docket No. 19879; RM-2020 etc.]

FM BROADCAST STATIONS, ARKANSAS AND MISSOURI

Table of Assignments; Order Extending Time for Filing Response to Order To Show Cause

In the matter of amendment of § 73.-202(b), Table of Assignments, FM Broadcast Stations, (Little Rock, Benton, Batesville and Mountain View, Arkansas. Also Cherokee Village, Dardanelle, Dumas, Fayetteville, Lonoke, Malvern, Morrilton, Pine Bluff, Russellville, Sheridan and Van Buren, Arkansas, and Neosho, Missouri). RM-2020, RM-2299, RM-2064, RM-2305, RM-2113, RM-2313, RM-2226, RM-2381, RM-2177, RM-2404, RM-2264, RM-2487, RM-2288, RM-2527.

1. On April 18, 1975, the Commission adopted a further notice of proposed rulemaking and order to show cause in the above-entitled proceeding (April 28, 1975, 40 FR 18452).

2. Comments in this proceeding as well as a response to the order to show cause were originally scheduled to be filed by June 13, 1975. On June 10, 1975, at the request of KBTN, Inc., a petitioner for an FM channel assignment at Neosho, Missouri, the Commission extended the comment date until July 14, and the reply comment date of July 22, 1975.

3. On June 10, 1975, Snider Corporation, by its attorney, requested the Commission to extend the date for responding to the order to show cause issued to Snider Corporation as part of the above-captioned proceeding, to July 14, 1975. Counsel for Snider Corporation states that its response will consist of comments on various aspects of the proposal in this proceeding relevant to KKYK (FM), Little Rock, Arkansas, and that to require the response to be filed a month in advance of the other parties' comments would put Snider Corporation at a disadvantage in that other parties, having already benefitted from the long preparation time, could then direct both their comments and reply comments to Snider Corporation's filing. Counsel adds that in view of the fact that the Commission has already acted to extend the comment date, grant of the instant request will not cause delay or prejudice any other party.

4. Since the dates for filing comments and for filing a response to the order to show cause were originally identical, we believe it procedurally fair to grant the Snider Corporation request. Accordingly, IT IS ORDERED, that the date for filing a response to the order to show cause in Docket No. 19879 is extended to and including July 14, 1975.

5. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and §§ 0.281 and 1.46 of the Commission's rules.

Adopted: June 12, 1975.

Released: June 16, 1975.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.75-16308 Filed 6-22-75;8:45 am]

[47 CFR Part 87]

[Docket No. 20519; FCC 75-683]

AERONAUTICAL EMERGENCY COMMUNICATIONS

Proposed Requirements

In the matter of amendment of Part 87, Subpart Q of the Commission's rules to satisfy the need, insofar as possible, of all stated aeronautical emergency communications requirements during national, state, and local emergency situations as well as civil defense activities. Subpart Q also makes provision for the Aeronautical Emergency Communications System (AECS) Plan.

1. Notice is hereby given of proposed rule making in the above entitled matter.

2. The primary purpose of this NPRM is to solicit comments regarding emergency communications during the period of a local emergency situation, as provided for in the revised rules, from interested segments of the aeronautical industry.

3. In 1971, the Aeronautical Communications Services Subcommittee of the National Industry Advisory Committee (NIAC) proposed, for Commission consideration, an Aeronautical Emergency Communications System (AECS) Plan. The Plan was submitted to interested government agencies for comment. On May 25, 1971 the Aeronautical Communications Services Subcommittee of the NIAC held a meeting to review the comments of the government agencies. Representatives of the Office of Emergency Preparedness, Department of Transportation and Department of Defense also attended the meeting. Without exception, all the comments of the above agencies were either reconciled to their satisfaction during the meeting or rectifying changes have been made to the AECS Plan since that time.

4. The purpose of the AECS Plan is to provide essential non-federal communications and navigational aids in an emergency for that portion of the aeronautical industry primarily responsible for the transportation of people and freight, and that portion of the industry vital to such operations essential to public safety and welfare during local, state and national emergency situations. The AECS Plan further provides for using facilities and personnel of the aeronautical industry, on a voluntary, organized basis, to provide a functional emergency communications capability to be operated by the aeronautical industry subject to appropriate government regulations. In addition, the AECS Plan includes Subpart Q of the Commission's rules which consolidates all aeronautical rules pertaining to emergency operations. This consolidation allows licensees to readily locate pertinent rules to determine what communications are permitted during an emergency situation.

5. The draft of the AECS Plan was revised and updated between 1971 and 1974. On April 11, 1974 the Aeronautical Communications Services Subcommittee of the NIAC met to review the updated and revised AECS Plan. At that meeting, the NIAC recommended two significant changes to Part 87, Subpart Q of the rules. First, they proposed incorporation of provisions for emergency operation on a local, day-to-day basis regarding emergency situations resulting from civil disorders, hurricanes, floods, earthquakes, acts of air piracy, or other similar emergencies. Second, the Subcommittee recommended modifications to Subpart Q to reflect changes made to the Emergency Broadcast System (EBS) Rules which became effective in March, 1974. The NIAC recommended that both the AECS Plan and proposed Part 87 of the Rules be approved as modified.

6. Since the April 11, 1974 NIAC meeting, necessary changes have been made, and Part 87, Subpart Q of the rules and the AECS Plan have been distributed to industry and government representatives for comment or concurrence. The Office of Telecommunications Policy (OTP) questioned the use of the EBS activation procedure in the AECS Plan and recommended its deletion. In addition, since the title of the Subpart has been changed to "Emergency Communications," the FCC staff recommended that § 87.257(e), pertaining to communications to be used by private aircraft engaged in organized civil defense activities in time of enemy attack, or immediately thereafter, be incorporated into Subpart Q, and that § 87.257(e) should be merely a cross-reference to Subpart Q. Members of the Aeronautical Communications Services Subcommittee of the NIAC concurred in these recommendations and they have been incorporated into the plan.

7. Having worked closely with other government agencies and aeronautical industry representatives, the Commission proposes to promulgate revised rules as set forth in attached Appendix I and the AECS Plan as shown in Apendix II.

8. Authority for the adoption of the proposed amendment (as set forth in Appendix I to this Notice) is contained in section I, 4(i), 301, 303, 305, 308, and 606 of the Communications Act of 1934, as amended, and Executive Order 11490, as amended.

9. Pursuant to the applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before July 28, 1975, and reply comments on or before August 8, 1975. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this Notice.

10. In accordance with the provisions set forth in § 1.419 of the Commission's rules, an original and 14 copies of all statements, briefs, or comments shall be furnished the Commission. Responses will be available for public inspection during regular business hours in the Commission's Broadcast and Docket Reference Room at its Headquarters in Washington, D.C.

Adopted: June 10, 1975.

Released: June 23, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

Part 87 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended as follows:

A. Section 87.257(e) is revised to read as follows:

§ 87.257 Scope of service.

* * * * *

(e) For communications with private aircraft engaged in organized civil defense activities in time of enemy attack or immediately thereafter, see Subpart Q, § 87.607(d).

B. Subpart Q of Part 87, is revised to read as follows:

Subpart Q—Emergency Communications

Sec.
87.257 Scope of service.
87.601 Scope and objective.
87.602 Definitions of terms.
87.603 Aeronautical Emergency Communications Systems Authorization (AECSA).
87.604 Criteria for eligibility for an Aeronautical Emergency Communications System Authorization (AECSA).
87.605 Security Control of Air Traffic and Air Navigation Aids (SCATANA).
87.607 Emergency operation.

Subpart Q—Emergency Communications

§ 87.601 Scope and objective.

(a) This subpart provides for an Aeronautical Emergency Communications System (AECS) Plan for all Aviation Service licensees of the Federal Communications Commission pursuant to sections 1, 4(o), 301 and 303 of the Communications Act of 1934, as amended, and Executive Order 11490, as amended. Provision is made in the AECS Plan for the development and designation of facilities, mutually compatible operational arrangements, procedures and interconnecting facilities to satisfy vital emergency communications requirements in response to emergency situations declared by local, state, and federal authorities and management of the aviation industry.

(b) Sections 87.606 and 87.607 provide for continued radio service and operation of facilities to the extent necessary for the safety or control of friendly aircraft during emergency situations. It also provides for actions to be taken under the plan for the Security Control of Air Traffic and Air Navigation Aids (SCATANA) and the Detailed Operational Plan for the Security Control of non-Federal Air Navigation Aids to effect control of selected non-Federal VOR, VORTAC and TACAN Stations by Regional Commanders, North American Defense Command during periods of Defense Emergency and/or Air Defense Emergency.

(c) Section 87.607(c) is to provide for the operation of stations in the Aviation Services within the United States during any local emergency situation constituting a threat to safety of life and property when such a threat is not considered a national emergency.

§ 87.602 Definition of terms.

(a) Accurate Air Navigation Aids. Radio navigation stations in the following categories: Very High Frequency Omnidirectional Range (VOR), Very High Frequency Omnidirectional Range and Tactical Air Navigation (VORTAC) and Tactical Air Navigation (TACAN)

(b) Aeronautical Emergency Communications System (AECS) Plan. The AECS Plan provides for the operation of aeronautical communications stations, on a voluntary, organized basis, to provide the President and the Federal Government, as well as heads of state and local governments, or their designated representatives, and the aeronautical industry with an expeditious means of communications during an emergency situation.

(c) Air Defense Emergency. An emergency condition which exists when attack upon the continental United States, Alaska, Canada, or U.S. installations in Greenland by hostile aircraft or missiles is considered probable, is imminent, or is taking place.

(d) Defense Emergency. An emergency condition which exists when:

(1) A major attack is made upon U.S. forces overseas, or allied forces in any area, and is confirmed either by the commander of a unified or specified command or higher authority.

(2) An overt attack of any type is made upon the United States and is confirmed either by the commander of a command established by the Secretary of Defense or higher authority.

(e) Detailed Operational AECS Plans. These are plans developed to satisfy specific requirements of the aeronautical industry under regional, state, or local levels. They shall be considered supplements to the AECS Plan and shall be in conformity with the provisions thereof.

(f) Detailed Operational Plan for the Security Control of non-Federal Air Navigation Aids (Reference: SCATANA). A plan to establish the responsibilities, procedures, and general instructions for the security control of selected non-Federal VOR, VORTAC, and TACAN stations under the provisions of the SCATANA Plan, during a Defense Emergency and/or Air Defense Emergency or imminence thereof.

(g) Five-minute Control Time. The maximum time allowed to start and/or discontinue transmission from an air navigation aid.

(h) Emergency Situation. An emergency situation is a condition posing a threat to the safety of life and/or property on a national, state, or operational (local) level.

(i) AECS Authorization (AESCA). An authorization issued by the FCC to the licensees of aeronautical stations, subject to the provisions of this part, for operation in accordance with the Aeronautical Emergency Communications System (AECS) Plan, including the annexes and supplements to that plan and the Detailed Operational Plan for the Security Control of non-Federal Air Navigational Aids.

(j) Non-Federal Air Navigation Aids. VOR, VORTAC and TACAN stations licensed by the Federal Communications Commission.

(k) NORAD Region. A geographical subdivision of the area for which NORAD is responsible.

(l) North American Air Defense Command (NORAD). An integrated United States-Canadian Command. NORAD includes, as component commands, the United States Air Force Aerospace De-

fense Command, and the Canadian Forces Air Defense Command.

(m) SCATANA. The short title for the joint Department of Defense/Department of Transportation/Federal Communications Commission plan for the Security Control of Air Traffic and Air Navigation Aids.

(n) Tactical Air Traffic. Military flights actually engaged in operational missions against the enemy, flights engaged in immediate deployment for a combat mission, and preplanned combat and logistical support flights contained in Emergency War Plans.

(o) United States. The several States, the District of Columbia, the Commonwealth of Puerto Rico and the several territories and possessions of the United States (including areas of air, land, or water administered by the United States under international agreement), including the territorial waters and the overlying airspace thereof.

(p) CRAF. The short title for the Civil Reserve Air Fleet plan directed toward identification, organization, and development of a source of civil airlift capability readily available to augment the Department of Defense (DOD) in an airlift emergency.

(q) WASP. The short title for the War Air Service Program plan to make assignment of air carrier routes, service points and aircraft controlled by the Civil Aeronautics Board (CAB).

(r) SARDA. State and Regional Disaster Airlift. A plan for the use of non-air carrier aircraft during a national emergency.

(s) Local Emergency Situation. An emergency situation resulting from civil disorders, hurricane, flood, earthquake, an act of air piracy, or other similar emergencies including those unique to the aviation service, involving the safety of life and property and which do not constitute an immediate threat to National Defense or security.

§ 87.603 Aeronautical Emergency Communications System Authorization (AECSA).

An AECSA shall be issued by the FCC to the licensees of aeronautical stations to permit operation on a voluntary, organized basis during an emergency situation. Operation shall be consistent with the provisions of this subpart, the AECS Plan and the Detailed Operational Plan for the Security Control of non-Federal Air Navigation Aids.

§ 87.604 Criteria for eligibility for an Aeronautical Emergency Communications System Authorization.

(a) A radio station licensee in the aeronautical industry upon letter application to the FCC may be granted an AECSA which shall remain in effect concurrently with the terms of his regular authorization, so long as the licensee meets the following criteria:

(1) Is a participant in the AECS Plan and/or any Detailed Operational AECS Plan.

(2) Must be willing to cooperate with other aeronautical industry licensees in providing radio services, facilities, and personnel during emergency situations.

(3) The aeronautical station is necessary to the continued operation and security of the licensee's business or property, or in the interest of public safety and welfare, and for the security or rehabilitation of this country.

(b) Any station which is denied authorization to participate in an AECS Plan for any reason may appeal to the Federal Communications Commission for review.

§ 87.605 Activation and Termination of and Emergency Situation.

(a) In local emergency situations communications elements of the AECS Plan may be activated by competent authority in accordance with § 87.607(c).

(b) Circumstances may require independent activation or termination of CRAF, WASP, SARDA, and plans for airport operations and aircraft manufacturing, overhaul and maintenance. In the event that one or more of the above plans are implemented, the restrictions of SCATANA, when imposed, shall apply.

§ 87.606 Security Control of Air Traffic and Air Navigation Aids (SCATANA).

A plan for the Security Control of Air Traffic and Air Navigation Aids has been promulgated in furtherance of the National Security Act of 1947, as amended, the Federal Aviation Act of 1958, the Communications Act of 1934, as amended, and Executive Order 11490, as amended. The plan defines the responsibilities of the FCC for the security control of accurate non-Federal air navigation aids. SCATANA applies to radio navigation stations authorized by the Commission as follows:

(a) Upon receipt of notification from a Federal Aviation Administration Air Route Traffic Control Center (ARTCC) that an air defense emergency exists, or is imminent, each licensee of a radio navigation (VOR, VORTAC, or TACAN) station shall comply with the direction of the ARTCC with regard to beginning or terminating transmissions by the station.

(b) A NORAD Region Commander may impose any or all restrictions contained in the Detailed Operational Plan for the Security Control of Non-Federal Air Navigation Aids prior to the declaration of Defense Emergency or Air Defense Emergency when his region is under attack.

(c) Termination of the Defense Emergency or Air Defense Emergency declaration shall be issued by the NORAD Region Commander via the Federal Aviation Administration (FAA). This notice provides for the removal or reduction of restrictions on the operation of selected non-Federal air navigation aids in accordance with the provisions of the Detailed Operational Plan for the Security Control of non-Federal Air Navigation Aids. This action shall be taken when an attack phase is considered over. For those accurate non-Federal Air Navigation aids requiring more than 5 minutes control time, approval for resumption of operation must be obtained from the appropriate NORAD Region Commander before they can be returned to operation.

(d) Licensees of aeronautical radio navigation stations of the types specified in paragraph (a) of this section, may be requested by an ARTCC to participate in SCATANA tests. If such licensees elect to participate, testing procedures shall be in accordance with instructions issued by the Commission. However, the services of such radio navigation stations shall not be interrupted as a part of any SCATANA test.

§ 87.607 Emergency operation.

(a) Upon notification by competent authority, the AECS Plan shall be immediately activated and maintained in an operational status for the duration of the emergency situation, subject to the following conditions:

(1) Domestic. Air/ground communications within the United States shall be limited to those involving safety of flight and operational control; air/ground and aeronautical fixed communications on HF band frequencies shall be minimized consistent with safety of flight and operational control and then only when appropriate security measures are employed. Security measures shall include at least the following: (i) Transmit safety of flight and operational control traffic only, (ii) identify by means other than clear text when directed by appropriate authority.

(2) International. Air/ground communications shall be limited to those involving safety of flight and operational control. Such communications in the HF band shall be discontinued, except that international air carriers arriving or departing from U.S. gateway airports may use HF band frequencies when VHF radio is inoperative, not available, or will not provide the range required. International aeronautical fixed communications may be conducted on HF band frequencies only when appropriate security measures are employed. Security measures will include at least identification by means other than clear text when directed by appropriate authority.

(3) Weather Transmission. Normally unscheduled weather reports and forecasts (not exceeding 2 hours ahead) may be transmitted, in clear text, only on VHF or higher frequencies. Scheduled weather information may be transmitted, in clear text, only on frequency bands other than the HF band. However, an isolated emergency situation may occur in the course of a particular AECS Plan operation in which the HF band may be employed for the transmission of clear text weather information.

(b) Upon receipt of the Defense Emergency or Air Defense Emergency declaration, or as directed by the appropriate NORAD Region Commander when his Region is under attack, the licensees of selected non-Federal air navigation aids shall comply with the provisions of the Detailed Operational Plan for the

Security Control of non-Federal Air Navigation Aids (SCATANA). Detailed instructions shall be provided by the FCC to those concerned.

(c) The licensee of any aeronautical station, during a period of a local emergency situation involving the safety of life and property, may at his discretion, utilize such station for emergency communications service for communicating in a manner other than that specified in the instrument of authorization (See § 87.123). Such emergency operations may include operation at other locations on the airport served by the authorized station, or with equipment, other than that specified in the instrument of authorization (as provided for in § 87.35 (d) and by personnel other than those authorized by the Federal Communications Commission to operate such a station provided that: (1) such operations are under the control and supervision of the licensee of the aeronautical station concerned, (2) the emergency use of the station will be discontinued as soon as practicable upon termination of the emergency, (3) in no event shall any station engage in emergency transmission on frequencies other than, or with power in excess of, that specified in the instrument of authorization or as otherwise expressly provided by the Commission, (4) an appropriate entry concerning the details of the emergency be properly recorded in the station log in accordance with § 87.99(a), and (5) these communications shall be coordinated with the FAA at a controlled airport.

(d) The frequency 122.8 MHz may be used, in addition to its normal purposes, for communications with private aircraft engaged in organized civil defense activities in time of enemy attack or immediately thereafter, and on a secondary basis for communications with private aircraft engaged in organized civil defense activities in preparation for anticipated enemy attack. When used for these purposes, aeronautical advisory stations may be moved from place to place or operated at unspecified locations, except at landing areas served by other aeronautical advisory stations or airdrome control stations.

NOTE: "civil defense" is defined, for this purpose, in accordance with section 3(d) of the Federal Civil Defense Act of 1950, Pub. L. 920, 81st Congress as follows:

The term "civil defense" means all those activities and measures designed or undertaken (1) to minimize the effects upon the civilian population caused or which would be caused by an attack upon the United States, (2) to deal with the immediate emergency conditions which would be created by any such attack, and (3) to effectuate emergency repairs to, or the emergency restoration of, vital utilities and facilities destroyed or damaged by any such attack. Such term shall include, but not limited to: (a) measures to be taken in preparation for anticipated attack including the establishment of appropriate organizations, operational plans and supporting agreements, the recruitment and training of personnel, the conduct of research, the procurement and stockpiling of necessary materials and supplies, the provision of suitable warning systems, the construction or preparation of shelters, shelter areas or control centers, and when appropriate, the nonmilitary evacuation of civil population; (b) measures to be taken during attack including the enforcement of passive defense regulations prescribed by duly established military or civil authorities, the evacuation of personnel to shelter areas, the control of traffic and panic and the control and use of lighting and civil communications; and (c) measures to be taken following attack including activities for fire fighting, rescue, emergency medical, health and sanitation services, monitoring for specific hazards for special weapons, unexploded bomb reconnaissance, essential debris clearance, emergency welfare measures and immediately essential emergency repair or restoration of damaged vital facilities.

(e) When notified by the proper authority the following plans shall be activated:

(1) Security Control of Air Traffic and Air Navigation Aids (SCATANA).

(2) Civil Reserve Air Fleet Plan (CRAF).

(3) War Air Service Program (WASP).

(4) State and Regional Disaster Airlift Planning (SARDA).

(5) Operational Plans, when developed, for Airport Operations, and for Aircraft Manufacturing, Overhaul and Maintenance.

APPENDIX

AERONAUTICAL EMERGENCY COMMUNICATIONS SYSTEM (AECS) PLAN

MARCH 1975.

CONTENTS

A. Preface

1. This Aeronautical Emergency Communications System (AECS) Plan has been prepared pursuant to applicable provisions of Sections 1, 4(o), 301 and 303 of the Communications Act of 1934, as amended, and Executive Order 11490, dated October 28, 1969. This AECS Plan shall be reviewed annually as required by the Aeronautical Communications Services Subcommittee of the National Industry Advisory Committee (NIAC). Recommendations for revision of this AECS Plan shall be submitted to the FCC for consideration.

2. The AECS Plan, and supplements thereto, contains the designation of facilities, mutually compatible operational arrangements, procedures, instructions, and interconnecting facilities designed to satisfy, insofar as possible, all stated emergency communications requirements. It conforms with the Rules and Regulations of the Federal Communications Commission (FCC). The AECS Plan provides for emergency communications to meet the requirements of the Plan for the Security Control of Air Traffic and Air Navigation Aids (SCATANA), Civil Reserve Air Fleet (CRAF)[1], War Air Service Program (WASP)[2] and, where applicable, State and Regional Disaster Airlift Planning (SARDA)[3]. In addition, the following aeronautical industry emergency communications requirements will be satisfied:

a. Intra-Industry Emergency Communications Requirements.

b. Inter-Industry Emergency Communications Requirements.

c. Industry-Government Emergency Communications Requirements.

Existing non-federal communications networks and facilities of the Aeronautical Industry, supplemented as required, shall be used to meet the communications requirements set forth, or inherent, in the above Plans. Government communications shall not be provided except as set forth in these Plans or as provided by the Federal Aviation Administration (FAA) and for DOD for air traffic control.

3. *Detailed Regional Operational AECS Plans.* Detailed Regional Operational AECS Plans, developed to satisfy the requirements of the aeronautical industry on a regional basis, are considered annexes to the AECS Plan and shall be in conformity with the provisions thereof and the FCC Rules and Regulations.

4. *Detailed State Operational AECS Plans.* Detailed State Operational AECS Plans, developed to satisfy the requirements of the aeronautical industry on a statewide basis, are considered annexes to the AECS Plan and shall be in conformity with the provisions thereof and the FCC Rules and Regulations.

5. *Detailed Local Area Operational AECS Plans.* Each state has been subdivided into geographical local areas in coordination with state authorities. Detailed Local Area Operational AECS Plans, developed to satisfy the requirements of the aeronautical industry

[1] The CRAF Plan is directed toward identification, organization, and development of a source of civil airlift capability readily available to augment the Department of Defense (DOD) in an airlift emergency.

[2] The WASP Plan provides for assignment of air carrier routes, service points, and aircraft controlled by the Civil Aeronautics Board (CAB).

[3] The SARDA Plan is to assure that adequate organization and means are available in time of emergency to effectively utilize non-air-carrier aircraft in support of survival operations and in the national economy.

on a local area basis, are considered annexes to the AECS Plan and shall be in conformity with the provisions thereof and the FCC Rules and Regulations.

6. *Emergency Operating Centers (EOC).* Management, operating and technical personnel from applicable Industry Advisory Committees shall be designated and accredited by the proper authorities. These personnel shall be given emergency duty assignments at the appropriate EOC and shall provide, consistent with national level guidance, continuing assistance, in the management, operational and technical areas of aeronautical communications. Details to accomplish the above shall be set forth in Detailed Regional, State and Local Area Operational AECS Plans.

B. Purpose

1. This AECS Plan is to provide essential non-federal communications and navigational aids in an emergency for that portion of the aeronautical industry whose primary responsibility is transportation of people and freight and that portion vital to such operations and to other operations essential to public safety and welfare in time of local, state, regional and national emergency situations. These portions combined, include commercial air carriers, general aviation, airport operations, and aircraft manufacturing overhaul and maintenance. The words "Communications Facilities", as used herein, means "non-federal communications and air navigation facilities."

2. This AECS Plan, and supplements thereto, provides for using facilities and personnel of the aeronautical industry, on a voluntary, organized basis, to provide a functional emergency communications capability to be operated by the aeronautical industry, under appropriate government regulations, in a controlled manner, consistent with national security requirements, and the Rules and Regulations of the Federal Communications Commission.

3. The AECS Plan consists of the facilities and personnel of non-government aeronautical stations and other authorized facilities licensed or regulated by the FCC. Licensees participating in the AECS Plan shall be issued an AECS Authorization (AECSA) by the FCC which shall remain valid concurrently with the term of station license, so long as the licensee continues to comply with the Criteria for Eligibility (Annex III). An AECS Authorization shall permit a licensee, when required under the provisions of the AECS Plan or a Detailed Operational AECS Plan, to operate at locations or in a manner other than specified in the station license unless specifically prohibited by the Commission's rules. Licensees shall resume normal operations under the terms of the station license as soon as practicable upon termination of the emergency situation.

4. The approved Detailed Operational AECS Plans are adaptable for use on a voluntary, organized basis during local emergency situations posing a threat to the safety of life and property, including those conditions constituting a state of public peril or disaster. Such use during local emergency situations is in accordance with Section 1 of the Communications Act of 1934, as amended, which states that one of the purposes of that Act is to promote the safety of life and property through the use of wire and radio communication. Specific operational arrangements for airport operation, and aircraft manufacturing, overhaul and maintenance segments of the aeronautical industry shall be set forth in Detailed Operational AECS Plans. For the purpose of this AECS Plan, the detailed operational requirements for other segments of the aviation industry are met as follows:

a. U.S. International and Domestic Air Carriers: WASP and CRAF Plans.

b. General Aviation: SARDA Plan.

5. This AECS Plan, and supplements hereto, is addressed primarily to that portion of industry's emergency communications requirements to be accomplished on a voluntary, organized basis through the use of specific aeronautical communications facilities, and interconnecting systems, as set forth in Paragraphs 3 and 4 above. The plan also outlines the procedure for obtaining other supplementary or supporting emergency communications services. It is recognized that participants may find it necessary to use Manufacturers and Business Radio Services Facilities as presently authorized, and certain additional facilities planned under each services emergency communications plans.

C. General Considerations

1. During periods of national emergency, operational coordination of certain segments of the aeronautical industry is vital to the survival and recovery of the Nation.

2. Rapid transportation of people and material, while highly desirable during normal times, is mandatory during periods of national emergency. In addition, use of civil aircraft is vital for rescue and other essential operations in local, state, regional and national emergency situations. Communications facilities and electronic navigational aids are basic to the operation of the aeronautical industry. Therefore, it is incumbent on the aeronautical industry to prepare plans and procedures providing the highest order of reliability for normal as well as emergency operations. The ability of these communications facilities to survive and continue to operate after a catastrophe of the most severe nature should be considered as a primary requisite.

3. The aeronautical industry must have a capability to respond to an emergency situation on a national, regional, state or local basis on short notice, including those international operations of the United States aeronautical industry in support of the national effort. Regular operational tests and use of the communications facilities in natural disaster or other emergencies involving safety of life and property shall give adequate assurance that this capability exists and can be maintained. To this end, the following general features must be provided:

a. Activation and Termination

(1) During local emergency situations, communications elements of the AECS Plan may be activated or terminated by competent authority in accordance with Section 87.607(c) of the FCC Rules.

(2) Circumstances may require independent activation or termination of the detailed operations plan contained in paragraph B-4 of this AECS Plan. In such circumstances the restrictions of SCATANA, when imposed, shall apply, (Annex IV).

b. Availability

Once notified of an emergency situation under a, above the aeronautical industry shall immediately place in operational condition all emergency communications plans, procedures and facilities appropriate to the existing situation, including back-up, relocation, and other emergency communications arrangements, and shall remain in this status until terminated by appropriate authority.

c. Reliability

The emergency communications facilities of the aeronautical industry should be so constituted as to be able to provide industry-wide emergency service despite extensive damage. The emergency communications facilities of the aeronautical industry should be designed to be as survivable as is economically practicable.

d. Requirements

The aeronautical industry, in cooperation with the FCC, shall effect the specific actions required to accomplish at least the following:

(1) Modify individual communication facilities to provide required additional circuits, either owned or leased.

(2) Make communications interconnections.

(3) Operate communications facilities on additional frequencies as necessary.

(4) Provide adequate reliability for its own facilities under emergency situations.

(5) Provide means for communicating with appropriate agencies of the Federal Government.

(6) Provide required back-up facilities.

(7) Plan for and utilize certain high frequency channels during national emergency situations for special long distance transmission requirements, both domestic and foreign in accordance with Section 87.607 of the FCC Rules and Regulations.

e. Priorities

Priorities for use and restoration of communications facilities as well as priority for materials, manpower and financial aid should be assigned commensurate with the specific function of each licensee involved. The importance of this priority for use and restoration of communications facilities, manpower, financial aid and priority of material claimancy for procurement and restoration cannot be over-emphasized—it is the very basis upon which this emergency plan must operate.

D. ORGANIZATION

1. A broad range of emergency contingencies and requirements dictates the necessity for the orderly development, approval and implementation of operational emergency communications plans, systems, and procedures capable of expeditious emergency activation, and utilizing, on a voluntary, organized basis, non-government personnel and FCC licensed and regulated facilities. For the purpose of achieving these ends, the FCC has appointed specific committees.

2. *National Industry Advisory Committee.* A National Industry Advisory Committee has been organized to advise and assist the FCC and other appropriate authorities, by studying and submitting recommendations for operational emergency communications plans, systems, and procedures as provided in the Communications Act of 1934, as amended, and in Executive Order 11490, as amended. Such plans, systems, and procedures shall be responsive to a broad range of emergency contingencies and requirements concerning war, a threat of war, a state of public peril or disaster, or other national, state or local situation posing a threat to safety of life and property.

a. The National Industry Advisory Committee is constituted as follows: A Chairman; Two Vice Chairmen; An Executive Secretary; An Executive Committee composed of the Chairman, Vice Chairmen and representatives of National level subcommittees.

b. National Level Subcommittees

Aeronautical Communications Services Subcommittee.

Amateur Radio Services Subcommittee.

Broadcast Services Subcommittee.

Citizens Radio Services Subcommittee.

CATV Communications Services Subcommittees.

Domestic and International Common Carrier Communications Services Subcommittee.

Industrial Communications Service Subcommittee.

Land Transportation Communications Services Subcommittee.

Maritime Communications Services Subcommittee.

Public Safety Communications Services Subcommittee.

c. Special Working Groups and Ad Hoc Committees:

Special National Industry Advisory Committee Working Groups and Ad Hoc Committees shall be appointed as required.

d. The National level Aeronautical Communications Services Subcommittee, with the assistance of Special Working Groups, provides the NIAC with continuing advice and recommendations to ensure, insofar as possible, a workable AECS Plan as outlined herein, subject to approval of the FCC and concurrence of other appropriate federal agencies. The Aeronautical Communications Services Subcommittee, serving as one of the National level subcommittees, has developed and recommended this AECS Plan.

e. Designated members of the National level Aeronautical Communications Services Subcommittee are accredited by appropriate federal authorities and are responsible for providing continuing advice and assistance relative to operations of the approved National level facilities and systems voluntarily participating in the AECS Plan as set forth herein.

3. *State Emergency Communications.* A State Emergency Communications Committee (SECC), has been established in each of the 50 states, Guam, Puerto Rico, Virgin Islands and the District of Columbia. The function of the SECC is to advise and assist appropriate authorities by preparing coordinated operational emergency communications plans, systems and procedures within the state which are in consonance with national level policies, plans, systems and procedures. Upon the approval of the FCC, the SECC establishes the operational emergency communications systems and emergency operating procedures, and arranges for periodic testing to ensure emergency readiness.

a. An Aeronautical Communications Services Subcommittee or Working Group of the State Emergency Communications Committee shall prepare a Detailed State Operational AECS Plan. This plan shall contain, among other things, the following:

(1) Detailed activation and termination procedures, instructions, and related messages for each aeronautical licensee.

(2) Emergency operating procedures and arrangements to accommodate the requirements for emergency messages.

(3) Detailed arrangements for integrating regional aeronautical communications requirements into the approved Detailed State Operational AECS Plan.

(4) Designation of interconnecting facilities and systems reserved exclusively for state aeronautical communications requirements.

(5) Detailed emergency operating procedures to accommodate state requirements.

(6) Designation of members of the State Committee accredited by state authorities and assignment of their emergency duties at State Emergency Operating Centers. These members shall provide, consistent with national level guidance, continuing advice and assistance relative to operations of the approved state level facilities and systems designated in the Detailed State Operational AECS Plan.

(7) Designation of geographical local areas within the state in coordination with state authorities.

(8) Designation of the emergency operational function of those aeronautical stations holding AECSA's. Such designations shall be made in coordination with operational (local) area committees and state and local authorities. Designation for specific aeronautical facilities shall provide for maximum redundance of facilities in each local area with due consideration to limiting mutually destructive interference to other local areas, and conservation of facilities, fuel for emergency power and personnel for continuity of service purposes. All aeronautical licensees shall be encouraged to participate voluntarily.

(9) Detailed arrangements for integrating local area facilities, systems, and procedures into the Detailed State Operational AECS Plan. Such arrangements shall be coordinated with Operational (Local) Area Emergency Communications Committees and local authorities within the local area.

(10) Detailed data regarding designated aeronautical facilities, approved interconnecting facilities, and emergency auxiliary power and fuel. Such data shall be compiled and maintained in a current status.

(11) Mutually compatible arrangements with neighboring countries which are establishing plans, systems, and procedures for an emergency situation. This shall be accomplished, as feasible, by the FCC in discussions with appropriate authorities prior to final approval of Detailed State Operational AECS Plans.

(12) Detailed State Operational AECS Plans shall be in conformity with the provisions of the Rules and Regulations of the FCC and the AECS Plan, and shall be considered a supplement hereto. Upon approval, State Emergency Communications Committees shall take the necessary steps to place Detailed State Operational AECS Plans in a state of operational readiness.

4. *Operational (Local) Area Emergency Communications Committee.* a. An Operational (Local) Area Emergency Communications Committee (OAECC), which functions as a subcommittee of the State Emergency Communications Committee, has been organized within geographical local areas designated in coordination between State Emergency Communications Committees and state authorities. A local area may include one or more communities; portions of two or more states may be included in a local area in border-community situations.

b. Each OAECC is to advise and assist appropriate authorities and organizations within the local area by preparing coordinated operational emergency communications systems, plans and procedures. They must be consistent with the approved national and state concepts. In addition, they must be submitted to the SECC for consideration and approval.

c. An Aeronautical Communications Services Special Working Group of the OAECC shall develop detailed operational emergency communications systems, plans, and procedures for inclusion in the Detailed State Operational AECS Plan. These systems, plans and procedures shall include the following:

(1) Designation of a suitable and adequately descriptive name for the local area.

(2) Detailed interconnecting facilities and arrangements.

(3) Designation of a Common State Aeronautical Communications Control Station and Alternates.

E. Emergency Communications Requirements

1. Communications requirements of the aeronautical industry in an emergency may include but are not limited to:

a. Air/ground/air (including operational control) and point-to-point communications.

b. Between central maintenance depots and air terminal maintenance facilities.

c. Emergency notification of impending disasters and/or evacuation.

d. Fire fighting and other emergency safety procedures.

e. Between administrative offices, flight test, manufacturing and overhaul facilities.

f. Between flight test engineers or dispatchers and aircraft to provide for necessary testing.

g. Between ticket offices and air terminal offices.

h. Coordination between air carriers and movement and control of aircraft, passengers and freight.

i. Exchange of personnel, maintenance and equipment to facilitate air carrier operations.

j. Coordination and scheduling of resources and facilities necessary to sustain research, test and production operations.

k. Security of personnel, facilities and equipment and for alerting employees. These functions require communications between local management and local authorities.

l. Reporting damage assessment of the communications facilities of the aeronautical industry to the FCC for further transmittal to the Department of Defense and Office of Telecommunications Policy.

m. Requests for emergency authorizations to the FCC.

n. Requests to FCC for radio frequency assignments.

o. Requests to the FCC for financial credits or other financial assistance for communications facilities.

p. Requests to the FCC for conservation, salvage and rehabilitation of communications supplies and equipment.

q. Requests to the FCC for claimancy for communications materials, manpower, equipment, supplies and services.

r. Requests to the FCC for priority certification for the use of, or restoration of, leased private line common carrier services.

s. Requests to Federal Aviation Administration for flight authorizations and flight status information.

t. Requests to and coordination with appropriate government agencies and/or industries for financial credits or assistance; conservation, salvage and rehabilitation of supplies and equipment; claimancy for materials, manpower, equipment, supplies and services; and for reporting damage assessment where such requests and coordination do not pertain solely to communication services.

u. Issuance of regulations and orders controlling the scheduling, routing and distribution of air freight. (Civil Aeronautics Board.)

v. Issuance of priority regulations for transportation of air travelers (Civil Aeronautics Board) via WASP.

F. Conditions for Emergency Communications

1. During an emergency situation, aeronautical facilities are subject to the following conditions:

a. *Domestic.* Air/ground communications within the United States shall be limited to those involving safety of flight and operational control; air/ground and aeronautical fixed communications on HF band frequencies shall be minimized consistent with safety of flight and operational control and then only when appropriate security measures are employed. Security measures shall include at least the following: (1) Transmit safety of flight and operational control traffic only, (2) identify by means other than clear text when directed by appropriate authority.

b. *International.* Air/ground communications shall be limited to those involving safety of flight and operational control. Such communications in the HF band shall be discontinued, except that international air carriers arriving or departing from U.S. gate-

way airports may use HF band frequencies when VHF and UHF radio are inoperative, not available, or will not provide the range required. International aeronautical fixed communications may be conducted on HF band frequencies only when appropriate security measures are employed. Security measures shall include at least identification by means other than clear text when directed by appropriate authority.

c. *Weather Transmission.* Unscheduled weather reports and forecasts (not exceeding 2 hours ahead) may be transmitted, in clear text, only on VHF or higher frequencies. Scheduled weather information may be transmitted, in clear text, only on frequency bands other than the HF band. However, an isolated emergency situation may occur in the course of a particular AECS Plan operation in which the HF band may be employed for the transmission of clear text weather information.

d. *Defense Emergency or Air Defense Emergency.* Upon receipt of either a Defense Emergency or Air Defense Emergency declaration, or as directed by the appropriate NORAD Region Commander when his Region is under attack, the licensees of selected non-Federal air navigation aids shall comply with the provisions of the Detailed Operational Plan for the Security Control of Non-Federal Air Navigation Aids. Detailed instructions shall be provided by the FCC to those concerned.

2. When notified by the proper authority the following plans will be activated:

a. Security Control of Air Traffic and Air Navigation Aids (SCATANA).

b. Civil Reserve Air Fleet Plan (CRAF).

c. War Air Service Program (WASP).

d. State and Regional Disaster Airlift Planning (SARDA).

e. Operational Plans when developed, for airport operations, and for aircraft manufacturing, overhaul and maintenance.

G. Procedure for Validation of Requests for Communications Service

1. Requests for communications services via common carrier facilities shall be handled as follows:

a. Those circuits utilized for the dissemination of emergency information for the aeronautical industry and those circuits earmarked for prearranged voluntary participation with the Federal Government during emergencies shall be identified to the FCC for priority restoration authorization.

b. A high order of priority for use and restoration of all approved interconnecting leased common carrier private line facilities involved herein shall be assigned by the FCC.

c. Requests for communications services, to be valid, shall be certified by the FCC.

d. Priorities for the various grades of leased service shall be assigned by the FCC and forwarded to the appropriate communications common carrier.

e. Each request for leased service shall be accompanied by a full description of the nature of the information to be transmitted, the preferred method of transmission (voice, teletypewriter, facsimile, digital data, etc.), geographical location, points of service, average number of transmissions per day, and average length of transmission.

f. *Urgent* requests for communications services may be handled completely at *the field level.*

H. Liaison

1. Close liaison shall be maintained at all times between all participants and operational elements in the AECS Plan. All operational elements of the AECS Plan at the state, and local area levels are particularly encouraged to maintain close liaison with the FCC. All official instructions issued with respect to non-government elements concerned with the AECS Plan shall be issued by the FCC.

2. The Federal Communications Commission shall assist in the development of applicable Detailed Operational Aeronautical Emergency Communications System (AECS) Plans and procedures.

I. Participation

1. An aeronautical industry licensee desiring to participate in the AECS Plan on a voluntary basis shall be granted an AECS Authorization by the FCC when it meets the Criteria for Eligibility contained in this AECS Plan, subject to the provisions of Part 87, Subpart Q, of the FCC Rules and Regulations.

2. Other non-government entities may be authorized to participate in the AECS Plan through the voluntary use of their privately owned or leased FCC licensed or regulated facilities, consistent with the provisions of the FCC Rules and Regulations and the provisions of this AECS Plan.

J. Annexes

1. Detailed information with regard to national level facilities, systems, and procedures and emergency operational arrangements at the national level are included as Annexes to this AECs Plan. Part 87, Subpart Q, of the FCC Rules and Regulations providing for the AECS Plan is also contained in Annex I.

2. Detailed information for the development of operational emergency communications systems, plans, and procedures at the regional, state, and local area levels shall be contained in Detailed Regional, State, and Local Area Operational AECS Plans which shall be included as Annexes to this AECS Plan.

3. Revised and additional Annexes to this AECS Plan shall be issued as required, after formal approval by the FCC.

K. Approval and Concurrences

Pursuant to Executive Order 11490 and Sections 1, 4(i) and 303(r) of the Communications Act of 1934, as amended:

Approved by the Federal Communications Commission:

Concurred in by the Department of Defense:

Concurred in by the Department of Transportation:

Concurred in by the Office of Preparedness, General Services Administration:

Concurred in by the Office of Telecommunications Policy:

ANNEX I

Reserved for FCC Rules and Regulations, Part 87, Subpart Q.

ANNEX II

EMERGENCY COMMUNICATIONS FOR THE AERONAUTICAL INDUSTRY DURING PERIODS OF NATIONAL EMERGENCY

Statement of Requirements

This Statement of Requirements for the aeronautical industry has been prepared under the direction of the Federal Communications Commission (FCC) in cooperation with the National Industry Advisory Committee (NIAC) pursuant to Executive Order 11490, as amended, signed by the President of the United States on October 28, 1969.

A. *Introduction.* For the purpose of this annex, aeronautical industry activities are defined as the activities directly involved in the air movement of passengers and freight, general aviation, aircraft manufacturing, overhaul and maintenance, passenger and freight loading and unloading, ticketing, weather gathering activities, navigation activities, dispatching, aircraft fueling, food handling and air terminal operation and maintenance including other operations essential to the public safety and welfare.

B. *Basic Facts and Assumptions.* 1. During periods of national emergency, operational coordination and coordination of all segments of the aeronautical industry (hereinafter referred to as industry) and government is vital to the survival and recovery of the Nation.

2. Communications systems, plans, and procedures providing the highest order of reliability are required by industry to provide for normal as well as emergency operation. The ability of these systems to survive catastrophes of the most severe nature should be considered as a primary requisite.

3. The aeronautical industry has demonstrated its willingness to cooperate with the Government in further developing and improving its emergency plans. Industry shall provide personnel to cooperate in the formulation of plans for emergency communications systems.

4. Existing communications systems and facilities, including those of major aircraft manufacturers, used by industry for normal operations, shall be used as the basis for essential communications required by the industry during periods of national emergency.

5. Modification of, or addition to, some privately-owned or leased communications facilities may be necessary in order to provide essential interconnections with industry-Government communications at certain designated points.

6. A substantial amount of communications facilities are involved in normal day-to-day operations of industry. These facilities, modified as in "5" above, together with bypass and back-up arrangements through intra and inter-system communications protected by appropriate leased circuit priorities should further insure a high probability of survival of such communications systems.

7. To further insure development of acceptable emergency communications policies, plans, systems, facilities and procedures, such emergency plans shall encompass a broad range of emergency contingencies posing a threat to the safety of life and property, including those international operations of the United States aeronautical industry in support of the national effort.

8. All emergency communications plans, systems, facilities, and procedures developed for industry shall be for the purpose of fulfilling the requirements of industry. These shall include certain emergency communications channels and arrangements for administrative liaison between industry and appropriate federal officials and various other state and local government authorities associated with the emergency operation of industry. Emergency communications between any departments or offices of any federal, regional, state or local government entity shall not be considered a valid requirement of industry.

C. *Planning Considerations.* The aeronautical industry under the auspices of NIAC shall, on a continuing basis, advise and submit recommendations and assist the FCC in the orderly development of operational emergency communications policies, plans, systems and procedures capable of expeditious emergency activation using, on a voluntary, organized basis, non-government personnel and FCC licensed and regulated facilities. The following planning considerations are appropriate:

1. *Activation and Termination.* a. In local emergency situations communications elements of the AECS Plan may be activated or terminated by competent authority in ac-

cordance with Section 87.607(c) of the FCC Rules.

b. Circumstances may require independent activation of certain detailed operation plans indicated below.

(1) U.S. International and Domestic Air Carriers.

(a) Civil Reserve Air Fleet Plan (CRAF).

(b) War Air Service Plan (WASP).

(2) General Aviation: State and Regional Disaster Airlift Planning (SARDA).

(3) Airport operations and aircraft manufacturing, overhaul and maintenance: Detailed operational plans when developed.

In the event that all or some of the above plans are implemented, the restrictions of SCATANA, when imposed, shall apply.

2. *Availability.* Once notified of an emergency situation the aeronautical industry shall immediately place in operational condition all emergency communications plans, procedures and facilities appropriate to the existing situation.

3. *Survivability.* The emergency communications system of the industry should be so constituted as to be able to provide communications for the necessary aircraft flights to transport the required personnel and material needed for the duration of the emergency, as well as for necessary support of all flight activities essential to the public safety and welfare. The emergency communications system of the industry should be designed to be as survivable as is economically practicable and should be protected by leased circuit priorities, where applicable.

4. *Determination of Design.* The management and technical personnel of industry, in cooperation with the FCC are best qualified to determine the location, type, capacity and other technical parameters of the required emergency communications system. Industry should develop operational procedures to implement and monitor the effectiveness of its emergency communications system.

5. *Safety and Special Radio Services.* Authorization, operation, and use of Safety and Special Radio Services facilities and personnel in the national interest in an emergency.

6. *Radio frequency assignment.* Assignment of radio frequencies to, and their use by, Commission licensees in an emergency.

7. *Electromagnetic radiation.* Closing of any radio station or any device capable of emitting electromagnetic radiation or suspension or amending any rules or regulations applicable thereto, in an emergency, except for those belonging to, or operated by, any department or agency of the United States Government.

8. *Investigation and enforcement.* Investigation of violations of pertinent law and regulations in an emergency, and development of procedures designated to initiate, recommend, or otherwise bring about appropriate enforcement actions required in the interest of national security.

9. *Priorities and allocations.* Systems for the emergency application of priorities and allocations to the production, distribution, and use of resources for which FCC has been assigned responsibility.

10. *Requirements.* Assembly, development as appropriate, and evaluation of requirements for assigned resources, taking into account estimated needs of military, atomic energy, civilian, and foreign purposes. Such evaluation shall take into consideration geographical distribution of requirements under emergency conditions.

11. *Evaluation.* Assessment of assigned resources to estimate availability from all sources during an emergency situation, analysis of resource availabilities in relation to estimated requirements, and development of appropriate recommendations and programs, including those necessary for the maintenance of an adequate mobilization base. Provision for data and assistance before and after attack for national resource analysis purpose.

12. *Claimancy.* Prepare plans to claim from the appropriate agency supporting materials, manpower, equipment, supplies, and services needed to carry out assigned responsibilities and other essential functions to the FCC, and cooperate with other agencies in developing programs to insure availability of such resources in an emergency.

13. *Warfare effects monitoring and reporting.* A capability, both at national and field levels, to estimate the effects of attack on assigned resources and to collaborate with and provide data to the FCC, as appropriate, in verifying and updating estimates of resource status through exchanges of data and mutual assistance, and providing for the detection, identification, monitoring and reporting of such warfare effects at selected facilities.

14. *Salvage and rehabilitation.* Plans for salvage, decontamination, and rehabilitation of facilities involving resources under FCC jurisdiction.

15. *Research.* Research in areas directly concerned with carrying out emergency preparedness responsibilities, designating representatives for necessary ad hoc or task force groups, and providing advice and assistance to other agencies through FCC for research in emergency communications.

16. *Stockpiles.* Assistance in formulating and carrying out plans for stockpiles of strategic and critical communications materials, and survival items.

17. *Direct Economic Controls.* Cooperation with federal financial agencies in the development of emergency preparedness measures involving emergency financial and credit measures, as well as price, rent, wage and salary stabilization, and consumer rationing programs.

18. *Financial aid.* Plans and procedures in cooperation with federal financial agencies for financial and credit assistance to those segments of the private sector for which FCC is responsible in the event such assistance is needed under emergency situations.

ANNEX III

CRITERIA FOR ELIGIBILITY FOR AN AERONAUTICAL EMERGENCY COMMUNICATIONS SYSTEM AUTHORIZATION

A radio station licensee in the aeronautical industry upon letter application to the FCC may be granted an AECS Authorization which will remain in effect concurrently with the terms of his regular authorization, so long as the licensee substantially meets the following criteria:

1. The aeronautical industry licensee is a participant in the Aeronautical Emergency Communications System Plan and/or any Detailed Operational Aeronautical Emergency Communications System Plan.

2. The aeronautical industry licensee must be willing to cooperate with other aeronautical industry licensees in providing radio services, facilities, and personnel during emergency situations.

3. The aeronautical station is necessary to the continued operation and security of the licensee's business or property, or in the interest of public safety and welfare, and for the security or rehabilitation of this country.

Any station which is denied an Aeronautical Emergency Communications System Authorization for any reason may appeal to the Federal Communications Commission for review.

ANNEX IV

Reserved for the plan for the Security Control of Air Traffic and Air Navigation Aids (SCATANA).

ANNEX V

Reserved for the Detailed Operational Plan for the Security Control of Non-Federal Air Navigation Aids. Reference: SCATANA.

ADDITIONAL ANNEX ATTACHMENTS

Reserved for Detailed Operational AECS Plans.

[FR Doc. 75-16305 Filed 6-23-75;8:45 am]

FEDERAL POWER COMMISSION

[18 CFR Parts 2, 154, 157]

[Docket No. RM75-14]

NATURAL GAS

National Rate Proceeding; Order Inviting Comment Re Intrastate Gas Market

JUNE 16, 1975.

National Rates for Jurisdictional Sales of Natural Gas Dedicated to Interstate Commerce on or after January 1, 1973, for the period January 1, 1975, to December 31, 1976.

By order of December 4, 1974 (39 FR 43093, December 10, 1974) the Commission instituted proceedings to prescribe rules and regulations establishing just and reasonable rates for natural gas sales within its jurisdiction under the Natural Gas Act, for sales of gas dedicated to interstate commerce on or after January 1, 1973, for the biennium from January 1, 1975, to and including December 31, 1976, and otherwise regulating such jurisdictional sales by natural gas producers on a nationwide basis. This proceeding will update the rates established in Docket No. R-389-B pursuant to 18 CFR 2.56a(n) for the 1975-76 biennium and consider such changes in the rate structure prescribed in 18 CFR 2.56a as may be required by the public interest.

The date for the filing of Staff comments in this proceeding was extended to July 10, 1975, by Notice issued June 10, 1975.

The Commission invites the views of the parties on what weight, if any, should be given to current prices in the intrastate market which now absorbs about 40 percent of all gas sold by producers. The intrastate field market is essentially unregulated as to well-head prices. It is a market that is characterized by unrestricted entry, independent competitive endeavor, and free contracts between sellers and buyers. Thus, it is a market in which competition provides the coordinating and controlling mechanism over the prices for the gas that is produced and sold.

The economic theory of workably competitive markets demonstrates that the price that results from the interaction of supply and demand is a cost-based price. Businessmen will increase their production and sales up to the point where their marginal costs (including their cost of capital) equates to the market price. This proposition of economic theory suggests the possibility of looking to the field prices in the intrastate market for evidence of the cost of production in that market. The Commission of course recognizes that there are few, if any, markets that are entirely free of competitive

imperfections and that it is often dangerous to attempt to translate textbook theorems into policy guidelines. Nevertheless, the preponderance of evidence regarding the competitive nature of the gas producing business may provide a premise for accepting market prices in the unregulated sector as generally indicative of current costs of production. In commenting on this suggestion the parties should consider the current state of the intrastate field market for gas and its efficiency in adjusting to the major changes that have occurred in domestic and world energy markets during the past two years.

The Commission's Staff is in the process of compiling the intrastate market evidence from the reports submitted by producers on FPC Form No. 45 in accordance with the Commission's Order No. 521 issued January 9, 1975, and upon completion Staff's compilation will be served on all parties to this case. Accordingly, in addition to the use of costs as the base for our determination of the just and reasonable rate and our consideration of other relevant non-cost factors, we are considering the use of representative intrastate market price evidence here to the extent that the intrastate market is workably competitive. Consequently, comments are requested concerning the extent to which field intrastate market prices may be used by us in determining the just and reasonable rate for gas in this case.

We are well aware that "the prevailing price in the market place cannot be the final measure of 'just and reasonable' rates mandated by the Act." *F.P.C. v. Texaco Inc.*, 417 U.S. 380, 397 (1974). But, this does not mean that market price is not "a relevant consideration in the setting of area rates, see *Permian Basin Area Rate Cases, supra*, 390 U.S. at 793–795; they may certainly be taken into account along with other factors, *Austral Oil Co. v. FPC*, 428 F. 2d 407, 441 (CA5), *cert. denied*, 400 U.S. 950 (1970)." *F.P.C. v. Texaco Inc.*, 417 U.S. at 399. And, as the Court indicated in *Mobil Oil Corp. v. F.P.C.*, 417 U.S. 283, 316 (1974) in approving the Commission's inclusion of certain non-cost incentives in Opinion No. 598 (Southern Louisiana) based on the evidence of a need for increased supplies, "a price sufficient to maintain a producer, while not itself necessarily required by the Act, may not be sufficient also to encourage an increase in production." In determining a just and reasonable rate, it is thus proper for us "to consider economic and market conditions, the adequacy of allowances for exploration and development, and the inadequacy of the supply of natural gas." *John E. Moss, et al. v. F.P.C.*, 502 F. 2d 461, 466 (CADC), 1974).

The Commission orders:

(A) Pursuant to the Administrative Procedure Act and sections 4, 5, 7, 8, 10, 14, 15, and 16 of the Natural Gas Act of 1938, as amended, the scope of this proceeding is enlarged to include and invite comment on the question of what weight, if any, should be given to current prices in the intrastate natural gas market for ratemaking purposes in this proceeding and related matters, as more fully explained in the body of this order.

(B) All persons not already participants in this proceeding who desire to participate herein pursuant to this order shall file with the Secretary of the Commission on or before June 30, 1975, a notice of intention to participate. However, a person who becomes a participant in this manner shall not thereby acquire the right to submit comments which were required to be submitted before such person became a participant. The Secretary will prepare, publish, and serve upon all persons who filed a notice of intention to participate, pursuant to this order, on or before July 9, 1975, a list of all participants in this proceeding, including groups of participants, and will also prepare, publish, and serve upon all participants a list of the new participants.

(C) Comments pursuant to this order shall be filed with the Secretary of the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, and served on all participants on the current service list in this proceeding on or before July 24, 1975. Reply comments must be similarly filed and served on or before August 15, 1975.

(D) All comments and notices to participate submitted in this proceeding shall state the name, title, mailing address, and telephone number of the person or persons to whom communications concerning this rulemaking proceeding should be addressed. The submittals shall be single spaced and submitted upon letter size paper (8'' by 10½'' or 8½'' by 11''). An original and fourteen conformed copies of each submittal shall be filed with the Commission, and copies thereof will be placed in the Commission's public files and will be available for inspection in the Commission's Office of Public Information at 825 North Capitol Street, NE, Washington, D.C. 20426, during regular business hours. Additionally, copies of all comments filed after publication of this order in the FEDERAL REGISTER, must be served on all participants in this proceeding who appear on the current Secretary's Service List, and each submittal must contain the following statement signed by the person filing or authorizing the filing:

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding in accordance with the requirements of § 1.17 of the rules of practice and procedure. Dated at _____ this ____ day of _____, 19____. *Signature.* All submittals shall be under oath and acknowledged by a notary public or comparable official, as follows: (Name) _____, being duly sworn, deposes and says [that he is _____ (title and organization, if filing in a representative capacity)]; that he is authorized to verify and file this document; that he has examined the statements contained therein, and that all such statements are true and correct to the best of this knowledge, information, and belief.

(E) The Secretary of the Commission shall cause prompt publication of this order in the FEDERAL REGISTER and shall serve this order upon all participants in this proceeding, all State Commissions, all other Federal agencies and departments, and upon all parties of record in Docket No. R–389–B.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.75–16408 Filed 6–23–75;8:45 am]

[18 CFR Parts 3, 260]

[Docket No. RM75–28]

NATURAL GAS

Reporting Form for Underground Storage

JUNE 16, 1975.

Action by the Federal Power Commission in coordination with the Federal Energy Administration and the Bureau of Mines prescribing a reporting form for underground natural gas storage in the United States.

Notice is hereby given, pursuant to the Administrative Procedure Act, 5 U.S.C. 552, and the Natural Gas Act, sections 8, 10, 14, 15, and 16 (52 Stat. 825, 826, 828, 829, 830; 15 U.S.C. 717g, 717i, 717m, 717n, 717o), that the Federal Power Commission is considering the adoption of rules and regulations providing for the systematic collection of data concerning underground natural gas storage resources and facilities in the United States.

All persons found by the Commission to be a "natural-gas company" within the meaning of the Natural Gas Act, and their jurisdictional affiliates as defined in 18 C.F.R. 157.40(a)(2) of the Commission's regulations, who own, operate, or lease underground natural gas storage fields in the United States would be required to complete, file, and attest to the information solicited in the proposed report (Attachment A; revised FPC Form No. 8 with instructions). In case of joint ownership, each of the co-owners would be required to report his respective portion and indicate the percentage owned by footnote to his individual report.

The revised Form No. 8 was developed by the Federal Power Commission in coordination with the Federal Energy Administration (FEA) and the United States Bureau of Mines (BOM). This coordinated effort involves the promulgation of a substantially identical form by the FEA, which would be filed only by companies not subject to Federal Power Commission jurisdiction. It is contemplated that the information obtained by the FEA in this manner would be routinely supplied to the Federal Power Commission for integration for analysis with the information supplied by jurisdictional companies via the revised FPC Form No. 8. All such information supplied to the Commission concerning underground natural gas storage, whether from jurisdictional or nonjurisdictional entities, would be placed in the public files of the Commission and would be open to the public.

The revised FPC Form No. 8 would supersede the currently effective FPC

Form No. 8, Report of Gas Stored Underground, originally prescribed because it was apparent to the Commission that many jurisdictional natural gas companies would require an increasing reliance on natural gas storage to supply the requirements of their customers in future winter seasons.[1] Since the prescription of the original FPC Form No. 8, the volume of natural gas curtailments has grown to such a magnitude and has become so pervasive that a continuous monitoring of all natural gas storage injections, withdrawals, balances, and capacities in the United States is believed essential to assure the continuity of natural gas service.[2]

However, it is a mandatory requirement that all Federal agencies obtain information with a minimum burden on business enterprises.[3] It is equally mandatory that unnecessary duplication of efforts in obtaining information through the use of reports shall be eliminated as rapidly as possible.[4] Pursuant to these statutory directives, the Federal Power Commission, the FEA, and the BOM have jointly developed the revised form requiring information in a form usable by all three government entities. Consequently, the information requested in the old FPC Form No. 8, would be altered by the proposed revised form to accommodate the needs not only of the Commission, but also of the FEA and BOM. In this way, information concerning all United States underground natural gas storage would be supplied on a single coordinated form suitable for use by the FEA, the BOM, and the Commission. Thus, the reporting burden on natural gas storage entities will be reduced and coordination between the Commission and the other named federal agencies will be increased.

The revised form (Attachment A) consists of three parts. Part I includes information necessary to identify the respondent.

Part II includes information concerning actual volumes of injections and withdrawals of natural gas in storage reservoirs and includes the actual volumes of respondent's gas in its own reservoirs, customer's gas in reservoirs operated by respondent, and respondent's gas in reservoirs operated by others. Part II also includes information concerning reservoirs in a developmental stage. Part III includes the name, location, and capacity of both actual and proposed underground gas storage reservoirs.

The revised FPC Form No. 8 is to be filed within five days of the first and fifteenth day of the months of December through March (winter heating season), and the first day of the months of April through November. Part III, which includes information not required in the old FPC Form No. 8, would be required to be completed only with respondent's initial report; only changes or additions thereto would be required to be reported on subsequent submissions.

All data and information submitted pursuant to this rulemaking would be required to be certified by a duly authorized executive officer of the respondent as being factually accurate and complete to the best of his knowledge. An original and three copies of each completed FPC Form No. 8 would be required to be sent to the Federal Power Commission.

The specific data that would be required by the Commission is set forth in Attachment A attached hereto consisting of Sheet Nos. 1 and 2, along with definitions and procedures to be followed in completing the proposed form. The definitions to be employed in this report are taken in part from the AMERICAN GAS ASSOCIATION COMMITTEE ON UNDERGROUND STORAGE ANNUAL REPORT and are in common usage in the natural gas industry. The utilization of well established definitions commonly employed in the industry decreases the possibility of a misunderstanding of the directions, thereby avoiding a variation in results. The purpose of this procedure is to assure that little or no modification of business recordkeeping will be required.

Any interested person may submit to the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C., 20426, not later than July 11, 1975, data, views, and comments or suggestions in writing concerning the proposed form. Written submittals will be placed in the Commission's public files and be available for public inspection at the Commission's Office of Public Information, 825 North Capitol Street, NE., Washington, D.C., 20426, during regular business hours. The Commission will consider all such written submittals before acting on the matters herein proposed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Submissions to the Commission should indicate the name, title, and mailing address of the person to whom correspondence with regard to the proposal should be addressed and whether the person filing submissions requests a conference with the Staff of the Federal Power Commission to discuss the proposed form. The Staff, in its discretion, may grant or deny requests for conference.

The proposed amendments to Parts 3 and 260 and to FPC Form No. 8 would be issued under the authority granted the Federal Power Commission by the Natural Gas Act, as amended, particularly sections 8, 10, 14, 15, and 16 (52 Stat. 825, 826, 828, 829, 830; 15 U.S.C. 717g, 717i, 717m, 717n, 717o).

1. Accordingly, the Federal Power Commission proposes to amend Part 260, Statements and Reports (Schedules), in Subchapter G—Approved Forms, Natural Gas Act, Chapter I, Title 18 of the Code of Federal Regulations, by amending § 260.11, prescribing a revised FPC Report Form No. 8, Underground Gas Storage Report, in the form set out in Attachment A hereto. Section 260.11 will read as follows:

§ 260.11 Form No. 8, Underground Gas Storage Report.

(a) The form of Underground Gas Storage Report as FPC Form No. 8, is prescribed for natural gas companies commencing, 1975.

(b) Each person found by the Commission to be a natural gas company as defined by the Natural Gas Act, as amended, 52 Stat. 821, including a jurisdictional affiliate as defined in 18 CFR § 157.40(a)(2) of the Commission's Regulations, that owns, operates, or leases an underground natural gas storage field located in the United States shall prepare and file with the Commission an original and three copies of Underground Gas Storage Report, FPC Form No. 8, within five days of the following dates: the first and fifteenth day of each of the months of December through March; and the first day of the months April through November. Part III (Sheet No. 2) of FPC Form No. 8 shall only be required to be completed upon initially filing FPC Form No. 8, and thereafter whenever any changes or additions of information initially reported therein are to be made.

2. Further, it is proposed to amend § 3.170 of Part 3, Organization; operation; information and requests; miscellaneous charges; ethical standards; Subchapter A, Chapter I, Title 18 of the Code of Federal Regulations to read as follows:

§ 3.170 Approved forms, etc.

(a) The following is a list of approved forms, statements, and reports, under the Natural Gas Act, descriptions of which have been published in Subchapter G, Parts 250 and 260 of this Chapter.

* * * * *

(-) Form No. 8, Underground Gas Storage Report (§ 260.11 of this Chapter) [5]

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[1] Order Requiring Report of Gas Stored Underground And Promulgating Schedule, Docket No. R-399, Order No. 417, 44 F.P.C. 1550 (1970), as amended Order. No. 417-A, 48 F.P.C. 443 (1972) (Order No. 417-A indefinitely extended the original two-year report period).

[2] Curtailments of interstate firm service were first experienced in November 1970 and have steadily increased. In 1973 they amounted to about 1.1 Tcf or about five percent of total U.S. production. For the period April 1974 to March 1975, they were approximately 2 Tcf and are expected to increase to about 2.9 Tcf during the period April 1975 to March 1976. During the 1974-75 heating season, curtailments were about 130 percent greater than those during the 1973-74 heating season. BUREAU OF NATURAL GAS, A REALISTIC VIEW OF U.S. NATURAL GAS SUPPLY—STAFF REPORT, at 14-16 (1974); FPC NEWS RELEASE NO. 21454 (issued June 6, 1975). See generally, BUREAU OF NATURAL GAS, UNDERGROUND STORAGE OF NATURAL GAS BY INTERSTATE PIPELINE COMPANIES, CALENDAR YEAR 1973, WINTER 1973-74 (1974).

[3] 44 U.S.C. 3501 (1970). See also Pub. L. 93-556, 88 Stat. 1789 (December 27, 1974).

[4] 44 U.S.C. 3501 (1970).

[5] Filed as part of the originals.

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

By direction of the Commission.

MARY B. KIDD,
Acting Secretary.

[FR Doc.75-16407 Filed 6-23-75;8:45 am]

FEDERAL RESERVE SYSTEM

[12 CFR Part 226]

[Reg. Z]

TRUTH IN LENDING

Description of Transactions

In order to implement the amendment to section 127(b)(2) of the Truth in Lending Act (15 U.S.C. 1601-1681) contained in section 411 of Title IV (Amendments to the Truth in Lending Act) of Public Law 93-495, the Board of Governors of the Federal Reserve System (Board herein) proposes to amend § 226.7(b)(2) and (c) of regulation Z. While the statutory provision which the proposed amendment seeks to implement is not part of the Fair Credit Billing Act, for which the Board published proposed regulation on May 5, 1975, in Vol. 40 of the FEDERAL REGISTER, No. 87, page 19489, these amendments are related to that Act and have the same effective date of October 28, 1975. These changes would amend and revise Regulation Z to provide minimum disclosure requirements with respect to periodic credit billing statements in the following manner:

1. With respect to transactions reflected on a statement for which an actual copy of the document evidencing the transaction accompanies the statement (so called "country club" billing), the creditor must disclose (a) the amount of the transaction and, either (b) the date of the transaction or (c) the date on which the transaction is debited to the customer's account. This change is proposed in order to clear up any ambiguity which may exist regarding the phrase "date of each extension of credit" which appears in § 226.7(b)(2) of the current regulation.

2. With respect to transactions reflected on a statement for which no actual copy of the document evidencing the transaction accompanies the statement but, rather, for which a description is provided on or with the statement (so called "descriptive" billing), such description must contain at least (a) the date of the transaction, and (b) the amount of the transaction. Additionally, in two-party credit systems a brief description of any goods or services purchased must be disclosed, whereas, in three-party credit systems, the vendor's name and the address (city, and state or foreign country) where the transaction took place must be disclosed. When the date of the transaction, a description of goods or services purchased, or the vendor's name and address is not available to the creditor despite the maintenance of procedures reasonably adapted to obtain such information in each case, a sales voucher number which appears on the customer's copy of the document evidencing the transaction must be supplied.

3. Changes of a nonsubstantive nature are proposed with respect to § 226.7(c)(1) to reflect the wording and numbering changes proposed for § 226.7(b).

4. This notice is published pursuant to section 553(b) of Title 5, United States Code, and § 262.2(a) of the Rules of Procedure of the Board of Governors of the Federal Reserve System (12 CFR 262.2(a)).

Interested persons are invited to submit relevant data, views, or arguments concerning this proposal including possible effects on the cost and availability of consumer credit. Additionally, interested persons are invited to submit comments proposing solutions to any difficulties foreseen with respect to the proposed regulation. Particularly, comments are sought with respect to any difficulties foreseen in procuring address information from national chain retailers, such as petroleum companies and airlines, which centrally process three-party sales vouchers before sending them to the creditor. Any such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than July 18, 1975. Such material will be made available for inspection and copying on request, except as provided in § 261.6(a) of the Board's rules regarding availability of information.

Pursuant to the authority granted in 15 U.S.C. 1604 (1968), the Board proposes to amend Regulation Z, 12 CFR Part 226, as follows:

1. To accommodate changes in § 226.7(b) previously proposed, by order of the Board dated April 28, 1975, and published in Vol. 40 of the FEDERAL REGISTER, No. 87, page 19489, on May 5, 1975, § 226.7(b)(2) would be redesignated § 226.7(b)(1)(ii).

2. To implement the amended section 127(b)(2), the redesignated § 226.7(b)(1)(ii) would be revised and § 226.7(c)(1) amended as set forth below.

§ 226.7 Open end credit accounts—specific disclosures.

* * * * *

(b) *Periodic Statements required* (1) * * *

(ii)(A) In cases in which an actual copy of the document evidencing the credit transaction accompanies the periodic statement, the amount of the transaction and either the date of the transaction or the date the transaction is debited to the customer's account; and

(B) In cases in which an actual copy of the document evidencing the credit transaction does not accompany the periodic statement, at least:

(1) The date on which the transaction took place,[7] and the amount of the transaction; provided, that, with respect to transactions in which the creditor and the vendor are not the same person or related persons,[7a] the creditor may rely upon and disclose the information supplied by the vendor with respect to the date and amount of the transaction; and

(2) A brief identification[7b] of the goods or services purchased in cases in which the creditor and the vendor are the same person or related persons, or the vendor's name and the address (city and state or foreign country) where the transaction took place (using understandable and generally accepted abbreviations if the creditor so desires) in cases in which the creditor and the vendor are not the same person or related persons.

(C) In a case in which any of the information with regard to the date of the transaction, the description of the goods and services purchased, or the vendor's name and address as required by paragraph (b)(1)(ii)(B) of this section is not available to the creditor, an identifying number or symbol which appears on the document evidencing the credit transaction given to the customer at the time of the transaction must be disclosed instead of such information. The provisions of the first sentence of this subparagraph shall not relieve the creditor from responsibility for maintaining procedures reasonably adapted to procure such information in each case.

* * * * *

(c) * * *

(1) The information required to be disclosed under paragraph (b)(1)(ii) of this section and itemization of the amount of the "credits" disclosed under paragraph (b)(1)(iii) of this section, and of the amount of any finance charge required to be disclosed under paragraph (b)(1)(iv) of this section, may be made on the reverse side of the periodic statement or on a separate accompanying statement(s), provided that the totals of such respective amounts are disclosed on the face of the periodic statement; and

* * * * *

By order of the Board of Governors, June 16, 1975.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.75-16343 Filed 6-20-75;8:45 am]

[7] With respect to transactions which are not billed in full on any single statement but for which precomputed instalments are billed periodically, the date the transaction takes place for purposes of this subparagraph shall be deemed to be the date on which the amount is debited to the customer's account.

[7a] For purposes of this subparagraph, a person is not related to the creditor simply because he and the creditor have an agreement or contract pursuant to which he is authorized to honor the creditor's credit card under the terms specified in the agreement or contract.

[7b] For purposes of this subparagraph, designations such as "merchandise" or "miscellaneous" shall not be considered sufficient identification of goods or services, but a reference to a department in a sales establishment which accurately conveys the identification of the type(s) of goods or services which are available in such department shall be sufficient under this subparagraph. Identification may be made on an accompanying slip or by symbol relating to an identification list printed on the statement.

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.

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Dept. Circ.; Public Debt Series—No. 19-75]

TREASURY NOTES OF SERIES E–1979

Dated and Bearing Interest From July 9, 1975; Due June 30, 1979

JUNE 19, 1975.

I. INVITATION FOR TENDERS

1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites tenders on a yield basis for $1,750,000,000, or thereabouts, of notes of the United States, designated Treasury Notes of Series E–1979. The interest rate for the notes will be determined as set forth in Section III, paragraph 3, hereof. Additional amounts of these notes may be issued at the average price of accepted tenders to Government accounts and to Federal Reserve Banks for themselves and as agents of foreign and international monetary authorities. Tenders will be received up to 1:30 p.m., Daylight Saving time, Wednesday, June 25, 1975, under competitive and noncompetitive bidding, as set forth in Section III hereof.

II. DESCRIPTON OF NOTES

1. The notes will be dated July 9, 1975, and will bear interest from that date, payable on a semiannual basis on December 31, 1975, and thereafter on June 30 and December 31 in each year until the principal amount becomes payable. They will mature June 30, 1979, and will not be subject to call for redemption prior to maturity.

2. The income derived from the notes is subject to all taxes imposed under the Internal Revenue Code of 1954. The notes are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The notes will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

4. Bearer notes with interest coupons attached, and notes registered as to principal and interest, will be issued in denominations of $5,000, $10,000, $100,000 and $1,000,000. Book-entry notes will be available to eligible bidders in multiples of those amounts. Interchanges of notes of different denominations and of coupon and registered notes, and the transfer of registered notes will be permitted.

5. The notes will be subject to the general regulations of the Department of the Treasury, now or hereafter prescribed, governing United States notes.

III. TENDERS AND ALLOTMENTS

1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to the closing hour, 1:30 p.m., Eastern Daylight Saving time, Wednesday, June 25, 1975. Each tender must state the face amount of notes bid for, which must be $5,000 or a multiple thereof, and the yield desired, except that in the case of noncompetitive tenders the term "noncompetitive" should be used in lieu of a yield. In the case of competitive tenders, the yield must be expressed in terms of an annual yield, with two decimals, e.g., 7.11. Fractions may not be used. Noncompetitive tenders from any one bidder may not exceed **$500,000.**

2. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, may submit tenders for account of customers provided the names of the customers are set forth in such tenders. Others will not be permitted to submit tenders except for their own account. Tenders will be received without deposit from banking institutions for their own account, Federally-insured savings and loan associations, States, political subdivisions or instrumentalities thereof, public pension and retirement and other public funds, international organizations in which the United States holds membership, foreign central banks and foreign States, dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, and Government accounts. Tenders from others must be accompanied by payment of 5 percent of the face amount of notes applied for.

3. Immediately after the closing hour tenders will be opened, following which public announcement will be made by the Department of the Treasury of the amount and yield range of accepted bids. Those submitting competitive tenders will be advised of the acceptance or rejection thereof. In considering the acceptance of tenders, those with the lowest yields will be accepted to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established at the nearest ⅛ of one percent necessary to make the average accepted price 100.000 or less. That will be the rate of interest that will be paid on all of the notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price corresponding to the yield bid. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders, in whole or in part, including the right to accept tenders for more or less than the $1,750,000,000 of notes offered to the public, and his action in any such respect shall be final. Subject to these reservations, noncompetitive tenders for $500,000 or less without stated yield from any one bidder will be accepted in full at the average price (in three decimals) of accepted competitive tenders.

IV. PAYMENT

1. Settlement for accepted tenders in accordance with the bids must be made or completed on or before July 9, 1975, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. Payment must be in cash, in other funds immediately available to the Treasury by July 9, 1975, or by check drawn to the order of the Federal Reserve Bank to which the tender is submitted, or the United States Treasury if the tender is submitted to it, which must be received at such Bank or at the Treasury no later than: (1) Monday, July 7, 1975, if the check is drawn on a bank in the Federal Reserve District of the Bank to which the check is submitted, or the Fifth Federal Reserve District in the case of the Treasury, or (2) Wednesday, July 2, 1975, if the check is drawn on a bank in another district. Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at a Federal Reserve Bank. Payment will not be deemed to have been completed where registered notes are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number

or an employer identification number) is not furnished. In every case where full payment is not completed, the payment with the tender up to 5 percent of the amount of notes allotted shall, upon declaration made by the Secretary of the Treasury in his discretion, be forfeited to the United States.

V. GENERAL PROVISIONS

1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make such allotments as may be prescribed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of notes on full-paid tenders allotted, and they may issue interim receipts pending delivery of the definitive notes.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

WILLIAM E. SIMON,
Secretary of the Treasury.

[FR Doc.75-16453 Filed 6-20-75;10:30 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE SCIENCE BOARD TASK FORCE ON ACCURACY

Change of Meeting Date

The closed meeting of the Defense Science Board Task Force on Accuracy originally scheduled for July 16 and 17, 1975 at the Aerospace Corporation, El Segundo, California as published in the FEDERAL REGISTER of June 13, 1975 (FR Doc. 75-15485) has been rescheduled for July 15 and 16, 1975 at the same location.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Director of Defense Research and Engineering on overall research and engineering and to provide long range guidance in these areas to the Department of Defense.

The Task Force will undertake a review of the accuracy of U.S. and Soviet strategic offensive systems to determine the confidence that can be placed in our present estimates of accuracy and it will recommend an R&D program which can lead to improved accuracy.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Task Force meeting concerns matters listed in section 552(b) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

JUNE 19, 1975.

[FR Doc.75-16293 Filed 6-23-75;8:45 am]

DEFENSE SCIENCE BOARD TASK FORCE ON NET TECHNICAL ASSESSMENT

Advisory Committee Meeting

The Defense Science Board Task Force on "Net Technical Assessment" will meet in closed session on 17-18 July 1975 at the Defense Intelligence Agency, The Pentagon, Washington, D.C.

The overall mission of this Task Force is to advise the Secretary of Defense and the Director of Defense Research and Engineering on US/USSR overall research and engineering technology programs and to provide guidance for US technology exploitation in these areas to the Department of Defense.

The Task Force will examine in detail the important problem of determining critical intelligence technical requirements of the Department of Defense, the ways in which answers to these requirements would influence future US R&D/operational actions, any time urgency associated with the requirements and collection methods for satisfying these requirements.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Task Force meeting concerns matters listed in section 552(b) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller.)

JUNE 19, 1975.

[FR Doc.75-16292 Filed 6-23-75;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Ser. No. I-2341]

IDAHO

Order Providing for Opening of Public Lands

JUNE 16, 1975.

Because of a lack of use for which the following described lands were originally patented under the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869; 869-4) the City of Glenns Ferry, Idaho has reconveyed these lands to the United States.

The lands involved in the reconveyance are:

BOISE MERIDIAN

T. 5 S., R. 10 E.,
Sec. 21, W½W½NE¼SW¼, E½E½NW¼SW¼.
The area described contains 20 acres.

The land is located one mile northeast of the City of Glenns Ferry, Idaho. It is characterized by level to rolling topography and a vegetative cover of native grasses and shrubs. The soil is shallow and variable but generally of a quality capable of supporting native grasses and shrubs.

Subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable laws, the lands will at 10 a.m. on July 1, 1975, be open to the operation of the public land laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 042, Boise, Idaho 83724.

EUGENE E. BABIN,
Acting Chief
Branch of L&M Operations.

[FR Doc.75-16295 Filed 6-23-75;8:45 am]

[M 31445]

MONTANA

Application

JUNE 16, 1975.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Montana-Dakota Utilities Company has applied for a natural gas pipeline right of way for a 4-inch line across the following lands:

BLACK HILLS MERIDIAN

T. 5 N., R. 2 E.,
Sec. 36, Lots 11, 12, and 21.
T. 5 N., R. 3 E.,
Sec. 20, Lots 4, 7, and 8; and
Sec. 30, Lots 9 and 14.

and for a 6-inch line across the following lands:

BLACK HILLS MERIDIAN

T. 5 N., R. 3 E.,
Sec. 22, MS 1547;
Sec. 27, MS 1547; and
Sec. 29, MS 1544.

This pipeline will convey natural gas across 0.895 miles of national resource lands in Lawrence County, South Dakota.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their names and address to the District Manager, Bureau of Land Management, P.O. Box 940, Miles City, Montana 59301.

ROLAND F. LEE,
Chief, Branch of
Lands and Minerals Operations.

[FR Doc.75-16296 Filed 6-23-75;8:45 am]

ALASKA

Segregation of Lands

JUNE 13, 1975.

Notice is hereby given that pursuant to the Act of May 24, 1928 (49 U.S.C. 211-214) the State of Alaska, Division of Aviation, has applied for an airport lease for land located in:

Unsurveyed T. 17 N., R. 55 W., Seward Meridian

Protracted sections 3, 4 and 10 (metes and bounds description)
Kuskokwim Recording District, Fourth Judicial District, State of Alaska

The purpose of this notice is to inform the public that the filing of this application segregates the described land from all other forms of use or disposal under the public land laws.

Interested persons desiring to express their views should promptly send their name and address to State Director, Alaska State Office, Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501.

CURTIS V. MCVEE,
State Director.

[FR Doc.75-16344 Filed 6-23-75;8:45 am]

ALASKA

Segregation of Lands

JUNE 13, 1975.

Notice is hereby given that pursuant to the Act of May 24, 1928 (49 U.S.C. 211-214) the State of Alaska, Division of Aviation, has applied for an airport lease for land located in:

Unsurveyed T. 21 N., R. 48 W., Seward Meridian
Protracted sections 31 and 32 (metes and bounds description)
Kuskokwim Recording District, Fourth Judicial District State of Alaska

The purpose of this notice is to inform the public that the filing of this application segregates the described land from all other forms of use or disposal under the public land laws.

Interested persons desiring to express their views should promptly send their name and address to State Director, Alaska State Office, Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501.

CURTIS V. MCVEE,
State Director.

[FR Doc.75-16345 Filed 6-23-75;8:45 am]

Bonneville Power Administration

DISPOSAL OF REAL PROPERTY

Redelegations of Authority; Correction

Redelegations of authority published in the FEDERAL REGISTER on July 6, 1968 (33 FR 9784), and last amended on May 14, 1975 (40 FR 20964), are further amended by the following corrections:

In FR Doc. 75-12661 appearing at page 20964 in the FEDERAL REGISTER of Wednesday, May 14, 1975, the following changes should be made:

1. The word "Administration" in the eighth line of Subsection 10.12a(4) should be corrected to read "Administrative."

2. The year "(1964)" in the tenth line of § 10.15a(4) should be corrected to read "(1970)."

Dated: June 13, 1975.

DONALD PAUL HODEL,
Administrator.

[FR Doc.75-16331 Filed 6-23-75;8:45 am]

Office of Hearings and Appeals

[Docket No. M 75-117]

WESTMORELAND COAL COMPANY

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Westmoreland Coal Company has filed a petition to modify the application of 30 CFR 75.1405 to its Quinwood No. 7 Mine, Greenbrier County, West Virginia.

30 CFR 75.1405 provides:

All haulage equipment acquired by an operator of a coal mine on or after March 30, 1971, shall be equipped with automatic couplers which couple by impact and uncouple without the necessity of persons going between the ends of such equipment. All haulage equipment without automatic couplers in use in a mine on March 30, 1970, shall also be so equipped within 4 years after March 30, 1970.

In support of its petition, Petitioner states:

1. The subject mine uses track haulage only for supplies and man-trips at the present time. The man-trip cars will be permanently coupled together and the motors will use the lever system hereinafter described to couple and uncouple from the man-trip cars. The track extends underground along the mainline for approximately 8,000 feet at the end of which men and supplies are transferred to belt transportation.

2. All track haulage cars will be provided with a lever and cable system permanently mounted on the pin end and link end of each mine car. The lever system will enable the worker to lower the pin to couple the cars and lift the pin from the bumper sufficiently to disengage the cars. The pin can be maintained in an "up" position until there is occasion to use the lever to lower the pin coupling. The link end of the car will also be provided with a lever and cable system to align the link. This lever will also extend toward both sides of the car and will be of such length as to obviate the necessity of the worker placing himself between the mine cars to position the link or to couple or uncouple the mine cars.

3. The coupling-uncoupling levers and link aligners described above have been designed and prototypes prepared. These designs and prototypes will be furnished and made available to Mining Enforcement and Safety Administration representatives for technical evaluation.

4. All workers who couple and uncouple mine cars will be trained and instructed in the proper operation and use of the coupling levers and their proper use will be mandatory requirements for coupling and uncoupling of all mine cars at this mine.

5. The aforesaid alternative system for coupling and uncoupling mine cars will at all times guarantee to the miners in this mine no less than the same measure of protection sought to be accomplished by automatic couplers; and will, in fact, under the particular mining conditions and mining lay-outs at this particular mine, eliminate certain hazards which would be encountered if automatic couplers were mandated.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before July 24, 1975. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

JUNE 13, 1975.

[FR Doc.75-16346 Filed 6-23-75;8:45 am]

National Park Service

BIGHORN CANYON NRA, MONTANA AND WYOMING

Adjustment of Boundaries

Notice was given by the Secretary of the Interior in the FEDERAL REGISTER of May 28, 1968, (30 FR 7765) and in the FEDERAL REGISTER of October 10, 1968, (33 FR 15128) of a detailed description of the Bighorn Canyon National Recreation Area, pursuant to the Act of October 15, 1966, (30 Stat. 913; 16 U.S.C. 460t). Pursuant to the foregoing Act, notice is hereby given of the following changes in the boundaries of the Bighorn Canyon National Recreation Area.

These changes are being made for recreational and administrative purposes.

Areas to be added or deleted from National Recreation Area:

Area to be added (Wyoming):

Beginning at the northwest corner of lot 7 of sec. 4, T. 55 N., R. 94 W., sixth principal meridian;
Thence easterly along the north line of said lot 7 to its intersection with the easterly right-of-way line of the Chicago, Burlington and Quincy Railway Company;
Thence southerly along said right-of-way line of the Chicago, Burlington and Quincy Railway Company to its intersection with the south line of lot 3, sec. 9, said township and range;
Thence westerly along said south line of lot 3 to the southwest corner thereof;
Thence northerly along the west line of said sec. 9 and the west line of said sec. 4 to the northwest corner of lot 7 thereof, said corner being the point of beginning.
The above described area contains 106.52 acres, more or less.

Also to be added (Wyoming):

Beginning at the northwest corner of the NE¼SW¼ of sec. 15, T. 57 N., R. 94 W., sixth principal meridian;
Thence easterly along the north line of said NE¼SW¼ of sec. 15, to the northeast corner thereof;
Thence southerly along the east line of said NE¼SW¼ of sec. 15, to the southeast corner thereof;
Thence easterly along the north line of the S½S½ of said sec. 15, to the northeast corner thereof;
Thence southerly along the east line of said sec. 15 to the southeast corner thereof;

Thence easterly along the north line of sec. 23, said township and range, to the northeast corner of the W½NW¼ thereof;
Thence southerly along the east line of the W½NW¼ of said sec. 23 to the southeast corner thereof;
Thence westerly along the east-west center line of said sec. 23 to the west ¼ corner thereof;
Thence northerly along the east line of sec. 22, said township and range, to the southeast corner of the NE¼NE¼ thereof;
Thence westerly along the south line of said NE¼NE¼ of sec. 22 to the southwest corner thereof;
Thence northerly along the west line of said NE¼NE¼ of sec. 22 to the northwest corner thereof;
Thence westerly along the north line of said sec. 22 to the northwest corner of the NE¼NW¼ thereof;
Thence northerly along the west line of the E½SW¼ of said sec. 15 to the northwest corner thereof, said corner being the point of beginning.
The above described area contains 280 acres, more or less.

Also to be added (Montana):

A strip of land being 50 feet wide lying southerly and easterly of the center line of Montana State Route 313, more particularly described as follows:
Beginning at the point of intersection of the west line of the SE¼ of sec. 16, T. 6 S., R. 31 E., principal meridian and the center line of Montana State Route 313;
Thence easterly and northeasterly along said center line of Montana State Route 313 through secs. 16, 15, 10 and 11, said township and range, to the east line of said sec. 11;
Thence southerly along the east line of said sec. 11 to a point measured 50 feet on a line perpendicular to the said center line of Montana State Route 313;
Thence southwesterly and westerly along a line parallel to and 50 feet southeasterly of said center line of Montana State Route 313 through said sec. 11, 10, 15, and 16 to the west line of said SE¼ of sec. 16;
Thence northerly along the west line of said SE¼ of sec. 16 to a point on said center line of Montana State Route 313, said point being the point of beginning.
The above described area contains 18.36 acres, more or less.

Areas to be deleted (Wyoming):

Beginning at the west ¼ corner of sec. 4, T. 57 N., R. 94 W., sixth principal meridian;
Thence easterly along the east-west center line of said sec. 4 to the east ¼ corner thereof;
Thence southerly along the east line of said sec. 4 to the southeast corner thereof;
Thence easterly along the north line of sec. 10, said township and range, to the northeast corner of the W½W½ of said sec. 10;
Thence southerly along the east line of the W½W½ of said sec. 10 to the southeast corner thereof;
Thence westerly along the south line of said sec. 10 and the south line of sec. 9, said township and range, to the south ¼ corner of said sec. 9;
Thence northerly along the north-south center line of said sec. 9 to the southeast corner of the N½NW¼ thereof;
Thence westerly along the south line of the N½NW¼ of said sec. 9 to the southwest corner thereof;
Thence northerly along the west line of said sec. 9 and the west line of said sec. 4, to the west ¼ corner of said sec. 4, said corner being the point of beginning.
The above described area contains 880 acres, more or less.

Also to be deleted (Montana):

Beginning at the northeast corner of sec. 16, T. 8 S., R. 28 E., principal meridian;
Thence southerly along the east line of said sec. 16 to the southeast corner thereof;
Thence westerly along the south line of said sec. 16 to the southwest corner of the SE¼SE¼ thereof;
Thence southerly along the east line of the W½E½ of sec. 21, said township and range, to the southeast corner thereof;
Thence westerly along the south line of said sec. 21 to the south ¼ corner thereof;
Thence southerly along the north-south center line of sec. 28 and sec. 33, said township and range, to the center of said sec. 33;
Thence easterly along the north line of the NW¼SE¼ of said sec. 33, to the northeast corner thereof;
Thence southerly along the east line of the W½SE¼ of said sec. 33 and along the east line of the NW¼NE¼ of sec. 4, T. 9 S., R. 28 E., principal meridian, to the southeast corner of said NW¼NE¼ of sec. 4;
Thence easterly along the north line of the SE¼NE¼ of said sec. 4 to the northeast corner thereof;
Thence southerly along the east line of said sec. 4 and the east line of sec. 9, said township and range, to the east ¼ corner of said sec. 9;
Thence easterly along the north line of the W½SW¼ of sec. 10, said township and range, to the northeast corner thereof;
Thence southerly along the east line of the W½SW¼ of said sec. 10 and the east line of the NW¼NW¼ of sec. 15, said township and range, to the southeast corner thereof;
Thence easterly along the north line of the SE¼NW¼ of said sec. 15 to the northeast corner thereof;
Thence southerly along the north-south center line of said sec. 15 and sec. 22, said township and range, to the center of said sec. 22;
Thence northwesterly along a diagonal line between said center of sec. 22 and the north ¼ corner of sec. 4, said township and range;
Thence westerly along the north line of said sec. 4 to the northwest corner thereof;
Thence northerly along the west line of secs. 33, 28, and 21, T. 8 S., R. 28 E., principal meridian, to the northwest corner of said sec. 21;
Thence easterly along the north line of said sec. 21 to the north ¼ corner thereof;
Thence northerly along the north-south center line of sec. 16, said township and range, to the north ¼ corner thereof;
Thence easterly along the north line of said sec. 16 to the northeast corner thereof, said corner being the point of beginning.
The above described area contains 2,000 acres, more or less.

The above described boundary adjustment deletes 2,475 acres, more or less, from the Recreation Area which thereupon will comprise an aggregate area of 120,148 acres, more or less.

A map entitled "Bighorn Canyon National Recreation Area," numbered 617–80013, and dated April 1975, depicting the hereindescribed boundaries, is on file in the Office of the Superintendent, Bighorn Canyon National Recreation Area and in the Office of the National Park Service, Department of the Interior, Washington D.C.

LYNN H. THOMPSON,
Regional Director,
Rocky Mountain Region.

APRIL 16, 1975.

[FR Doc.75-16255 Filed 6-19-75;8:45 am]

Office of the Secretary

COMMITTEE ON EMERGENCY PREPAREDNESS OF THE NATIONAL PETROLEUM COUNCIL

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given for the following meeting:

The Committee on Emergency Preparedness of the National Petroleum Council will meet on Wednesday, July 9, 1975, in the Dolley Madison Room, Madison Hotel, 15th & M Streets NW, Washington, D.C., starting at 9 a.m. The agenda includes the following items:

1. Review and discuss draft report in response to Assistant Secretary of the Interior's request for a study of the implementation details for a petroleum security storage program for the United States.
2. Discuss any other matters pertinent to the overall assignment of the Committee.

The purpose of the National Petroleum Council is to provide advice, information and recommendations to the Secretary of the Interior, upon request, upon any matter relating to petroleum or the petroleum industry. The Emergency Preparedness Committee is conducting a study of the major factors involved in the implementation of a petroleum security storage system.

The meeting will be open to the public to the extent that space and facilities permit. Any member of the public may file a written statement with the Council either before or after the meeting. Interested persons who wish to speak at the meeting must apply to the Council and obtain approval in accordance with its established procedures.

Further information with respect to this meeting may be obtained from Ben Tafoya, Office of the Assistant Secretary-Energy and Minerals, Department of the Interior, Washington, D.C., telephone number 343–6226.

Dated: June 19, 1975.

HARRY C. MCKITTRICK,
Deputy Assistant Secretary
of the Interior.

[FR Doc.75-16443 Filed 6-23-75;8:45 am]

COORDINATING SUBCOMMITTEE, COMMITTEE ON ENERGY CONSERVATION OF THE NATIONAL PETROLEUM COUNCIL

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–

463, 86 Stat. 770) notice is hereby given for the following meeting:

The Coordinating Subcommittee of the Committee on Energy Conservation of the National Petroleum Council will meet on July 10, 1975, in the Council's Conference Room, 1625 K Street NW., Washington, D.C., starting at 9 a.m.

The agenda includes the following items:

1. Review of second draft (June 20, 1975) Phase II Report.
2. Consideration of trade association comments.
3. Discuss any other matters pertinent to the overall assignment of the Coordinating Subcommittee.

The purpose of the National Petroleum Council is to provide advice, information and recommendations to the Secretary of the Interior, upon request, on any matter relating to the petroleum or the petroleum industry. The Energy Conservation Committee is conducting a study of possibilities for energy conservation in the U.S. and the impact of such measures on the future energy posture of the Nation.

The meeting will be open to the public to the extent that space and facilities permit. Any member of the public may file a written statement with the Council either before or after the meeting. Interested persons who wish to speak at the meeting must apply to the Council and obtain approval in accordance with its established procedures.

Further information with respect to this meeting may be obtained from Ben Tafoya, Office of the Assistant Secretary-Energy and Minerals, Department of the Interior, Washington, D.C., telephone number 343-6226.

Dated: June 19, 1975.

HARRY C. MCKITTRICK,
Deputy Assistant Secretary of the Interior.

[FR Doc.75-16442 Filed 6-23-75;8:45 am]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

COMMODITY CREDIT CORPORATION ADVISORY BOARD

Public Meeting

Pursuant to Public Law 92-463 notice is hereby given that the Commodity Credit Corporation Advisory Board will meet at 8:30 a.m. on Tuesday, July 8, 1975 and Wednesday, July 9, 1975, in Room 2-W, of the Administration Building of the U.S. Department of Agriculture, Washington, D.C.

The purpose of this regularly scheduled quarterly meeting of the Advisory Board is to advise the Secretary of Agriculture relative to surveys of the general policies of the Commodity Credit Corporation, including Corporation policies in connection with the purchase, storage and sale of commodities, and the operation of lending and price support programs.

The meeting will be open to the public. Any member of the public may file a written statement with the Board before or within one week following the meeting.

The names of the members of the Advisory Board, Agenda, Summary of the Meeting and other information pertaining to the meeting may be obtained from Mr. Frank G. McKnight, Secretary, Commodity Credit Corporation, Room 202-W, Administration Building, U.S. Department of Agriculture, Washington, D.C.

Signed at Washington, D.C. on June 17, 1975.

E. J. PERSON,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc.75-16279 Filed 6-23-75;8:45 am]

Forest Service

SOUTH KAIBAB GRAZING ADVISORY BOARD

Meeting

The South Kaibab Grazing Advisory Board will meet at 1 p.m. July 7, 1975, in the Ramada Inn Conference Room, 642 E. Bill Williams Avenue, Williams, Arizona.

The following items will be discussed:

1. Results of 1975 Advisory Board Election.
2. Selection of Officers.
3. Finalize new By-Laws.

The meeting will be open to the public. Persons who wish to attend should notify the Forest Supervisor, Kaibab National Forest, P.O. Box 817, Williams, Arizona, telephone 635-4481. Written statements may be filed with the committee before or after the meeting.

Those attending may express their views when recognized by the Chairman.

Dated: June 17, 1975.

KEITH T. PFEFFERLE,
Forest Supervisor.

[FR Doc.75-16348 Filed 6-23-75;8:45 am]

MULTIPLE USE PLAN FOR NORTH END PLANNING UNIT

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for North End Planning Unit, report number USDA-FS-DES (Adm) R1-75-9.

The environmental statement concerns a proposed action to implement a revised Multiple Use Plan for the North End Planning Unit of the Deer Lodge Ranger District, Deerlodge National Forest, in Granite and Powell Counties, Montana. About 41,644 acres of National Forest land are included in the area under consideration. This plan will provide the District Ranger with general management guidance. The planning unit is subdivided into four management units which have different resource potentials and constraints.

This draft environmental statement was transmitted to CEQ on June 13, 1975.

Copies are available for inspection during regular working hours at the following locations:

USDA Forest Service
South Agriculture Bldg., Room 3230
12th St. & Independence Ave., SW
Washington, DC 20250

USDA Forest Service
Northern Region
Federal Building
Missoula, MT 59801

USDA Forest Service
Deerlodge National Forest
P.O. Box 400
Butte, MT 59701

USDA Forest Service
Deer Lodge Ranger District
Deer Lodge, MT 59722

A limited number of single copies are availabe upon request to Forest Supervisor Robert W. Damon, Deerlodge National Forest, P.O. Box 400, Butte, MT 59701.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor Robert W. Damon, Deerlodge National Forest, P.O. Box 400, Butte, MT 59701. Comments must be received by August 13, 1975, in order to be considered in the preparation of the final environmental statement.

LAWRENCE M. WHITFIELD,
Acting Regional Forester, Forest Service, Northern Region.

JUNE 13, 1975.

[FR Doc.75-16333 Filed 6-23-75;8:45 am]

VEGETATION MANAGEMENT USING SELECTIVE HERBICIDES ON THE MALHEUR, UMATILLA, AND WALLOWA-WHITMAN NATIONAL FORESTS

Availability of Final Addendum

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final addendum to the final environmental statement of vegetation management using selective herbicides on the Malheur, Umatilla, and Wallowa-Whitman National Forests, northeastern Oregon and southeastern Washington, for the period July 1, 1975 through June 30, 1976. USDA-FS-R6-DES(Adm) 75-12.

The final addendum concerns a proposed use of herbicides 2,4-D,2,4,5-T, dicamba, and picloram to reduce the competition from native vegetation where it hampers forest management

activities in Oregon and Washington. The proposed uses of the herbicides are for reforestation site preparation, range improvement work, and noxious weed control.

This final addendum was transmitted to CEQ on June 16, 1975. Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service
South Agriculture Bldg., Room 3231
12th & Independence Ave., S.W.
Washington, D.C. 20250

USDA, Forest Service
Pacific Northwest Region
319 S.W. Pine Street
Pendleton, Oregon 97801

Malheur National Forest
139 N.E. Dayton Street
John Day, Oregon 97845

Umatilla National Forest
2517 S.W. Hailey Avenue
Pendleton, Oregon 97801

Wallowa-Whitman National Forest
Federal Building
P.O. Box 907
Baker, Oregon 97814

A limited number of single copies are available upon request to Regional Forester T. A. Schlapfer, Pacific Northwest Region, P.O. Box 3623, Portland, Oregon 97208.

Copies of the final addendum have been sent to various Federal, state, and local agencies as outlined in the CEQ guidelines.

ROBERT R. TYRREL,
Acting Regional Environmental Coordinator Planning, Programming and Budgeting.

JUNE 16, 1975.

[FR Doc.75-16334 Filed 6-23-75;8:45 am]

Rural Electrification Administration

SOUTHERN ILLINOIS POWER COOPERATIVE

Guaranteed Loan Funds

Under the authority of Pub. L. 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $83,000,000 to the Southern Illinois Power Cooperative (SIPC) of Marion, Illinois. The guaranteed loan funds will be used to finance a project consisting of a 160 MW steam generating unit and related facilities.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Thomas Clevenger, Manager, Southern Illinois Power Cooperative, Marion, Illinois 62959.

In order to be considered, proposals must be submitted (within 30 days from the date of this notice) to Mr. Clevenger. The right is reserved to give such considerations and make such evaluation or other disposition of all proposals received as SIPC and REA deems approximate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 17th day of June, 1975.

DONALD C. RUNYON,
Acting Administrator, Rural Electrification Administration.

[FR Doc.75-16425 Filed 6-23-75;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[Docket Nos. N75-331; Y-1175 IS; OILSR No. 0-0261 14-5]

GREEN SAND SUBDIVISION UNIT II

Hearing

Notice is hereby given that:

1. Pacific Paradise Hawaiian Development Corporation, Seymour Frumm, President, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1701 et seq.), received a Notice of Proceedings and Opportunity for Hearing issued May 15, 1975, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Green Sand Subdivision Unit I, located in the County and State of Hawaii, contain untrue statement of material fact or omit to state material facts required to be stated therein as necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received June 6, 1975, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *It Is Hereby Ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on July 17, 1975, at 10:00 a.m.

5. The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before July 10, 1975.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: June 17, 1975.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.75-16353 Filed 6-23-75;8:45 am]

[Docket No. N75-332; Y-1174IS; OILSR No. 0-0261 14-6]

GREEN SAND SUBDIVISION UNIT I

Hearing

Notice is hereby given that:

1. Pacific Paradise Hawaiian Development Corporation, Seymour Frumm, President, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1701 et seq), received a Notice of Proceedings and Opportunity for Hearing issued May 15, 1975, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Green Sand Subdivision Unit I, located in the County and State of Hawaii, contain untrue statement of material fact or omit to state material facts required to be stated therein as necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received June 6, 1975, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *It Is Hereby Ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on July 17, 1975, at 10:00 a.m.

5. The following time and procedure is applicable to such hearing: All affidavits

and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before July 10, 1975.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: June 17, 1975.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.75-16352 Filed 6-23-75;8:45 am]

[Docket No. N-75-334; OILSR No. 0-3357-18-20; 75-27(b)(2)]

LAKE CHAPPARAL

Hearing

Notice is hereby given that:

1. National Development Company, Inc., G. Raymond Speckman, Authorized Agent, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1701 et seq), received a Notice of Suspension dated April 14, 1975, which was sent to the developer pursuant to 15 U.S.C. 1706(e) and 24 1710.45(b)(2) informing the developer of his failure to comply with the request of the Secretary for documents concerning Lake Chapparal, was not effective pursuant to the Act, and the regulations contained in 24 CFR Part 1710.

2. The Respondent filed an Answer received May 29, 1975, in response to the Suspension Order.

3. In said Answer the Respondent requested a hearing on the Suspension Order.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(e) and 24 CFR 1720.165(b), *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the propriety of the Suspension Order will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on July 16, 1975, at 10 a.m.

5. The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before July 9, 1975.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default, and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and the Suspension Order shall be continued in effect.

This notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: June 17, 1975.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.75-16354 Filed 6-23-75;8:45 am]

[Docket Nos. N-75-333; 75-41-IS; OILSR No. 0-3392-42-51]

RAINBOW VALLEY AND RAINBOW VALLEY NO. 2 SUBDIVISION

Hearing

Notice is hereby given that:

1. Rainbow Valley Development Company, Inc., Henry C. Lynch, Jr. Authorized Agent, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1701 et seq), received a Notice of Proceedings and Opportunity for Hearing issued May 5, 1975, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Rainbow Valley and Rainbow Valley No. 2 Subdivision, located in Pottawatomie County, Oklahoma, contain untrue statement of material fact or omit to state material facts required to be stated therein as necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received May 29, 1975, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), It Is Hereby Ordered, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on July 7, 1975, at 10 a.m.

5. The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before June 30, 1975.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: June 17, 1975.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.75-16355 Filed 6-23-75;8:45 am]

Office of the Secretary

[Docket No. D-75-337]

ASSISTANT SECRETARY FOR HOUSING PRODUCTION AND MORTGAGE CREDIT—FEDERAL HOUSING COMMISSIONER

Delegation of Authority

On August 22, 1974, the President signed into law the Housing and Community Development Act of 1974 (Pub. L. 93-383). Title VI of that Act is the National Mobile Home Construction and Safety Standards Act of 1974, under which the Department is required to establish construction and safety standards for mobile homes sold in the United States, to enforce those standards, and otherwise to protect the safety of mobile home occupants. Accordingly, with certain exceptions, the authority to implement Title VI is being delegated to the Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Commissioner.

Section A. Authority Delegated. The Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Commissioner and the Deputy Assistant Secretary for Housing Production and Mortgage Credit—Deputy Federal Housing Commissioner each is authorized to exercise the power and authority of the Secretary of Housing and Urban Development with respect to Title VI of the Housing and Community Development Act of 1974 except as provided in section B.

Section B. Authority Excepted. There is excepted from the authority delegated under section A the power to sue and be sued.

Section C. Authority to Redelegate. The Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Commissioner and the Deputy Assistant Secretary for Housing Production and Mortgage Credit—Deputy Federal Housing Commissioner each is authorized to redelegate to the employees of the Department any of the authority delegated under section A.

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d)).

Effective Date. This delegation of authority is effective as of June 18, 1975.

CARLA A. HILLS,
Secretary of Housing and Urban Development.

[FR Doc.75-16356 Filed 6-23-75;8:45 am]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

NATIONAL MOTOR VEHICLE SAFETY ADVISORY COUNCIL

Notice of Public Meeting

On July 13, 1975, the National Motor Vehicle Safety Advisory Council's Executive Committee will hold open meetings at the Hotel St. Francis in San Francisco, California. The Advisory Council is composed of 25 members, a majority of whom are representatives of the general public, including representatives of State and local governments, with the remainder including representatives of motor vehicle manufacturers, motor vehicle equipment manufacturers, and motor vehicle dealers. The Advisory Council makes recommendations to the Secretary of Transportation on motor vehicle safety and property loss reduction programs carried out by the National Highway Traffic Safety Administration.

The following meeting is subject to the approval of the National Highway Traffic Safety Administrator.

On July 13 at 3:00 p.m. in the Borgia Room of the Hotel St. Francis in San Francisco the Executive Committee will meet with the following agenda:

Long-term agenda planning
Plans for September Council meetings
Old business
New business

For further information contact the NHTSA Executive Secretary, Room 5215, 400 Seventh Street, SW, Washington, D.C., telephone 202-426-2872.

This notice is given pursuant to section 10(a)(2) of Pub. L. 92-463, Federal Advisory Committee Act (FACA), effective January 5, 1973.

Issued: June 16, 1975.

WM. H. MARSH,
Executive Secretary.

[FR Doc.75-16254 Filed 6-23-75;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 25280; Agreement C.A.B. 25164; Order 75-6-88]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Specific Commodity Rates

JUNE 19, 1975.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Traffic Conference 1 of the International Air Transport Association (IATA). The agreement was adopted at the 39th meeting of the TC1 Specific Commodity Rates Board held at Nice, France on May 20-21, 1975 and has been assigned the above C.A.B. agreement number.

With respect to air transportation as defined by the Act, the agreement proposes revisions to the specific commodity rate structure applicable within the Western Hemisphere. We will approve these revisions, outlined in the attachment hereto, which reflect reductions from otherwise applicable general cargo rates.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found that Agreement C.A.B. 25164 is adverse to the public interest or in violation of the Act, provided that approval is subject to the conditions hereinafter ordered.

Accordingly, *it is ordered*, That: Agreement C.A.B. 25164 be and hereby is approved, provided that approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publication; provided further that tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

Agreement CAB 25164

IATA commodity item No.[1]	Specific commodity rate: Cents per kilogram	Specific commodity rate: Minimum weight kilograms	Market
RATES ADDED UNDER EXISTING COMMODITY DESCRIPTIONS			
1400	43	500	Guatemala City to Los Angeles.
	19	500	Guatemala City to Miami.
1430	28	500	Caracas to Miami.[2]
	35	500	Caracas to New York.[2]
1440	39	500	Guatemala City to Washington, D.C.[2]
2211	130	500	Miami to Santiago.[2]
	160	500	New York to Santiago.[2]
	65	500	Santiago to Miami.[2]
2418	80	300	Miami to Paramaribo.[2]
	75	500	
	90	300	New York to Paramaribo.[2]
	85	500	
4230	46	100	Dallas to Mexico City.[2]
	46	100	Houston to Mexico City.[2]
	46	100	Miami to Mexico City.[2]
	46	100	New Orleans to Mexico City.[2]
RATES CHANGED UNDER EXISTING COMMODITY DESCRIPTIONS			
1440	43	1,500	Guatemala City to Washington, D.C.
1447	18	1,000	Santo Domingo to Miami.
2199	36	1,000	Santo Domingo to New York.
9540	30	1,000	Do.
RATES CANCELED UNDER EXISTING COMMODITY DESCRIPTIONS			
1440	43	300	Guatemala City to Los Angeles.
	19	500	Guatemala City to Miami.
	39	1,500	Guatemala City to Washington, D.C.
RATES EXTENDED UNDER EXISTING COMMODITY DESCRIPTIONS			
0050	22	500	Caracas to New York.
0412	21	1,000	Guatemala City to Los Angeles.
1214	28	1,000	Santo Domingo to New York.
1430	40	300	San Jose to Los Angeles.
1440	39	500	Guatemala City to Washington, D.C.
2199	55	500	Guatemala City to New York.
	27	500	San Jose to Miami.[3]
2412	40	1,000	Port of Spain to New York.[2]
4314	73	100	Miami to Barbados.
	24	500	Miami to Port au Prince.[4]
	17	500	Port au Prince to Miami.[4]
9516	36	500	Guatemala City to Los Angeles.

NEW COMMODITY ITEM DESCRIPTIONS

Item No.	Description
0185	Tea.[5]
2211	Yarn, thread, and/or fibres, natural and synthetic; cloth, exclusively in bales, bolts or pieces, not further processed or manufactured; clothing and footwear; textile manufactures namely articles or material made principally of textiles.[5]
3501	Door locks and handles.
4402	Electrical appliances, not elsewhere specified, excluding office machinery.[5]
4403	Stoves, refrigerators, freezers and washing machines.[5]
5300	Safety glass.
6802	Plastic articles, supplies and equipment.[5]

[1] See applicable tariffs for complete commodity descriptions.
[2] Expires Sept. 30, 1976.
[3] Expires June 30, 1976.
[4] Expires Dec. 31, 1975.
[5] Area of application changed to include Western Hemisphere.

[FR Doc.75-16418 Filed 6-23-75;8:45 am]

[Docket No. 22670, etc.; Order 75-6-53]

LOS ANGELES AIRWAYS, INC., ET AL.

Order; Correction

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 11th day of June, 1975.

In the matter of application of Los Angeles Airways, Inc. for continuation of temporary suspension of service and for exemption authority (Docket Nos. 22670, 22500); application of Travel and Transit Improvement Corp. for approval of route transfer (Docket No. 27188); and Los Angeles Airways certificate proceeding (Docket No. 27367).

The Board's order inadvertently omitted an ordering paragraph dismissing Travel and Transit Improvement Corporation's application in Docket 27188 (40 FR 25507, June 16, 1975). Therefore, ordering paragraph 5 should be renumbered as 6 and a new ordering paragraph 5 should be inserted to read as follows:

5. The motion of Travel and Transit Improvement Corporation for leave to withdraw its application be and it hereby is granted, and the application in Docket 27188 be and it hereby is dismissed; and

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

JUNE 17, 1975.

[FR Doc.75-16417 Filed 6-23-75;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[OPP-33000/267; FRL 388-4]

NOTICE OF RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This policy provides that EPA will, upon receipt of every application for registration, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by applicant will be available for examination at the Environmental Protection Agency, Room EB-31, East Tower, 401 M Street SW, Washington D.C. 20460.

On or before August 25, 1975, any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after October 21, 1972, is being used to support an application described in this notice, (c) desires to assert a claim for compensation under section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH-569), Office of Pesticide Programs, 401 M Street SW., Washington D.C. 20460. Every such claimant must include, at a minimum, the information listed in the interim policy of November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy will be processed to completion in accordance with existing procedures. Applications submitted under 2(c) of the interim policy cannot be made final until the 60 day period has expired. If no claims are received within the 60 day period, the 2(c) application will be processed according to normal procedure. However, if claims are received within the 60 day period, the applicants against whom the claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after August 25, 1975.

Dated: June 13, 1975.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

APPLICATIONS RECEIVED (OPP—33000/267)

EPA File Symbol 10445-RA. Calgon Corp., Calgon Center, Box 1346, Pittsburgh PA 15230. H-230 LOW FOAM WATER TREATMENT MICROBIOCIDE. Active Ingredients: Dioctyl dimethyl ammonium chloride 50%; Ethyl alcohol 10%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 3125-102. Chemagro Div. of Baychem Corp., PO Box 4913, Kansas City MO 64120. GUTHION 2L CROP INSECTICIDE. Active Ingredients: *0,0*-Dimethyl *S*-[(4 - oxo - 1,2,3 - benzo - triazin - 3(4*H*) yl)methyl] phosphorodithioate 22.2%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Additional use. PM12

EPA File Symbol 35946-R. Coughlan Prod., Inc., 29 Spring St., West Orange NJ 07052. COUGHLAN ROOT-EATER. Active Ingredients: Copper Sulphate, pentahydrate 99.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM24

EPA File Symbol 1015-LT. Douglas Chem. Co., PO Box 297, Liberty MO 64068. DC-7600 MINT-O-PHENE. Active Ingredients: o-Benzyl p-chlorophenol 4.5%; Sodium dodecyl benzyl sulfonate 5.9%; Isopropyl alcohol 28.8%; Methyl salicylate 0.7%. Method of Support: Application proceeds under 2(c) of interim policy. PM32

EPA File Symbol 1015-LA. Douglas Chem. Co., PO Box 297, Liberty MO 64068. DC-7700 DETERGOPHENE. Active Ingredients: o-Benzyl-p-chlorophenol 4.5%; Sodium alkylate phenyl sulfonate 9.0%; Isopropyl alcohol 18.5%; Methyl Salicylate 2.0%; Ethylene diamine tetraacetic acid, sodium salt 1.0%; Pyrephosphate & phosphate salts 2.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM32

EPA File Symbol 410-IR. Franklin Lab., Inc., 1777 S. Bellaire St., Denver CO 80222. LOUSE - FLY - TICK WETTABLE POWDER FOR LIVESTOCK AND PREMISES. Active Ingredients: 2-chloro-1-(2,4,5-trichlorophenyl) vinyl dimethyl phosphate 50.0%. Method of Support changed from 2(b) to 2(c) of interim policy. PM15

EPA Reg. No. 5905-247. Helena Chem. Co., Clark Tower, 5100 Poplar Ave., Suite 2900, Memphis TN 38137. HELENA BRAND 3/4-3. Active Ingredients: 0,0-Dimethyl s-[(4-oxo-1,2,3-benzotriazin-3 (4H-yl) methyl] phosphorodithioate 8.1%; 0,0-Dimethyl 0-(p-nitrophenyl) phosphorothioate 33.3%; Xylene 24.4%; Aromatic petroleum Distillates 27.3%. Method of Support: Application proceeds under 2(c) of interim policy. PM12

EPA File Symbol 9910-E. Jefferson Food Products Corp., 1542 Fishburn Ave., Los Angeles CA 90063. DAISY ALL PURPOSE BLEACH. Active Ingredients: Sodium Hypochlorite 5.25%. Method of Support: Application proceeds under 2(c) of interim policy. PM34

EPA File Symbol 3635-ENT. Oxford Chem., PO Box 80202, Atlanta GA 30341. OXFORD MINT-D. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 1.6%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 1.6%; Sodium Carbonate 3.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM31

EPA File Symbol 3635-ENN. Oxford Chemicals. OXFORD LEMON-D. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 1.6%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 1.6%; Sodium Carbonate 3.0%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Formula Change. PM31

EPA File Symbol 3635-ENA. Oxford Chemicals. DAXCHEM PINE-DC. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 1.6%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 1.6%; Sodium Carbonate 3.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM31

EPA File Symbol 3635-ENI. Oxford Chemicals. OXFORD PINE-D. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 1.6%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 1.6%; Sodium Carbonate 3.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM31

EPA File Symbol 11525-GN. Peterson/Puritan, Inc., Hegeler Lane, Danville IL 61832. P/P DISINFECTANT DEODORANT SPRAY "H". Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 0.072%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 0.072%; Ethanol 53.-088%. Method of Support: Application proceeds under 2(c) of interim policy. PM31

EPA File Symbol 11525-GR. Peterson/Puritan, Inc., Hegeler Lane, Danville IL 61832. P/P DISINFECTANT DEODORANT SPRAY "G". Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 0.072%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 0.072%; Ethanol 53.-088%. Method of Support: Application proceeds under 2(c) of interim policy. PM31

EPA Reg. No. 18035-2. Private Label Chem., Inc., 2280 Terminal Rd., St. Paul MN 55113. PLC QUAT. Active Ingredients: n-alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 2.25%; n-Alkyl (68% C12 32% C14), dimethyl ethylbenzyl ammonium chlorides

2.25%; sodium carbonate 3.0%; Tetrasodium ethylenediamine tetrasecetate 1.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 4981-LT. Redwood Chem. Inc., 1215 Jackson, Houston TX 77003. REDWOOD'S INSECTICIDE HOUSEHOLD SPRAY. Active Ingredients: Ronnel O,O-dimethyl O-(2,4,5-trichlorophenyl) phosphorathioate 1.00%; Pyrethrins, 0.05%; Technical piperonyl butoxide 0.25%; Petroleum distillate 98.70%. Method of Support: Application proceeds under 2(c) of interim policy. PM15

EPA File Symbol 148-RERO. Thompson-Hayward Chem. Co., PO Box 2383, 5200 Speaker Rd., Kansas City KS 66110. PROPANIL TECHNICAL. Active Ingredients: 3',4'-Dichloropropionanilide 91.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM25

EPA Reg. No. 400-84. Uniroyal Chem. Inc., Amity Rd., Bethany CT 06526. ROYAL MH-30. Active Ingredients: Potassium salt of 6-hydroxy-3-(2H) pyridazinone 21.7%. Method of Support: Application proceeds under 2(c) of interim policy. PM25

EPA File Symbol 25023-L. Warner-Lambert Co., 201 Tabor Rd., Morris Plains NJ 07950. LH401-26 HOUSEHOLD DISINFECTANT. Active Ingredients: Ethyl Alcohol 56.81%; n-alkyl (50% C14, 40% C12, 10% C16) dimethyl benzyl ammonium chloride 0.315%; n-alkyl (C18 92%, C16 8%); n-ethyl Morpholinium Ethyl Sulphates 0.015%. Method of Support: Application proceeds under 2(a) of interim policy. PM31

[FR Doc.75-16170 Filed 6-23-75;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

HIGH ENERGY PHYSICS ADVISORY PANEL

Notice of Meeting

JUNE 16, 1975.

The High Energy Physics Advisory Panel will meet on July 17, 1975. The meeting will be held in the Auditorium of ERDA Headquarters in Germantown, Maryland. The portion of the meeting which will be open to the public will begin at 9 a.m. and end at approximately 2 p.m.

The Panel will discuss the study by the Subpanel on New Facilities and the OMB request for a study on long term plans for high energy physics; recent discussions relative to the establishment of a Joint US-USSR Coordinating Committee on Research in the Fundamental properties of Matter; and the current status of the budget requests for the High Energy Physics Program.

In addition to the public sessions, the Panel plans to hold two (2) executive sessions. These sessions will include discussion of future allocation if resources for operations, possible future shutdown of some facilities and priorities among proposed future construction projects. The first session is scheduled to begin at 8:30 a.m. prior to the open session; the second will begin at approximately 2 p.m. and continue throughout the end of the meeting at approximately 6 p.m.

I have determined, in accordance with subsection 10(d) of Pub. L. 92-463 that these executive sessions will consist of an exchange of opinions and formulation of recommendations, the discussion of which, if written would fall within exemption (5) of 5 U.S.C. 552(b).

It is essential to close these portions of the meeting to protect the free interchange of internal views and to avoid undue interference with Agency or Committee operation.

The Chairman is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business.

With respect of public participation in the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements on the topics for discussion may do so by mailing 25 copies thereof, postmarked, if possible, no later than June 30, 1975, to the Executive Secretary, High Energy Physics Advisory Panel, Dr. Robert M. Woods, Jr., Division of Physical Research, U.S. Energy Research and Development Administration, Washington, D.C. 20545. Minutes of the meeting will be kept open for 30 days for receipt of written statements for the record.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement, and shall set forth reasons justifying the need for such oral statements and their usefulness to the Panel. To the extent that the time available for the meeting permits, the Panel will receive oral statements during a period of not more than 30 minutes at an appropriate time, chosen by the Chairman.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Panel, who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call to the office of the Executive Secretary of the Panel. His telephone number is Area Code 301-973-3367.

(e) Questions at the meeting may be asked only by members of the Advisory Panel.

(f) Seating for the public will be made available on a first-come, first-served basis.

(g) Copies of minutes of public sessions will be made available for copying, following their acceptance by the Panel at its next meeting, in accordance with the Federal Advisory Committee Act, at the U.S. Energy Research and Development Administration's Public Document Room, 1717 H Street NW., Washington, D.C., upon payment of all charges required by law.

HARRY L. PEEBLES,
Deputy Advisory Committee Management Officer.

[FR Doc.75-16257 Filed 6-23-75;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20274; FCC 75-652]

INTERGOVERNMENTAL MARITIME CONSULTATIVE ORGANIZATION

Preparation of Recommended Operational Standards; Second Notice of Inquiry

In the matter of Intergovernmental Maritime Consultative Organization: preparation of recommended operational standards applicable to equipment mandatorily fitted aboard vessels subject to the Safety of Life at Sea Convention.

1. The Commission is issuing this Notice as a means of informing the public and to obtain comments of interested persons in regard to action by the Intergovernmental Maritime Consultative Organization (IMCO), through its Maritime Safety Committee (MSC) and Subcommittee on Radiocommunications, to develop operational standards applicable to radio equipment mandatorily fitted aboard vessels subject to the Safety of Life at Sea (SOLAS) Convention. These operational standards, when completed and adopted by IMCO, will take the form of recommendations associated with the SOLAS Convention.

2. The Subcommittee on Radiocommunications established a Working Group on Operational Standards which has held three meetings concurrent with scheduled sessions of the Radiocommunications Subcommittee. The next meeting of the Working Group will be convened in September 1975 by the Subcommittee on Radiocommunications.

3. The schedule of the working group calls for operational standards to be prepared for the following equipments:

Radiotelephone watch receiver (2182 kHz)
Sources of energy
Antenna and earth arrangements for the radiotelephone system and the main and reserve radiotelegraph system
Radiotelephone alarm signal generator
Portable radio apparatus for survival craft, including self-supporting antenna
Radiotelegraph auto alarm installation
Radiotelegraph installation for fitting in lifeboats
EPIRBs
Radiotelegraph installations
VHF radiotelephone installations

4. The Working Group on Operational Standards during its February 1975 meeting combined the standards for radiotelephone watch receivers and auto alarms because of the similarity between these equipments. The Subcommittee on Radiocommunications reviewed the revised text at the final assembly meeting and directed the working group at its next meeting to separate the two equipment standards because several technical matters could not be resolved by that body concerning the auto alarm portion of the draft document. It is expected that these standards will be dissociated and further development of the radiotelephone watch receiver and auto alarm standard will continue at the September 1975 IMCO meeting.

5. The "Provisional Operational Standard for Radiotelephone Watch Receivers

and Radiotelephone Auto Alarms", COM XIV/WP.5, February 26, 1975, prepared by the working group at the February 1975 meeting is attached hereto as Appendix 1.[1] Interested parties are requested to provide comments on the watch receiver and auto alarm portions of the provisional standards. Comments received in this regard will be used to aid the members of the United States delegation to prepare for the Radiocommunications Subcommittee meeting scheduled for the period September 15–19, 1975, in London, England. The Commission is represented on the delegation and in the Working Group on Operational Standards.

6. In view of the foregoing, a notice of inquiry is hereby adopted. Authority for this action is contained in sections 4(i), 303 and 403 of the Communications Act of 1934, as amended.

7. Interested persons may file comments on or before July 18, 1975, and reply comments on or before July 28, 1975. Comments and reply comments shall be filed pursuant to § 1.419(b) which requires, among other things, an original and 14 copies of all filings. All relevant and timely comments and reply comments filed in this Docket will be considered by the Commission before further action is taken. The Commission may also take into account other pertinent information before it in addition to specific comments elicited by the Notice in this proceeding.

8. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

Adopted: June 3, 1975.

Released: June 17, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-16309 Filed 6-23-75;8:45 am]

[Report No. 758]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

JUNE 16, 1975.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cut-off dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60 day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to §§ 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND RADIO SERVICE

21698-CD-P-75, Empire Paging Corporation (KEC738), C.P. for additional facilities to operate on 454.10 MHz at Loc. #2: 5 Horizon Road, Fort Lee, New Jersey.

21699-CD-AL-(2)-75, Joseph A. Smiley d/b as Central Radio Telephone, Consent to Assignment of License from Joseph A. Smiley d/b as Central Radio Telephone Assignor to Central Radio Telephone, Inc., Assignee. Station: KMM599 & KMM640 Mountain View, California.

21700-CD-P-75, Vincennes Telephone Answering Service, Inc. (New), C.P. for a new one-way station to operate on 152.24 MHz to be located Decker Road and Highway 41, 2.1 miles South of Vincennes, Indiana.

21701-CD-P-75 (Resubmitted), Answerite Professional Telephone Service (KTR989), C.P. to relocate facilities operating on 152.06 MHz: 800 N. A1A Hwy, Indialantic, Florida.

21702-CD-P-75, Peter A. Bakal (KED364), C.P. for additional facilities to operate on 152.24 MHz at Loc. #3: Alfred E. Smith Building, Albany, New York.

21703-CD-P-75, McDonough Telephone Cooperative, Inc. (KSJ766), C.P. for additional facilities to operate on 152.60 MHz. 119 Macomb Street, Colchester, Illinois.

21704-CD-P-75, The Pacific Telephone and Telegraph Company (KMB302), C.P. to replace and relocate facilities operating on 35.38 MHz (Base), and 35.38 (Standby), at Loc. #1: Holly Sugar Co., 4.5 miles SSW of Brawley, California.

Correction

21672-CD-P-75, Charles Rotkin d/b as Northeast Communications correct entry to read reinstated, pursuant to reconsideration, to status of Public Notice 31088, Sept. 30, 1974, File No. 20444-CD-P-75.

RENEWAL for Developmental License as follows:

21705-CD-R-75, South Central Bell Tel. Co. KLF514, Birmingham, Alabama. Term July 12, 1975 to July 12, 1976.

21706-CD-R-75, New York Telephone Company KC5161, New York, N.Y. Term July 6, 1975 to July 6, 1976.

21707-CD-R-75, Pacific Northwest Bell Telephone Company KF2010, Seattle, Washington. Term July 14, 1975 to July 14, 1976.

RURAL RADIO

60354-CR-P-75, St. John Cooperative Telephone & Telegraph Company (New), C.P. for a new Rural Subscriber-Fixed station to operate on 157.83 MHz. At any temporary-fixed location within the territory of the grantee.

POINT-TO-POINT MICROWAVE RADIO SERVICE

The following renewal applications for the term ending August 1, 1980 have been received:

THE OHIO BELL TELEPHONE COMPANY

Call Sign	*Transmitting Location*
KQG 58	(40 units) within the territory of the grantee.
KQH 37	Barnesville, Ohio.
KQH 38	Clarington, Ohio.
KQH 44	Toledo, Ohio.
KQH 45	Swanton, Ohio.
KQH 46	Napoleon, Ohio.
KQH 47	Defiance, Ohio.
KQH 48	Bryan, Ohio.
KQL 27	Cleveland, Ohio.
KQL 28	Brunswick, Ohio.
KQL 29	West Salem, Ohio.
KQL 30	Hayesville, Ohio.
KQL 31	Butler, Ohio.
KQL 32	Mt. Vernon, Ohio.
KQL 33	Johnstown, Ohio.
KQL 60	Newark, Ohio.
KQL 61	Granville, Ohio.
KQM 37	Shalersville, Ohio.
KQM 38	Warren, Ohio.
KQM 39	Youngstown, Ohio.
KQM 46	Akron, Ohio.
KQM 47	Brecksville, Ohio.
KQN 47	Steubenville, Ohio.
KQN 48	Hopedale, Ohio.
KQN 49	Uhrichsville, Ohio.
KQN 53	Chardon, Ohio.
KQN 54	Painesville, Ohio.
KQN 55	Thompson, Ohio.
KQN 56	Ashtabula, Ohio.
KQN 68	Navarre, Ohio.
KQN 69	Bowling Green, Ohio.
KQN 70	Findlay, Ohio.
KQN 71	Findlay, Ohio (C.O.)
KQN 72	Baltic, Ohio.
KQN 73	Dresden, Ohio.
KQN 74	Brownsville, Ohio.
KQN 75	Hopewell, Ohio.
KQN 76	Zanesville, Ohio.
KQN 77	Carroll, Ohio.
KQN 78	Lancaster, Ohio.
KQN 79	Mt. Sterling, Ohio.
KQN 80	Jamestown, Ohio.
KQN 81	Springboro, Ohio.
KQN 82	Dayton, Ohio.
KQN 83	Rochester, Ohio.
KQN 84	Maxville, Ohio.
KQN 96	Youngstown, Ohio.
KQO 24	Edinburg, Ohio.
KQO 25	Twinsburg, Ohio.
KQO 26	Cleveland, Ohio.
KQO 27	Paris, Ohio.

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[1] Filed as part of the original document.

[1] All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations and other requirements.

[2] The above alternative cut-off rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the rules).

Call sign	Location
KQO 38	Canton, Ohio.
KQO 39	Manchester, Ohio.
KQO 44	Warren, Ohio.
KQO 58	Catawba, Ohio.
KQO 59	Springfield, Ohio.
KQO 75	Marietta, Ohio.
KQO 76	Sharpsburg, Ohio.
KSV 38	Ironton, Ohio.
KSV 39	Gallipolis, Ohio.
KVI 38	Columbus, Ohio.
KVI 39	Olive Green, Ohio.
KVI 40	Booming Grove, Ohio.
KVI 41	Upper Sandusky, Ohio.
KVI 42	New Riegel, Ohio.
KZA 67	Hopetown, Ohio.
KZA 68	Beaver, Ohio.
KZA 69	Buckhorn, Ohio.
WJM 84	Gibsonburg, Ohio.
WJM 85	Fremont, Ohio.
WJM 86	Castalia, Ohio.
WJM 87	Sandusky, Ohio.
WQO 51	Bloomfield, Ohio.

MICHIGAN BELL TELEPHONE COMPANY

Call Sign	Location
KQA32	Iron Mountain, Mich.
KQA37	Parma, Mich.
KQA43	Potterville, Mich.
KQA44	Kalkaska, Mich.
KQA55	Sigma, Mich.
KQA56	Roscommon, Mich.
KQA58	West Branch, Mich.
KQA60	Standish, Mich.
KQA63	Linwood, Mich.
KQA78	Ann Arbor, Mich.
KQA79	Plymouth, Mich.
KQE78	St. Ignace, Mich.
KQE80	S. S. Marie, Mich.
KQE82	Traverse City, Mich.
KQE89	Marquette, Mich.
KQE90	Gratiot Lake, Mich.
KQF43	Pine Run, Mich.
KQG59	Flint, Mich.
KQH43	Mackinac Island, Mich.
KQH74	MBT Territory, Mich. (temporary fixed).
KQH77	Atlas, Mich.
KQH78	Millington, Mich.
KQI61	Central Lake, Mich.
KQI62	Stutsmanville, Mich.
KQI63	Allenville, Mich.
KQI64	Escanaba, Mich.
KQI65	Forsyth, Mich.
KQI66	Hessel, Mich.
KQI67	Rexton, Mich.
KQI68	Blaney Park, Mich.
KQI69	Cooks, Mich.
KQI70	Perkins #1, Mich.
KQI80	Detroit, Mich.
KQI82	Oxford, Mich.
KQI83	Mt. Clemens, Mich.
KQI84	Ralph, Mich.
KQK33	Saranac, Mich.
KQK34	Langston, Mich.
KQK35	Rogers Dam, Mich.
KQK36	Evart, Mich.
KQK37	Cadillac, Mich.
KQM33	Ortonville, Mich.
KQM36	Lansing, Mich.
KQM41	Saginaw, Mich.
KQM95	Cedarville, Mich.
KQM96	Detour, Mich.
KQO78	La Branche, Mich.
KSV68	Southfield, Mich.
KVH86	West Branch C.O., Mich.
KVU86	Pontiac C.O., Mich.
KVU 87	Milford, Mich.
KYZ99	Perkins #2, Mich.
KZI57	Jackson, Mich.
KZI65	Petoskey, Mich.
WAN55	Dansville, Mich.
WAS429	Cutlerville, Mich.
WAS494	Midland, Mich.
WAX85	Grand Rapids, Mich.
WJL82	Herman, Mich.
WJL83	Dodgeville, Mich.
WJL84	Ripley (Houghton), Mich.
WJL85	Amasa, Mich.
WSM76	Battle Creek, Mich.

NEW YORK TELEPHONE COMPANY

Call sign	Location
KEA67	North Staten Island, N.Y.
KEA68	140 West St., New York City, N.Y.
KEB29	Any temporary fixed location within the territory of the Grantee.
KED85	Hempstead, N.Y.
KEE87	Niagara Falls, N.Y.
KEE88	Potsdam, N.Y.
KEE89	Massena, N.Y.
KEF74	Auburn, N.Y.
KEF75	Van Buren, N.Y.
KEF76	Syracuse, N.Y.
KEH92	Albany, N.Y.
KEH93	Rotterdam Junction, N.Y.
KEH94	Schnectady, N.Y.
KEJ22	Lewiston, N.Y.
KEK80	Henrietta, N.Y.
KEK81	Clay, N.Y.
KEK82	Edic, N.Y.
KEK83	Moses Dam, N.Y.
KEK84	Buffalo, N.Y.
KEK85	Rochester, N.Y.
KEK86	Amboy Center, N.Y.
KEK87	Utica, N.Y.
KEK93	Colton, N.Y.
KEL60	Poughkeepsie C.O., N.Y.
KEL65	Plainview, N.Y.
KEL90	Patchogue, N.Y.
KEL91	Pan Am Bldg., New York City, N.Y.
KEM20	West Riverhead, N.Y.
KEM21	Riverhead, N.Y.
KEM47	Halihan Hill, N.Y.
KEM61	Poughkeepsie (IBM), N.Y.
KEM62	Illinois Mountain, N.Y.
KGC85	J. F. Kennedy, Jamaica, N.Y.
KGC86	Silver Towers, Kew Gardens, N.Y.
KVU63	Holland, N.Y.
KVU64	Franklinville, N.Y.
KVU65	Alma, N.Y.
KVU66	Savage Hollow, N.Y.
KVU67	Olean, N.Y.
KXR79	Beadle Mountain, N.Y.
KXR80	Glens Falls, N.Y.
KYJ76	Jamaica C.O., N.Y.
KYN56	Buffalo WNED, N.Y.
KYN57	Vernal, N.Y.
KYN58	Pinnacle Hill, N.Y.
KYN59	Ellenville, N.Y.
KYN60	Kinderhook, N.Y.
KYN61	Schenectady WMHT, N.Y.
KYN62	Cherry Valley, N.Y.
KYN63	Deerfield, N.Y.
KYN64	Syracuse WCNY, N.Y.
KYN65	Phelps, N.Y.
KYN66	Jackie Jones, N.Y.
KZI46	New Berlin, N.Y.
KZI47	Windsor, N.Y.
WAN28	Smartville, N.Y.
WAN30	Adams Center, N.Y.
WAN31	Watertown, N.Y.
WDD41	Willoughby St., Brooklyn, N.Y.
WGI68	Binghamton SUNY, N.Y.
WKR89	Barnes Corners, N.Y.
WPX89	Oneonta, N.Y.

BELL TELEPHONE COMPANY OF NEVADA

Call Sign	Location
KOE86	In any temporary fixed location within the territory of the Grantee
KOP45	Las Vegas, Nev.
KOP47	Peavine Peak, Nev.
KOR51	Potosi Mountain, Nev.
KOT47	Angel Peak, Nev.
KOY38	Mr. Rose, Nev.
KPE96	Spotted Range, Nev.
KPF81	Reno, Nev.
KPF88	Eagle Ridge, Nev.
KPF89	Black Mountain, Nev.
KPF90	Rabbit Springs, Nev.
KPF91	Columbus, Nev.
KPF92	Montezuma, Nev.
KPF94	Ragged Top, Nev.
KPF95	Florida Canyon, Nev.
KPF96	Winnemucca Mountain, Nev.
KPR66	Mercury, Nev.
KPR67	Test Site, Nev.
KPR96	McClellan Peak, Nev.
KPR97	Churchill Butte, Nev.
KPR98	Yerington, Nev.
KPX50	Carson City, Nev.
KPX53	Henderson, Nev.
KPY21	Topaz Lake, Nev.
KPY26	Booker Mountain, Nev.
KPY31	Murry Summit, Nev.
KPY32	Ely, Nev.
KPZ51	Battle Mountain, Nev.
KPZ52	Mt. Lewis, Nev.
KVU44	Gold Mountain, Nev.
KVU45	Bare Mountain, Nev.
KYJ40	Searchlight, Nev.
WAD74	Tonopah, Nev.
WAH640	Sandy, Nev.
WAY96	Quinn River Crossing, Nev.
WAY97	Denio Summit, Nev.
WBO42	Cactus Flat, Nev.
WBP36	Orovada, Nev.
WIV56	Virginia Peak, Nev.
WIV57	Lovelock, Nev.
WIV58	Stillwater Range, Nev.
WKS32	Austin, Nev.
WKS33	Eureka, Nev.
WKS34	Kimberly, Nev.
WKS35	Connors Pass, Nev.
WKS36	Sacramento Pass, Nev.
WSL68	Virginia City, Nev.

4364-CF-P-75, Southwestern Bell Telephone Company (WOE86), 2.5 Miles NE of Belfast, Arkansas. Lat. 34°26'36" N, Long. 92°26'03" W. C.P. to add antenna and frequency 6093.5V MHz toward Little Rock, Arkansas on azimuth 24°08'; add 6093.5H MHz toward a new point of communication at Malvern, Arkansas on azimuth 239°51'.

4365-CF-P-75, Same (KYJ47), 715 Louisiana Street, Little Rock, Arkansas. Lat. 34°44'30" N. Long. 92°16'20" W. C.P. to add frequency 6345.5H MHz toward Belfast, Arkansas on azimuth 204°13'.

4366-CF-P-75, Same (NEW), On East Side of Hwy. 9, 4.5 Miles SE of Malvern, Arkansas. Lat. 34°17'12" N. Long. 92°45'30" W. C.P. for a new station on frequency 6345.5V MHz toward Belfast, Arkansas on azimuth 59°40'; add 6345.5H MHz toward Arkadelphia, Arkansas on azimuth 237°35'.

4367-CF-P-75, Same (NEW), 1.2 Miles SW of Arkadelphia, Arkansas. Lat. 34°06'27" N. Long. 93°05'48" W. C.P. for a new station on frequency 6093.5V MHz toward Malvern, Arkansas on azimuth 57°24'; add 6093.5H MHz toward Gurdon, Arkansas on azimuth 181°39'.

4368-CF-P-75, Same (NEW), 2.6 Miles ESE of Gurdon, Arkansas. Lat. 33°53'57" N. Long. 93°06'14" W. C.P. for a new station on frequencies 6345.5V MHz toward Arkadelphia, Arkansas on azimuth 01°39', and 6345.5H MHz toward Prescott, Arkansas on azimuth 261°22'.

4369-CF-P-75, Same (NEW), 3.9 Miles NNW of Prescott, Arkansas. Lat. 33°51'26" N. Long. 93°25'53" W. C.P. for a new station, on frequencies 6093.5V MHz toward Gurdon, Arkansas on azimuth 81°11', and 6093.5H MHz toward Hope, Arkansas on azimuth 207°05'.

4370-CF-P-75 (NEW), 1.8 Miles ESE of Hope, Arkansas. Lat. 33°39'36" N. Long. 93°33'07" W. C.P. for a new station on frequency

6345.5V MHz toward Prescott, Arkansas on azimuth 27°01'.

4385–CF–R–75, Pacific Northwest Bell Telephone Company (KPR65), Location: Within the territory of the Grantee. Application for Renewal of Radio Station License (Developmental) expiring July 26, 1975. Term: July 26, 1975 to July 26, 1976.

4378–CF–TC–(2)–75, Blue Mountain Telephone, Inc. Consent to Transfer of Control from James F. and Patricia Z. Bodie et al, Transferor, to Telephone Utilities, Inc., Transferee, for stations WQQ24—Spray, Oregon and WQQ23—Monument, Oregon.

4393–CF–P–75, Northwestern Bell Telephone Company (WQN67), 13320 15th Avenue North, Plymouth, Minnesota. Lat. 44°-59'44" N. Long. 93°26'55" W. C.P. to add frequencies 4090V and 4170V MHz toward Rockford, Minnesota on corrected azimuth 298°02'.

4392–CF–P–75, Same (WQN68), on County Road #18, 1 Mile North of Rockford, Minnesota. Lat. 45°06'13" N. Long. 93°44'10" W. C.P. to correct co-ordinates, ground elevation and all azimuths; add frequencies 4050V and 4130V MHz toward Plymouth, Minnesota on azimuth 117°50'; add 4050H and 4130H MHz toward Annandale, Minnesota on azimuth 295°50'.

4391–CF–P–75, Same (WQN69), on County Road #5, 2 Miles South of Annandale, Minnesota. Lat. 45°14'08" N. Long. 94°-07'25" W. C.P. to correct all azimuths and path distance to St. Cloud; add frequencies 4090H and 4170H MHz toward Rockford, Minnesota on azimuth 115°34'; add 4090H and 4170H MHz toward St. Cloud, Minnesota on azimuth 352°01'.

4390–CF–P–75, Same (WQN73), 4 Miles South of St. Cloud city limits, Minnesota. Lat. 45°32'15" N. Long. 94°11'02" W. C.P. to correct co-ordinates, all azimuths and path distance to Annandale, and overall height of antenna structure; add frequencies 4050H and 4130H MHz toward Annandale, Minnesota on azimuth 171°58'; add 3970V MHz toward Little Falls, Minnesota on azimuth 351°40'.

4389–CF–P–75, Same (WQN72), on State Hwy. #27, 3.5 Miles East of Little Falls, Minnesota. Lat. 45°58'21" N. Long. 94°-16'31" W. C.P. to correct ground elevation, overall structure height above ground, azimuth to St. Cloud and antenna center line heights; add frequencies 4010V MHz toward St. Cloud, Minnesota on azimuth 171°36'; add 4010V MHz toward Brainerd, Minnesota on azimuth 08°39'.

4388–CF–P–75, Same (KAS91), South 10th Street and Ronald Avenue, Brainerd, Minnesota. Lat. 46°20'17" N. Long. 94°11'42" W. C.P. to add frequencies 3970V MHz toward Little Falls, Minnesota on azimuth 188°42'; add 3890 H. MHz toward Motley, Minnesota on azimuth 267°33'.

4387–CF–P–75, Same (KAU49), 1.5 Miles SW of Motley, Minnesota. Lat. 46°19'22" N. Long. 94°40'32" W. C.P. to add frequencies 3930 H. MHz toward Brainerd, Minnesota on azimuth 87°12'; add 3930H MHz toward Wadena, Minnesota on corrected azimuth 287°50' and correct path distance.

4386–CF–P–75, Same (KAU50), 500' ENE of SW Corner of Wadena, Minnesota. Lat. 46°25'41" N. Long. 95°09'11" W. C.P. to correct co-ordinates, ground elevation, azimuth and path distance to Motley; add frequency 3890 H. MHz toward Motley, Minnesota on azimuth 107°30'.

4394–CF–P–75, The Bell Telephone Company of Pennsylvania. (WGI56) 222 South Main Street, Wilkes Barre, Pennsylvania. Lat. 41°14'29" N. Long. 75°53'20" W. C.P. to change alarm center address and add frequency 11325.0V MHz toward Lookout, Pennsylvania on azimuth 81°11".

4395–CF–P–75, Same (KIL37), Lookout, 4.7 Miles SE of Dupont, Pennsylvania. Lat. 41°15'45" N. Long. 75°42'26" W. C.P. to change alarm center address and add frequencies 6123.1V MHz toward Farm Flats, Pennsylvania on azimuth 177°53'; add 10875.0V MHz toward Wilkes Barre, Pennsylvania on azimuth 261°18'.

4396–CF–P–75, Same (KIL21), Farm Flats, 3.4 Miles NE of Jim Thorpe, Pennsylvania. Lat. 40°54'13" N. Long. 75°41'23" W. C.P. to change alarm center address and add frequencies 6375.2H MHz toward Allentown, Pennsylvania on azimuth 151°51'; add 6375.2H MHz toward Lookout, Pennsylvania on azimuth 357°54'.

4400–CF–P–75, Same (KIK88), 723 Linden Street, Allentown, Pennsylvania. Lat. 40°-36'13" N. Long 75°28'26" W. C.P. to add frequency 6123.1V MHz toward Farm Flats, Pennsylvania on azimuth 331°23'.

4397–CF–P–75, United Telephone Company of Ohio (NEW), 0.13 Mile SE of Corner of Russel & Studevant Roads, Sidney, Ohio. Lat. 40°18'02" N. Long. 84°10'11" W. C.P. for a new station on frequencies 11265.0V and 11505.0V MHz toward Gutman, Ohio on azimuth 21°17'.

4398–CF–P–75, Same (NEW), 1.5 Miles North of the Jct. of S.R. 65 and Kuenstle Road in Gutman, Ohio. Lat. 40°32'36" N. Long. 84°-02'45" W. C.P. for a new station on frequencies 10855.0H 11095.0H MHz toward Lima, Ohio on azimuth 346°29'; 10935.0V 10775.0V MHz towdard Bellefontaine, Ohio on azimuth 125°04'; and 10815.0V 11055.0V MHz toward Sidney, Ohio on azimuth 291°22'.

4399–CF–P–75, Same (NEW), 122 South Elizabeth Street, Lima, Ohio. Lat. 40°44'20" N. Long. 84°06'27" W. C.P. for a new station on frequencies 11385.0H and 11625.0H MHz toward Gutman, Ohio on azimuth 166°27'.

Corrections:

4209–CF–ML–75, American Telephone and Telegraph Company (KG 26), Springfield Twp., Pennsylvania. Int. 40°05'02" N. Long. 75°11'19" W. Correct entry in Public Notice #757 dated June 9, 1975 to read: Mod. of License to change polarity from Horizontal to Vertical on frequencies 3730 3810 3890 and 3970 MHz toward Philadelphia, Pennsylvania on azimuth 168°40'.

4045–CF–R–75, The Mountain States Telephone and Telegraph Company. Correct Call Sign to read KAQ85. All other particulars to remain as reported in Public Notice #754 dated May 19, 1975.

4355–CF–P–75, United States Transmission Systems, Inc. (WAH497), Bacton Hill Road, 5 Miles North of West Chester, Pennsylvania. Lat. 40°02'50" N. Long. 75°35'11" W. C.P. to replace transmitter and change 6256.5V MHz to 6226.9H MHz toward Tylers Port, Pa. on azimuth 23°18'.

4356–CF–P–75, Same (WAH496) Hill Road, 2 Miles West of Tylers Port, Pennsylvania, Lat. 40°20'43" N. Long. 75°25'07" W. C.P. to replace transmitter, change antenna location and change 6034.2V MHz to 5945.2H MHz towards West Chester, Pa. on azimuth 203°24'; 6093.5V MHz to 5945.2V MHz towards a new point of communication at Ferndale, Pa. on azimuth 48°06'.

4357–CF–MP–75, Same (WAH497), Bacton Hill Road, 5 miles North of West Chester, Pennsylvania. Lat. 40°02'50" N. Long. 75°-35'11" W. Mod. of C.P. to add 6226.9H MHz toward a new point of communication at Philadelphia, Pa. on azimuth 106°16'.

4358–CF–P–75, Same (New), Center Square Building, 167 H and Market Streets, Philadelphia, Pennsylvania. Lat. 39°57'08" N. Long. 75°10'01" W. C.P. for a new station on 5945.2H MHz towards West Chester, Pa. on azimuth 286°33' and 5945.2V MHz towards Norristown, Pa. on azimuth 322°38'.

4359–CF–P–75, Same (WAH495) 2.7 Miles ENE of Ferndale, Pennsylvania. Lat. 40°32'33" N. Long. 75°07'48" W. C.P. to change antenna location, coordinates, power and change 6197.2V MHz to 6226.9V MHz towards Tylers Port, Pa. on azimuth 228°17'; 6315.9V MHz to 6226.9V MHz toward Neschanic, N.J. on azimuth 103°04'.

4360–CF–P–75, Same (WAH494) Zion Road, 2.0 Miles SSW of Neschanic, New Jersey. Lat. 40°28'13" N. Long. 74°43'36" W. C.P. to change antenna location, replace transmitter and change coordinates; change 6034.2V MHz to 5945.2H MHz toward a new point of communication at Newark, N.J. on azimuth 58°5'; 6063.8V MHz to 5945.2V MHz toward a new point of communication at Ferndale, Pa. on azimuth 283°20'.

4361–CF–P–75, Same (WAH493), Newark, New Jersey. Lat. 40°44'04" N. Long. 74°09'59" W. C.P. to change antenna location, coordinates, replace transmitter and change 1109.5V MHz to 6226.9H MHz toward Neschanic, N.J. on a new azimuth 238°27'; 6197.2V MHz to 6226.9V MHz toward New York, N.Y. on a new azimuth 103°43'.

4362–CF–P–75, Same (WAH492), First National Bank, 20 Exchange Place, New York, New York. Lat. 40°42'19" N. Long. 74°00'-36" W. C.P. to change antenna location, coordinates, replace transmitter and change 1150.5V MHz to 5945.2V MHz toward a new point of communication at Newark, N.J. on azimuth 283°49'.

4056–CF–P–75, United Wehco, Inc. (KEW55), England, Arkansas. Lat. 34°34'31" N. Long. 91°59'24" W.C.P. to add 6004.5H MHz and 6063.8H MHz toward Little Rock AFB, Arkansas, via path intercept on existing azimuth.

4343–CF–P–75, United Video, Inc. (WAS472), Tulsa, Oklahoma. Lat. 36°05'58" N. Long. 95°54'05" W. C.P. to add 10875.0H MHz toward Claremore, Oklahoma, on azimuth 41°6'.

4363–CF–P–75, United States Transmission Systems, Inc. (New), Norristown State Hospital, Norristown, Pennsylvania. Lat. 40°08'25" N. Long. 75°21'15" W. C.P. for a new station on 6197.2H MHz toward Philadelphia, Pa. on azimuth 142°31'.

4348–CF–P–75, Southern Pacific Communications Company (WOF27), Holiday Hill, 2 Miles SW of Wrightwood, California. Lat. 34°21'04" N. Long. 117°40'26" W. C.P. to change polarization from H to V on 6004.5 MHz and add 6063.8V MHz toward Los Angeles, Calif. on azimuth 237°32'.

4349–CF–P–75, Same (WOF28), 610 South Main Street, Los Angeles, California. Lat. 34°02'43" N. Long. 118°14'56" W. C.P. to change polarization from V to H on 6375.2 MHz toward Holiday Hill, Calif. on azimuth 57°13' and change point of communication from Long Beach, Calif. to Firestone Park, Calif. on azimuth 169°39'.

LOCAL TELEVISION TRANSMISSION:

9710–CF–P/L–75, General Telephone Company of Indiana, Inc. (New), Construction Permit and License for operation of a new Temporary Fixed station within the territory of the grantee, using fourteen (14) units in frequency bands; 6425–6525 MHz, 11700–12200 MHz and 13200–13250 MHz to provide Mobile TV-Pickup Service.

CORRECTION:

General Telephone Company of the Northwest, Inc. (WAT941), Correct service to read *POINT TO POINT MICROWAVE RADIO SERVICE* and correct to read Temporary fixed (developmental) locations within the territory of the grantee. (All other particulars remain the same as reported in Public Notice #756 dated June 2, 1975).

[FR Doc.75–16322 Filed 6–23–75;8:45 am]

[Docket Nos. 20510–20512; File Nos. BPH-8873; 9015; 9211]

HAROLD JAMES SHARP ET AL.
Applications for Construction Permits; Hearing

In re application of Harold James Sharp, Ocala, Florida (Requests: 92.7 MHz, Channel No. 224, 3kW(H&V), 290 feet.) Greater Ocala Broadcasting Corporation, Ocala, Florida. (Requests: 92.7 MHz, Channel No. 224, 3kW(H&V), 190.92 feet.) Hunter-Arnette Broadcasting Co., Ocala, Florida. (Requests: 92.7 MHz, Channel No. 224, 3kW(H&V), 300 feet.)

1. The Commission, by the Chief of the Broadcast Bureau, acting pursuant to delegated authority, has before it the three above-captioned applications, which are mutually exclusive in that they seek the same channel in Ocala, Florida.

2. Data submitted by the applicants indicate that there would be a significant difference in the size of the area which would receive service from the proposal of Harold James Sharp and the other two applicants. Consequently, for the purposes of comparison, the areas and populations which would receive primary service, together with the availability of other primary aural services (1 mV/m or greater in the case of FM) in such areas will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

3. Greater Ocala will not provide a 3.16 mV/m signal over the entire city of Ocala, as required by § 73.315(a) of the rules. Accordingly, Greater Ocala requests a waiver of this section of the rules and in so doing states that the signal level within the Ocala city limits either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: June 12, 1975.

Released: June 16, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.75-16319 Filed 6-23-75;8:45 am]

[Docket Nos. 20268–20270; File Nos. BPH-8250; 8405; 9036]

TOWN AND COUNTRY RADIO, INC. AND TIDEWATER SOUNDS, INC.
Applications for Construction Permits; Memorandum Opinion and Order Enlarging Issues [1]

1. Presently before the Review Board is a petition to enlarge issues, filed March 6, 1975, by Tidewater Sounds, Inc. (Tidewater) requesting the addition of misrepresentation or lack of candor and Rule 1.65 issues against John Laurino, Gordon L. Hood and Vernon S. Lee d/b/a Voice of the People (Voice).[14]

2. *Misrepresentation Issue*—Tidewater, in pleadings filed January 28, 1975, sought inter alia the addition of a business practices (rate card) issue against Voice.[2] Tidewater specifically alleged that rate cards filed with the Commission by Station WYAL[3] in 1970 and 1971 had an inaccurate contour map printed on their backs. Moreover, in a footnote, Tidewater stated, "Tidewater has not established that the same rate card is still in use. Presumably it is." The two cards with maps are identical. Both are numbered "Card #4" and carry the statement "Card Date: October 1, 1968." In a pleading filed February 12, 1975, Voice opposed addition of the business practices issue relying primarily on an affidavit of John Laurino, who stated that upon review of the rate card map and after being advised by his counsel in September 1973, he determined that it was not to be used and directed that remaining copies of the card with map be destroyed. Laurino averred that the WYAL rate card "has not contained a coverage contour map since September of 1973 * * *" and that after that date "all WYAL rate cards were published without any contour map at all." He goes on to state "[t]his is reflected at the Commission by the rate card submitted on October 30, 1973 in connection with the payment of the station's annual license fee." Tidewater, in support of the misrepresentation issue, now submits an affidavit[4] to the effect that in September 1974, a representative of WYAL in the course of soliciting advertising, delivered to affiant a rate card dated January 1, 1974, a business card, and a contour map[5] all of which were stapled together. Moreover, Tidewater cites the affidavit of WYAL's attorney to demonstrate that on February 5, 1975, prior to the submission of the Laurino Affidavit referred to above, Laurino know that a contour map was in use by representatives of WYAL. Paragraph 5 of the attorney's affidavit reads as follows:

> 5. On February 5, 1975, I conferred with Mr. Laurino and the WYAL general manager concerning the present business practices of the station. I was informed by the general manager that the present WYAL rate card does not have printed on the reverse a map of any kind. I asked the general manager whether the coverage map was used as an integral part of the WYAL rate card. His response to my question was that the map is not used directly with the station rate card, but that on occasion, WYAL employees may have handed a prospective advertiser a copy of the coverage map at the time that a rate card was delivered. My impression from discussing this matter with the general manager was that WYAL does not at present distribute a rate card which has a coverage map attached to it in any manner.

Thus, Tidewater argues that Laurino was guilty of mispresentation in the affidavit submitted with Voice's February 12, 1975, pleading, supra. The Broadcast Bureau supports the addition of this issue, arguing that if Laurino intended to imply that contour maps were no longer in use or that inaccurate contour maps were no longer in use, either implication is incorrect. Finally, the Bureau contends that even if Laurino's first affidavit in opposition filed February 12, 1975, is not misleading, subsequent attempts to clarify this issue provide further justification to add this issue.[6]

3. Voice, in opposition, asserts that its February 12, 1975, pleading was responsive to Tidewater's allegations as to the map in use prior to September, 1973. Voice states that its approach of rebutting Tidewater's specific allegations and not all aspects of the business practices of Station WYAL, is consistent with the approach taken in Prairieland Broadcasters, 49 FCC 2d 1143, 31 RR 2d 1691 (1974), where the Board denied a requested misrepresentation issue. Moreover, Voice asserts that the present rate card does not have a coverage map and that, until notified by counsel for Tidewater, it was unaware that the new map had been distributed as an integral part of a promotional sales presentation. Voice also maintains that Tidewater knew the current business practices of Station WYAL at the time it filed its motion to enlarge in January and consciously withheld disclosure to entrap Voice. Such conduct, argues Voice, requires the addition of an appropriate issue against Tidewater rather than Voice.[7]

4. The Review Board is of the view that petitioner has raised a substantial

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[1] Originally published at 40 FR 24048.

[14] Also before the Board are the following related pleadings: (a) opposition, filed March 19, 1975, by Voice; (b) comments, filed March 19, 1975, by the Broadcast Bureau; and (c) reply, filed April 3, 1975, by Tidewater. The allegations concerning misrepresentation were first raised in a pleading filed on February 25, 1975, in a previous interlocutory action, and the Board refused to consider the question at that time because it was raised in a reply and was also the subject of the instant set of pleadings. Town and Country Radio, Inc., 51 FCC 2d 1217, 33 RR 2d 671 (1975).

[2] Town and Country Radio, Inc., supra.

[3] John Laurino, the 80 percent owner of Voice, owns 100 percent of the stock of WYAL, Inc., licensee of Station WYAL.

[4] Affidavit of Samuel N. Harrell. Tidewater also submits the affidavit of William W. Aycock, Jr., which is based on hearsay and therefore not in compliance with Section 1.229(c).

[5] This contour map differs from the one referred to above. It was prepared by an engineering consultant and approved by WYAL's legal counsel.

[6] Supplemental pleadings were filed in the previous interlocutory proceeding but were dismissed as unauthorized. Town and Country Radio, Inc., supra. The Bureau asserts that in light of the present request they must be considered and by doing so, Laurino's wrongdoing is compounded.

[7] Voice's allegation as to the propriety of Tidewater's conduct and the request to add an appropriate issue against Tidewater are improperly contained in an opposition pleading and will be disregarded.

question concerning Voice's candor. Voice's statements in pleadings filed in response to the earlier petition—that the WYAL rate card has not contained a contour map since September 1973, that the map in use prior to September 1973, was no longer in use, and that, thereafter, all WYAL rate cards were published without any contour map at all—are unequivocal. While these statements may be technically correct, they are also misleading or, at least incomplete since a new map was prepared in 1974 and apparently frequently distributed to potential advertisers at the same time the new rate card was distributed. While it cannot be determined on the basis of the pleadings now before the Board whether Voice intended to mislead the Commission or withhold information, it is significant in this regard that an issue as to the accuracy of the new map has previously been added, and that both Laurino and counsel for WYAL were apparently aware of the use of the new map prior to making the above assertions to the Commission. In light of the foregoing, the Board is of the opinion that the inquiries previously authorized should be broadened to encompass the question of Voice's candor in its submissions to the Commission. An appropriate issue will therefore be specified.

5. *Rule 1.65 Issue.* Voice amended its application in September, 1974, reporting an option granted to CJC Communications, Inc. for the acquisition of the license and purchase of certain assets of Station WYAL. The option was for a term of 180 days and expired on January 28, 1975. Tidewater alleges that Voice was required to report the termination of this agreement, and that its failure to do so requires the addition of a Rule 1.65 issue. Tidewater argues that the termination is a material change inasmuch as it substantially affects the comparative position of Voice under the diversification of ownership criterion which Tidewater believes may be dispositive. Voice and the Broadcast Bureau oppose the addition of this issue noting that the option agreement has been filed and is clear on its face that it would terminate 180 days from August 1, 1974, the day it was accepted.

6. The Board will not add the requested Rule 1.65 issue. The option, which was reported as required, terminated by its own terms. Where an agreement such as this expires by its own terms, the Board cannot find that any useful purpose would be served by adding a § 1.65 issue, and will therefore deny this request.[3]

7. Accordingly, *it is ordered*, That the petition to enlarge issues, filed March 6, 1975, by Tidewater Sounds, Inc., is granted to the extent indicated herein, and is denied as to all other respects, and that the issues in this proceeding are enlarged to include the following issue:

To determine whether John Laurino and/or Voice of the People in documents filed with the Commission purporting to be factual, made false or misleading statements, taking into account the evidence adduced pursuant to issue (b) previously designated by the Board in its Memorandum Opinion and Order released April 3, 1975 (51 FCC 2d 1217); and if so, the effect thereof on the basic or comparative qualifications of Voice of the People to be a Commission licensee.

8. *It is further ordered*, That the burden of proceeding with the introduction of evidence on the issue added herein shall be on Tidewater Sounds, Inc., and the burden of proof shall be on Voice of the People.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-16320 Filed 6-23-75;8:45 am]

[3] *Cf. Electrocom, Inc.*, FCC 75R-199, released June 2, 1975; *Eastern Broadcasting Corporation*, 30 FCC 2d 745, 22 RR 2d 472 (1971).

[Docket No. 18449; FCC 75-711]

OWNERSHIP OF BROADCAST STATIONS

Termination of Inquiry

1. By Commission action of February 7 (34 FR 2151, Feb. 13, 1969), 1969, an inquiry was begun into the ownership patterns in the broadcasting industry, with special emphasis upon the ownership of broadcast stations by licensees with substantial non-broadcast interests.

2. To carry out the study, the Commission set up a Conglomerate Study Task Force to gather facts to determine if certain remedial actions are called for with respect to the so-called "conglomerate" companies, including the possible recommendation of legislation.

3. The Task Force, with the cooperation of the licensees, collected much information concerning 37 companies. It prepared an analysis and set of recommendations for consideration by the Commission. While the study developed factual data of interest and value to the Commission, that data did not establish a need to continue the inquiry or a need to adopt rules which would treat "conglomerate" companies in a manner different from other corporate licensees. Thus, we are hereby terminating the proceedings in Docket No. 18449 and eliminating the reporting requirements created therein. The findings and recommendations of the Task Force will be utilized by the Commission in its consideration of ownership reporting and disclosure requirements and subsequent related proceedings.

4. Wherefore, the proceedings in Docket No. 18449 are terminated.

Adopted: June 11, 1975.

Released: June 18, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-16321 Filed 6-23-75;8:45 am]

FEDERAL MARITIME COMMISSION

FAR EAST CONFERENCE AND PACIFIC WESTBOUND CONFERENCE

Agreement Filed

Notice is hereby given that the following agreement, accompanied by a statement of justification, has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement and the statement of justification at the Washington office of the Federal Maritime Commission, 1100 L Street NW Room 10126; or may inspect the agreement and the statement of justification at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before July 14, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

AGREEMENT No. 10135-1

(DISCUSSION AGREEMENT)

Notice of agreement filed by:

John Mason, Esquire
Ragan & Mason
900 Seventeenth Street, NW
Washington, D.C. 20006

Agreement No. 10135-1, among all of the member lines of the Far East Conference and the Pacific Westbound Conference, modifies the approved basic discussion agreement by (1) adding the following subparagraphs to Article FIRST:

7. Any matter within the scope of FMC Agreements 8200, 8200-1 and 8200-2 and Agreements 57 and 17, as amended, and as those agreements may from time to time be amended.

8. Practices and rate structures and policies relating to the interchange of traffic with land carriers (intermodalism).

as matters of mutual interest which the parties may discuss, consider, and, if possible, agree upon recommendations to the Far East Conference and the Pacific Westbound Conference, and (2) by

amending subparagraph 2 of Article SECOND by adding, as the third sentence thereof, the following:

The Executive Committee may designate such subcommittees as it may from time to time find appropriate or useful in accomplishing the authorized purposes of this agreement.

By Order of the Federal Maritime Commission.

Dated: June 19, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-16427 Filed 6-23-75;8:45 am]

THOMAS AND JAMES HARRISON LTD. ET AL.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before July 7, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

THOMAS & JAS. HARRISON LTD.

COMPAGNIE GENERALE TRANSATLANTIQUE

HAPAG-LLOYD AKTIENGESELLSCHAFT

AND

KONINKLIJKE NEDERLANDSCHE STOOMBOOT MAATSCHAPPIJ B.V.

Notice of Agreement Filed by:

Mr. Hans Drugg
Director
Hapag-Lloyd Aktiengesellschaft
Ballindamm 25
2 Hamburg 1, Germany

Agreement No. 10161, among the above-named carriers, establishes a conference in the trades between points and ports in Puerto Rico and the U.S. Virgin Islands on the one hand and points and ports in Europe, including the United Kingdom and Republic of Ireland but excluding the Mediterranean and the Atlantic Coast of Spain and Portugal, on the other.

By Order of the Federal Maritime Commission.

Dated: June 19, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-16426 Filed 6-23-75;8:45 am]

FEDERAL RESERVE SYSTEM

OSBORNE INVESTMENTS, INC.

Formation of Bank Holding Company

Osborne Investments, Inc., Osborne, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 90 per cent or more of the voting shares of The Farmers National Bank of Osborne, Osborne, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Osborne Investments, Inc., Osborne, Kansas has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(2) of the Board's Regulation Y, for permission to retain ownership of the general insurance agency business now operated by Osborne Investments, Inc., in Osborne, Kansas. Notice of the application was published on January 2, 1975 in The Osborne County Farmer, a newspaper circulated in Osborne, Kansas.

Applicant states that the proposed subsidiary would continue to engage in the activities of a general insurance agency in a town with a population of less than 5,000. The insurance activities include the sale of auto, life, health, fire and casualty insurance. Such activities have been specified by the Board in § 225.4(a)(9)(iii) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than July 14, 1975.

Board of Governors of the Federal Reserve System, June 11, 1975.

[SEAL] ROBERT SMITH, III,
Assistant Secretary of the Board.

[FR Doc.75-16299 Filed 6-23-75;8:45 am]

FIRST LINCOLNWOOD CORP.

Formation of Bank Holding Company

First Lincolnwood Corp., Lincolnwood, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 per cent or more of the voting shares of The First National Bank of Lincolnwood, Lincolnwood, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than July 15, 1975.

Board of Governors of the Federal Reserve System, June 12, 1975.

[SEAL] ROBERT SMITH, III,
Assistant Secretary of the Board.

[FR Doc.75-16294 Filed 6-23-75;8:45 am]

ARIZONA EQUITIES, INC.

Order Approving Acquisition of Bank

Arizona Equities, Inc., Scottsdale, Arizona, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire an additional 3.2 per cent of the voting shares of The Arizona Bank, Phoenix, Arizona ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, a one-bank holding company, presently owns approximately 32.6 per cent of the shares of Bank.[1] With

[1] All banking data are as of October 15, 1974.

total deposits of $756 million. Bank controls approximately 13.6 per cent of the total deposits in commercial banks in Arizona and is the third largest bank in the relevant market.[2] Applicant proposes to acquire 3.2 per cent of the shares of Bank on the open market as they become available. Consummation of the proposal would not have any adverse effect on existing or potential competition, nor would it increase the concentration of banking resources or have an adverse effect on other banks in the area. Thus, competitive considerations are consistent with approval of the application.

The financial condition and managerial resources of Applicant and Bank are considered satisfactory and the future prospects for each appear favorable. Thus, the banking factors are consistent with approval of the application. Although there will be no immediate change or increase in the services offered by Bank as a result of the proposed transaction, the considerations relating to the convenience and needs of the community to be served are consistent with approval of the application. It is the Board's judgment that the proposed transaction would be consistent with the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of San Francisco pursuant to delegated authority.

By order of the Board of Governors,[3] effective June 11, 1975.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.75-16335 Filed 6-23-75;8:45 am]

DETROIT BANK CORPORATION

Order Approving Acquisition of Bank

Detroitbank Corporation, Detroit, Michigan, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. section 1842(a)(3)) to acquire 100 percent of the voting shares of The Detroit Bank-Troy, Troy, Michigan ("Bank"), a proposed new bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received, including those of First Citizens Bank, Troy, Michigan ("Protestant"), in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the fourth largest banking organization in Michigan, controls three banks with aggregate deposits of $2.3 billion, representing approximately 8.1 percent of total deposits in commercial banks in the State.[1] Since Bank is a proposed new bank, its acquisition by Applicant would neither immediately increase Applicant's share of deposits, nor alter its rank, in the State.

Bank will be located in the northwest portion of Troy, Michigan, a suburb of Detroit, and will be competing in the Detroit banking market.[2] Applicant presently controls three banking subsidiaries in the relevant market and ranks as the third largest banking organization in the market through its control of approximately 14.7 per cent of the total commercial deposits in the market.[3] There are 41 banking organizations with a total of 638 offices competing in the Detroit banking market. The two largest banking organizations in the market (each of which is a multi-bank holding company) control approximately 33.2 and 15.3 per cent, respectively, of the market's commercial bank deposits; the five largest in the market control approximately 77 per cent of the market's total deposits. From the facts of record, it does not appear that consummation of this proposal would materially alter Applicant's competitive position in the market.

Although Applicant's lead bank has offices located in the vicinity of the city of Troy, Applicant is not represented in the city of Troy proper and its subsidiaries are precluded from establishing branches in Troy because of Michigan's branching law. Inasmuch as Bank is a proposed new bank, consummation of Applicant's proposal would not have adverse effects on existing competition in the relevant market. On the other hand, Applicant's de novo entry into Troy would increase the number of banking organizations with branching potential in that city from two to three, and would provide an alternative source of full banking services for the residents of the area. Furthermore, on the basis of the facts of record, including the past and future population growth of Troy and the fact that Applicant does not appear to be dominant in the market, the Board concludes that the proposal would not raise significant barriers to entry for other banking organizations not presently represented in the area.

In its analysis of this application, the Board has also considered the objection received from a protesting party. Protestant, First Citizens Bank (deposits of $13.4 million), is located approximately two and one-quarter miles southwest of Bank and is a subsidiary of the fifth largest bank holding company in the State. Generally speaking, Protestant claims that consummation of the transaction would have adverse competitive effects in that it would likely (1) increase concentration, (2) preclude or limit entry that could lead to deconcentration, and (3) adversely affect the competitive posture of smaller competitors.

Turning to the first contention of Protestant, the Board notes that four of the other five largest banking organizations in the market have expanded de novo in the market within the past two years and, due in part to such activity, it appears unlikely that any increase in market concentration would result from consummation of Applicant's proposal. Furthermore, the small size of Troy relative to the entire market and the expansion and growth that can be expected by the two banks with branching privileges presently located in Troy should competitively limit Applicant's future expansion and growth in Troy.

With respect to Protestant's second contention, it is noted that Troy's current estimated population of 59,760 is expected to reach 131,000 by 1990 and, based upon the current population per banking office ratio, the city will require additional banking offices to serve this expanding population. Since there are only two banks (one of which is Protestant) in Troy capable of branching in that city, de novo entry by Applicant represents, in the Board's view, a reasonable means to serve the growing needs of that city and to provide its residents with an additional banking alternative. Moreover, because of the expected growth of the area, it is unlikely that the subject proposal would either preclude or limit future entry or preempt a banking site.

Turning to Protestant's final contention, the projected growth within Troy for the next two decades should be more than sufficient to sustain the growth and profitability of both Protestant and Applicant. In addition, as mentioned above, Protestant is a subsidiary of the fifth largest banking organization in the State and the sixth largest banking organization in the relevant market. In view of its holding company affiliation, it does not appear that Protestant would be placed at a serious competitive disadvantage vis a vis Bank, even though it will be confronted with increased competition and may have to adjust its services to the residents of Troy accordingly.

It is the Board's judgment, having considered the submission of Protestant and all other facts of record, that consummation of the proposed acquisition would not have significant adverse effects

[2] The relevant market is approximated by the Phoenix SMSA.

[3] Voting for this action: Vice Chairman Mitchell and Governors Bucher, Holland, and Coldwell. Absent and not voting: Chairman Burns and Governor Wallich.

[1] All banking data are as of June 30, 1974 and reflect holding company formations and acquisitions approved through January 31, 1975.

[2] The Detroit banking market is approximated by Macomb, Oakland, and Wayne Counties.

[3] Two of Applicant's subsidiary banks are recent *de novo* entrants into the Detroit banking market. In addition, Applicant has recently received Board approval to acquire First National Bank of Warren, Warren, Michigan (deposits of $45.2 million). [See Board's Order of April 11, 1975; 40 FR 17345 (1975); 61 Federal Reserve *Bulletin* 313 (1975).]

on existing competition, nor foreclose the development of future competition and that, on balance, competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant and its subsidiaries are regarded as satisfactory. Bank has no operating financial history; however, it will be open with adequate capital and its prospects, as a subsidiary of Applicant, appear favorable. Accordingly, considerations relating to the banking factors are consistent with approval. Considerations relating to the convenience and needs of the community to be served lend weight toward approval of the application since Bank will be capable of offering a full complement of banking services to its customers. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transactions shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after that date, and (c) The Detroit Bank-Troy, Troy, Michigan, shall be opened for business not later than six months after the effective date of this Order. Each of the periods described in (b) and (c) may be extended for good cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[4] effective June 13, 1975.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.75-16336 Filed 6-23-75;8:45 am]

FULL SERVICE INSURANCE AGENCY, INC.

Order Approving Formation of a Bank Holding Company and Retention of Insurance Agency Activities

Full Service Insurance Agency, Inc., Buxton, North Dakota, has applied for the System's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 83.2 percent or more of the voting shares of First State Bank of Buxton, Buxton, North Dakota ("Bank"). The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)). Applicant has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to retain its general insurance agency activities. Applicant engages in the activities of a general insurance agency in two communities served by Bank, both of which have less than 5,000 people. Such activities have been determined by the Board in § 225.4(a)(9)(iii)(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with sections 3 and 4 of the Act (40 FR, p. 17200). The time for filing comments and views has expired, and none has been received.

Applicant, a North Dakota corporation, was organized in December 1972 for the purpose of acquiring the insurance agency from the principals of Applicant. Bank has deposits of $4.5 million, representing 0.2 percent of total deposits in commercial banks in North Dakota[1] and is the only bank in Buxton, an agricultural community with a population of approximately 235. In its relevant banking market, approximated by Traill County, Bank is the smallest of five banking organizations and holds 10.5 percent of total commercial bank deposits therein. Inasmuch as this proposal represents a corporate reorganization of Bank's existing ownership interests, and since Applicant has no existing banking subsidiary, consummation of the proposal would not eliminate any existing or potential competition. Therefore, competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant and Bank are satisfactory and consistent with approval, particularly in view of Applicant's commitment to improve Bank's equity capital position. Although Applicant will incur debt in connection with the proposal, its projected income from Bank and the insurance agency activities should provide sufficient revenue to service the debt without impairing the financial condition of Bank. There is no evidence that the banking needs of both communities are not being satisfactorily served. However, the proposed reorganization and increase in equity capital should enhance Bank's financial condition and improve its ability to serve its customers. Considerations relating to the convenience and needs of the communities to be served are consistent with approval of the application. It is the judgment of the Federal Reserve Bank of Minneapolis that consummation of the proposed acquisition would be in the public interest and that the application to acquire Bank should be approved.

In connection with the application to become a bank holding company, Applicant has also applied for permission to retain its general insurance agency activities[2] presently conducted in Buxton and Thompson, North Dakota, communities with populations of less than 5,000 persons. The operation of a general insurance agency in such communities is an activity that the Board has found to be permissible for bank holding companies (§ 225.4(a)(9)(iii)(a) of Regulation Y). Applicant is the only general insurance agency serving the communities of Buxton and Thompson. Accordingly, approval of this application would insure the residents of both communities a continued convenient source of insurance services, which result is regarded as being in the public interest. There is no evidence in the record indicating that Applicant's retention of its general insurance agency would result in any undue concentration of resources, unfair competition, conflicts of interest, unsound banking practices or other adverse effects on the public interest.

Based on the foregoing and other considerations reflected in the record, the Federal Reserve Bank of Minneapolis has determined that the considerations affecting the competitive factors under section 3(c) of the Act and the balance of the public interest factors considered under section 4(c)(8) of the Act, both favor approval of Applicant's proposals.

Accordingly, pursuant to the provisions of 12 CFR 265.2(f)(22) and (32) of the Board's Rules Regarding Delegation of Authority, and on the basis of the record summarized above, the Federal Reserve Bank of Minneapolis hereby approves the application. The acquisition of Bank shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Minneapolis, pursuant to delegated authority. The determination as to Applicant's insurance activities is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require reports by, and make examinations of, holding companies and their subsidiaries and to require modification or termination of the activities of a bank holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Federal Reserve Bank of Minneapolis, acting under delegated authority for the Board of Governors of the Federal Reserve System, effective June 9, 1975.

[SEAL] L. G. GABLE,
Vice President.

[FR Doc.75-16337 Filed 6-23-75;8:45 am]

MARSHALL & ILSLEY CORPORATION

Order Approving Acquisition of Bank

Marshall & Ilsley Corporation, Milwaukee, Wisconsin, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all (less director's qualifying

[4] Voting for this action: Vice Chairman Mitchell and Governors Bucher, Holland, and Coldwell. Absent and not voting: Chairman Burns and Governor Wallich.

[1] All banking data are as of June 1974.

[2] Applicant presently sells credit life and credit accident and health insurance. Upon consummation of this proposal, Bank will commence the sale of credit life and credit accident and health insurance which is directly related to extensions of credit by Bank. Employees of Bank will enroll Bank's customer-debtors under group credit life and credit accident and health policies issued to Bank as policyholder.

shares) of the voting shares of M&I Bank of Mount Pleasant, Mount Pleasant, Wisconsin ("Mount Pleasant Bank"), a proposed new bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received, including those submitted on behalf of Farmers and Merchants Bank of Racine, Racine, Wisconsin ("Protestant"), in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the second largest banking organization in Wisconsin, controls 17 banks with aggregate deposits of approximately $992 million, representing 7.3 per cent of the total deposits in commercial banks in the State.[1] Since Mount Pleasant Bank is a proposed new bank, its acquisition by Applicant would not immediately increase Applicant's share of commercial bank deposits in Wisconsin.

Mount Pleasant Bank is to be located in the town of Mount Pleasant, a rapidly developing area about 3½ road miles north and west of Racine, and will be competing in the Racine banking market.[2] Of the 15 commercial banks operating within this market, Applicant has one subsidiary, M&I American Bank and Trust Company, Racine, Wisconsin, which holds 14.6 per cent of the market's total deposits and thereby ranks as the second largest bank in the market. The largest bank in the market holds 30 per cent of the market's total deposits. Since Mount Pleasant Bank is a proposed new bank, its acquisition by Applicant would not eliminate any existing or future competition, nor would concentration of banking resources be increased in any relevant area. In addition, there is no evidence to indicate that Applicant's proposal is an attempt to preempt a site before there is a need for a bank. Therefore, the competitive considerations are consistent with approval of the application.

The financial condition and managerial resources of Applicant and its subsidiaries are considered generally satisfactory and the future prospects for each appear favorable. Mount Pleasant Bank, as a proposed new bank, has no financial or operating history; however, its future prospects as a subsidiary of Applicant appear favorable. Thus, the considerations relating to the banking factors are consistent with approval. Mount Pleasant Bank would serve as an additional source of full banking services to the residents of that community and environs. Considerations relating to the convenience and needs of the community to be served lend some weight toward approval of the application.

In connection with its review of the subject application, the Board has considered comments filed by Protestant, a bank located in downtown Racine. Protestant has renewed the objection previously submitted by it to the State Banking Commissioner during his consideration of the charter application for Bank. After a public hearing on the charter application on January 14, 1974 (at which Protestant did not participate), the Commissioner approved the application on February 28, 1974. Protestant's position is essentially that there is no need for another bank in the Racine area and that approval of the application would impair Protestant's growth and ability to serve its immediate area.

As indicated above, Mount Pleasant, the proposed site of Mount Pleasant Bank, is one of the more rapidly growing areas in the Racine banking market. Moreover, the population per banking office ratio in the market is 6,233 as compared to the average in the State of 4,807 per banking office. It appears, therefore, that the Racine area would be capable of supporting an additional banking alternative. With respect to Protestant's second argument, the Board is unable to conclude from the record that the opening of Bank would have a serious effect on Protestant's operations. While admittedly the opening of any new bank may have a temporary effect on banks in the market, it does not appear that Applicant occupies such a significant position in the Racine market that its establishment of a de novo bank would have a serious effect on surrounding banks warranting denial of the application. Accordingly, having considered the comments of Protestant and on the basis of the record, it is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after that date, and (c) M&I Bank of Mount Pleasant, Mount Pleasant, Wisconsin, shall be opened for business not later than six months after the effective date of this Order. Each of the periods described in (b) and (c) may be extended for good cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[3] effective June 13, 1975.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.75-16338 Filed 6-23-75;8:45 am]

[1] All banking data are as of December 31, 1974, and reflect all holding company acquisitions and formations approved by the Board through May 31, 1975.

[2] The relevant geographic market is approximated by the Racine RMA.

[3] Voting for this action: Vice Chairman Mitchell and Governors Bucher, Holland, and Coldwell. Absent and not voting: Chairman Burns and Governor Wallich.

MILLE LACS BANCSHARES, INC.

Order Approving Formation of Bank Holding Company

Mille Lacs Bancshares, Inc., Onamia, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 96 per cent of the voting shares of First State Bank of Onamia, Onamia, Minnesota ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, a nonoperating corporation with no subsidiaries, was organized for the purpose of becoming a bank holding company through the acquisition of Bank. Bank (deposits of $3.6 million) is the only bank in Onamia (population of approximately 650), a community located in east central Minnesota approximately 75 miles north of Minneapolis. Bank is the smallest of three banks operating in the relevant banking market[1] and controls approximately 16 per cent of the total deposits in commercial banks in the market.[2] Upon acquisition of Bank, Applicant would control the 492nd largest banking organization in Minnesota, holding .03 per cent of the total commercial bank deposits in the State. Since Applicant has no existing banking subsidiaries, consummation of the proposal would not eliminate existing or potential competition, nor have an adverse effect on other area banks. Therefore, competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant, which are dependent upon those of Bank, are considered to be satisfactory. Although Applicant will incur debt as a result of the proposal, it appears that the projected income from Bank[3] should provide Applicant with sufficient revenue to service the debt adequately without impairing the financial condition of Bank. Considerations relating to the banking factors are consistent with approval of the application. Consummation of the transaction would have no immediate effect on the area's banking convenience and needs; however, considerations relating to the convenience and needs of the community to be served are regarded as being consistent with approval of the application. It is the Board's judgment that consummation of the proposed transaction would be consistent with the public interest and that the application should be approved.

[1] The relevant banking market is approximated by the northern two-thirds of Mille Lacs County and portions of Aitkin, Morrison, and Kanabec Counties.

[2] All banking data are as of June 30, 1974.

[3] Bank receives commission income from Mille Lacs Insurance Agency, Onamia, Minnesota ("Agency"), which is operated by principals of Applicant as a department of Bank. Agency engages in the sale of various types of general insurance and offers credit life and credit accident and health insurance to credit customers of Bank.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Minneapolis pursuant to delegated authority.

By order of the Board of Governors,[1] effective June 16, 1975.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.75-16339 Filed 6-23-75;8:45 am]

OLD KENT FINANCIAL CORPORATION

Acquisition of Bank

Old Kent Financial Corporation, Grand Rapids, Michigan, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of Old Kent Bank of Grandville, Grandville, Michigan and 100 percent of the voting shares of Old Kent Bank of Wyoming, Wyoming, Michigan, both proposed new banks. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, DC. 20551, to be received not later than July 18, 1975.

Board of Governors of the Federal Reserve System, June 17, 1975.

[SEAL] ROBERT SMITH, III,
Assistant Secretary of the Board.

[FR Doc.75-16340 Filed 6-23-75;8:45 am]

UNITED BANKS OF COLORADO, INC.

Order Denying Acquisition of Bank

United Banks of Colorado, Inc., Denver, Colorado, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 80 per cent or more of the voting shares of The First National Bank in Golden, Golden, Colorado ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls 19 banks with aggregate deposits of about $924.6 million, representing approximately 13.8 per cent of the total commercial bank deposits in Colorado, and is the second largest banking organization in the State.[2] The acquisition of Bank (deposits of $48.3 million) would increase Applicant's control of commercial bank deposits in Colorado by 0.7 per cent, and Applicant would become Colorado's largest banking organization.

Bank, which is located in Golden, approximately 15 miles from downtown Denver, competes in the Denver banking market (approximated by Denver, Adams, Arapahoe and Jefferson Counties and the Broomfield area of Boulder County) and controls approximately 1.3 per cent of total market deposits. Applicant is also represented in the Denver market and ranks therein as the second largest banking organization with six subsidiaries in the market controlling approximately 17 per cent of the total market deposits. Consummation of the proposed transaction would have some adverse effects on the concentration of banking resources by increasing Applicant's already significant position in the market and by increasing the percentage of deposits held by the five largest organizations in the market to about 69.0 per cent of the total.

In addition to its effects on the concentration of banking resources, it appears that the proposal would also have adverse effects on existing and future competition within the Denver market. As noted above, Applicant is already represented in the relevant market with six subsidiary banks. The record indicates clearly that there is substantial competition between certain of Applicant's subsidiaries and Bank which would be eliminated by this proposal; Applicant's subsidiaries derive significant amounts of loans and deposits from the area served by Bank. Furthermore, the proposal would foreclose the development of future competition by removing Bank (the fourth largest independent competitor in the market) as an independent competitor within the Denver market. Accordingly, the Board is of the view that consummation of the proposal would have adverse effects on both existing and future competition.

On the basis of the foregoing and other facts of record, the Board concludes that competitive considerations relating to this application weigh sufficiently against approval so that it should not be approved unless the anticompetitive effects are outweighed by other positive considerations reflected in the record such as the financial and managerial resources and future prospects of Applicant and Bank or the convenience and needs of the communities to be served.

In regard to considerations relating to banking factors, the financial and managerial resources of Applicant, its subsidiaries, and Bank are generally satisfactory, and their prospects appear to be favorable. While such considerations are regarded as being consistent with approval of the application, they do not, in the Board's view, lend meaningful weight for such approval. Similarly, considerations relating to convenience and needs are deemed to be consistent with approval of the application; however, the improvements in Bank's services that Applicant proposes to initiate would not noticeably benefit the convenience and needs of the communities to be served. Accordingly, the Board concludes that the above factors are not sufficient to outweigh the adverse competitive effects that the Board finds would result from consummation of the proposal.

On the basis of all the facts in the record, and in light of the factors set forth in section 3(c) of the Act, it is the Board's judgment that approval of the proposal would not be in the public interest. Accordingly, the application is denied for the reasons summarized above.

By order of the Board of Governors,[3] effective June 13, 1975.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.75-16341 Filed 6-23-75;8:45 am]

VICTORIA BANKSHARES, INC.

Order Approving Acquisition of Central Computers, Inc.

Victoria Bankshares, Inc., Victoria, Texas, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y, to acquire all of the voting shares of Central Computers, Inc., Victoria, Texas ("Central"), a company that engages in bookkeeping and data processing services for the internal operations of Applicant and its subsidiaries and storing and processing other banking, financial or related economic data including performing payroll, accounts receivable or payable, or billing services for others.[1] Such activities have been determined by the Board to be closely related to banking (12 CFR 225.4(a)(8)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (40 FR 16885 (1975)). The time

[1] Voting for this action: Chairman Burns and Governors Mitchell, Bucher, Holland, Wallich and Coldwell.

[2] All banking data are as of June 30, 1974, and reflect bank holding company formations and acquisitions approved by the Board through May 31, 1975.

[3] Voting for this action: Vice Chairman Mitchell and Governors Bucher, Holland and Coldwell. Absent and not voting: Chairman Burns and Governor Wallich.

[1] Central currently neither supplies formatting for computer output microfilm nor supplies computer output microfilm. In the event Central commences that incidental activity, it will limit that service to supplying formatting and microfilm only as an output option for data otherwise being permissibly processed by Applicant and its subsidiaries.

for filing comments and views has expired, and the Board has considered all comments received in the light of the public interest factors set forth in section 4(c)(8) of the Act (12 U.S.C. 1843 (c)(8)).

Applicant controls 7 banks with aggregate deposits of $159.7 million, representing approximately .4 of one per cent of the total deposits in commercial banks in Texas, and is the seventeenth largest commercial banking organization in the State.[2]

Central (total assets of $156 thousand as of December 31, 1974), which performs data processing, accounting and related services, was organized approximately ten years ago primarily to serve Applicant's lead bank, Victoria Bank and Trust Company, Victoria, Texas. Central has since offered its services to other banks and also retail and credit concerns within the relevant market.[3] Within the market, Central competes with at least ten organizations offering similar services including banks with internal computer facilities, bank cooperatives and commercial firms offering such services. Neither Applicant nor any of its subsidiaries are engaged in data processing activities, and thus the proposed acquisition of Central would not have an adverse effect on existing competition. Furthermore, it does not appear that acquisition of Central would foreclose the development of significant potential competition within the market in view of Central's size, the numerous other potential entrants, and the number of competitors in the market. The Board concludes that consummation of the proposed acquisition would have no significant adverse effects on existing or potential competition in any relevant area.

It is anticipated that affiliation with Applicant will expand the resources available to Central and will enhance Applicant's and its subsidiaries' operational and accounting efficiency which should result in reduced costs to individual banking customers. There is no evidence in the record indicating that consummation of the proposed transaction would result in any undue concentration of resources, unfair competition, conflicts of interests, unsound banking practices, or other adverse effects on the public interest.

Based upon the foregoing and other considerations reflected in the record, the Board has determined, in accordance with the provisions of section 4(c)(8), that consummation of this proposal can reasonably be expected to produce benefits to the public that outweigh possible adverse effects. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

The transaction shall be consummated not later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Dallas, pursuant to authority which is hereby delegated.

By order of the Board of Governors,[4] effective June 11, 1975.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.75-6342 Filed 6-23-75;8:45 am]

[2] All banking data are as of June 30, 1974 and reflect holding company formations and acquisitions approved through May 1, 1975.

[3] The relevant market is approximated by a twelve-county area including all of Victoria, Lavaca, DeWitt, Jackson and Goliad Counties, and portions of Bee, Refugio, Karnes, Colorado, Wharton and Gonzales Counties.

[4] Voting for this action: Vice Chairman Mitchell and Governors Bucher, Holland and Coldwell. Absent and not voting: Chairman Burns and Governor Wallich.

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on June 18, 1975 (44 USC 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; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202-395-4529), or from the reviewer listed.

NEW FORMS

NATIONAL ACADEMY OF SCIENCES

Patient Questionnaire Study of Rehabilitation Medicine in Veterans Administration, CHCRVA-081, single-time, VA patients receiving rehabilitation services, Dick Eisinger, 395-6140.

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service, Visual sensitivity Case Study, single-time, individual concerned with visual environment, Lowry, R. L., 395-3772.

DEPARTMENT OF COMMERCE

Bureau of the Census, 1975 Rural Listing Test Address Register, DA-100, DA-101, single-time, households in nine counties and parishes in Ark., La., Miss. Maria Gonzales, 395-6132.

Bureau of Economic Analysis, International Leasing Transactions Reporting System, BE-578(LT), BE-606(LT), BE-810, BE-811, quarterly, business enterprises with foreign lease activities, Hulett, D. T., 395-4730.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse and Mental Health Administration, Alcohol Sunday Supplement Readership Study, single-time, individuals, Lowry, R. L., 395-3772.

REVISIONS

DEPARTMENT OF DEFENSE

Defense Supply Agency, Contractor Packaging Capability Review, on occasion, Defense contractors or prospective contractors, Lowry, R. L., 395-3772.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service, Regulations—Agricultural Trade Development and Assistance (Title I PL 480), on occasion, commodity suppliers; shipping firms, Marsha Traynham, 395-4529.

Soil Conservation Service, Modification (or waiver) of Contract (Great Plains Conservation Program), SCS-GP-6, annually, land unit operations in 10 States, Marsha Traynham, 395-4529.

Summary—Actual Costs of Installing GP Practices and Seeds, Trees and Shrubs (Great Plains Conservation Program), SCS-GP-16, annually, owners and operators in 10 G.P. States, Marsha Traynham, 395-4529.

Plan of Operation (Great Plains Conservation Program), SCS-GP-20, on occasion, land operators in 10 G.P. States, Marsha Traynham, 395-4529.

Application for Payment for Federal Cost Share (Great Plains Conservation Program), SCS-GP-4, annually, land operators in 10 G.P. States, Marsha Traynham, 395-4529.

Food and Nutrition Service, Civil Rights Compliance Review Public Schools, FNS-87, on occasion, public schools, Marsha Traynham, 395-4529.

Soil Conservation Service, Application for Participation—Great Plains Conservation Program, SCS-GP-1, on occasion, land operators in 10 G.P. States, Marsha Traynham, 395-4529.

DEPARTMENT OF COMMERCE

Bureau of Domestic Commerce, Steel Producers Production (Directive) Report, DIB 943, quarterly, steel producers, Marsha Traynham, 395-4529.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Nutrition Service, Civil Rights Compliance Review (Service Institutions and Nonprofit Private Schools, FNS 87-1, on occasion, institutions and school officials, Marsha Traynham, 395-4529.

Office of Education, Follow Through Parent Interview Farm, OE4485-1, annually, parents of students, Marsha Traynham, 395-4529.

Follow Through Classroom Roster, O.E. 4485, on occasion, students, Marsha Traynham, 395-4529.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.75-16490 Filed 6-23-75;10:23 am]

GENERAL SERVICES ADMINISTRATION

[Temporary Reg. G-17; Supplement 1]

FEDERAL PROPERTY MANAGEMENT REGULATIONS

Reduction in Motor Vehicle Fuel Consumption

1. *Purpose.* This supplement extends the expiration date of FPMR Temporary Regulation G-17, dated August 29, 1974, and provides for additional minor changes.

2. *Effective date.* This supplement is effective on June 24, 1975.

3. *Expiration date.* FPMR Temporary Regulation G-17 and this supplement expire June 30, 1976, unless sooner revised or superseded.

4. *Applicability.* The provisions of this supplement apply to all executive agencies.

5. *Background.* The expiration date is extended to allow GSA time to develop a permanent regulation to replace FPMR Temporary Regulation G-17 based on the recommendations contained in the Energy Conservation Multi-Year Program which will be submitted to the Energy Resources Council in June 1975.

6. *Changes.* FPMR Temporary Regulation G-17 is revised by the following pen-and-ink changes:

a. In paragraph 3 delete "June 30, 1975" and substitute "June 30, 1976."

b. In subparagraph 6b add "or 1976" after the words "fiscal year 1975."

c. In paragraph 8 delete "(FZT)" and substitute "(FZM)."

d. In paragraph 8 delete "(703) 557-3075)" and substitute "(703) 557-1327."

e. In paragraph 2, attachment A, add the following after the first sentence: "This information will also be furnished for fiscal year 1976."

7. *Agency comments.* Comments concerning the effect or impact of this supplement on agency operations should be submitted to the General Services Administration (FCT), Washington, DC 20406, no later than August 31, 1975, for possible incorporation into the permanent regulation.

DWIGHT A. INK,
Acting Administrator of General Services.

JUNE 23, 1975.

[FR Doc.75-16606 Filed 6-23-75;10:23 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-286]

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC. (INDIAN POINT NUCLEAR GENERATING STATION, UNIT NO. 3)

Reconstitution of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for this proceeding to consist of the following members:

John B. Farmakides, Chairman
Dr. John H. Buck, Member
Dr. Lawrence R. Quarles, Member

Dated: June 16, 1975.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc.75-16258 Filed 6-23-75;8:45 am]

[Docket Nos. 50-282; 50-306]

NORTHERN STATES POWER CO.

Issuance of Amendments to Facility Operating Licenses

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 8 and 3 to Facility Operating License Nos. DPR-42 and DPR-60, issued to the Northern States Power Company (the licensee), which revised the Technical Specifications for operation of Units 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.

The amendments authorize an increase in the volume of borated water in the facilities' accumulator tanks consistent with the level required to conform with the Acceptance Criteria of the Commission, in accordance with the licensee's application dated November 6, 1974.

The application for the 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 Ch. I, which are set forth in the license amendments. Prior public notice of these amendments is not required since the amendments do not involve a significant hazards consideration.

For further details with respect to these actions, see (1) the application for amendments dated November 6, 1974, (2) Amendment Nos. 8 and 3 to License Nos. DPR-42 and DPR-60, with Change No. 8, and (3) the Commission's concurrently issued related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room 1717 H Street NW., Washington, D.C. and at The Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401. 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 Reactor Licensing.

Dated at Bethesda, Maryland, this 11th day of June 1975.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch #2, Division of Reactor Licensing.

[FR Doc.75-16259 Filed 6-23-75;8:45 am]

[Docket Nos. 50-280, 50-281; License DPR-32, DPR-37]

VIRGINIA ELECTRIC & POWER CO. (SURRY POWER STATION UNITS 1 AND 2)

Negative Declaration; Technical Specifications

The Nuclear Regulatory Commission (the Commission) has considered the issuance of changes to the Technical Specifications of Facility Operating License Nos. DPR-32 and DPR-37. These changes would authorize the Virginia Electric and Power Company (VEPCO) (the licensee) to operate the Surry Power Station Units 1 and 2 (located in Surry County, Virginia) with changes to the limiting conditions for operation resulting from application of the Acceptance Criteria for Emergency Core Cooling System (ECCS). This change is being made in conjunction with a partial reactor refueling for core cycle 2 of Unit 2.

The U.S. Nuclear Regulatory Commission, Division of Reactor Licensing, has prepared an environmental impact appraisal for the proposed changes to the Technical Specifications of License Nos. DPR-32 and DPR-37, Surry Units 1 and 2, described above. On the basis of this appraisal, the Commission has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the proposed action other than that which has already been predicted and described in the Commission's Final Environmental Statements for Surry Units 1 and 2 published in May and June 1972, respectively. The environmental impact ap-

praisal is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C., and at the Swem Library, College of William & Mary, Williamsburg, Virginia, 23185.

Dated at Rockville, Md., this 15 day of May 1975.

For the Nuclear Regulatory Commission.

FRED J. CLARK, JR.,
Acting Chief, Environmental Projects Branch 2, Division of Reactor Licensing.

[FR Doc.75-16261 Filed 6-23-75;8:45 am]

[Docket Nos. 50-280 and 50-281]

VIRGINIA ELECTRIC & POWER CO. SURRY POWER STATION UNITS 1 AND 2

Issuance of Amendments to Facility Operating Licenses

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments No. 7 to Facility Operating Licenses No. DPR-32 and DPR-37 issued to Virginia Electric & Power Company (licensee) which revised Technical Specifications for operation of the Surry Power Station, Units 1 and 2, located in Surry County, Virginia. The amendment for Unit 2 is effective as of the date of issuance, and for Unit 1 within ten days after date of issuance.

The amendments revise the provisions of the Technical Specifications related to the emergency core cooling system (ECCS). These revisions are based on the licensee's reevaluation of the ECCS performance and are consistent with the requirements of 10 CFR 50 Part 50.46.

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. 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 May 1, 1975 (40 FR 19043). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

For further details with respect to this action, see (1) the application for amendment dated April 15, 1975, as supplemented May 1, May 20, June 6, June 9 and June 11, 1975, (2) Amendments No. 7 to Licenses No. DPR-32 and DPR-37, with Changes No. 22, (3) the Commission's related Safety Evaluation, and (4) the Commission's Negative Declaration dated May 15, 1975, which is being published concurrently with this notice, and associated Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Swem Library, College of William & Mary, Williamsburg, Virginia 23185.

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 Reactor Licensing.

Dated at Bethesda, Maryland, this 16th day of June 1975.

For the Nuclear Regulatory Commission.

ROBERT A. PURPLE,
Chief, Operating Reactors Branch #1, Division of Reactor Licensing.

[FR Doc.75-16260 Filed 6-23-75;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.26, Revision 2, "Quality Group Classifications and Standards for Water-, Steam-, and Radioactive-Waste-Containing Components of Nuclear Power Plants," describes a quality classification system related to specified national standards that may be used to determine quality standards acceptable to the NRC staff for satisfying the regulations for other safety-related components containing radioactive material, water, or steam in water-cooled nuclear power plants. This revision reflects comments received from the public and other factors.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed (listed below) or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section.

Regulatory Guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW, Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone requests cannot be accommodated. Regulatory Guides are not copyrighted and Commission approval is not required to reproduce them.

Other Division 1 Regulatory Guides currently being developed include the following:

- Prevention of Fracture of Structural Discontinuities in Reactor Pressure Vessel
- Protection Against Postulated Events and Accidents Outside of Containment
- Fracture Toughness Requirements for Materials for Class 2 and 3 Components
- Maintenance of Water Purity in PWR Secondary Systems
- Criteria for Heatup and Cooldown Procedures
- Effects of Residual Elements on Predicted Radiation Damage
- Surveillance Testing and Inservice Inspection of Thermal Barrier and Steam Generator Materials in High-Temperature Gas-Cooled Reactors
- Surveillance and Postirradiation Examination of Fuel Rods in Lead Assemblies
- Design Load Combinations for Component Supports
- Interim Guide on Tornado Missiles
- Criteria for Plugging Steam Generator Tubes
- Structural Design Criteria for Fuel Assemblies in Light-Water-Cooled Reactors
- Overhead Crane Handling Systems for Nuclear Power Plants
- Recommended Procedure for Resintering Test to Monitor Densification Stability of Production Fuel
- Qualifications for Cement Grouting for Prestressing Tendons in Containment Structure
- Posttensioned Prestressing Systems for Concrete Reactor Vessels and Containment
- Inservice Monitoring of Core and Core Support Structure Motion Via Neutron-Flux Measurement
- Loose Parts Monitoring Program for the Primary System
- Tornado Design Classification
- Overpressure Protection of Low-Pressure Systems Connected to Reactor Coolant Pressure Boundary
- Protective Coatings for Light-Water Reactor Containment Facilities
- Quality Assurance Requirements for Installation, Inspection, and Testing of Mechanical Equipment and Systems
- Assumptions Used for Evaluating the Potential Radiological Consequences of a BWR Radioactive Offgas System Failure
- Fire Protection Criteria for Nuclear Power Plants
- Requirements for Auditing of Quality Assurance Programs for Nuclear Power Plants
- Quality Assurance Requirements for Control of Procurement of Equipment, Materials, and Services for Nuclear Power Plants
- Instrumentation for Light-Water-Cooled Nuclear Power Plants to Assess Plant Conditions During and Following an Accident
- Quality Assurance Requirements for Lifting Equipment
- Maintenance and Testing of Batteries
- Qualification Test of Class IE Cables, Connections, and Field Splices for Nuclear Power Plants
- Seismic Qualification of Class I Electric Equipment
- Fuel Oil Systems for Standby Diesel Generators
- Quality Assurance Requirements for the Manufacture of Class IE Instrumentation and Electric Equipment for Nuclear Power Plants
- Assumptions Used for Evaluating the Potential Radiological Consequences of a Liquid Radioactive Waste System Accident
- Containment Isolation Provisions
- Instrument Spans and Setpoints
- Initial Startup Testing Program for Facility Shutdown from Outside the Control Room
- Periodic Testing of Diesel Generators
- Qualification of Inspection, Examination, and

Testing Personnel for Nuclear Facilities
Quality Assurance Program Requirements for Nuclear Power Plant Fuels
Testing of Nuclear Air Cleaning Systems
Preoperational and Initial Startup Testing of Feedwater Systems for BWRs
Design Criteria for Overload Protection of Motor-Operated Valves
Identification of Materials, Parts, and Components for Nuclear Power Plants
Probable Maximum Storm Surge Flooding on Lakes and Sea Shores
Protection of Nuclear Power Plants Against Industrial Sabotage
Emergency Planning for Nuclear Power Plants
Control Room Manning
Flood Protection for Nuclear Power Plants
Hydrologic Design Criteria for Water Control Structures Constructed for Nuclear Power Plants
Spill Analysis—Dispersion and Dilution in Surface and Ground Water
Design Objectives for LWR Spent Fuel Facilities
Design Objectives for LWR Fuel Handling Systems
(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 16th day of June 1975.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Acting Director,
Office of Standards Development.

[FR Doc.75-16262 Filed 6-23-75;8:45 am]

[Docket No. 50-331]

IOWA ELECTRIC LIGHT AND POWER CO. ET AL.

(DUANE ARNOLD ENERGY CENTER)

Order for Modification of License

I. Iowa Electric Light and Power Company, Central Iowa Power Cooperative, and Corn Belt Power Cooperative (licensees) are the holders of Facility Operating License No. DPR-49 which authorizes operation of the Duane Arnold Energy Center (the facility) at steady-state reactor core power levels not in excess of 1658 megawatts thermal (rated power). The facility is a boiling water reactor (BWR) located at the licensees' site near Palo in Linn County, Iowa.

II. 1. On May 21, 1975, the Nuclear Regulatory Commission (NRC) issued an Order for Modification of License[1] restricting facility operation to core power levels not exceeding 50% of rated core power and core flow rates not exceeding 50% of design flow rate, without prior written approval of the Director, Office of Nuclear Reactor Regulation. As discussed in the May 21, 1975 Order, this action was taken as a result of indications of possible damage to fuel element channel boxes.

The reduction in power and core flow were designed to reduce flow through core plate bypass holes sufficiently to reduce excessive vibration of the instrument thimbles in the bypass region. This, in turn, would reduce further channel box damage.

2. After discussion with the NRC staff, the licensees agreed to undertake a program of test, inspection and repair if necessary. The licensees agreed to operate the facility at full power for test purposes for a limited 72-hour period under the authority of the May 21, 1975, Order; to shut down the facility immediately thereafter, remove fuel elements from the core and to inspect the channel boxes for damage. Depending on the results of the inspection, the licensees agreed to make appropriate repairs, including plugging of the bypass flow holes and to submit safety analyses assessing the return to power operation with plugged bypass holes and any other changes made as a result of the inspection. The plant would resume power operation only after authorization by the NRC after review of the safety analyses assessing operation with plugged bypass holes. The reactor is now in the shutdown condition and repairs are being made; the reactor will not be returned to power without further authorization from the NRC. Accordingly, it is appropriate to delete the condition added by the May 21, 1975 Order. The NRC staff believes that the licensees' program of inspection and repair is appropriate, under the circumstances, and should be confirmed by NRC Order.

3. Plant shutdown was preceded by a 72 hour test period of operation at core power levels up to 100 percent of rated power and core flow rates up to 100 percent of design flow rate. This 72 hour test period was requested by the licensees' letter of June 2, 1975 to permit the licensees to obtain measurements of changes in neutron flux as a function of power and flow to determine whether any correlation exists between the anomalous behavior of incore nuclear measurements and the occurrence of damage. The test program was approved by letter dated June 2, 1975.

4. Upon completion of the tests, the reactor was shut down on June 6, 1975 and visual inspection of the channel boxes was performed. Inspection of the first four channel boxes showed unacceptable wear in the corners of the channel boxes adjacent to the instrument thimble. These four channel boxes were adjacent to the instrument thimble location which, in a TIP trace taken on May 17, 1975, displayed a ratio of noise band width to signal amplitude of 0.0625. As a result of these observations, the licensees by letter of June 13, 1975, requested authorization to install core bypass flow plugs in the lower core plate as described in the enclosure to the licensees' letter of June 6, 1975, and supplied analyses to demonstrate the adequacy of such plugs and the adequacy of the procedures for plug installation.

5. The installation of the core bypass flow plugs in the lower core plate is designed to reduce the instrument tube—channel box interaction that produced the unacceptable wear described above. The enclosure to the licensees' letter of June 6, 1975, lists a total of 64 channels that were inspected during normal refueling outages in five plants that have instrument thimbles similar to those in the Duane Arnold reactor, but that do not have flow bypass holes. The bypass flow for these plants enters through clearances in the fuel assembly and fittings which is similar to the proposed Duane Arnold configuration with plugged bypass flow holes. For this configuration, no significant wear was observed at the corners of the channel boxes adjacent to the instrument thimbles.

6. Plugs identical to those proposed for the Duane Arnold reactor have previously been installed in both the Vermont Yankee and Pilgrim reactors in 1973 and 1974, respectively, to eliminate the vibration of temporary control curtains that caused channel box wear in those reactors. The plugs in the Vermont Yankee reactor were removed at the time that the temporary curtains were removed after ten months of successful service. In addition, the General Electric Company has conducted tests to demonstrate the adequacy of the plug design. These tests included full flow mockup tests that demonstrated that there is negligible leakage flow through the plugged holes. In addition, more than 10 plugs were satisfactorily removed in tests performed at the GE test facility. The NRC staff has reviewed the design, the testing, and the previous experience with the proposed plugs in the Vermont Yankee and Pilgrim reactors, and in its Safety Evaluation of Mechanical Plugs to be Inserted in the Duane Arnold Energy Center Reactor, dated June 18, 1975, the staff concluded that the mechanical design of the proposed bypass flow plugs is acceptable and that the plugs will reduce the vibration of the instrument thimbles caused by flow through the bypass holes and that installation of the plugs should be authorized. Conditions for subsequent operation of the facility with the plugs installed, are under review.

7. Copies of the following documents are available for public inspection in the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and are being placed in the Commission's Local Public Document Room, Reference Service, Cedar Rapids Public Library, 426 Third Avenue, S.E., Cedar Rapids, Iowa: (1) the licensees' letters of June 2, 1975, June 6, 1975 and June 13, 1975; (2) the NRC staff Safety Evaluation of Mechanical Plugs to be Inserted in the Duane Arnold Energy Center Reactor dated June 18, 1975, and the documents referenced therein.

III. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, *it is ordered*, That Facility Operating License No. DPR-49 is hereby amended by (1) deleting the following provision:

By reason of the circumstances outlined in the Order for Modification of License, dated

[1] See Order for Modification of License, *In the Matter of Iowa Electric Light and Power Company, Central Iowa Power Cooperative, and Corn Belt Power Cooperative* (Duane Arnold Energy Center), Docket No. 50-331 dated May 21, 1975 (40 F. R. 23782, June 2, 1975).

May 21, 1975, the licensees shall not operate the facility at core power levels exceeding 50 percent of rated power or core flow rates exceeding 50 percent of design flow rate without prior written approval of the Director, Office of Nuclear Reactor Regulation.

and (2) adding the following provision:

By reason of the circumstances outlined in the Order for Modification of License, dated June 17, 1975, the licensees are authorized to install bypass hole plugs in the lower core plate. The reactor shall not operate without authorization by the Office of Nuclear Reactor Regulation.

Dated at Bethesda, Maryland this 18th day of June, 1975.

For the Nuclear Regulatory Commission.

BEN C. RUSCHE,
Director Office of Nuclear Reactor Regulation.

[FR Doc.75-16414 Filed 6-23-75;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS' SUBCOMMITTEE ON REGULATORY GUIDES

Meeting

In accordance with the purposes of sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards' Subcommittee on Regulatory Guides will hold a meeting at 8:30 a.m. on July 9, 1975 in Room 1062 at 1717 H Street, NW., Washington, D.C. 20555. This meeting will be closed to the public.

The Subcommittee will meet in closed session with the NRC Staff to discuss the following working papers:

(1) Regulatory Guide 1.52, Revision 1, "Design, Testing, and Maintenance Criteria for Atmosphere Cleanup System Air Filtration and Absorption Units of Light Water Cooled Nuclear Power Plants."

(2) Guide for being Operator at the Controls.

(3) Revision to Regulatory Guide 1.88, "Collection, Storage, and Maintenance of Nuclear Power Plant Quality Assurance Records."

(4) Seismic Qualification of Class 1E Equipment for Nuclear Power Plants.

(5) Post-Tension, Pre-Stressing System for Concrete Reactor Vessel and Containment.

(6) Qualifications for Cement Grouting for Pre-Stressed Tendons in Containment Structure.

(7) Regulatory Guide 1.13, Revision 1, "Fuel Storage Facility Design Basis."

In connection with this matter, the Subcommittee may hold Executive Sessions, not open to the public, prior to and at the conclusion of the meeting with the NRC Staff, to exchange opinions and formulate recommendations to the ACRS.

I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that the closed session will consist of exchanges of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b). Any factual material that may be presented during this portion of the meeting will be inextricably intertwined with such exempt material and no separation of exempt and non-exempt material is considered practical. It is essential to close this meeting to protect the free interchange of internal views and to avoid undue interference with Subcommittee and agency operation.

Dated: June 19, 1975.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.75-16413 Filed 6-23-75;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS' SUBCOMMITTEE ON LOFT

Meeting

In accordance with the purposes of Sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards' Subcommittee on LOFT will hold a meeting on July 9, 1975 in Room 1046, 1717 H Street, NW., Washington, D.C. 20555. The purpose of this meeting will be to develop information for consideration by the ACRS in its review of safety-related topics of the LOFT facility. The facility will be located at the Idaho National Engineering Laboratory. The plant is approximately 30 miles northwest of Idaho Falls, Idaho.

The agenda for the subject meeting shall be as follows:

Wednesday, July 9, 1975, 9:00 a.m. until the conclusion of business. The Subcommittee will hear presentations by representatives of the NRC Staff, the Energy Research and Development Administration (ERDA), and the Aerojet Nuclear Corporation (ANC) and will hold discussions with these groups pertinent to its review of safety-related aspects of the LOFT facility.

In connection with the above agenda item, the Subcommittee will hold Executive Sessions, not open to the public, at 8:30 a.m. and at the end of the day to consider matters relating to the above application. These sessions will involve an exchange of opinions and discussion of preliminary views and recommendations of Subcommittee members and internal deliberations for the purpose of formulating recommendations to the ACRS.

In addition to the Executive Sessions, the Subcommittee may hold closed sessions with representatives of the NRC Staff and Applicant for the purpose of discussing privileged information concerning plant physical security.

I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that the above-noted Executive Sessions will consist of an exchange of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b) and that a closed session may be held, if necessary, to discuss certain documents and information which are privileged and fall with exemption (4) of 5 U.S.C. 552(b). Further, any non-exempt material that will be discussed during the above closed sessions will be inextricably intertwined with exempt material, and no further separation of this material is considered practical. It is essential to close such portions of the meeting to protect the free interchange of internal views, to avoid undue interference with agency or Subcommittee operation, and to avoid public disclosure of proprietary information.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so by mailing 25 copies thereof, postmarked no later than July 2, 1975 to the Executive Secretary, Advisory Committee on Reactor Safeguards, Nuclear Regulatory Commission, Washington, D.C. 20555. Such comments shall be based upon the Final Safety Analysis Report for this facility and related documents on file and available for public inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW., Washington, DC. 20555.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Subcommittee. To the extent that the time available for the meeting permits, the Subcommittee will receive oral statements during a period of no more than 30 minutes at an appropriate time, chosen by the Chairman of the Subcommittee between the hours of 10:30 a.m. and 11:30 a.m.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Subcommittee who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been cancelled or rescheduled and in regard to the Chairman's ruling on requests for opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call on July 8, 1975 to the Office of the Executive Secretary of the Committee (telephone 202/634-1393, Attn: Paul T. Burnett) between 8:15 a.m. and 5:00 p.m. Eastern Daylight Time.

(e) Questions may be propounded only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first-come, first-served basis.

(g) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meet-

ing, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(h) Persons desiring to attend portions of the meeting where proprietary information, other than plant security information, is to be discussed may do so by providing to the Executive Secretary, ACRS, 1717 H St., NW., Wash., DC. 20555, seven days prior to the meeting, a copy of an executed agreement with the owner of the proprietary information to safeguard this material.

(i) A copy of the transcript of the open portion of the meeting will be available for inspection on or after July 14, 1975 at the Nuclear Regulatory Commission's Public Document Room, 1717 H St., NW, Washington, DC. 20555. Copies of the transcript may be reproduced in the Public Document Room or may be obtained from Ace Federal Reporters, Inc., 415 Second Street, NE, Washington, DC. 20002 (telephone 202/547-6222) upon payment of appropriate charges.

(j) On request, copies of the minutes of the meeting will be made available for inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW., Washington, DC. 20555 after October 9, 1975. Copies may be obtained upon payment of appropriate charges.

Dated June 19, 1975.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.75-16412 Filed 6-23-75;8:45 am]

[Docket Nos. STN 50-508, STN 50-509]

WASHINGTON PUBLIC POWER SUPPLY SYSTEM (WPPSS NUCLEAR PROJECTS NOS. 3 & 5)

Reconstitution of Board

Max D. Paglin, Esq., was Chairman of the Atomic Safety and Licensing Board established for the above proceeding. Because of a schedule conflict, Mr. Paglin is unable to continue his service on this Board.

Thomas W. Reilly, Esq., whose address is Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, is being appointed Chairman of this Board. Reconstitution of the Board in this manner is in accordance with § 2.721 of the Commission's rules of practice, as amended.

Dated at Bethesda, Maryland this 18th day of June 1975.

NATHANIEL H. GOODRICH,
Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc.75-16415 Filed 6-23-75;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.20, Revision 1, "Comprehensive Vibration Assessment Program for Reactor Internals During Preoperational and Initial Startup Testing," presents a method acceptable to the NRC staff for implementing regulations with respect to the internals of light-water-cooled reactors during preoperational and initial startup testing.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed (listed below) or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 1.20, Revision 1, will, however, be particularly useful in evaluating the need for an early revision if received by August 21, 1975.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section.

Regulatory Guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone requests cannot be accommodated. Regulatory Guides are not copyrighted and Commission approval is not required to reproduce them.

Other Division 1 Regulatory Guides currently being developed include the following:

Prevention of Fracture of Structural Discontinuities in Reactor Pressure Vessel
Protection Against Postulated Events and Accidents Outside of Containment
Fracture Toughness Requirements for Materials for Class 2 and 3 Components
Maintenance of Water Purity in PWR Secondary Systems
Criteria for Heatup and Cooldown Procedures
Effects of Residual Elements on Predicted Radiation Damage
Surveillance Testing and Inservice Inspection of Thermal Barrier and Steam Generator Materials in High-Temperature Gas-Cooled Reactors
Surveillance and Postirradiation Examination of Fuel Rods in Lead Assemblies
Design Load Combinations for Component Supports
Interim Guide on Tornado Missiles
Criteria for Plugging Steam Generator Tubes
Structural Design Criteria for Fuel Assemblies in Light-Water-Cooled Reactors
Overhead Crane Handling Systems for Nuclear Power Plants
Recommended Procedure for Resintering Test to Monitor Densification Stability of Production Fuel
Qualifications for Cement Grouting for Prestressing Tendons in Containment Structure
Posttensioned Prestressing Systems for Concrete Reactor Vessels and Containment
Inservice Monitoring of Core and Core Support Structure Motion Via Neutron-Flux Measurement
Loose Parts Monitoring Program for the Primary System
Tornado Design Classification
Overpressure Protection of Low-Pressure Systems Connected to Reactor Coolant Pressure Boundary
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Instrumentation for Light-Water-Cooled Nuclear Power Plants to Assess Plant Conditions During and Following an Accident
Quality Assurance Requirements for Lifting Equipment
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Protection of Nuclear Power Plants Against Industrial Sabotage
Emergency Planning for Nuclear Power Plants
Control Room Manning
Flood Protection for Nuclear Power Plants
Hydrologic Design Criteria for Water Control Structures Constructed for Nuclear Power Plants
Spill Analysis—Dispersion and Dilution in Surface and Ground Water
Design Objectives for LWR Spent Fuel Facilities
Design Objectives for LWR Fuel Handling Systems

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 17th day of June, 1975.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Acting Director,
Office of Standards Development.

[FR Doc.75-16416 Filed 6-23-75;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR GENETIC BIOLOGY

Meeting

The Advisory Panel for Genetic Biology will meet on July 14 and 15, at 9 a.m. in Rm. 338, at 1800 G Street, NW., Washington, D.C.

The purpose of this Panel is to provide advice and recommendations as part of the review and evaluation process for specific research proposals that have been assigned to the Genetic Biology Program. This Panel functions in accordance with the Federal Advisory Committee Act, Pub. L. 92-463.

This meeting will not be open to the public because the Panel will be reviewing, discussing, and evaluating individual research proposals. Also, these proposals contain information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within the exemptions of 5 U.S.C. 552(b) (4), (5), and (6). The closing of this meeting is in accordance with the determination by the Director of the National Science Foundation dated February 21, 1975, pursuant to the provisions of section 10 (d) of Pub. L. 92-463.

For further information about this Panel, please contact Dr. Rose M. Litman, Program Manager, Genetic Biology, Rm. 326, National Science Foundation, Washington, D.C. 20550, telephone 202/632-5985.

FRED K. MURAKAMI,
Committee Management Officer.

[FR Doc.75-16429 Filed 6-23-75;8:45 am]

ADVISORY PANEL FOR WEATHER MODIFICATION

Meeting

The Advisory Panel for Weather Modification will hold an open meeting in Boulder, Colorado, on July 13, 14, and 15 as follows:

July 13

Time: 7:30 p.m. to 9:30 p.m.
Place: Rodeway Inn Conference Room

July 14 and 15

Time: 8:30 a.m. to 4:30 p.m.
Place: National Center for Atmospheric Research, Damon Room

The Advisory Panel was established on June 12, 1975, to assist the Foundation in identifying and defining program objectives and goals; to provide advice on program planning and maximizing potential research payoff and societal benefit; to advise on the state-of-the-art and on the impact of the Foundation's research support programs on the scientific community in weather modification. This Panel functions in accordance with the Federal Advisory Committee Act, Pub. L. 92-463. The agenda is as follows:

July 13

7:30 p.m. to 9:30 p.m.—NSF Weather Modification Program, NSF Cloud Physics Program, Proposal on Hail Suppression.

July 14

8:30 a.m. to 11:30 a.m.—Hail Suppression.
12:30 p.m. to 2 p.m.—Severe Storms.
2 p.m. to 4:30 p.m.—Societal Impact of Weather Modification.

July 15

8:30 a.m. to 10 a.m.—Inadvertent Weather Modification—METROMEX.
10 a.m. to 11:30 a.m.—Weather Modification for Agriculture—AGRIMEX.
12:30 p.m. to 2:30 p.m.—Weather Modification Technology and Evaluation.
2:50 p.m. to 4:30 p.m.—Panel Discussion of NSF Supported Weather Modification Research.

Anyone who plans to attend this meeting or would like more information about the Advisory Panel should contact Mr. Currie S. Downie, Program Manager for Weather Modification, Rm. 1132, National Science Foundation, Washington, D.C. 20550, telephone 202/632-4380. Summary minutes of this meeting may be obtained from the Committee Management Coordination Staff, Management Analysis Office, Rm. 248, National Science Foundation, Washington, D.C. 20550.

FRED K. MURAKAMI,
Committee Management Officer.

JUNE 19, 1975.

[FR Doc.75-16428 Filed 6-23-75;8:45 am]

RAILROAD RETIREMENT BOARD

ACTUARIAL ADVISORY COMMITTEE ON RAILROAD RETIREMENT ACCOUNTS

Public Meeting

Notice is hereby given in accordance with Public Law 92-463 that the Actuarial Advisory Committee will hold a meeting on July 23, 1975, at the offices of the Chief Actuary of the U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, on the conduct of the 13th Actuarial Valuation of the Railroad Retirement Account. The agenda for this meeting will include the results of the recently completed mortality, remarriage and family composition studies for the 13th Valuation, together with the recommendations of the Chief Actuary as to the mortality, remarriage and family composition assumptions to be used for the 13th Valuation.

The meeting will be open to the public. Persons wishing to submit written statements or make oral presentations should address their communications or notices to the RRB Actuarial Advisory Committee, c/o Chief Actuary, U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611.

Dated: June 17, 1975.

R. F. BUTLER,
Secretary of the Board.

[FR Doc.75-16297 Filed 6-23-75;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

BBI, INC.

Notice of Suspension of Trading

JUNE 12, 1975.

The common stock of BBI, Inc., being traded on the American and the Philadelphia-Baltimore Washington Stock Exchanges pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of BBI, Inc. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchanges and otherwise than on a national securities exchange is suspended, for the period from June 13, 1975 through June 22, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-16280 Filed 6-23-75;8:45 am]

[File No. 500-1]

CANADIAN JAVELIN, LTD.

Notice of Suspension of Trading

JUNE 17, 1975.

The common stock of Canadian Javelin, Ltd. being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Canadian Javelin, Ltd. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from June 18, 1975 through June 27, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-16281 Filed 6-23-75;8:45 am]

[File No. 500-1]

EQUITY FUNDING CORPORATION OF AMERICA

Notice of Suspension of Trading

JUNE 13, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common

stock, warrants to purchase the stock, 9½ percent debentures due 1990, 5½ percent convertible subordinated debentures due 1991, and all other securities of Equity Funding Corporation of America being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from June 16, 1975 through June 25, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.75-16282 Filed 6-23-75;8:45 am]

[File No. 500-1]

FAIRFIELD COMMUNITIES LAND CO.

Notice of Suspension of Trading

JUNE 11, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Fairfield Communities Land Co. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from 12 Noon (EDT) on June 11, 1975 through midnight (EDT) on June 20, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.75-16283 Filed 6-23-75;8:45 am]

[File No. 500-1]

INDUSTRIES INTERNATIONAL, INC.

Notice of Suspension of Trading

JUNE 13, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Industries International, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from June 16, 1975 through June 25, 1975.

By the Commission.

GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.75-16284 Filed 6-23-75;8:45 am]

[Rel. No. 8823; 811-2209]

INVESCO EQUITY FUND, INC.

Notice of Filing of Application

JUNE 13, 1975.

Notice is hereby given that on May 2, 1975, Invesco Equity Fund, Inc. ("Applicant"), 34 Peachtree Street, Atlanta, Georgia 30303, registered as an open-end, diversified management investment company under the Investment Company Act of 1940 ("Act"), filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

Applicant, which was incorporated on August 26, 1970, and which proposed to operate pursuant to the Georgia Fiduciary Investment Company Act, registered under the Act on July 12, 1971, and filed a registration statement under the Securities Act of 1933 on July 13, 1971, which, after amendment, became effective on August 21, 1972. A post-effective amendment of the Applicant under the 1933 Act became effective on August 22, 1973. Thereafter, Applicant discontinued the public sale and distribution of its shares.

At the present time Applicant has no shareholders and no intention of ever selling any shares in the future. On March 31, 1975, Applicant's Board of Directors authorized (1) the filing of an application for an order declaring that Applicant has ceased to be an investment company and terminating the registration of the Applicant, and (2) the dissolution of the Applicant under the Georgia Business Corporation Code. Upon the granting of the order requested herein, the Applicant will be dissolved as a corporation under the laws of the State of Georgia.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, which may be made upon appropriate conditions if necessary for the protection of investors, and upon taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than July 8, 1975, at 5:30 p.m. submit to the Commission in writing a request for the hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request as provided by rule 0-5 of the rules and regulations promulgated under the Act. An order disposing of the application will be issued as of course following July 8, 1975 unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.75-16286 Filed 6-23-75;8:45 am]

[Rel. No. 8822; 811-2373]

INVESCO INCOME FUND, INC.

Notice of Filing of Application

JUNE 13, 1975.

Notice is hereby given that on May 2, 1975, Invesco Income Fund, Inc. ("Applicant"), 34 Peachtree Street, Atlanta, Georgia 30303, registered as an open-end, diversified management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

Applicant, which was incorporated on March 1, 1973, and proposed to operate pursuant to the Georgia Fiduciary Investment Company Act, registered under the Act on April 10, 1973, and filed a registration statement under the Securities Act of 1933 on April 10, 1973, which, after amendment, became effective on May 29, 1973. Thereafter, Applicant discontinued the public sale and distribution of its shares.

At the present time Applicant has no shareholders and no intention of ever selling any shares in the future. On March 31, 1975, Applicant's Board of Directors authorized the filing of an application for an order declaring that Applicant has ceased to be an investment company and terminating Applicant under the Georgia Business Corporation Code. Upon the granting of the order requested herein, the Applicant will be dissolved as a corporation under the laws of the State of Georgia.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, which may be made upon appropriate conditions if necessary for the protection of investors, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than July 8, 1975, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request as provided by rule 0–5 of the rules and regulations promulgated under the Act. An order disposing of the application will be issued as of course following July 8, 1975 unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-16285 Filed 6-23-75;8:45 am]

[Rel. No. 8825; 812-2978]

PAUL REVERE LIFE INSURANCE CO. AND PAUL REVERE INVESTORS, INC. Notice of Filing of Application

JUNE 16, 1975.

Notice is hereby given that the Paul Revere Life Insurance Company, ("Insurance Company") Worcester, Massachusetts, and Paul Revere Investors, Inc. (the "Fund"), a registered closed-end investment company, have filed an application for an amendment to the Commission's Order dated September 30, 1971 under section 17(d) of the Investment Company Act of 1940 (the "Act") and Rule 17d-1 (Investment Company Act Release No. 6753). The Commission's Order was entered pursuant to an application filed with the Commission by the Insurance Company and the Fund on June 21, 1971 (File No. 812-2978). All interested persons are referred to the application on file with the Commission for a full statement of the representations therein which are summarized below.

The Fund is advised by The Paul Revere Equity Management Company (the "Adviser"), a wholly-owned subsidiary of the Insurance Company, and is designed to enable shareholders of the Fund to participate in direct placements of a kind being acquired by the Insurance Company. In essence, the Commission order authorized the Insurance Company and the Fund to enter into and effect an arrangement pursuant to which they invest concurrently in each issue of securities suitable for purchase by the Fund which is purchased by the Insurance Company or the Fund at direct placement. Among the conditions of the order is the requirement that all direct placements in which the Insurance Company invests, and which are consistent with the Fund's investment policies, be shared equally by the Insurance Company and The Fund unless in the judgment of the Fund's board of directors (i) 85 percent or more of the assets of the Fund are invested in direct placements, (ii) the Fund has insufficient cash to make the investment, and (iii) the sale of the Fund's portfolio securities to provide cash for such investment is inadvisable. The conditions of the proviso clause are cumulative; each condition must be met before a participation may be rejected. The board's determination must be concurred in by a majority of those directors who are not "interested persons" (as defined in the Act).

Applicants represent that for reasons over which the Fund, the Adviser and the Insurance Company have had no control, the Fund has as yet been unable to accomplish its intention of becoming fully-invested in direct placements. However, alternative investments within the Fund's investment policies have permitted the Fund to achieve its objective of generating increasing dollar amounts of income over the long term. Applicants state that the Fund, therefore, is in circumstances which were not anticipated when the Commission's order was entered.

As of December 31, 1974, approximately 45 percent of the Fund's assets were invested in securities acquired in direct placements and the remaining 55 percent of its assets were invested almost entirely in publicly traded debt securities. The board of directors of the Fund, and the Adviser, are now concerned that adherence to the requirement that the Fund participate equally in all of the direct placements which are suitable for investment by the Fund in which the Insurance Company participates until 85 percent of the Fund's assets are so invested could adversely affect the Fund. This would occur if the Fund were forced to liquidate portfolio securities in order to participate in direct placements in which the Insurance Company wishes to invest but which are less attractive than the Fund's existing investments. The board of directors of the Fund, with the concurrence of the board of directors of the Insurance Company, proposes to modify the arrangement in situations where sound investment advice dictates that the Fund not liquidate any portfolio securities.

Therefore, the proposed modification is designed to afford the board of directors of the Fund, with the specific concurrence of a majority of the directors who are not "interested persons", an opportunity to determine that the Fund will not participate in a direct placement acceptable to the Insurance Company. Under its proposed modification the Fund would not have to participate in every direct placement suitable for the Fund in which the Insurance Company participates if, in the opinion of such directors, participation by the Fund would require the liquidation of portfolio securities of the Fund which more suitably fulfill the Fund's investment objectives than would the direct placement.

Pursuant to the requested modification of the arrangement, paragraph (3) of the Order would read as follows:

(3) All securities which the Insurance Company is prepared to purchase at direct placement and which would be consistent with the investment policies of the Fund will be shared equally by the Insurance Company and the Fund unless

(a) 85 percent or more by value of the assets of the Fund are invested, in accordance with the investment policies of the Fund, in long-term obligations or preferred stocks purchased directly from the issuers or in equities acquired either in connection with such purchases or as a result of the exercise of rights or other options so acquired, or

(b) There is insufficient cash and cash equivalents to make the investment and (i) the investment adviser to the Fund has informed the Fund's board of directors that in the adviser's opinion it would not be in the best interests of the Fund to liquidate portfolio securities to obtain monies to make the investment, and (ii) the board of directors of the fund, with the specific concurrence of a majority of those directors who are not "interested persons" (as defined in the Act) of the investment adviser, nor affiliated persons of the Insurance Company, concur in the adviser's opinion, or

(c) The purchase by the Fund would be inconsistent with the provisions of any commission order granted on this Application or otherwise then in effect, or

(d) The Commission by order otherwise permits.

Rule 17d-1 adopted by the Commission under section 17(d) of the Act provides that "no affiliated person of * * * any registered investment company * * *, acting as principal, shall participate in, or effect any transaction in connection with any joint enterprise or other joint arrangement or profit sharing plan in which any such registered company * * * is a participant, and which is entered into, adopted or modified subsequent to the effective date of this rule, unless an application regarding such joint enterprise, arrangement or profit sharing plan has been filed with the Commission and has been granted by an order en-

tered * * * prior to such adoption or modification." It is also provided that in passing upon such applications, the Commission will consider whether the participation of such registered or controlled company in such joint enterprise, joint arrangement or profit sharing plan on the basis proposed is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Section 38(a) of the Act provides that "(t)he Commission shall have present authority from time to time to make, issue, amend and rescind such rules and regulations and such orders as are necessary or appropriate to the exercise of the powers conferred upon the Commission elsewhere in this title * * *" Finally, paragraph 8 of the present order provides that "(t)his order may be modified or revoked by the Commission on notice and opportunity for hearing."

Applicants represent that the arrangement as modified would be consistent with the provisions, policies and purposes of the Act and that the participation of the Fund in the joint arrangement, as modified, would not be on a basis less advantageous than that of the other participants.

Applicants represent that shareholders of the Fund will be adequately protected if the proposed amendment to the order is adopted. If sufficient cash and cash equivalents are available, the Insurance Company and the Fund will participate equally in the direct placements as originally contemplated. If the Fund does not have sufficient cash, the Adviser will determine whether the Fund should participate in the direct placement by liquidating portfolio securities. If the Adviser concludes that sale of publicly traded securities in the Fund's portfolio in an amount sufficient to make the direct placement is advisable, the Fund will participate equally with the Insurance Company. If the Adviser determines that in its opinion the Fund should not sell portfolio securities in order to participate in a particular direct placement proposed for investment by the Insurance Company, the Fund's board of directors, and a majority of the Fund's directors who are not "interested persons", will be required to review the Adviser's reasons for its conclusion and to concur with the conclusion in order to permit the Insurance Company to participate without the Fund. If the board disagrees with the Adviser's conclusion, the Fund will participate together with the Insurance Company.

Notice is further given that any interested person may, not later than July 11, 1975, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the addresses stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the matter will be issued as of course following July 11, 1975, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75–16287 Filed 6–23–75;8:45 am]

[File No. 500–1]

ROYAL PROPERTIES INC.

Notice of Suspension of Trading

JUNE 11, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Royal Properties Incorporated being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from June 12, 1975 through June 21, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75–16288 Filed 6–23–75;8:45 am]

[File No. 500–1]

WESTGATE CALIFORNIA CORP.

Notice of Suspension of Trading

JUNE 13, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock (class A and B), the cumulative preferred stock (5 percent and 6 percent), the 6 percent subordinated debentures due 1979 and the 6½ percent convertible subordinated debentures due 1987, and all other securities of Westgate California Corporation being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from June 16, 1975 through June 25, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75–16289 Filed 6–23–75;8:45 am]

[File No. 500–1]

WINNER INDUSTRIES, INC.

Notice of Suspension of Trading

JUNE 11, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Winner Industries, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from June 12, 1975 through June 21, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75–16290 Filed 6–23–75;8:45 am]

[File No.500–1]

CONTINENTAL VENDING MACHINE CORP.

Notice of Suspension of Trading

JUNE 18, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Continental Vending Machine Corporation being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from June 19, 1975 through June 28, 1975.

By the Commission.

[SEAL] SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc.75–16332 Filed 6–23–75;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. RP75-95]

ARKANSAS LOUISIANA GAS CO.

Order Rejecting Rate Increase Application and Granting Petition To Intervene

JUNE 16, 1975.

On April 30, 1975, Arkansas Louisiana Gas Company (Arkla) tendered for filing a proposed change in rates for service to Cities Service Gas Company (Cities), the one customer served on the rate schedule filed. The proposed increase would raise the price to Cities Service from 24.27¢ per Mcf to 54.29¢ per Mcf, for an annual increase of approximately $5.7 million. Arkla proposes an effective date of July 1, 1975 for the proposed increase.

Notice of this filing was issued on May 7, 1975, with protests and petitions to intervene due on or before May 23, 1975. On May 23, 1975, Cities petitioned for leave to intervene.

Arkla requests that its rate increase application be accepted for filing pursuant to § 154.63(a)(3), as a minor rate increase since it would affect only one purchaser under one special contract and does not involve a published tariff available for general use. Section 154.63(a)(3) of our Regulations defines minor rate increases as those in which the proposed increases in rates or charges do not exceed the smaller of $100,000 or five percent of the revenues under the jurisdiction of this Commission. That section states further that it is to be used in cases where any increase in revenue is subordinate to some other purpose and to include changes that are not designed to provide general revenue increases such as to offset increased costs or otherwise achieve a fair return on the overall jurisdictional business.

We shall deny Arkla's request for permission to file pursuant to § 154.63(a)(3) of the Regulations. Not only does its rate increase application exceed the dollar limitations set forth at that Section, but the stated purpose of the increase is to provide a higher rate of return on this sale, which makes up the largest portion of its jurisdictional business; and offset increases in costs such as labor, supply and materials. In summary, this rate increase application fails to meet every substantive standard set forth at § 154.63(a)(3).

Moreover, since Arkla's filing does not properly fit within the definition set forth at § 154.63(a)(3), to be considered for acceptance it must comply with the filing requirements pertaining to major rate increases set forth at § 154.63(b)(3). We are particularly distressed with the company's failure to file a Statement P, the evidence to support the increase for which it seeks approval from this Commission.

For the reasons set forth above, we find that Arkla's tendered filing of April 30, 1975 does not comply with our Regulations and should be rejected.

The Commission finds:

(1) Good cause exists to reject Arkla's tendered filing of April 30, 1975, for failure to comply with the Regulations of this Commission.

(2) Good cause exists to permit the intervention of Cities Service Gas Company.

The Commission orders:

(A) Arkla's tendered filing of April 30, 1975, is hereby rejected for failure to comply with applicable Commission Regulations.

(B) Cities Service Gas Company is hereby permitted to intervene in this proceeding, subject to the Rules and Regulations of the Commission; *Provided, however*, that the participation of such intervenor shall be limited to matters affecting the rights and interests specifically set forth in its petition to intervene; and *Provided, further*, that the admission of such intervenor shall not be construed as recognition that it might be aggrieved because of any order or orders issued by the Commission in this proceeding.

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

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-16359 Filed 6-23-75;8:45 am]

[Docket No. E-9092]

ARKANSAS-MISSOURI POWER CO.

Notice of Further Extension of Procedural Dates

JUNE 16, 1975.

On June 10, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued November 29, 1974, as most recently modified by notice issued May 16, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of staff testimony, July 15, 1975.
Service of intervenor testimony, July 29, 1975.
Service of company rebuttal, August 17, 1975.
Hearing (unchanged), August 26, 1975 (10 a.m. e.d.t.).

KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-16360 Filed 6-23-75;8:45 am]

[Docket No. RI74-144]

AZTEC OIL AND GAS CO.

Notice of Further Extension of Procedural Dates

JUNE 17, 1975.

On May 30, 1975, Aztec Oil and Gas Company (Aztec) filed a motion to extend the procedural dates fixed by order issued January 27, 1975, as most recently modified by order issued May 2, 1975, in the above-designated matter. On June 5, 1975, Aztec filed a supplement stating that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Aztec's and supporting intervenor testimony, July 7, 1975.
Service of staff's and opposing intervenor's testimony, July 28, 1975.
Service of rebuttal testimony, August 4, 1975.
Hearing, August 12, 1975 (10 a.m., e.d.t.).

KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-16361 Filed 6-23-75;8:45 am]

[Docket No. CI74-331]

BLAIR-VREELAND ET AL.

Order To Show Cause Joining Parties and Providing for Hearing

JUNE 16, 1975.

The present issues before the Commission relate to whether the Commission can order restitution by Blair-Vreeland and others of natural gas provided in Duval County, Texas, to Tennessee Gas Pipe Line Company that was improperly delivered elsewhere. In Opinion No. 724, ____ FPC ____, is issued March 18, 1975, the Commission determined that natural gas produced from Blair-Vreeland Wells Nos. 1 and 2 (DCRC Sec. 204, Santa Anna Garcia Survey, A-1845) was dedicated to the interstate market and to Tennessee as a result of contracts entered into by Blair-Vreeland's predecessor in interest, the Humble Oil and Refining Company (Now the Exxon Company, U.S.A.) and Tennessee. The Commission took note of Staff's argument that Blair-Vreeland must be ordered to repay to Tennessee the volumes of gas that it has unlawfully sold on the intrastate market but agreed that it could not order restitution on the basis of this record and so provides:

Within 45 days from the date of issuance of this opinion and order, Blair-Vreeland shall file with the Commission and shall serve upon each of the parties to this proceeding either a restitution plan or a report concerning its ability to effect restitution to Tennessee. The Commission will thereafter take such further action concerning restitution as may be necessary or appropriate.

In its response filed May 2, 1975, Blair-Vreeland argued that if the Commission does not possess the power to enter reparation orders as to unlawful rates, then it does not have the power to issue a restitution order as to natural gas. It submits that Sections 20, 21 and 22 of the Natural Gas Act set out the remedies for violation of the Act and of orders of the Commission. Section 20 provides for current proceedings to enforce the Act; Section 21 provides for fines and imprisonment; and Section 22 provides that the District Courts of the United States shall have exclusive jurisdiction of violations and all suits in equity and actions

of law brought to enforce the Act. Blair-Vreeland argues that what is sought here is specific performance of the Commission's interpretation of the Exxon-Tennessee Gas Sales Contracts and it is entitled to a trial by jury on the issues of fact.

On the question of restitution itself Blair-Vreeland says that the Commission must interplead Exxon, which has a working interest and a royalty interest in the gas in question, and Duval County Ranch Company (DCRC) which also has a royalty interest and has received a fraction of the gas produced in kind. Blair-Vreeland says that it is very difficult to predict future production from its wells because of other wells completed in the reservoir and impossible to propose a plan of restitution when the means of carrying out the plan are non-existent.

In comments filed on May 16, 1975, Tennessee agrees that Exxon and DCRC should be added as parties. In any case, Tennessee contends Blair-Vreeland has failed to present information as to its other alleged dedications of gas and that it has been on notice since March 30, 1975, of Tennessee's claim and yet has sold its share of the gas in the intrastate market. Therefore, Tennessee says, Blair-Vreeland should not be permitted to retain the fruits of its unlawful actions and may properly be required to devote at least the proceeds of the unlawful sales to the acquisition of gas to replace that sold unlawfully.

In our opinion, Blair-Vreeland would have us take a too narrow view of our authority under the Natural Gas Act. Our power to make our regulation effective is illustrated by the proceeding in *Hugoton Production Company*, 41 FPC 490 (1969), where Hugoton cut off interstate deliveries to its affiliate Panhandle Eastern Pipeline Company in favor of certain intrastate sales without obtaining leave to abandon under Section 7(b) of the Act. The Commission provided for a refund by Hugoton of the additional amount that Panhandle would have had to pay elsewhere for the volumes of gas it was entitled to receive from Hugoton.

On appeal the court in *Mesa Petroleum Co.* v. *F.P.C.*, 441 F.2d 182 (CA5 1971), affirmed the Commission on this point. The court said that Hugoton's argument that the Commission had exceeded its statutory authority is answered by Section 16 granting the Commission power to perform any acts "as it may find necessary and appropriate to carry out the provisions of this Act" and that this authority is broadly construed to cope with unforeseen problems of administration. The court has rejected Hugoton's contention that the post-abandonment refund order was an equity matter to be handled solely by a court. Quoting *Niagara Mohawk Power Corp.* v. *F.P.C.*, 379 F.2d (CADC, 1967), the court said the principles of equity are not to be isolated as a special province of the courts, but are rather to be welcomed as reflecting fundamental principles of justice that properly enlighten administrative agencies under law. The court added that the Commission was carrying out its duties under Section 7 of the Act, as in the present case, and that there was no basis for Hugoton's claim that since the Commission lacks authority to award reparations, it was also without authority to correct a failure to comply with the certificate provisions of the Natural Gas Act by an unauthorized abandonment. See also *Central Maine Power Company* v. *F.P.C.*, 345 F.2d 845 (CA1 1965).

Likewise in this proceeding we seek to correct Vreeland's failure to carry out its obligations to Tennessee and interstate consumers. We think that this can most properly be done by requiring Vreeland or other owners of the gas reserves in question to make up to Tennessee the gas volumes that should have been delivered to it. This may be an equitable remedy but under the Mesa Petroleum case is within our powers. As we already said in Opinion No. 724, we cannot order such restitution on the basis of the present record. We shall therefore join Exxon and DCRC with Vreeland and institute a proceeding to show cause why each of them cannot make appropriate restitution to Tennessee of the gas that should have been delivered under applicable certificates.

The Commission orders:

(A) Exxon and DCRC are joined as respondents with Blair-Vreeland in these proceedings.

(B) Blair-Vreeland, Exxon and DCRC shall show cause in these proceedings why they should not make restitution to Tennessee from any of their gas holdings for gas volumes that should have been delivered to Tennessee from Blair-Vreeland's Wells Nos. 1 and 2 or any subsequent wells in the same reservoir (DCRC Sec. 204, Santa Ana Garcia Survey, A-1845, Duval County, Texas).

(C) These proceedings are hereby remanded to the Administrative Law Judge to hold such prehearing conferences, and hearing sessions as appropriate to determine the volumes of gas to be restored by Blair-Vreeland, Exxon and DCRC, or any of them, to Tennessee and the manner of such restitution.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-16362 Filed 6-23-75;8:45 am]

[Docket Nos. CI75-626, CI75-656]

BILL J. GRAHAM AND PERMIAN CORP.

Order To Show Cause, Setting Date for Formal Hearing, Consolidating Proceedings, and Prescribing Procedures

JUNE 16, 1975.

On April 21, 1975, Bill J. Graham (Graham) filed in Docket No. CI75-626 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a sale of natural gas in interstate commerce to The Permian Corporation (Operator) (Permian) from two wells in the Susita Field, Crockett County, Texas, and on May 8, 1975, Permian filed in Docket No. CI75-656 a related application requesting permission and approval to abandon its sale for resale of gas to El Paso Natural Gas Company (El Paso), all as more fully set forth in the applications in these dockets.

By telegram filed April 9, 1975, Graham advised the Commission that on that date Permian had removed its compressor facilities and severed connection to his wells. Graham requested abandonment authorization stating that further operation is uneconomical and that inasmuch as his wells were shut-in his leases may expire (Graham indicates an expiration date of June 8, 1975). In his application in Docket No. CI75-626 Graham states in support of the abandonment request that his production revenues do not justify certain expenses that are necessary to continue production from the subject wells, but that he could sell such reserves (estimated at 200,000 Mcf of gas) to a local market at a profit because he would not have such expenditures.[1] The Commission, however, has only a modicum of documentary evidence before it to establish the adequacy or inadequacy of facilities and revenues contrasted to expenses in relation to the sales proposed to be abandoned. In any event economic hardship alone does not justify abandonment of a previously certificated sale without Commission consent,[2] and despite such alleged hardship the resumption of deliveries illegally abandoned may be ordered by the Commission. *United Gas Pipe Line Company* v. *FPC*, 385 U.S. 83 (1966).

On May 8, 1975, Permian filed a companion application requesting permission and approval to abandon its sale for resale of gas attributable to Graham's leases from the Todd Ranch Gas Proc-

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[1] Graham claims to have experienced losses from his operations of $373 in January 1975 and $636 in February 1975 and anticipates further losses in March 1975. Graham alleges that to prevent impairment to Permian's compressor caused by liquids in the subject gas he would have to install separation equipment at the two wells at an estimated cost of $9,000. Further, to remove fluid which accumulates in one of the two wells Graham states that he must install artificial lift equipment at an estimated cost of $10,000, with monthly maintenance cost of $350. Graham also claims that due to corrosion of his gas line an estimated 10 percent of the subject gas is lost through leakage. In addition, Graham alleges that he pays one half of Permian's rental charges (of $450 per month) for a certain compressor plus fuel cost of 17 cents per Mcf to operate the compressor. Graham claims that the royalty owners state that they will no longer pay their portion of the compressor rental charge amounting to $83 per month.

[2] Graham is the holder of a small producer certificate issued in Docket No. CS67-45. Graham produces and sells gas from the two subject wells to Permian at a price which is a percentage of the proceeds from the resale of the residue gas and is therefore subject to § 154.91(e) of the Commission's Regulations Under the Natural Gas Act which mandates that the producers must comply with Section 7(b) of the Act: "However, such producer is fully subject to applicable provisions of the Natural Gas Act, including Sections 5 and 7(b)".

essing Plant in Crockett County to El Paso. Permian maintains that abandonment authorization should be granted as the present sale is non-commercial. The sole support cited for this request by Permian is a copy of Graham's letter dated March 27, 1975, to Permian in which Graham cites paragraph 12 of their gas contract as giving him the right as seller to determine when any lease has ceased to produce gas in paying quantities and is to be abandoned. Graham advised Permian that this condition exists and that, therefore, their gas contract was terminated.

By order issued January 7, 1970, in Docket No. G-7421, *et al.*, a certificate of public convenience and necessity was issued to Permian to allow it to continue Continental Oil Company (Operator's previously certificated sale in Docket No. CI61-1653 to El Paso of gas from the Todd Ranch Plant. Said order was specifically conditioned to Permian's compliance with the provisions of the Natural Gas Act and the applicable rules, regulations and orders of the Commission. Gas produced by Graham's two wells was transported and delivered by Permian to El Paso at the tailgate of the Todd Ranch plant. Inasmuch as Permian has apparently severed connection with Graham's line and removed its compressor, some or all of the gas certificated for sale to El Paso from the Todd Ranch Plant has been removed from the interstate market without prior Commission consent.[3] The fact that Graham interprets paragraph 12 of the 1967 gas contract which covers the sale of gas from the two wells as giving him the right to determine when any lease has ceased to produce gas in paying quantities and is to be abandoned adds nothing in support of Permian's abandonment application. The Commission in its January 7, 1970, order specifically advised Permian that any such contract clause was subordinate to conditions of the certificate authorization, stating, "Nor shall the grant of the certificate[s] aforesaid for service to the particular customer[s] involved imply approval of all the terms of the contract[s], particularly as to the cessation of service upon termination of said contract[s] as provided by Section 7(b) of the Natural Gas Act." Moreover, neither the expiration of contracts,[4] nor producer successions[5] can impede the continued interstate flow of gas once dedicated, as to allow contract terms to control such flow of gas reserves would undermine the regulatory scheme of the Act.[6]

As it is well established that there can be no withdrawal of gas once dedicated to the interstate market from continued interstate movement without approval of the Commission under Section 7(b),[7] the sales proposed to be abandoned in Docket Nos. CI75-626 and CI75-656 may only lawfully be terminated after such Commission approval. This order will, therefore, direct that a hearing be convened to ascertain facts and circumstances underlying jurisdictional operations of Graham and Permian under the Natural Gas Act, 15 U.S.C. 717, et seq. The Commission's jurisdiction extends to operations during the period of the investigation, the term of the lease notwithstanding, and Graham shall take no action to terminate the subject lease as a matter of contract law, pending the conclusion of this investigation, hearing and further Commission order upon the merits.

In view of the foregoing, we are directing Graham and Permian to show cause why they or either of them should not be found in violation of Section 7(b) of the Natural Gas Act and the Commission's Regulations thereunder for not having first secured the requisite authorization before abandoning jurisdictional sales of natural gas and related compression facilities as hereinbefore described.

Moreover, in light of the above-described events, the role of El Paso must be examined to determine, if in fact the Natural Gas Act has been violated, and whether El Paso has acquiesced in said violation or might have been a party thereto. In a time of nationwide gas shortage and with regard to El Paso's system-wide curtailment projections, the Commisison must scrutinize actions by interstate natural gas companies which may be counter-productive to securing gas reserves for the interstate consumer.

Since El Paso may be in a position to contribute significantly to a proper determination of matters involved herein, we shall join El Paso as a party to this proceeding.

We believe that a formal hearing should be convened to develop a complete record in this proceeding. Such proceeding should develop, inter alia, a record regarding:

1. The events surrounding the removal of pipeline and compression facilities.

2. The reason why Permian has charged Graham 17.0 cents per Mcf for compressor fuel rather than deducting the volumes so used from those purchased from Graham.

3. The reason why Permian has allegedly failed to pay Graham on the basis of the 25.0 cents per Mcf price which became effective on April 4, 1974, under Permian's Rate Schedule No. 3 covering its resale of gas to El Paso.

4. The estimated length of time Graham's existing 3½ mile pipeline could continue to operate without being replaced.

5. The circumstances and reasons associated with the reduction in sales volumes during December 1974 and January and February 1975. In this regard Graham shall furnish data setting forth the average monthly deliveries of gas from the two wells since 1970.

6. A detailed description of operating costs incurred by Graham and Permian with regard to the sales proposed to be abandoned, by year since 1970, and estimated future expenses.

The Commission finds:

(1) It may be that Graham and Permian are in violation of the Natural Gas Act and the Commisison's Regulations thereunder.

(2) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that a public hearing be held on the matters involved and issues presented in these proceedings as hereinbefore described.

(3) Due to the related nature of the applications and since there may be common questions of law or fact involved, it is appropriate to consolidate the proceedings in Docket Nos. CI75-626 and CI75-656.

(4) Graham should be ordered, pendente lite, to refrain from engaging in the sale of natural gas produced from the subject wells with any party other than Permian and shall take no action to terminate the subject lease as a matter of law.

The Commission orders:

(A) Graham and Permian shall show cause, if any there be, at the hearing directed in paragraph (D) below, why they or each of them should not be held in violation of Section 7(b) of the Natural Gas Act and the Commission's Regulations thereunder for not having obtained authorization before abandoning jurisdictional sales and related facilities as hereinbefore described.

(B) El Paso is hereby joined as a party to these proceedings and shall be prepared to explain at the formal hearing ordered therein, among other things, whether or not it acquiesced in the abandonment by Permian.

(C) Pending the hearing set by paragraph (D) below, and a decision in this proceeding, Graham shall refrain from engaging in the sale of natural gas produced from the two before described wells with any party other than Permian and shall take no action to terminate the subject leases as a matter of contract law.

(D) Pursuant to the authority of the Natural Gas Act, particularly Sections 7, 14, 15 and 16 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Natural Gas Act [18 CFR, Chapter I], a public hearing concerning the matters involved and the issues presented in these proceedings as hereinbefore set forth will be held in a hearing room of the Federal Power Commission, Washington, D.C., commencing at 10 a.m. (e.d.s.t.) on July 16, 1975. Graham, Permian and El Paso shall file with the Secretary of the Commission and serve upon the Presiding Administrative Law Judge, the Commission Staff, and all other parties, testi-

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[3] Section 7(b) of the Natural Gas Act definitively states that "no natural-gas company shall abandon all or any portion of its facilities subject to the jurisdiction of the Commission, or any service rendered by means of such facilities, without the permission and approval of the Commission first had and obtained. . .".

[4] *Amoco Production Company, et al.*, 46 FPC 1390 (1971).

[5] Opinion No. 467, *Cumberland Natural Gas Company*, 34 FPC 132 (1965).

[6] *California v. Lo-Vaca Gathering Company*, 379 U.S. 366, 369-370 (1965).

[7] *Atlantic Refining Co. v. P.S.C.N.Y.*, 360 U.S. 378, 389 (1954); *Sunray Mid-Continent Oil Co. v. FPC*, 364 U.S. 137, 156 (1960).

mony and exhibits addressing the specific issues set forth in this order as well as any other testimony and exhibits, which they propose to offer at the hearing on, or before July 3, 1975.

(E) An Administrative Law Judge to be designated by the Chief Administrative Law Judge for the purpose [See Delegation of Authority, 18 CFR 3.5(d)], shall preside at the hearing in this proceeding and shall prescribe relevant procedural matters not herein provided.

By the Commission

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-16363 Filed 6-23-75;8:45 am]

[Docket No. E-9491]

CENTRAL ILLINOIS PUBLIC SERVICE CO.

Notice of Cancellation

JUNE 17, 1975.

Take notice that on June 11, 1975, Central Illinois Public Service Company tendered for filing a notice of cancellation of the wholesale electric service agreement, dated June 11, 1965, between Central Illinois Public Service Company and Commonwealth Edison Company. The Company states that the agreement became effective September 1, 1965, and was designated Rate Schedule FPC No. 41. According to the Company, effective January 1, 1974, Central Illinois Public Service Company acquired all of the electric properties of Commonwealth Edison Company's electric facilities serving the Albion, Illinois area and is now furnishing electric service to the Albion area under its retail electric service schedule.

The Company states that notice of the proposed cancellation has been served upon:

Mr. Hubert H. Nexon
Senior Vice President
Commonwealth Edison Company
Chicago, Illinois

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before July 1, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-16364 Filed 6-23-75;8:45 am]

[Docket No. E-9002]

COMMONWEALTH EDISON CO.

Notice of Further Extension of Procedural Dates

JUNE 17, 1975.

On June 16, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued October 29, 1974, as most recently modified by notice issued May 5, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff, Testimony, July 15, 1975.
Service of Intervenor, Testimony, August 5, 1975.
Service of Company, Rebuttal, August 26, 1975.
Hearing, September 17, 1975 (10 a.m. e.d.t.).

KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-16365 Filed 6-23-75;8:45 am]

[Docket Nos. RP75-35, etc.]

CONSOLIDATED EDISON CO. OF NEW YORK, INC. AND TENNESSEE GAS PIPELINE CO.

Notice of Intention To Act

JUNE 17, 1975.

On May 28, 1975, Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc., jointly filed a motion to sever and on May 29, 1975, Brooklyn Union Gas Company filed a motion for clarification of the order issued April 28, 1975, in the above-designated matter. On June 9, 1975, Staff Counsel filed an answer in support of the former motion and on June 11, 1975, Bay State Gas Company, et al. filed an answer in opposition to the latter motion. Absent Commission action by June 27, 1975, and June 30, 1975, respectively, the above motions would be deemed denied pursuant to § 1.12(e) of the Commission's Rules of Practice and Procedure.

Notice is hereby given of the Commission's intention to act on the above motions.

By direction of the Commission.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-16366 Filed 6-23-75;8:45 am]

[Docket No. RP75-42-2]

EL PASO NATURAL GAS CO. ET AL.

Order Granting Temporary Relief From Curtailment

JUNE 17, 1975.

By a petition filed April 1, 1975, Community Public Service Company (Community) requested temporary relief from any curtailment imposed by El Paso Natural Gas Company (El Paso) for two six week periods[1] in order to maintain reliability of service during maintenance operations on two of its oil fired boiler units by receiving adequate gas deliveries for a third natural gas fired unit. Community's distributor supplier, the City of Lordsburg, New Mexico joined in the petition. On April 25, 1975, the Commission issued an order[2] granting temporary relief for the initial six week period, beginning on April 15, 1975, as requested by Community, and set the matter for hearing to commence on May 29, 1975.

On May 12, 1975, Community submitted prepared testimony that indicated it had not as yet utilized the relief granted to it by the April 25, 1975 order. It was explained that because of the two week lead time required for maintenance on the respective boilers, Community felt that it could not complete the operation during the time prescribed and would be faced with an overrun penalty. It was also indicated that other units of the Rio Grande Power Pool, of which Community is a member, were out of service from April 2, 1975 through May 25, 1975, and therefore could not be relied upon for additional power. It was concluded that with the hearing scheduled for May 29, 1975, there would be sufficient time for the maintenance to be performed upon termination of the proceeding. However, because of schedule conflicts, the commencement of the hearing was postponed until June 25, 1975.

As a result of this postponement, Community filed on May 28, 1975, a motion to amend the Commission order of April 25, 1975 requesting that the order granting temporary relief be amended to provide for utilization of the relief volumes for a period from May 25, 1975, through September 5, 1975. No other units in the Rio Grande Power Pool are expected to be out of service during this period. Community's current relief request for the period ending September 5, 1975 is 3,900 Mcf per day. In addition, Community has indicated that it would be able to pay back the relief volumes from future entitlements.

The Commission's order of April 25, 1975, contemplated relief for the initial six week period pendente lite with the question of the remaining six weeks relief being determined during the course of the hearings. It is now apparent to us that in light of Community's need to complete its maintenance procedures by September 5, 1975, and considering the fact that the hearing herein is now scheduled for June 25, 1975, a decision in this case would not likely be rendered before the termination date of the relief

[1] April 15-June 1, 1975 and September 1-October 15, 1975.

[2] Order Granting Temporary Relief From Curtailment, Providing For Hearing And Prescribing Procedure, issued on April 25, 1975.

now requested. Consequently, because of the urgent situation faced by Community, we believe it is in the public interest to grant the relief requested by Community on a temporary basis from the date of issuance of this order until September 15, 1975 so that it may fully complete the necessary maintenance on its two oil fired units without jeopardizing electrical service to its consumers this summer. This should allow Community to utilize the total twelve week period it requires. However, this relief is being granted pendente lite so that the relief received will be effective until September 15, 1975 or the date of a Commission decision herein, whichever is earlier. This grant of relief is not to be construed as a predisposition by the Commission of any issues in the instant case, the hearings for which are now scheduled for June 25, 1975.

The Commission finds:

Good cause exists to grant to Community temporary relief to consist of gas deliveries of up to 3,900 Mcf per day from El Paso as needed for the period beginning on the date of this order and ending September 15, 1975 or until a Commission decision is rendered herein, whichever occurs first, in order to protect the reliability of its electric generating operations during maintenance of oil fired units. In addition, a payback of gas deliveries will be appropriate at the termination of the period of relief.

The Commission orders:

Community is hereby granted temporary extraordinary relief to consist of gas deliveries of up to 3,900 Mcf per day from El Paso as needed for the period commencing on the effective date of this order and ending September 15, 1975, or until a Commission decision is rendered herein, whichever occurs first, in order to assure the reliability of its electric generating operations during maintenance of oil fired boilers in its Lordsburg Electric Generating Plant. In addition, a payback of gas deliveries will be effected by Community following the termination of the period of relief prescribed herein.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-16367 Filed 6-23-75;8:45 am]

[Docket No. RP74-22, Docket No. RP74-23]

EL PASO NATURAL GAS CO. AND NORTHWEST PIPELINE CORP.

Notice of Further Extension of Time

JUNE 17, 1975.

On June 16, 1975, Northwest Pipeline Corporation filed a motion for reconsideration of the Commission notice issued June 13, 1975, denying a further extension of the time for briefs opposing exceptions fixed by order issued April 30, 1975, in the above-designated matters. On June 17, 1975, El Paso Natural Gas Company filed out of time for a similar extension of time.

Upon consideration, notice is hereby given that the time for filing briefs opposing exceptions in the above dockets is extended to and including June 23, 1975.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-16368 Filed 6-23-75;8:45 am]

[Docket No. RP72-6]

EL PASO NATURAL GAS CO.

Notice of Intention To Act and Order Granting Intervention

JUNE 17, 1975.

In response to El Paso Natural Gas Company's filing of proposed tariff sheets and base volume and end-use profile information on March 28, 1975, and April 11, 1975, filings denoted as motions for rejection or stay of effectiveness of the tariff sheets or motions for clarification of Opinion No. 697-A have been received from the following: Southwest Natural Gas Consumers, Southern California Edison Company, Pioneer Natural Gas Company, Tucson Gas & Electric Company, City of Mesa, Arizona, Southwest Gas Corporation, Navajo Tribal Utility Authority, Southern California Edison, Southern Union Gas Company, City of Las Cruces and Rio Grande Natural Gas Association, Community Public Service Company, Arizona Fuel Users Association, Arizona Corporation Commission, Arizona Public Service Company, and Citizens Utilities Company. Responses to various motions and requests for clarification have been filed by General Motors Corporation and the City of Willcox and Arizona Electric Power Cooperative. Notice is hereby given of the Commission's intention to act on the aforementioned motions. Protests to the proposed tariff provisions and information are being considered as well as such motions.

On May 12, 1975, the City of Tucson, Arizona, filed a petition to intervene alleging that the implementation of the proposed tariff provisions would threaten its municipal water supply. The City of Tucson is hereby permitted to intervene subject to the rules and regulations of the Commission; Provided, however, that its participation shall be limited to matters effecting asserted rights and interests set forth in its petition and that its admission shall not be construed as recognition by the Commission that it may be aggrieved because of any order or orders of the Commission entered in this proceeding.

By the Commission.

[SEAL] MARY B. KIDD, *Acting Secretary.*

[FR Doc.75-16369 Filed 6-23-75;8:45 am]

[Docket No. RP75-107]

GRANITE STATE GAS TRANSMISSION, INC.

Order Accepting for Filing and Suspending Proposed Rate Increase, Granting Waiver, and Establishing Procedures

JUNE 18, 1975.

On May 30, 1975, Granite State Gas Transmission, Inc. (Granite State) tendered for filing a proposed rate increase under its FPC Gas Tariff, Original Volume No. 1.[1] The proposed increase in rates is for service to Granite State's parent and sole jurisdictional customer, Northern Utilities, Inc. The annual effect of the proposed rate change is an increase in jurisdictional revenues of $217,750, based on the twelve months ended January 31, 1975, as adjusted. Granite State requests that the rates become effective July 1, 1975. Notice of this change in rates was issued June 4, 1975, with protests and petitions to intervene due on or before June 20, 1975. To date, no protests or petitions to intervene have been received.

The proposed increase is based on claimed increases in operation and maintenance expenses, increased taxes, and increases in the book depreciation rate and overall return. The proposed rates are based on the Seaboard method of cost classification and allocation.

Our review of Granite State's filing indicates that the proposed increase has not been shown to be just and reasonable and may be excessive or otherwise unlawful under the Natural Gas Act. Accordingly, we shall accept the proposed tariff sheet for filing and suspend its use for five months or until December 1, 1975, when it shall be permitted to become effective, subject to refund, pending decision as to the justness and reasonableness of the rates contained therein.

We also direct particular attention to the method of cost classification, allocation, and rate design proposed herein. We urge all parties and Staff to consider and suggest any appropriate alternate method of cost classification, allocation, and rate design, in light of our policies as expressed in *United Gas Pipe Line Company*, Opinion No. 671, and as more recently expressed in our Notice of Proposed Rulemaking issued in Docket No. RM75-19, issued February 20, 1975.

On May 15, 1975, Granite State filed a revised tariff sheet pursuant to the purchased gas cost adjustment provision in its tariff to become effective July 1, 1975, in Docket Nos. RP73-1, PGA75-5.[2] In the event the increased rates filed in the instant docket are suspended, Granite State requests permission to file revised tariff sheets to become effective at the end of the suspension period reflecting this PGA increase. Granite State also requests waiver of Section 154.66 of the Commission's Regulations. We believe that such permission and waiver are appropriate.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act, that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in Granite State's FPC Gas Tariff, as proposed to be amended in Docket No. RP75-107 and that the tendered tariff sheet be accepted for filing and suspended as hereinafter provided.

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[1] Ninth Revised Sheet No. 3A.
[2] Eighth Revised Sheet No. 3A.

(2) Good cause exists to grant waiver of Section 154.66 of the Commission's Regulations.

The Commission orders:

(A) Granite State's tariff sheet proffered in Docket No. RP75-107 is accepted for filing and suspended for the full statutory period of five months until December 1, 1975.

(B) Pursuant to the authority of the Natural Gas Act, particularly Sections 4 and 5 thereof, the Commission's Rules of Practice and Procedure, and the Regulations Under the Natural Gas Act (18 CFR, Chapter I), a public hearing shall be held on November 11, 1975, at 10 a.m., prevailing time, in a hearing room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, concerning the lawfulness of the rates, charges, classification, and services contained in granite State's FPC Gas Tariff, as proposed to be amended herein.

(C) On or before October 3, 1975, the Commission Staff shall serve its prepared testimony and exhibits. Prepared testimony and exhibits of intervenors, if any, shall be served on or before October 17, 1975. Company rebuttal shall be served October 31, 1975.

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding, shall prescribe necessary procedures not provided for by this order, and shall otherwise conduct the hearing in accordance with the terms of this order and the Commission's Rules and Regulations.

(E) Pending hearing and a decision thereon, the subject tariff sheet tendered by Granite State is suspended for five months, the use thereof deferred until December 1, 1975, or until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

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

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.75-16370 Filed 6-23-75;8:45 am]

[Docket No. RP72-140 PGA 75-5]

GREAT LAKES GAS TRANSMISSION CO.

Proposed Changes in FPC Gas Tariff Under Purchased Gas Adjustment Clause Provisions

JUNE 17, 1975.

Take notice that Great Lakes Gas Transmission Company (Great Lakes), on June 13, 1975, tendered for filing the following tariff sheets to its FPC Gas Tariff, proposed to be effective August 1, 1975:

FIRST REVISED VOLUME NO. 1

Second Revised Sheet No. 54
First Substitute Fifteenth Revised Sheet No. 57

ORIGINAL VOLUME NO. 2

Third Revised Sheet No. 53-B
First Revised Sheet No. 53-C

Great Lakes states that its sole supplier of natural gas, Trans-Canada PipeLines Limited (TransCanada), will increase the rates for gas purchased by Great Lakes effective August 1, 1975. The increase is the result of the National Energy Board of Canada's orders issued May 21, 1975, amending TransCanada's licences for the export of natural gas to Great Lakes by establishing that the price to be received for the gas to be exported shall be not greater than and not less than $1.40 in Canadian currency per Mcf of one thousand British Thermal Units per cubic foot equivalent gas at a temperature of 60 degrees Fahrenheit and a pressure of 14.73 pounds per square inch absolute adjusted on the ratio of the actual BTU content per cubic foot to 1000 BTU per cubic foot.

Great Lakes also proposes in this filing to change the factors which allocate the amount of the purchased gas cost change between the resale and the T-4 rate schedule customers. Great Lakes states that the allocation factors which have applied since 1972 are no longer consistent with present operating conditions. The proposed change would replace the specific factors with a formula which would reflect the actual operating conditions within the Determination Period used from time to time.

Great Lakes is also providing for a downward adjustment in the current PGA rate reflecting the effect of currency conversion based on $.9731 United States equivalent to $1.00 Canadian.

Great Lakes also states that copies of this filing have been served upon its customers and the Public Service Commissions of Michigan and Wisconsin.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 7, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-16371 Filed 6-23-75;8:45 am]

[Docket No. E-8843]

HOLYOKE WATER POWER CO. AND HOLYOKE POWER AND ELECTRIC CO.

Notice of Further Extension of Procedural Dates

JUNE 17, 1975.

On June 4, 1975, Chicopee Electric Light Department of Chicopee, Massachusetts, filed a motion to extend the procedural dates fixed by order issued August 9, 1974, as most recently modified by notice issued May 19, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of intervenor testimony, July 21, 1975.

Service of company rebuttal, August 1, 1975.

Hearing, August 12, 1975 (10 a.m. e.d.t.).

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-16372 Filed 6-23-75;8:45 am]

[Docket No. E-8843]

HOLYOKE WATER POWER CO. AND HOLYOKE POWER AND ELECTRIC COMPANY

Notice of Settlement Conference

JUNE 16, 1975.

Take notice that on Friday, June 20, 1975 in Room 8402 of the offices of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, a settlement conference will be held to discuss the issues in this proceeding.

The conference will be held pursuant to Section 1.18 (Conferences, Offers of Settlement) of the Commission's rules of practice and procedure (18 CFR 1.18). Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, such attendance at the conference will not be deemed to authorize such intervention as a party in the proceedings.

Copies of this notice are being mailed this date to all jurisdictional customers and interested State commissions.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-16373 Filed 6-23-75;8:45 am]

[Docket No. E-9260]

KANSAS GAS AND ELECTRIC CO.

Notice of Further Extension of Procedural Dates

JUNE 17, 1975.

On June 16, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued March 12, 1975, as most recently modified by notice issued May 23, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of staff testimony, July 18, 1975.

Service of intervenor testimony, August 1, 1975.

Service of company rebuttal, August 15, 1975.

Hearing, August 29, 1975 (10 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-16374 Filed 6-23-75;8:45 am]

[Docket No. RP75-79]

LEHIGH PORTLAND CEMENT CO., COMPLAINANT AND FLORIDA GAS TRANSMISSION CO., RESPONDENT

Order Denying Interim Relief, Denying Motions To Dismiss, Providing for Formal Hearing and Granting Interventions.

JUNE 16, 1975.

On March 21, 1975, Lehigh Portland Cement Company (Lehigh) filed a complaint against Florida Gas Transmission Company (FGT). Lehigh alleges that FGT's curtailment plan is unreasonable, discriminatory and unlawful because it grants a preference to indirect industrial customers over similarly situated direct customers. Lehigh requests that the Commission provide for expedited procedures, including a formal hearing on the issues raised by its complaint. Lehigh further requests that pending resolution of such issues, the Commission issue an interim order establishing an end-use curtailment plan for the FGT system whereby direct and indirect customers using natural gas for similar purposes are curtailed in a similar manner.

Lehigh operates a cement manufacturing plant in Dade County, Florida. It presently purchases natural gas from FGT under a 15 year direct preferred interruptible contract entered into in 1968. Lehigh uses natural gas to fire kilns during the production of cement.

Section 9, Priority of Service, of FGT's FPC Gas Tariff, Original Volume No. 1 provides that during any period when operating conditions require curtailment, FGT shall curtail first the Direct Sale "Preferred Interruptible Consumers"[1], next the Resale "Preferred Interruptible" Consumers and last the Firm Direct Sale and Firm Resale Consumers. FGT's present curtailment plan has been in effect since the system commenced operation in 1959. This plan was designated by FGT as its curtailment plan in response to Commission Order No. 431. In Opinion Nos. 611 and 611-A, the Commission rejected the question of treating direct interruptible and resale interruptible customers as equals for purposes of curtailment.[2]

Lehigh alleges that the policy of curtailing direct interruptible customers prior to the curtailing of resale interruptible customers creates a discriminatory preference. Lehigh states that it has been notified by FGT that its service will be curtailed the equivalent of 341 days during calendar year 1975, whereas resale interruptible customers will be curtailed the equivalent of 40 days during calendar year 1975. Lehigh states that it has been forced to use more costly fuel oil in its cement kilns as process fuels.[3] Lehigh states that its fuel costs have substantially increased and that it has been placed at a competitive disadvantage with respect to a major cement manufacturer receiving natural gas from a distributor on the FGT system.

On April 25, 1975, FGT filed a response to the Lehigh complaint. FGT denied that its curtailment plan created an arbitrary preference for the resale interruptible consumers. FGT states that the arguments advanced by Lehigh in its complaint were rejected by the Commission in Opinion Nos. 611 and 611-A.[4] FGT requests that Lehigh's motion be denied and its complaint dismissed. In the alternative, FGT requests formal hearing.

Interventions in opposition to Lehigh's complaint were filed by the Florida Cities (Cities)[5] City Gas Company of Florida (City Gas), Southern Gas Company, Division of Donovan Companies, Inc. (Southern), Gainesville Gas Company (Gainesville) and Maule Industries, Inc. (Maule). International Minerals and Chemical Corporation (IMC) filed a protest opposing Lehigh's complaint. Said parties request dismissal of Lehigh's complaint. In addition, City Gas filed a separate Motion to Dismiss stating that Lehigh, as a direct interruptible customer of FGT, has no standing to file a complaint with the Commission. City Gas states that although Lehigh filed its complaint pursuant to Sections 4, 5(a), 14(a) and 16 of the Natural Gas Act, Section 4(a) is operative only upon filing by a natural gas company; Section 5(a) is available only to limited "persons"; Section 14(a) provides for investigations by the Commission in limited areas and Section 16 does not permit the Commission to ignore specific provisions of the Act which limit the standing of "persons". City Gas also states that Lehigh's gas purchase contract recognizes that its service is subservient to that of wholesale customers on the FGT system.

Interventions in support of Lehigh's position were filed by Citrus World, Inc. (Citrus) and Plymouth Citrus Products Cooperative (Plymouth), both of which are direct preferred interruptible customers. Citrus and Plymouth cite increased costs due to the use of oil and allege a competitive disadvantage in comparison with resale customers engaged in similar operations.

Other interventions have been filed by:

Peoples Gas System, Inc. (Peoples)
Florida Public Utilities Company (Public Utilities)
Indiantown Gas Company, Inc. (Indiantown)
Adams Packing Association, Inc. (Adams)
Borden, Inc. (Borden)
Gardinier, Inc. (Gardinier)
Basic Magnesia, Inc. (Magnesia)
Central Florida Gas Corporation, Miller Gas Company, Plant City Natural Gas Company and City of St. Cloud (Joint Petitioners)

Lehigh, in response to the motion to dismiss filed by City Gas, states that it is a person under Section 1.6 of the Commission's Rules of Practice and Procedure and is permitted to file a complaint under Section 14(a) of the Natural Gas Act. Lehigh, therefore, requests the Commission to deny the motion to dismiss filed by City Gas.

Since Lehigh is presently able to use fuel oil as an alternate fuel, we believe that it would not qualify for extraordinary relief under the standards of Order No. 467-C. Furthermore, there is no allegation made that Lehigh's present fuel situation is imminently hazardous so as to require interim relief pending final disposition of the issues raised in the complaint. We, therefore, conclude that interim relief should be denied.

The primary concern of Lehigh and the supporting interveners is that the high cost of alternate fuels puts them at a competitive disadvantage vis-a-vis competitors purchasing natural gas under resale interruptible contracts. We believe that the issues set forth in Lehigh's complaint should be examined in a formal hearing. In regard to the motion of City Gas to dismiss the complaint on lack of jurisdiction, we do not reach the question directly. Instead, we are treating Lehigh's complaint informally and on our own motion are setting the matter for formal hearing.

In its direct case, Lehigh should present, inter alia:

1. The total amount of natural gas purchased from FGT since commencement of service. Such information should include the cost of such gas.

2. The amount and cost of alternate fuels purchased by Lehigh since commencement of natural gas service from FGT.

3. The relevant markets served by Lehigh and any competitor alleged to have an advantage based on contract of natural gas under a resale interruptible.

The Commission finds:

(1) It is necessary and appropriate that the proceeding in Docket No. RP75-79 be set for formal hearing.

(2) It is not within the public interest to grant the motions to dismiss Lehigh's complaint or to grant interim relief to Lehigh.

(3) The petitions to intervene may be in the public interest.

The Commission orders:

(A) Pursuant to the provisions of the Natural Gas Act, a formal hearing shall be convened in Docket No. RP75-79 in a hearing room of the Federal Power Commission, 825 North Capitol Street, N.E. Washington, D.C. 20426, on September 3, 1975, at 10 a.m. (e.d.t.). The Presiding Administrative Law Judge for the purpose—See Delegation of Authority 18 CFR 3.5[d]—shall preside at the hearing in this proceeding and shall prescribe relevant procedural matters not herein provided.

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[1] Section 9 states that "primary interruptible" and direct sale "intermediate interruptible" customers will be curtailed prior to direct sale "preferred interruptible" customers. However, FGT has made no primary interruptible sales since 1971. Intermediate interruptible sales were subsequently combined with preferred interruptible sales.

[2] Opinion Nos. 611 and 611-A arose from FGT rate proceedings in Docket Nos. RP66-4 and RP68-1.

[3] Since Lehigh has been using fuel oil to satisfy such requirements, the end use cannot be considered process fuel in the strict sense.

[4] Opinion No. 611 was issued on February 16, 1972 (47 FPC 341, 380-381). Opinion No. 611-A was issued on January 19, 1973 (49 FPC 261, 267).

[5] Port Pierce Utility Authority of the City of Fort Pierce, the Gainesville-Alachua County Regional Electric Water and Sewer Utilities, the Sebring Utilities Commission, the Utilities Commission of New Smyrna Beach and the Cities of Homestead, Kissimmee, Lakeland, Starke and Tallahassee, Florida.

(B) The direct case of Lehigh and all supporting interveners as to all issues raised in its filing in Docket No. RP75–79, as well as all issues referred to in this order shall be filed and served on all parties of record including Commission Staff on or before August 15, 1975.

(C) The answering case of FGT and all opposing interveners shall be filed on all parties including Commission Staff within 21 days following the conclusion of cross-examination of the direct case.

(D) The motions to dismiss Lehigh's complaint are denied.

(E) The above-mentioned interveners are permitted to intervene in this proceeding subject to the rules and regulations of the Commission; *Provided, however*, That participation of such interveners shall be limited to matters affecting asserted rights and interests as specifically set forth in the petitions to intervene; and, *Provided, further*, That the admission of such interveners shall not be construed as recognition by the Commission that they might be aggrieved because of any order of the Commission entered in this proceeding.

(F) Lehigh's motion for interim relief is denied.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.75–16375 Filed 6–23–75;8:45 am]

[Docket No. RP73–102; PGA75–4]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Proposed Changes in F.P.C. Gas Tariff

JUNE 17, 1975.

Take notice that on June 10, 1975 Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) tendered for filing Second Substitute Ninth Revised Sheet No. 27F to its F.P.C. Gas Tariff, Second Revised Volume No. 1. Michigan Wisconsin proposes an effective date of August 1, 1975 for said revised sheet.

Michigan Wisconsin states that the revised sheet reflects the effect of an increase in the Purchased Gas Adjustment of 5.61¢ per Mcf as a result of increases in the cost of gas purchased from pipeline suppliers due to the Canadian government's newly revised minimum export price of $1.40 per Mcf (Cdn) to be effective August 1, 1975. Michigan Wisconsin further states that notice has been given to each of its customers and appropriate state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 4, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75–16376 Filed 6–23–75;8:45 am]

[Docket Nos. RP73–14; RP73–102; PGA 75–3, and CP75–3]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Postponement of Hearing

JUNE 17, 1975.

On June 4, 1975, Staff Counsel filed a motion to postpone the hearing date fixed by order issued April 30, 1975, in the above-designated matter. On June 6, 1975, Michigan Wisconsin Pipe Line Company filed a reply to the above motion.

Upon consideration, notice is hereby given that the hearing date in the above matter is postponed until September 16, 1975, at 10 a.m. (e.d.t.). All other procedural dates will remain as fixed by order issued May 15, 1975.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75–16377 Filed 6–23–75;8:45 am]

[Docket No. E–9495]

MISSISSIPPI POWER & LIGHT CO.

Notice of Tender of Letter Agreement

JUNE 17, 1975.

Take notice that on June 13, 1975, Middle South Services, Inc. (Services) tendered for filing, as Agent for Mississippi Power & Light Company (Mississippi), copies of a Letter Agreement between Mississippi and the Tennessee Valley Authority (TVA). Services states that said Agreement provides for Mississippi to sell to TVA, 750 mw of capacity from Mississippi's reserves during the period May 25, 1975, through June 28, 1975, with the right of immediate recall. Services also states that energy is to be paid back by TVA on the basis of 1.05 kwh for each kwh delivered by Mississippi, at a capacity limit of 450 mw, during the period January 1, 1976, through March 20, 1976.

Services states that, "[b]ecause of the tight power situation that has developed in their service area within the last few weeks," TVA sought "any available power" from Services. Accordingly, Services requests waiver of the notice requirements of the Commission's Regulations to permit the Agreement to become effective in accordance with its terms, since "it was not possible for [Services] to confirm the sale covered by the Agreement at an earlier date."

Services states that a copy of the instant filing is being sent to Mississippi and to the TVA.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 7, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75–16378 Filed 6–23–75;8:45 am]

[Docket No. CP74–187]

MONTANA POWER CO.

Notice of Petition To Amend Import Authorization

JUNE 17, 1975.

Take notice that on June 6, 1975, The Montana Power Company (the Company) petitioned the Federal Power Commission, pursuant to Section 3 of the Natural Gas Act, for an Order amending the import authorization heretofore granted in this docket. The import authorization was granted in a Commission Order entitled "Order Affirming Initial Decision" issued on March 21, 1975. The Petition requests that the import authorization be amended to allow the importation of natural gas at a border price of $1.40 (Canadian) per MMBTU, effective August 1, 1975, and $1.60 (Canadian) per MMBTU, effective November 1, 1975, as such rate is set forth in an amendment to Canadian-Montana Pipeline Company's (Pipeline Company) export license issued by the Canadian National Energy Board pursuant to an Order of the Canadian Government. The Company currently pays $1.00 (Canadian) per MMBTU. The Company's application recites that on May 5, 1975, the Canadian National Energy Board issued an amendment to the Pipeline Company's export license establishing such higher border prices for the export of natural gas by the Pipeline Company to The Montana Power Company at a border point near Aden, Alberta, Canada.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 3, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to these proceedings. Any person wishing to become a party must file a petition to intervene. Copies of the application of the Company are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75–16379 Filed 6–23–75;8:45 am]

[Docket No. E-9046]

MONTAUP ELECTRIC CO.

Notice of Further Extension of Procedural Dates

JUNE 16, 1975.

On June 10, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued December 18, 1974, as most recently modified by notice issued February 28, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of staff's testimony, August 20, 1975.

Service of intervenor testimony, September 3, 1975.

Service of company rebuttal, September 17, 1975.

Hearing, September 30, 1975 (10 a.m., e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-16380 Filed 6-34-75;8:45 am]

[Docket No. RP75-65]

MOUNTAIN FUEL SUPPLY CO.

Order Accepting for Filing and Approving Rate Reduction, and Ordering Payment of Refunds

JUNE 18, 1975.

On February 18, 1975, Mountain Fuel Supply Company (Mountain Fuel) tendered for filing a proposed change in its FPC Gas Tariff, Original Volume No. 1.[1] The proposed change, states Mountain Fuel, would reduce the gathering charge from two cents to one cent per Mcf for volumes gathered by Mountain Fuel and subsequently purchased by Colorado Interstate Gas Company (CIG). Said reduction would be reflected in Mountain Fuel's Rate Schedule X-5.

In support of its filing, Mountain Fuel states that a review of its recent gathering costs indicates that a downward revision to one cent per Mcf is appropriate for the period commencing January 1, 1975. Accordingly, Mountain Fuel requests waiver of the notice requirements of the Commission's Regulations to permit the proposed revision to become effective as of said date. Good cause appearing, such request shall be granted, as hereinafter ordered.

Notice of Mountain Fuel's filing in this docket was issued on February 27, 1975, with comments, protests and petitions to intervene due on or before March 14, 1975. No responses were received.

Our review of Mountain Fuel's filing, together with our own study of costs incurred by Mountain Fuel in gathering the gas subsequently sold to CIG, indicates that the proposed reduction is reasonable and appropriate. Accordingly, Mountain Fuel's First Revised Sheet No. 82 to its FPC Gas Tariff, Original Volume No. 1, shall be accepted for filing and made effective as of January 1, 1975. Moreover, refunds of the excess revenues collected since said date shall be required, as hereinafter ordered, together with interest at the rate of nine per cent per annum.[2]

The Commission finds:

(1) Good cause exists to grant Mountain Fuel's request for waiver of the notice requirements of our Regulations.

(2) Good cause exists to accept for filing and approve Mountain Fuel's proposed gathering charge reduction, as reflected in its First Revised Sheet No. 82 to its FPC Gas Tariff, Original Volume No. 1, to be effective as of January 1, 1975.

(3) Good cause exists to order refunds, with interest at nine per cent per annum, of all gathering charges collected since January 1, 1975, in excess of the one cent per Mcf gathering charge proposed herein.

The Commission orders:

(A) Mountain Fuel's request for waiver of the notice requirements of our Regulations is hereby granted.

(B) First Revised Sheet No. 82 to Mountain Fuel's FPC Gas Tariff, Original Volume No. 1, is hereby accepted for filing and approved to be effective as of January 1, 1975.

(C) Mountain Fuel shall refund to CIG, with interest, all gathering charges collected since January 1, 1975, in excess of the gathering charge contained in its February 18, 1975, filing herein.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.75-16381 Filed 6-23-75;8:45 am]

[Docket No. RP73-91; PGA75-2a]

McCULLOCH INTERSTATE GAS CORP.

Notice of Tendered Compliance Filing

JUNE 17, 1975.

Take notice that on June 9, 1975, McCulloch Interstate Gas Corporation (McCulloch), tendered for filing copies of a Fourth Revised Sheet No. 32 and a Fifth Revised Sheet No. 32. McCulloch states that Fourth Revised Sheet No. 32 has been made effective April 1, 1975, pursuant to the Commission's order at this docket issued on April 2, 1975. This sheet reflects a currently effective tariff rate of 75.95¢ per Mcf, McCulloch's rates, as filed on February 18, 1975, other than those costs associated with small producer purchases in excess of rate levels prescribed in Opinion 699H.

McCulloch states that Fifth Revised Sheet has been made effective as of April 2, 1975 and reflects a currently effective rate of 77.10¢ per Mcf. This sheet reflects the total rate requested by McCulloch in its filing of February 18, 1975, and is based on all costs, including costs associated with small producer purchases in excess of rate levels prescribed in Opinion 699-H.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 1, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-16382 Filed 6-23-75;8:45 am]

[Docket No. R-389-B]

NATURAL GAS SALES; NATIONAL RATES

Order Denying Motion for Clarification

JUNE 16, 1975.

Just and reasonable national rates for sales of natural gas from wells commenced on or after January 1, 1973, and new dedications of natural gas to interstate commerce on or after January 1, 1973.

On May 16, 1975, El Paso Natural Gas Company (El Paso) filed a motion for clarification of Opinion No. 699-H. The question posed by El Paso was whether the on-system production of a pipeline could qualify for the nationwide rate pursuant to Section 2.56(a)(2)(iii) of the Commission's Statements of General Policy and Interpretations, as promulgated by Opinion No. 699-H issued December 4, 1974.

El Paso states that since on-system production is not subject to a contract, there is no contract to expire so as to trigger the provisions of Section 2.56(a)(2)(iii). Consequently, El Paso asserts that pipelines are confused as to how that section applies to these circumstances. El Paso suggests the use of an implied twenty year term, at the expiration of which the production would receive the new national rate.

The short answer to El Paso's question is that on-system production does not qualify for the nationwide rate under Section 2.56(a)(2)(iii). Moreover, since the record in Opinion No. 699, as amended, was certified to the Court of Appeals for the Fifth Circuit on January 14, 1975,[1] under the provisions of Section 19(b) of the Act the exclusive jurisdiction to modify Opinion No. 699-H is now vested in the Court. Accordingly, it would not be proper for us to consider the modification of Opinion No. 699-H proposed by El Paso.

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[1] Mountain Fuel's proposed revised tariff sheet is designated First Revised Sheet No. 82.

[2] See Order No. 513, issued October 10, 1974, in Docket No. RM74-18, and "Order Denying Applications for Rehearing and Clarifying Prior Order", issued December 11, 1974, in said docket.

[1] National Rate Cases For New Gas (CAS Nos. 74-3330, *et al.*).

For the reasons expressed above, El Paso's motion for clarification is denied.

The Commission orders: The motion for clarification filed by El Paso in Docket No. R–389–B is hereby denied.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-16404 Filed 6-23-75;8:45 am]

NORTHERN NATURAL GAS CO.

[Docket No. RP74–102]

Order Modifying and Accepting Settlement

JUNE 17, 1975.

On January 30, 1975, Presiding Administrative Law Judge William Jensen certified to the Commission a Revised Settlement Proposal (the Proposal) presented during hearing in the above-captioned proceeding. The Proposal was accompanied by pro forma tariff sheets reflecting the proposed modifications to Northern Natural Gas Company's (Northern) currently effective curtailment plan.

Northern's existing plan was approved by the Commission on October 2, 1972, in Docket No. RP71–107 (49 FPC 669, rehearing denied 48 FPC 1149). On April 11, 1974, Northern instituted the instant proceeding by tendering revised tariff sheets reflecting, inter alia, certain proposed modifications to the approved curtailment plan as part of a general rate increase filing in Docket No. RP74–80. By its orders of May 20, June 28, and August 30, 1974, the Commission severed the proposed curtailment plan provisions from the rate increase filings, suspended the use thereof until October 27, 1974, directed that a hearing be held on the propriety of implementing those modifications, and assigned Docket No. RP–74–102 to the curtailment case.

Hearings commenced on September 5, 1974, and were concluded on January 8, 1975. As a result of numerous interim settlement discussions among the parties, Northern offered into evidence a Settlement Proposal (Tr. 845), and it was admitted without exception as Exhibit No. 13. Further settlement negotiations produced the subject Proposal, which was introduced as Exhibit 44 on December 6, 1974. Northern later moved for certification of the Proposal to the Commission as "an interim curtailment plan [modifying] the existing previously approved curtailment procedures". (Tr. 1920) Northern supplemented the Proposal by filing with the Presiding Judge on January 17, 1975, pro forma tariff sheets reflecting the pertinent changes contained in the proposal.

By notice issued February 14, 1975, the Commission established March 5, 1975, as the due date for filing comments on the Proposal and March 20, 1975, as the due date for filing reply comments. Of the eleven [1] parties filing comments, five [2] opposed or criticized the Proposal in some measure. Seven of the eleven parties submitted reply comments.

The proposal. The Revised Settlement Proposal (Ex. 44) consists of eight parts, the first seven of which relate directly to Northern's FPC gas tariff. Parts I, III, IV, and V relate to the ordering of curtailment. Parts II, VI, and VII involve miscellaneous adjustments. Part VIII represents a case for extraordinary relief from curtailment.

Under the currently effective Northern curtailment plan, different schedules are established for summer and winter curtailment. The summer plan calls for a first-step curtailment of deliveries below contract demand of any billing group of any customer as a percentage of contract demand not to exceed 15% (currently effective Paragraph 9.3). Second-step summer curtailment calls for curtailing deliveries to utilities having electric generation (EG) plant sales,[3] not to result in an entitlement of less than 60% of the billing group contract demand. The utility is to reduce EG sales to achieve the authorized level (currently effective Paragraph 9.2). The third and final step in the summer curtailment plan calls for discontinuance of deliveries in any billing group for the requirements of large (over 200 Mcf/day) volume interruptible customers (currently effective Paragraph 9.4). The winter curtailment plan essentially eliminates the first step curtailment under Paragraph 9.3, leaving as first and second step curtailments those delineated under Paragraphs 9.2 and 9.4 respectively.

Paragraph 9.1 of the currently effective plan indicates that the primary objective of the plan is the protection at all times of deliveries of gas to residential, small volume commercial consumers and small volume industrial consumers, including deliveries for replenishment of underground storage fields. Northern advises that pursuit of that objective has been complicated in recent years by the decline of availability of new gas supplies and the declining deliverability of existing supplies.[4]

To partially offset these deficiencies, Northern has undertaken expansion of its on and off system storage network, the effect of which will be to require further curtailment in the winter, when storage volumes are withdrawn. In part to facilitate this program, Northern has decided that the 60% ceiling on EG plant sales curtailment should be removed. Under the curtailment schedule envisioned by Northern, EG plant sales will be phased out by September, 1976, and all large volume interruptible service will be terminated by 1978.

The Proposal is, in nature, an interim curtailment plan of indefinite duration, containing no provision for the curtailment of firm service, although Northern vows to file appropriate revisions to its FPC Gas Tariff requesting such authorization prior to December 31, 1975.

Under the Revised Settlement Proposal, Paragraph 9.3 is left unchanged. Paragraph 9.2 is amended so as to permit curtailment of EG plant sales down to 60% of contract billing group demand during the 1975 summer period, down to 30% during the 1976 summer period, all such sales to be completely curtailed after September 27, 1976. Winter curtailments may be up to 100% immediately. Paragraph 9.4 is left unchanged. New Paragraphs 9.51–9.54 establish a limited exemption from the operation of Paragraph 9.2 for EG plants having maximum requirements of 3,000 Mcf per day or less and lacking adequate electric interconnection facilities or a contract with another electric utility for purchase of current base load system requirements. Before September 1, 1977, said EG plants shall be curtailed under the provisions of Paragraph 9.2 during the winter period (i.e. subject to total curtailment) and Paragraph 9.4 during the summer period (i.e. pro rata curtailment *after* large volume EG plants have been curtailed in accordance with Paragraph 9.2). After September 1, 1977, or in the event an EG plant uses in excess of 3,000 Mcf on any day or in excess of its listed annual sales in any year, year-round curtailment under Paragraph 9.2 may be imposed. Each plant's performance will be monitored by Northern and the Commission by means of fact sheets that the EG customer is obligated to submit at six-month intervals.

The remaining parts of the Revised Settlement Proposal have no direct bearing on the schedule of curtailment priorities. Part II advises that Northern will seek prompt modification of its FPC Gas Tariff to establish specific contract demands for 12 enumerated communities comprising the so-called Argus system, which is serviced by Northern's Peoples Natural Gas Division (Peoples).[5] Part VI would increase overrun gas penalties for gas taken up to 3 percent of contract demand or 50 Mcf, whichever is greater, from $2.00/Mcf to $5.00/Mcf. Part VII

[1] Northern, Michigan Wisconsin Pipe Line Company (Mich Wis), Northern Illinois Gas Company (NI-Gas), Northern Distributor Group (comprised of 10 utility companies), Utilities Section of League of Nebraska Municipalities, *et al.* (Municipals), United States Steel Corporation (U.S. Steel), Brick People, Region II, Brick Institute of America and Griffin Pipe Products Company (Brick People), Allied Chemical Corporation (Allied), Iowa Power and Light Company (Iowa Power), American Dehydrators Association (Dehydrators), Commission Staff (Staff).

[2] Brick People, Allied, Iowa Power, Dehydrators, and Staff.

[3] An "EG plant sale" is defined as gas volumes used by a gas utility or resold for electric generation to a plant with total fuel input requirements of more than 200 Mcf per day, except gas sold under existing certificated firm arrangements (currently effective Paragraph 9.5).

[4] Northern's sales north of Clifton, Kansas were approximately 806.6 million Mcf for 1973, were estimated to decline to 775 million Mcf in 1974, and were projected to decline to 722 million Mcf for 1975 and 671 million Mcf for 1976 (Exhibit 1).

[5] These communities are located south of Clifton, Kansas. Because none has a fixed contract demand, curtailment of deliveries to these communities under Northern's currently effective plan has not been possible. Establishment of contract demands will subject these communities to the curtailment provisions now applied to sales north of Clifton, Kansas.

leaves Paragraph 9.7 of the currently effective plan unchanged.[6] Part VIII exempts Clarkson Memorial Hospital, Omaha, Nebraska from the curtailment provisions of Paragraph 9 due to "the unique circumstances under which gas is now being rendered to that facility".[7]

We have carefully reviewed the Proposal in light of the particular needs of Northern's customers as shown in the record. We find that, subject to the conditions hereinafter discussed, the proposal constitutes a just and reasonable interim curtailment plan. Of the arguments set forth by the various parties in their comments and reply comments, we find merit in some and reject others. We shall address each of the issues which we consider substantive.

Duration. Brick People and Staff are essentially unopposed in advancing the argument that the Proposal's failure to provide for curtailment of firm service requires that it be operational for a specifically limited period. Brick People recommended that the Commission condition acceptance of the agreement such that it will expire by its own terms no more than two years from the date upon which it is approved. Staff recommends termination by September 26, 1976, the end of the 1976 summer period.

Given the dynamic nature of the gas supply situation, we are of the opinion that Staff's recommendation is reasonable and should be made a condition for our approval of the Proposal. As discussed infra, adoption of September 26, 1976, as the maximum termination date for the interim plan will have the effect of virtually neutralizing the plans alleged end use deficiencies. Northern's compliance with its self-imposed December 31, 1975, deadline for filing proposed tariff revisions providing for the curtailment of firm service should afford the Commission ample time to consider the plan which will supersede the current plan, as modified herein.

Discrimination and preference—A. *EG Sales customers.* Iowa Power contends that the revised plan undermines the current plan's concept that the burden of curtailment should be shared as equally as possible by Northern's customers without a showing that the current plan is unjust, unreasonable or discriminatory. Iowa Power asserts that the proposed revision of Paragraph 9.2 will unfairly impose new burdens on large volume interruptible EG customers without affecting other large volume interruptibles or EG customers who purchase gas under firm contracts.

Before we can authorize implementation of any curtailment plan, whether interim or permanent in nature, under the power given us in Section (5a) of the Natural Gas Act, we must find the existing plan "unjust, unreasonable, unduly discriminatory or preferential" in some respect as provided in Section 4(b) of that Act. *State of Louisiana* v. *F.P.C.* 503 F. 2d 844 (5th Cir. 1974).

We concluded in our order of October 2, 1972, in Docket No. RP71–107 that the currently effective curtailment plan was just and reasonable at the time to meet the needs of Northern's customers. Times have changed, however; what appeared reasonable in 1972 does not appear so today. Northern's deteriorating supply situation, sufficiently developed in the record (Exhibit 1) and unquestioned by any party, requires re-assessment and, where appropriate, re-adjustment of priority-of-service schedules in an effort to maintain adequate service to residential, small commercial, and other high priority users of natural gas. We have made clear on several occasions our belief that the use of precious volumes of gas for the generation of electricity should be discouraged. E.g. Michigan Gas Storage Company, et al. Docket Nos. CP74–322, et al. (order issued April 22, 1975, at page 5). Hence, we view a limitation whereby deliveries for such use cannot be curtailed below 60% of contract demand as unjust and unreasonable. We find that Northern's proposed modifications to Paragraph 9.2 constitute a just and reasonable method of remedying the inequity, without causing undue discrimination.

Iowa Power brands the Revised Settlement Proposal a departure from currently effective policy. While we see no necessary cause and effect nexus between policy changes and undue discrimination, we must, in the first instance, disagree with Iowa Power's premise that this Proposal manifests such a shift in policy. Rather, we view the Proposal as a means of perpetuating the policies which Northern announced and we approved in Docket No. RP71–107, i.e. curtailing EG sales in order to make optimal use of the available supply of natural gas. This approach is premised on the ability of electric generation plants to utilize alternate fuel (coal, fuel oil, nuclear power) and the inefficient use of natural gas for electric generation.

In contrast to Iowa Power, Allied challenges the Proposal's 9.5 exemption for small EG plants as unduly preferential in light of Northern's emphasis on curtailing EG sales before curtailing other interruptibles. Allied purchases Northern gas under two contracts, one of which provides for interruptible service of up to 12,000 Mcf per day. Allied points out that many of the qualifying small plants (under 3,000 Mcf/day) are larger users than the large volume interruptibles (over 200 Mcf/day), the effect of which under Paragraph 9.5 is to require said interruptibles to absorb an unnecessarily high level of summer curtailment.

Municipals,[8] on the other hand, support the Proposal, pointing out that the summer relief under Paragraph 9.5 will provide them adequate lead time to negotiate contracts and obtain grid system interconnections for baseload power.

We find the Paragraph 9.5 exemption to be justified by substantial record evidence. Municipals presented several witnesses whose testimony established the present inadequacy of grid interconnections[9] and the infeasibility of burning alternate fuels on a year-round basis. Efforts to develop or strengthen interconnection capacity are currently under way and should be substantially completed within the next two to three years. Given the preferred status of interruptible customers such as Allied over electric generation customers under the overall operation of the Northern curtailment plan as modified, we find Allied's objection to Paragraph 9.5 to be unpersuasive.

B. *Pipeline Customers.* Under Part IV of the Proposal, Northern's pipeline customers[10] remain subject to curtailment only under Paragraph 9.3, which, as noted above, is the first-step pro rata summer curtailment of 15% of contract demand and is applicable to all customers (exclusive of firm service). Brick People and Allied object to Northern's failure to subject the pipelines to the operative language of Paragraph 9.2 and/or Paragraph 9.4. They state that the record provides absolutely no evidence that the sheltered volumes will in fact be consumed in high priority end uses. Brick People and Allied oppose a scheme which phases them out by 1978 but permits continuation of gas service to end users of potentially equally low priority. Staff also considers the Proposal's treatment of pipelines unduly preferential. Rather than subjecting the pipelines to the terms of Paragraphs 9.2 and/or 9.4, however, Staff recommends a pro rata approach to winter curtailment.[11] Regarding the effect of pro rata winter curtailment on the storage and banking[12] services which the

[6] The tariff revisions originally proposed would have modified Paragraph 9.7.

[7] The Proposal (Exhibit No. 44) differs from the original Settlement Proposal (Exhibit No. 13) only slightly. The Settlement Proposal did not contain the Paragraphs 9.51–9.54 exemption for small EG plants, but instead proposed to exempt EG plant sales of less than 500 Mcf/day from curtailment under Paragraph 9.2 and instead subject them to year-round curtailment under Paragraph 9.4. Also, the proposed exemption for Clarkson Hospital was not a part of the Settlement Proposal.

[8] Municipals are for the most part small electric systems who will qualify for the Paragraph 9.5 exemption. They generate their own power with small diesel engines which burn natural gas as a primary fuel, but can burn oil during cold weather.

[9] Municipals' witness Voss presented Exhibit 38, which shows that 27 of the 52 member municipalities have either no interconnection or an inadequate interconnection at present (Tr. 1230).

[10] Mich-Wis, NI-Gas, and Kansas-Nebraska Natural Gas Company.

[11] At the request of Staff, Northern's witness White computed total contract demand of the customer-pipelines in relation to the total system contract demand and derived a figure of 8.12%. Applying this percentage to the projected curtailment figures for the winters 1975–6 and 1976–7, he found customer-pipelines' pro rata share of winter curtailment to be 10,169 Mcf per day and 18,731 Mcf per day, respectively (Ex. 22). These amounts represent but 0.2% and 0.4%, respectively of the total winter market sales of Northern's three customer-pipelines.

[12] Mich-Wis and NI-Gas have an arrangement with Northern whereby, to the extent possible, these pipelines can take pre-delivery of their own volumes and store them in a

customer-pipelines have agreed to render the Northern system in the future, Staff asserts that the curtailment schedule and storage arrangements should be considered independently of each other, especially since all storage projects must stand on their own merits in order to be certificated under Section 7 of the Natural Gas Act.

Northern, Mich-Wis, and NI-Gas defend the Proposal's treatment of pipelines by stating in substance that (1) the pipelines all have extremely high load factors (approaching 100%) while few other customers have load factors that exceed 85%, thereby effectively exempting the latter from first-step summer curtailment while the former bear the brunt;[13] (2) the storage arrangements and curtailment schedule assignment were negotiated as mutually dependent and remain so; (3) although the pipelines suffer no curtailment in the winter, the storage service they provide substantially lightens the burden of winter curtailment which other customers would otherwise have to bear; (4) if the pipelines were forced into winter curtailment, they would be forced to abandon some of their storage facilities devoted to Northern's program and use them instead to store gas for their own customers; (5) Staff's argument that the pipelines should be subjected to pro rata curtailment in order to at least give the appearance of non-discrimination exalts from over substance and ignores the realities of the overall situation.

In our order of June 28, 1974, in this proceeding, we ordered a hearing for the purpose of considering "the lawfulness of the proposed modifications to Northern's curtailment procedures" approved in Docket No. RP71-107. The Proposal contains no provision which would directly or indirectly modify the treatment accorded pipeline customers under the currently existing plan. If, however, our review of the Proposal indicates that Part IV, which proposes to continue the pipelines exemption from curtailment except under 9.3, is unjust, unreasonable, or discriminatory, then we must reject the Proposal or offer appropriate modification. If, at the close of hearings, we find that neither the currently effective plan nor any of Northern's proposed revision packages makes lawful disposition of all issues, including the pipelines' exemption, then Section 5(a) authorizes us to impose an alternative which we deem reasonable and fair. *Consolidated Edison Company of New York Inc.* v. *F.P.C.*, ____ F.2d ____, (D.C. Cir. Nos. 73-1999 *et al.*, decided May 19, 1975).

The currently effective Northern curtailment plan was authorized prior to issuance of Commission Order No. 467-B in Docket No. R-469. It is a hybrid plan, having pro rata (Paragraph 9.3), end use (Paragraph 9.2), and contractual label (Paragraph 9.4) features.

Since we have, herein, imposed a date of September 26, 1976, as the termination date for Northern's interim curtailment, it is unnecessary for us to require strict adherence to the end-use priorities of Order No. 467-B. We must, therefore, determine which modifications to Northern's existing curtailment plan will improve the justness and reasonableness of curtailment on the Northern system. With regard to pipeline curtailment, we have three alternatives to consider. First, we could ratify Northern's settlement proposal and exempt the pipelines from winter curtailment. Second, we could adopt the rationale of the Brick People and Allied and subject the pipelines to the operative language of Northern's curtailment plan. Third, we could adopt the pro rata method of curtailment put forth by Staff.

Turning first to the settlement proposal concept of exempting the pipelines from winter curtailment, the initial brief filed by Michigan-Wisconsin makes it quite clear that the pipelines consider exemption from winter curtailment as quid pro quo for the provision of storage and banking arrangements to Northern. As Mr. White testified, such banking arrangements have permitted the pipelines to offset their summer curtailment under Paragraph 9.3 (Tr. 253).

We believe that Northern has an obligation to curtail deliveries to its customers without undue preference or discrimination. Such an obligation is wholly independent of proposed storage or banking arrangements between Northern and the pipeline customers. Since no other sound reason for curtailment has been offered, we must conclude that the pipeline "exemption" is unduly preferential and must be abolished.

Given our above-stated rationale, we must, therefore, determine the proper manner by which to curtail the pipeline customers. On its face, it is evident the proper mode of curtailment would simply be to make the pipeline customers subject to all the provisions of Paragraph 9 of Northern's FPC Gas Tariff. Mr. White testified, however, that Northern obtained no end-use information from the pipeline customers. (Tr. 258.) It would, therefore, be necessary to return to hearing in order to obtain such information from the pipelines. This procedure would have the effect of causing a substantial delay in implementation of the settlement which would not be beneficial and therefore we must reject the method of subjecting the pipelines to all of the provisions of Paragraph 9.

We are, therefore, left with the mechanism of pro-rata curtailment offered by Staff. Exhibit 22 provides a breakdown of the effect of such curtailment on the pipeline customers during the winters of 1975-76 and 1976-77. The curtailment would represent but 0.2% and 0.4%, respectively of the total winter market sales of Northern's three pipeline customers. We have concluded that adoption of the pro-rata approach is the only method by which to avoid the creation of undue preference for the pipeline customers. Such a method will not be inequitable to the pipelines since the settlement which we are approving today has a maximum termination date of September 26, 1976, and since the curtailment will represent only a small fraction of winter market sales by the three pipeline customers. We also today put Northern on notice that when it files tariff provisions to curtail firm service, it should develop the end-use profiles of all customers, including the pipelines.

End use. The Proposal leaves unchanged the existing plan's Paragraph 9.4 under which all large volume interruptible sales are curtailed on a strict pro rata basis with no distinctions based on requirements level, ultimate end use, or alternate fuel capability. Brick People and Allied object to this treatment. Brick People argue that the Proposal should be rejected outright because it encourages the continuation of a plan which does not conform to the end use principles announced in Commission Order No. 467-B. In the alternative, Brick People request the Commission to modify the Proposal (1) to provide protection for industrial customers who purchase gas for premium end uses under interruptible contracts where no alternate fuel is available, according such customers priority over firm customers where appropriate, and (2) to assure that large volume interruptible users are curtailed before small volume interruptible users in order to take advantage of economies of scale. Brick People suggest that Paragraph 9.4 be subdivided into categories which approximate categories 6 through 9 under the 467-B schedule of priorities. Allied, who uses Northern gas in processing and as feedstock in its fertilizer operations, is in particular agreement with (1) above. Allied states that Northern's witness Moylan's decision to leave the curtailment of the particular interruptible customer up to the respective distributor is unrealistic. Finally, Brick People refer to the Proposal's indefinite duration, arguing that the Commission should opt for comprehensive curtailment revision now rather than waiting for a future Section 4 filing or a Section 5 complaint.

We confess that we are not particularly pleased with the hybrid nature of the Northern curtailment plan. Yet, while we do not condone it as a plan for the future, we believe that, with the changes described in the Proposal as modified herein, the resulting interim plan provides a just and reasonable approach to the need for curtailment on the Northern system through September 1976. Easing of the 60% ceiling on curtailment of interruptible EG sales in

"bank", said volumes to be distinguished from those held in storage for Northern. Later, when curtailment is imposed elsewhere on the Northern system, the pipelines can draw these pre-delivered volumes out of storage and, to that extent, reduce Northern's overall level.

[13] In addition, Paragraph 9.3 establishes an off-the-top deduction of 2,000 Mcf from the total billing group contract demand before the 15% curtailment is imposed. Pipeline customers are allowed but a single deduction, whereas other customers having as many as 11 billing groups may have as many as 11 deductions.

Paragraph 9.2 enables Brick People's witness Judd, who is President and General Manager of the Endicott Clay Products Company, to expect no increased winter curtailment before the 1976–1977 heating system (Tr. 1489), and permits Northern's witness White to testify that any increased summer curtailment can be achieved within the 60% and 30% contract demand limits for the summers of 1975 and 1976 (Tr. 642), thereby minimizing summer curtailment to large volume interruptible customers under Paragraph 9.4. By September 1976 Northern will presumably have filed further tariff revisions in which curtailment of non-EG interruptible sales will be of critical importance.

We advise Northern to give positive consideration between now and then to a permanent plan which develops as fully as possible the priorities set forth in Commission Order No. 467–B. In addition, we advise Brick People and Allied, as large volume interruptible customers of Northern, to be prepared to prove with particularity the nature of the feedstock or process purposes for which their Northern volumes are allegedly utilized and to document the infeasibility of conversion to, or unavailability of, alternate fuels. In the event an emergency arises during the interim period, no party will be precluded from seeking extraordinary relief in accordance with Commission Order No. 467–C. For the present, and on the basis of the record before us, we do not find substantial evidence of record to show that Paragraph 9.4, as presently applied, is unjust, unreasonable, or discriminatory.

Limitations on growth and storage. The record in this proceeding clearly demonstrates that Northern intends to permit substantial future growth in firm residential and commercial and small volume interruptible loads through 1979 while phasing out EG and large volume interruptible service by 1978.[14] As large volume interruptible customers, Brick People and Allied are understandably distressed by this anticipated development. Allied submits that the Commission should establish a base period on the Northern system which would prohibit the attachment of new residential and small volume customers beyond the base period, declaring that such a measure would be consistent with our approach in Opinion No. 697,[15] wherein we sought to limit growth on the El Paso system by imposing volumetric limitations based on historical use over a fixed period. Brick People, whose witness Jensen stated on the record that he would "reluctantly" support a moratorium on all growth on the Northern system (Tr. 1453), cite Opinion No. 712[16] for the proposition that the Commission's insistence that high priority end uses be given maximum petition does not necessarily extend to the growth context.

Brick People add that, if the Commission should at least discourage growth by conditioning Northern's storage program to insure that volumes withdrawn from storage will be used solely for the benefit of customers who were attached as of the effective date of this interim plan.

Unrelated to growth limitations, but with respect to the operation of Northern's storage program, Brick People note Northern's expectation that its storage program is likely to benefit customer uses which would be classified in priorities 4 and 5 under a 467–B type plan.[17] Brick People propose that we prevent this by adding the following provision to Northern's F.P.C. tariff:

During periods of withdrawal from new or existing above and below ground, on and off system storage facilities, Northern Natural shall not serve any requirements of its customers other than requirements falling into Priority 1 and Priority 2 under Order No. 467–B.

In support of its position, Brick People recite our oft-espoused belief that the use of natural gas as large volume boiler fuel should be discouraged and cite our statement on page 13 of the *Mimeo* in Opinion No. 697–A to the effect that injections afforded priority 2 treatment should be used to protect priorities 1 and 2 loads.

While we maintain our belief that volumetric limitations constitute a valid and workable means of deterring growth where the public interest so demands, we do not have before us in this proceeding a record upon which we can base a decision that such limitations should presently be imposed upon the Northern system. We deem prudent the suggestion of staff that an order be issued demanding of Northern that cause be shown as to why volumetric limitations should not be imposed. A separate order to this effect shall be issued forthwith.

Turning to the conditions which Brick People would have us attach to Northern's storage program, we begin by acknowledging our promise in Docket No. CP74–236[18] to accord these matters full and fair consideration in this proceeding. Upon thorough review of the record in this proceeding, we find that substantial evidence has not been shown to warrant modification of Northern's FPC tariff in either of the respects advanced by Brick People.

With respect to newly-attached loads, we believe that growth limitations, where warranted, should be placed on the system as a whole, and not on one particular facet of the system's operations. The purpose behind the storage program is to benefit the system as a whole, whatever its makeup on a given day, by affording added flexibility to meet rapidly changing needs during peak winter days. Where new loads have been unwisely attached, the damage has already been done; hampering the reach of Northern's storage facilities will not undo it.

As to whether or not Northern's storage volumes should be used for the exclusive benefit of priorities 1 and 2 users, we must remind Brick People that, although we generally discourage the use of gas for boiler fuel, whether served pursuant to firm or interruptible contract, we must nevertheless respect the priority service preference accorded firm customers over interruptible ones. By nature, interruptible customers are subject to curtailment on short notice according to the judgment of the supplier. Where a storage program which is designed to benefit the system as a whole incidentally aids a relatively low priority user at the expense of another relatively lower priority user, we find no injustice or unreasonableness. In this connection, we recognize that, under a 467–B plan, certain interruptible customers (having no alternate fuel capability) should technically enjoy the benefits of the Northern storage program without having to suffer summer curtailment in order to facilitate it. We expect Northern to have resolved these end use inconsistencies by September 1976. Finally, we find inapposite the language from Opinion No. 697–A which Brick People cite in support of their proposition that volumes withdrawn from storage have already been assigned priorities 1 and 2. As we pointed out in response to Brick People's identical approach in Docket No. CP74–236, the quoted language from Opinion No. 697–A referred to volumes of gas which, at the time they were injected into storage, had already been committed to particular customers and been assigned priority 2 under the El Paso curtailment plan. As company use gas, the volumes which Northern injects into storage have been assigned no specified priority. Upon withdrawal during peak winter days these volumes are committed to the common supply and, only then, assigned a priority under Northern's then effective curtailment plan.

Dehydrators. Dehydrators represent the alfalfa dehydrating industry. Dehydrators purchase gas under large volume interruptible contracts and, based on Exhibit No. 1, will be curtailed completely by 1978. Dehydrators state that the historical purpose for contracting with Northern for interruptible service was to permit Northern to improve its "summer valley" of gas sales and reduce costs

[14] Exhibit 1, page 2 shows expected growth from 464 Bcf in 1974 to 505 Bcf in 1979.

[15] Opinion No. 697, *El Paso Natural Gas Company*, Docket No. RP72–6 (issued June 14, 1974), as amended by Opinion No. 697–A, *El Paso Natural Gas Company*, Docket No. RP72–6 (issued December 19, 1974).

[16] Opinion No. 712, *Tennessee Gas Pipeline Company*, Docket Nos. CP73–115 and CP74–27 (issued November 26, 1974), as amended in Opinion No. 711–A, *Tennessee Gas Pipeline Company*, Docket Nos. CP73–115 and CP74–27 (issued January 17, 1975).

[17] Northern's witness Moylan at Tr. 1032–35.

[18] Order Clarifying Prior Order, *Northern Natural Gas Company*, Docket No. CP74–236 (issued May 12, 1975).

which would otherwise be borne by Northern's winter peakload customers.[30] In return, Dehydrators paid the lower rates for interruptible service. Dehydrators state that alfalfa, unlike other grain crops, is dried during the summer, and is therefore unprotected by the special Agricultural Crop Drying Service approved by the Commission in Docket No. RP75–12–1, wherein annual relief is afforded from September 15 through March 15 only. Unsure of the appropriate avenue of relief from curtailment pending before and after January 1, 1978, Dehydrators seek guidance from Northern and the Commission.

Here again, we find that the durational brevity of this interim plan plus the expectation that added curtailment of non-EG interruptible sales will be minimal militates against the need for present action. As noted above in response to the comments of Brick People and Allied regarding Paragraph 9.4, we look forward to receiving from Northern, well before September 1976, a proposed permanent curtailment plan which embodies the end-use principals which underlay the priorities of service set forth in Commission order No. 467–B. Dehydrators are advised to provide Northern with a statement showing their specific end uses and alternate fuel capability in time for consideration by Northern in devising the permanent plan. In the event Dehydrators are dissatisfied with the classification assigned them by Northern thereunder, Dehydrators may solicit reclassification or special relief from the Commission.

Finally, we note Dehydrators apparent belief that Northern, in projecting that large-volume interruptible sales will be terminated by 1978, is attempting to effectuate a phased abandonment without seeking authorization under Section 7(b) of the Natural Gas Act. We find that no such filing is required under these circumstances, where proper implementation of an approved curtailment plan results in the discontinuance of service to some customers or in the discontinuance of certain types of service.[31] The principle applies as well to service curtailments of EG sales under Paragraph 9.2, as revised.

Clarkson Hospital. Under Part VIII of the proposal, Bishop Clarkson Memorial Hospital[32] would be exempted from the curtailment provisions of Paragraph 9 of Northern's tariff. Northern states that the exemption is necessary because Clarkson Hospital has no alternate fuel capability. Brick People question this approach, citing Northern's witness White's stated lack of knowledge as to whether or not studies had been undertaken to determine the feasibility of converting Clarkson Hospital to alternate fuels (Tr. 1733) and his general failure to satisfy the requisites set forth in Commission Order No. 467–C regarding extraordinary relief from curtailment. In his reply comments, Staff concurs in these observations and recommends against granting the requested exemption.

The record shows that Mr. White's assertion that Clarkson Hospital cannot switch to alternate fuels is based on his understanding, from conversations with representatives of the Metropolitan Utilities District of Omaha, that Clarkson Hospital lacks sufficient storage space for alternate fuels and that local zoning ordinances prohibit the storage of propane or oil in sufficient quantities on the hospital site (Tr. 1733). Mr. White characterized the Clarkson Hospital exemption as essentially a request for extraordinary relief. (Tr. 1719, 1725–26). It is evident, however, that the record in Docket No. RP75–102 is insufficient to satisfy the requirements of Order No. 467–C, with regard to extraordinary relief. This provision of the settlement must, therefore, be stricken. Northern is, of course, not precluded from filing a petition for extraordinary relief on behalf of Clarkson Hospital. If an emergency were to develop prior to such a proceeding, Clarkson could seek relief from Northern under the irreparable injury to life and property part of Northern's FPC Gas Tariff.

NEPA. While no party has raised objection to the absence of a National Environmental Policy Act impact statement in connection with this proposal, we deem it wise to address the issue briefly. We view the Northern curtailment plan, as modified by the proposal and our attachment of a fixed termination date, as an interim plan, set to expire no later than September 26, 1976. Due to the interim nature of this plan and because of the statutory conflict which results from the need for prompt action in removing the 60% electric generation ceiling by the start of Northern's 1975–76 winter season, we find that no environmental impact statement is required by Section 102(2)(c) of the Act.[33]

Overrun penalty. No party objects in substance to the proposed increase, but Municipals request that said issue should be deferred for resolution in the Northern rate proceedings currently pending in Docket No. RP74–80. Northern submits that the penalty increase is justified order to discourage distributors from taking overrun gas instead of purchasing oil or installing peak shaving. Northern states that this proposal was expressly made an issue in this proceeding by the June 28, 1974, order in Docket No. RP 74–80.

We find the proposed increase to be just and reasonable. Having failed to take timely issue with the June 28, 1974, order in this regard, Municipals will not be heard to complain now.

The Commission further finds:

The settlement of these proceedings on the basis of the revised settlement proposal certified by the Presiding Judge to the Commission for approval on January 30, 1975, is just and reasonable and in the public interest in carrying out the provisions of the Natural Gas Act and should be approved and made effective provided that it is revised in accordance with Ordering Paragraph A, below.

The Commission orders:

(A) The revised settlement proposal between Northern and its customers, marked Exhibit 44 and certified to the Commission by the Presiding Judge on January 30, 1975, is incorporated by reference and is approved, subject to the revisions noted herein:

(1) Modify Part IV:

IV. Pipelines will be curtailed during the summer period in accordance with the presently effective Paragraph 9.3 of Northern's tariff, and shall bear a share of necessary winter curtailment equal to the ratio of each pipeline's contract demand to total demand on the Northern system, to be applied concurrently with winter curtailment under Paragraph 9.2 and 9.4 of Northern's tariff, as modified herein.

(2) Delete Part VIII, which would exempt Clarkson Hospital from curtailment under the Northern plan, without prejudice to Northern's right to submit on Clarkson's behalf a request for extraordinary relief from curtailment which satisfies the requisites set forth in Commission Order No. 467–C.

(3) Add new Part VIII:

VIII. The Northern curtailment plan, as approved in Docket No. RP71–107 and modified herein, is an interim plan, the force and effect of which will expire on September 26, 1976, or at such time as Northern places into effect a Commission-approved superseding plan, whichever occurs first.

(B) The recommendations of Iowa Power, Brick People, and Allied not incorporated herein are rejected.

(C) An order shall be issued at a later date requiring Northern to show cause why volumetric limitations should not be imposed on its system.

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

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75–16383 Filed 6–23–75;8:45 am]

[Docket No. E–9148]

NORTHERN STATES POWER CO.

Notice of Further Extension of Procedural Dates

JUNE 17, 1975.

On June 11, 1975, The Intervenors filed a motion to extend the procedural dates fixed by order issued December 31, 1974, as most recently modified by notice issued March 21, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objection.

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[30] Dehydrators note that interruptible customers were advised by Northern as early as 1969 to have auxiliary sources of fuel. Dehydrators state, however, that such advice was intended to apply to winter-load users, not to include alfalfa dehydrators.

[31] *F.P.C. v. Louisiana Power and Light Co.*, 406 U.S. 621 (1972).

[32] The hospital is located in Omaha, Nebraska, is served by the Metropolitan Utilities District, and would be classified in priority 6 under a 467–B curtailment schedule.

[33] *State of Louisiana v. F.P.C.*, 503 F.2d 844 (5th Cir. 1974).

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of intervenor testimony, July 21, 1975.

Service of company rebuttal, August 14, 1975.

Hearing, August 26, 1975 (10 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-16384 Filed 6-23-75;8:45 am]

[Docket No. RP75-101]

PACIFIC GAS TRANSMISSION CO.

Order Accepting for Filing and Making Effective Without Suspension Proposed Rate Increase, Granting Interventions, and Granting Waiver

JUNE 18, 1975.

On May 13, 1975, Pacific Gas Transmission Company (PGT) filed a notice of a change in its rates under its FPC Gas Tariff, Original Volume No. 1. The change in rates, which is in two stages, is to reflect an increase in cost to PGT of $244,001,000 over its cost based on natural gas imported from Canada at the current price of $1 per MMBtu.

Notice of PGT's filing was issued May 19, 1975, with protests and petitions to intervene due on or before June 3, 1975. A Notice of Intervention was filed by The People of the State of California and the Public Utilities Commission of the State of California. Pacific Gas and Electric Company filed a petition to intervene. We shall permit the intervention of these two parties.

By order issued September 3, 1974, as modified on rehearing by order issued November 1, 1974, PGT is required to file pursuant to Section 4 of the Natural Gas Act to reflect increases in the cost of gas it purchases from its Canadian supplier. On May 5, 1975, the Canadian government, acting on the recommendation of the National Energy Board of Canada, announced that export licenses would be amended to provide that the export price for natural gas would be increased to $1.40 per MMBtu (Canadian) effective August 1, 1975, and to $1.60 per MMBtu (Canadian) effective November 1, 1975. The increase to $1.40 per MMBtu would then result in an annual increased cost to PGT approximately $162,668,800. The additional increase to $1.60 per MMBtu results in a total annual increase of $224,001,000. Our review of the proposed increase indicates that PGT should be permitted to reflect the increase in its cost to $1.40 per MMBtu and $1.60 per MMBtu effective August 1 and November 1, 1975, respectively.

The Commission finds:

Good cause exists to permit PGT to reflect the increases in cost of natural gas to $1.40 per MMBtu (Canadian) effective August 1, 1975 and to $1.60 per MMBtu (Canadian) on November 1, 1975.

The Commission orders:

(A) PGT's rate increase to reflect increases in its cost of natural gas imported from Canada is accepted for filing and permitted to become effective August 1, 1975 for the increase to $1.40 per MMBtu (Canadian) and November 1, 1975 for the increase to $1.60 per MMBtu (Canadian).

(B) The above mentioned petitioners are hereby permitted to intervene.

(C) Waiver of the maximum sixty day notice requirement of § 154.22 of the Commission's Regulations is hereby granted.

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

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.75-16385 Filed 6-23-75;8:45 am]

[Docket No. E-9488]

PUBLIC SERVICE CO. OF COLORADO

Notice of Proposed Tariff Change

JUNE 17, 1975.

Take notice that Public Service Company of Colorado, on June 11, 1975, tendered for filing proposed changes to become effective July 14, 1975, in its FPC Electric Service Tariff. The change proposed is the addition of two points of delivery to be known as Center and Stockade, for service to the Colorado-Ute Electric Association, Inc.

A copy of the filing was served upon Colorado-Ute Electric Association, Inc.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before July 1, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-16386 Filed 6-23-75;8:45 am]

[Docket No. E-8176]

SOUTHERN CALIFORNIA EDISON CO.

Order Denying Motion for Stay of Order Pendente Lite and Ordering Refunds

JUNE 16, 1975.

On May 20, 1975, Southern California Edison Company (SCE) filed a motion for a stay of this Commission's orders issued in this proceeding on January 23, 1975, and March 21, 1975, pendente lite pending Court determination of the court action filed by Edison on May 20, 1975, for review of these orders (*Southern California Edison Company* v. *Federal Power Commission*, D.C. Cir., Case No. 75-1511). On May 28, 1975, Anza Electric Cooperative, Inc. (Anza) filed a Response to SCE's motion recommending that it be denied. For the reasons stated below, we shall deny SCE's motion for stay pendente lite.

Background. On July 15, 1974,[1] the Commission filed a "Motion for Remand of Record to the Federal Power Commission for Reconsideration Prior to Decision on the Merits" in order to reconsider its decision in its January 3, 1974, and February 19, 1974, order in this case in light of, inter alia, the decision of the U.S. Court of Appeals for the District of Columbia Circuit in *Richmond Power & Light Company* v. *F.P.C.*, 481 F.2d 490 (D.C. Cir. 1974). By order dated August 1, 1974, the Court granted the Commission's motion.

Upon review, the Commission found, in its January 23, 1975, order that Article V of Rate Schedule FPC No. 19, which governed service between SCE and Anza for the locked-in period from September 7, 1973, to December 7, 1973, prohibited unilateral rate increases by SCE under Section 205 of the Federal Power Act and then ordered appropriate refunds to be made. By order issued March 21, 1975, the Commission denied rehearing of the January 23, 1975 order.

Discussion. Under the criteria set forth in *Virginia Jobbers* v. *F.P.C.*,[2] a party requesting a stay must show the following:

(1) The likelihood of prevailing on the merits of its requested review;

(2) That it will suffer irreparable injury if the stay is not granted;

(3) That other parties will not be substantially harmed by granting the stay; and

(4) That the public interest will be served by granting the stay.

In support of its motion for stay, Edison argues that it is basically seeking to preserve the status quo pending Court action on its petition for review. Edison claims irreparable injury in that if it now refunds to Anza the disputed monies for the locked-in period from September 7 to December 7, 1973, with interest at 7% since that date, it might not be able to recover the interest payment on the amounts in question from the Court or the Commission in the event it eventually prevailed. Edison further argues that there is a "reasonable likelihood" that the Court of Appeals will rule in its favor since the Commission has, in the past, twice resolved the disputed language in favor of SCE.

Anza responds that Edison has stated no reason why it would not be able to recover the interest payment from the Commission or the Court in the event of a final Court decision in Edison's favor. Moreover, Anza states that the fact that the Commission changed its position on previous contrary orders in light of court

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[1] In order to avoid a lengthy discussion of the procedural history prior to July 15, 1974, in this proceeding, the Commission hereby incorporates by reference the discussion set forth in pages 1 through 4 of the January 23, 1975, order in this case.

[2] 259 F.2d 921 (D.C. Cir. 1958).

of appeals decision in other cases, "does not indicate that the Commission's present decision is incorrect as is likely to be set aside. Accordingly, Anza requests that the Commission deny SCE's May 20, 1975, motion for stay pendente lite.

Our review of SCE's motion, the response of Anza, as well as the entire record in this proceeding, indicates the SCE's motion should be denied. SCE has not shown irreparable harm by its allegation that it might not recover the interest payment related to the amounts in question in this case if SCE should ultimately prevail on the merits. SCE has not shown that the Court would not order the repayment of the interest charges to SCE in such circumstances. Moreover, mere reference to the fact that the Commission has, in the past, ruled favorably on SCE's position on the merits in this case does not indicate that SCE is likely to prevail on the merits. Accordingly, we shall deny SCE's May 20, 1975, motion for stay and order SCE, within 45 days of the date of issuance of this order, to refund, with interest at 7% per annum, all amounts collected by SCE from Anza, in excess of the rates specified in Rate Schedule FPC No. 19, for the period September 7, 1973, until December 7, 1973.

The Commission finds:

Good cause exists to deny SCE's May 20, 1975, motion for stay pendente lite and to order appropriate refunds, as hereinafter ordered and conditioned.

The Commission orders:

(A) SCE's May 20, 1975, motion for stay pendente lite is denied.

(B) Within 45 days of the date of issuance of this order, SCE shall refund, with interest at 7% per annum, all monies collected from Anza in excess of the rates prescribed by Rate Schedule FPC No. 19 from September 7, 1973, to December 7, 1973.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-16387 Filed 6-23-75;8:45 am]

[Docket Nos. CI75-45, CI75-684, etc.]

TENNECO OIL CO. ET AL. AND SHELL OIL CO.

Order Consolidating Proceedings, Prescribing Service of Evidence and Granting Petitions To Intervene

JUNE 17, 1975.

By order issued April 14, 1975, the Commission, inter alia, consolidated a number of proceedings in Docket No. CI75-45, et al., granted petitions to intervene, ordered a formal hearing to convene on May 19, 1975, and prescribed procedures to be followed therein.

Subsequent to the issuance of the Commission's April 14, 1975, order, Shell Oil Company (Shell) filed an application in Docket No. CI75-684, seeking a certificate of public convenience and necessity authorizing the sale of natural gas produced from Shell's interest in East Bank Empire, Main Pass Block 69, and South Pass Blocks 24 and 27 Fields, Plaquemines Parish, Louisiana, to Creole Gas Pipeline Corporation (Creole) and to Air Products and Chemicals, Inc. (Air Products). The filing of this application was necessitated by Shell's filing in Docket No. CI75-107 on August 19, 1974, of a petition requesting that the Commission disclaim jurisdiction over the sale of gas to Air Products. The instant application was necessitated by the Commission's order of April 14, 1975, in Docket No. CI75-45, *et al.*, wherein Shell was directed to file a conditional application to allow for expeditious disposition of the case in the event the above-mentioned sales are found to be jurisdictional. Shell estimates that the sales of gas will be 675,000 Mcf per month to Creole and Air Products at a price of at least 19.0 cents per Mcf and no more than 58.52 cents per Mcf at 15.025 psia, including all tax reimbursements and an estimated upward Btu price adjustment of 0.52 cents per Mcf, delivery of which is to be made at the tailgate of Ysclosky Processing Plant, St. Bernard Parish, Louisiana. In view of the fact that Shell has presented testimony in support of Docket No. CI75-107, and since the present hearing in this matter has been recessed until June 17, 1975, an opportunity to introduce further evidence in this matter may be provided upon resumption of this hearing.

Subsequent to the issuance of the April 14, 1975, order, certain persons filed petitions to intervene and/or notices of intervention. No objections to these petitions have been received. Accordingly, the Commission will grant intervention to the following:

Cities Service Oil Company
Mobil Oil Corporation
Farmers Chemical Association, Inc.
CF Industries, Inc.
First Mississippi Corporation
Placid Oil Company
Hunt Oil Company
Hunt Petroleum Corporation
Hunt Industries
Mississippi River Transmission Corporation
Hamilton Brothers Oil Company
Hamilton Brothers Exploration Company
The Public Service Commission of the State of New York
Associated Gas Distributors
Olin Corporation
Consumers Power Company

The Commission finds:

(1) The proceeding involved in Docket No. CI75-648 contains common questions of law and fact with the proceedings in Docket No. CI75-45, et al., consequently, good cause exists to consolidate this proceeding with Docket No. CI75-45, et al.

(2) Participation by the above-titled interveners may be in the public interest.

The Commission orders:

(A) The proceeding involved in Docket No. CI75-684 is hereby consolidated with the proceedings in Docket No. CI75-45, et al.

(B) The petitioners named above are hereby permitted to intervene in these proceedings subject to the rules and regulations of the Commission, *Provided, however*, That the participation of such interveners shall be limited to matters affecting rights and interests specifically set forth in their respective petitions to intervene and that the admission of such interveners 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, and that such petitioners shall take the record as presently established.

By the Commission.

[SEAL] MARY B. KIDD, *Acting Secretary.*

[FR Doc.75-16388 Filed 6-23-75;8:45 am]

[Docket No. RP71-6, etc.]

TENNESSEE GAS PIPELINE CO.

Notice of Extension of Time

JUNE 16, 1975.

On May 30, 1975, Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. filed a motion for extension of time for disbursement of refunds as required by order issued February 7, 1975, as modified by order issued April 9, 1975, in the above-designated matter.

Notice is hereby given that the time for disbursement of refunds in the above matter is extended to and including August 8, 1975.

By direction of the Commission.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-16389 Filed 6-23-75;8:45 am]

[Docket No. RP71-11 (PGA75-5)]

TENNESSEE NATURAL GAS LINES, INC.

Notice of Proposed Rate Changes Under Tariff Rate Adjustment Provisions

JUNE 17, 1975.

Take notice that on June 9, 1975, Tennessee Natural Gas Lines, Inc. (Tennessee Natural) tendered for filing proposed changes to First Revised Volume No. 1 of its FPC Gas Tariff to be effective July 1, 1975, consisting of the following revised tariff sheets:

Twelfth Revised Sheet No. PGA-1; and,
Seventh Revised Sheet No. PGA-2

Tennessee Natural states that the purpose of its filing is to adjust its rates, pursuant to the Purchased Gas Adjustment Clause of its Tariff, so as to "track" the rate change of its sole supplier of natural gas, Tennessee Gas Pipeline Company (Tennessee), to be effective July 1, 1975 and consists of a negative adjustment of 6.09¢/Mcf in the commodity components of Tennessee Natural's G-1 and SWS-1 Rate Schedules.

Tennessee Natural states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol

Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 9, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-16390 Filed 6-23-75;8:45 am]

[Docket No. CP73-297]

TEXAS EASTERN TRANSMISSION CORP.

Notice of Petition To Amend

JUNE 17, 1975.

Take notice that on June 6, 1975, Texas Eastern Transmission Corporation (Petitioner), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP73-297 a petition to amend the order of the Commission issued December 10, 1973, as amended August 23, 1974, by authorizing the construction and operation of additional facilities for the previously authorized exchange of gas with Natural Gas Pipeline Company of America (Natural), all as more fully set forth in the application on file with the Commission and open to public inspection.

Petitioner states that there is an agreement between itself and Natural dated November 17, 1972, as amended February 6, 1974, and December 3, 1974, which provides for the exchange of natural gas. Petitioner, further states that pursuant to said agreement Natural delivers gas to Petitioner at a point near Petitioner's 16-inch Provident City-Beaumont Line, and that Petitioner redelivers an equivalent volume at the intersection of Natural's 12-inch Chocolate Bayou Lateral and Applicant's 30-inch McAllen Line in Brazoria County, Texas.

Petitioner states that it has filed in Docket No. CP75-306 an application requesting permission and approval to abandon its 16-inch and 20-inch Provident City-Beaumont pipelines to allow for their conversion to common carrier products transportation service. Petitioner proposes that the deliveries made at the Provident City-Beaumont pipeline delivery point from Natural be authorized to be made to Petitioner's Provident City-Blessing 24-inch pipeline in Lavaca County, Texas. Petitioner would construct and operate 2.5 miles of 3-inch pipeline and a tap and valve to effectuate the proposed change. Petitioner further states that the estimated cost of the construction would be $156,150, and that the total cost would be borne by Petitioner.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before July 7, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-16391 Filed 6-23-75;8:45 am]

[Docket No. RP75-19]

TEXAS GAS TRANSMISSION CORP.

Notice of Motion for Approval of Settlement Agreement

JUNE 17, 1975.

Take notice that on June 12, 1975, Texas Gas Transmission Corporation (Texas Gas), filed a document entitled "Motion For Approval of Settlement Agreement" requesting approval of an attached Stipulation and Agreement in this docket. Texas Gas states that the proposed Agreement resolves all disputes with respect to Texas Gas' total cost of service except the issues of the proper rate of depreciation and the inclusion in cost of service amounts associated with the acquisition and retention of coal reserves to be used for gasification purposes. These two issues are currently being litigated at Docket No. RP74-25 and the company states that the parties have agreed that the decision of these issues in that proceeding, once they have become fixed and nonappealable, will govern the resolution of these issues in the instant proceeding.

The company states that matters other than cost of service which have not been agreed upon by the participants in the settlement conferences are: cost classification, cost allocation, rate design and the location of boundaries between rate zones. Pursuant to the agreement of the parties, these issues have been reserved for hearing and decision in this proceeding. Texas Gas states that the decision of the Commission as to these issues would be effective prospectively, once the Commission's order as to such issues becomes final and nonappealable.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 28, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Any person wishing to reply to such comments, protests or petitions to intervene shall file such response on or before July 28, 1975.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-16392 Filed 6-23-75;8:45 am]

[Docket Nos. RP71-29, etc. (Phase III), RP75-71; RP75-69]

UNITED GAS PIPE LINE CO.

Notice of Intention To Act

JUNE 17, 1975.

On May 20, 1975, United Gas Pipe Line Company filed a motion to consolidate in the above-designated matters. On May 23, 1975, Allied Paper Incorporated, Monsanto Company and Texasgulf, Inc. jointly filed a motion in opposition to such a consolidation. Absent Commission action by June 20, 1975, the above motion would be deemed denied pursuant to § 1.12(e) of the Commission's Rules of Practice and Procedure.

Notice is hereby given of the Commission's intention to act on the above motion for consolidation.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-16393 Filed 6-23-75;8:45 am]

[Docket No. CP75-197]

UNITED GAS PIPE LINE CO.

Notice of Withdrawal

JUNE 17, 1975.

On June 13, 1975, United Gas Pipe Line Company filed a withdrawal of its application for abandonment of service and facilities, filed December 31, 1974, in the above-designated matter.

Notice is hereby given that pursuant to § 1.11(d) of the Commission's Rules and Regulations the withdrawal of the above application shall become effective July 14, 1975.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-16394 Filed 6-23-75;8:45 am]

[Docket No. E-9200]

UPPER PENINSULA POWER CO.

Notice of Extension of Procedural Dates

JUNE 16, 1975.

On June 12, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued April 22, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff Testimony, July 22, 1975.
Service of Intervenor Testimony, August 5, 1975.
Service of Company Rebuttal, August 19, 1975.
Hearing, September 9, 1975 (10 a.m., e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-16395 Filed 6-23-75;8:45 am]

[Docket No. E-9317]

VERMONT ELECTRIC POWER CO.

Order Terminating Proceedings

JUNE 17, 1975.

On March 10, 1975, Vermont Electric Power Company (VELCO) tendered for filing a notice of termination of Vermont Yankee power service to the Village of Northfield, Vermont. VELCO proposed to make the termination effective April 6, 1975. The Commission suspended the effectiveness of the termination for five months in an Order issued April 4, 1975. In that Order, the Commission ordered hearings on the proposed termination and set the necessary procedural dates.

VELCO stated that the reason for the notice of termination was an alleged failure to pay the correct bills by the Village of Northfield. VELCO has now tendered for filing a letter seeking to withdraw its Notice of Termination. VELCO states that the Village of Northfield has now paid its proper bill. In light of the fact that the parties have now reached agreement on the payment of the bill, there is no longer any need to pursue the matters raised in this docket. Accordingly, we will accept the withdrawal of VELCO's Notice of Termination and terminate the proceedings in this docket.

The Commission finds:

(1) Good cause exists to accept VELCO's withdrawal of its Notice of Termination.

(2) The proceedings in this docket should be terminated.

The Commission orders:

(A) The proceedings in this docket are hereby terminated.

(B) VELCO's withdrawal of its Notice of Termination is hereby accepted.

(C) The Secretary shall cause prompt publication of this order in the Federal Register.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.75-16396 Filed 6-23-75;8:45 am]

[Docket No. E-9494]

VIRGINIA ELECTRIC AND POWER CO.

Notice of Tendered Supplemental Contract

JUNE 17, 1975.

Take notice that on June 12, 1975, Virginia Electric and Power Company (VEPCO), tendered for filing a new contract supplement for Boydton Delivery Point (FPC Rate Schedule No. 79-29 dated May 21, 1975), in Mecklenburg County, Virginia, to serve the Mecklenburg Electric Cooperative. VEPCO states that the projected connection date for the delivery point is a date in August 1975.

VEPCO requests waiver of the requirement to submit billing dates and alleges in support of such request that there will be no significant increase in the unit cost of electricity to the Cooperative as a result of the planned connection of facilities. The company also requests that the Commission allow the supplement to become effective on the date the facilities are connected, with the understanding that it is to notify the Commission of the effective date to be placed in each copy of the supplement.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 3, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-16397 Filed 6-23-75;8:45 am]

[Docket No. E-9198]

WISCONSIN POWER AND LIGHT CO.

Notice of Extension of Procedural Dates

JUNE 16, 1975.

On June 10, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued February 19, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff Testimony, July 22, 1975.
Service of Intervenor Testimony, August 5, 1975.
Service of Company Rebuttal, August 18, 1975.
Hearing, September 4, 1975 (10 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-16398 Filed 6-23-75;8:45 am]

[Docket No. RI75-147]

FEDERAL TRADE COMMISSION REQUEST FOR ACCESS TO DATA

Order To Show Cause

JUNE 16, 1975.

On May 29, 1975, James T. Halverson, Director of the Bureau of Competition of the Federal Trade Commission (FTC), filed an application to permit L. Jorn Dakin, Theodore L. Lytle, Jr., and John M. Sipple, Jr., Attorneys, Bureau of Competition, and Joseph P. Mulholland, Economist, Bureau of Economics, and their assistants to examine and copy the responses submitted by various natural gas producers[1] pursuant to the investigation conducted by the Federal Power Commission in Docket Nos. R-389 and R-389-A in accordance with its orders issued June 26, 1970, July 24, 1970, September 8, 1971, and September 14, 1972. The material submitted to the Federal Power Commission pursuant to the orders issued in Docket Nos. R-389 and R-389-A was filed with us by the respondents under a pledge of confidentiality. Specifically, the FTC proposes to examine and copy data from intrastate sales contracts pursuant to the Congressional Mandate set forth in the Conference Report on H.R. 93-520 and in P.L. 93-135, the Federal Trade Commission, by resolution of April 16, 1974, captioned "Unnamed Energy Companies," File No. 741 0019.

According to the FTC application, its investigation of the natural gas industry will be conducted on a nonpublic status. In the Memorandum Of The Director, Bureau of Competition, Federal Trade Commission, In Support Of Petition For Access To Certain Records Of The Federal Power Commission, it is stated that if this Commission so directs, data obtained from our files will be accorded the confidential treatment provided for in Section 4.10 of the Federal Trade Commission's Rules of Practice.

By separate petition and accompanying memorandum in support, Mr. Halverson requests that FTC attorneys Theodore L. Lytle, Jr., John M. Sipple, Jr., and their assistants be permitted to examine and copy the data from FPC Form Nos. 1149 and 1150 relating to gas reserves estimate evaluations for offshore South Louisiana, along with certain unspecified FPC gas supply memoranda.[2] The FTC asserts that the requested information is necessary for its investigation initiated by resolution of June 3, 1971, entitled "In the Matter Of the American Gas Association," File No. 711 0042. This nonpublic inquiry was designed to determine whether persons or corporations are engaged in conduct in the reporting of natural gas reserves that may violate Section 5 of the Federal Trade Commission Act. Information obtained from the FPC as a result of this request would, if it is so requested, be kept confidential by FTC under Section 4.10 of its Rules of Practice.

The instant FTC petitions are similar to a previous request of that agency in Amerada Hess Corporation, et al., Docket No. RI74-15, 50 FPC 1048 (order issued October 15, 1973), which was also begun by an order to show cause. We believe that the same procedure should apply to the present FTC requests.

[1] See Appendix A.

[2] It is understood that the FTC seeks access to Staff memoranda prepared as an analysis of offshore South Louisiana reserves committed by producers to interstate pipelines in connection with the construction of new facilities.

Those persons listed in Appendix A and all other interested parties are directed to show cause why the requested information should not be made available to agents of the FTC. The parties should also address the question of whether the Commission should require that the information be kept confidential.

All responses to this order shall be in writing and shall be filed on or before July 3, 1975. Any definitive order hereinafter entered regarding disclosure of the data in question shall be deemed by this Commission to be final and reviewable by a court of competent jurisdiction.

The Commission finds:

It is in the public interest and required by due process that all interested parties, particularly those listed in Appendix A, be given an opportunity to show cause why data submitted to the Commission, including information filed pursuant to orders issued in Docket Nos. R–389 and R–389–A, should not be made available to agents of the Federal Trade Commission for examination and reproduction for the purposes expressed in the petitions and memoranda in support filed on behalf of the FTC by its director of Competition, James T. Halverson.

The Commission orders:

(1) All interested parties, particularly those listed in Appendix A, are invited to show cause why information on intrastate contracts submitted to this Commission pursuant to orders issued in Docket Nos. R–389 and R–389–A, and Form Nos. 1149 and 1150, plus certain FPC Staff memoranda, should not be made available to agents of the Federal Trade Commission for examination and reproduction for the purposes expressed in the petitions and memoranda in support filed on behalf of the FTC by its Director of Competition, James T. Halverson.

(2) Responses shall be in writing and filed on or before July 3, 1975.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

APPENDIX A

The natural gas companies who should respond to this order are as follows:

Amerada Hess Corporation
Arkansas Louisiana Gas Company
Atlantic Richfield Company
Austral Oil Company, Inc.
Champlin Petroleum Company
Cities Service Company
Consolidated Gas Supply Corporation
Continental Oil Company
El Paso Natural Gas Company
Exxon Company, U.S.A.
General Crude Oil Company
Getty Oil Company
Gulf Oil Corporation
Kentucky-West Virginia Gas Company
Kerr-McGee Corporation
Lone Star Gas Corporation
Marathon Oil Company
Michigan Wisconsin Pipe Line Company
Mitchell Energy and Development Corporation
Mobil Oil Corporation
Montana-Dakota Utilities Company
Murphy Oil Corporation
Natural Gas Pipeline Company of America
Northern Natural Gas Company
Panhandle Eastern Pipe Line Company
Pennzoil United, Inc.
Phillips Petroleum Company
Shell Oil and Gas Company
Signal Oil and Gas Company
Skelly Oil Company
Southern Natural Gas Company
Standard Oil Company of California (Chevron)
Standard Oil Company of Indiana (Amoco)
Sun Oil Company
Tenneco Inc.
The Superior Oil Company
Texaco Inc.
Texas Pacific Oil Company, Inc.
Union Oil Company of California

[FR Doc.75–16405 Filed 6–23–75;8:45 am]

[Docket No. E–8888]

OHIO ELECTRIC CO.

Settlement Conference

JUNE 20, 1975.

Take notice that pursuant to the request of Counsel for Ohio Electric Company, a settlement conference will be held on Thursday, June 26, 1975, at 10 a.m., in the offices of the Federal Power Commission. All interested parties are invited to attend.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.75–16630 Filed 6–23–75;11:48 am]

INTERSTATE COMMERCE COMMISSION

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY, ELIMINATION OF GATEWAY APPLICATIONS

Notice

JUNE 19, 1975.

The following applications to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065(d)(2)), and notice thereof to all interested persons is hereby given as provided in such rules.

Carriers having a genuine interest in an application may file an original and three copies of verified statements in opposition with the Interstate Commerce Commission within 30 days from the date of publication. (This procedure is outlined in the Commission's report and order in Gateway Elimination, 119 M.C.C. 530.) A copy of the verified statement in opposition must also be served upon applicant or its named representative. The verified statement should contain all the evidence upon which protestant relies in the application proceeding including a detailed statement of protestant's interest in the proposal. No rebuttal statements will be accepted.

No. MC 1872 (Sub-No. 84G), filed April 28, 1975. Applicant: ASHWORTH TRANSFER, INC., 1526 South 700 West Street, Salt Lake City, Utah 84104. Applicant's representative: C. Michael Trapp (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, as described in Appendix V to the report of the Commission in Ex Parte No. 45, *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209, between points in Oregon and Washington, on the one hand, and, on the other, points in Idaho and Nevada. The purpose of this filing is to eliminate the gateways of points in Utah and Montana.

No. MC 28067 (Sub-No. 19G), filed June 4, 1974. Applicant: WILLIAMS MOTOR TRANSFER, INC., 18 West South Vine St., Barre, Vt. 05641. Applicant's representative: James E. Wilson, 1032 Pennsylvania Building, Pennsylvania Ave. & 13th Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Granite*, from Barre, Vt., to points in New York, New Jersey, and Pennsylvania. The purpose of this filing is to eliminate the gateways of points in Connecticut and Westerly, R.I.

No. MC 52704 (Sub-No. 116G), filed June 4, 1974. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer H, Opelika Hwy., Lafayette, Ala. 36862. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 West Peachtree St. NW., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass bottles or containers*, (1) from Laurens, S.C., to points in Florida east of Florida Highway 65, (2) from Henderson, N.C., to Auburndale, Eustis, Melbourne, and Riviera Beach, Fla., (3) from Atlanta, Ga., to points in Mississippi on and east of U.S. Highway 45 from Columbus, Miss., to the Mississippi-Tennessee State line, and on and north of U.S. Highway 82 from Columbus, Miss., to the Mississippi-Alabama State line, and (4) from Montgomery, Ala., to points in Louisiana, Mississippi, and Florida. The purpose of this filing is to eliminate the gateways of Laurens, S.C. and Lafayette, Ala.

No. MC 62136 (Sub-No. 7G), filed January 31, 1975. Applicant: CEDAR VAN LINES, INC., 725 North 5th Street, Minneapolis, Minn. 55401. Applicant's representative: Robert J. Gallagher, 1776 Broadway, New York, N.Y. 10019. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Household goods* as defined by the Commission, (1) between points in Minnesota and Wisconsin, on the one hand, and, on the other, points in Michigan, Illinois, and Indiana. The purpose of this filing is to eliminate the gateways of Richland Center, Jackson, and LaCrosse County, Wis. (2) between points in Minnesota and Wisconsin, on the one hand, and, on the other, points in Iowa. The purpose of this filing is to eliminate the gateways of Avon and Springfield, S. Dak. and Richland Center, Jackson, and LaCrosse County, Wis. (3) between points in Minnesota and Wisconsin, on the one hand, and, on the other, points in Missouri. The purpose of this filing is to eliminate the gateway of

Eureka, Kans. (4) between points in Minnesota and Wisconsin, on the one hand, and, on the other, points in Kansas. The purpose of this filing is to eliminate the gateways of Eureka, Kans. and Richland Center, Jackson, and LaCrosse County, Wis.

(5) between points in Minnesota and Wisconsin, on the one hand, and, on the other, points in Arkansas, Texas, and Oklahoma. The purpose of this filing is to eliminate the gateway of Eureka, Kans. (6) between points in Minnesota and Wisconsin, on the one hand, and, on the other, points in Nebraska. The purpose of this filing is to eliminate the gateways of Avon and Springfield, S. Dak. and Hershey, Nebr. (7) between points in Minnesota and Wisconsin, on the one hand, and, on the other, points in North Dakota and South Dakota. The purpose of this filing is to eliminate the gateways of Avon and Springfield, S. Dak. and Richland Center, Jackson, and La Crosse County, Wis. (8) between points in Minnesota and Wisconsin, on the one hand, and, on the other, points in Colorado and Wyoming. The purpose of this filing is to eliminate the gateway of Hershey, Nebr. (9) between points in Minnesota and Wisconsin, on the one hand, and, on the other, points in Wisconsin. The purpose of this filing is to eliminate the gateways of Richland Center, Jackson, and La Crosse County, Wis. (10) between points in Minnesota and Wisconsin, on the one hand, and, on the other, points in Minnesota. The purpose of this filing is to eliminate the gateways of Avon and Springfield, S. Dak. and Richland Center, Jackson, and La Crosse County, Wis.

No. MC 71855 (Sub-No. 5G), filed June 4, 1974. Applicant: ESSEX VAN & STORAGE, INC., 1500 Eastern Avenue, Baltimore, Md. 21221. Applicant's representative: Robert J. Gallagher, 1776 Broadway, New York, N.Y. 10019. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods* as defined by the Commission: (1) Between points in Connecticut, Delaware, Illinois, Indiana, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, Virginia, West Virginia, and the District of Columbia. The purpose of this filing is to eliminate gateways at Baltimore, Md.; points in Wicomico, Dorchester, and Somerset Counties, Md.; Federalsburg, Md. and points in Delaware and Maryland located within 40 miles of Federalsburg, Md.; points in Elkhart, St. Joseph, Kosciusko, Lagrange, La Porte, Marshall, Noble, Porter, and Starke Counties, Ind.; Glassport, Pa. and points within 10 miles thereof; and Greensburg, Pa. (2) between points in Connecticut, Delaware, Illinois, Indiana, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, Virginia, West Virginia, and the District of Columbia, on the one hand, and, on the other, points in Massachusetts, North Carolina, and Rhode Island. The purpose of this filing is to eliminate the gateways at Baltimore, Md.; points in Wicomico, Dorchester, and Somerset Counties, Md.; Federalsburg, Md. and points in Delaware and Maryland located within 40 miles of Federalsburg, Md.; points in Elkhart, St. Joseph, Kosciusko, Lagrange, La Porte, Marshall, Noble, Porter, and Starke Counties, Ind.; Glassport, Pa. and points within 10 miles thereof; and Greensburg, Pa.

No. MC 72243 (Sub-No. 41G), filed June 4, 1974. Applicant: THE AETNA FREIGHT LINES, INC., 2507 Youngstown Road, SE., Warren, Ohio 44482. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Ave. & 13th St., NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Iron, steel, and iron or steel articles*, from points in New York, to points in Michigan. The purpose of this filing is to eliminate the gateways of points in Pennsylvania, West Virginia or Ohio. (b) *iron and steel articles* fabricated beyond the primary stage and requiring specialized handling or rigging because of size or weight, from points in Michigan within 300 miles of Chicago, Ill., to points in New York and Pennsylvania. The purpose of this filing is to eliminate the gateway of Jackson, Mich. (c) *iron, steel, and iron or steel articles*, from points in New York and Pennsylvania, to points in Indiana. The purpose of this filing is to elminate the gateway of a point in Ohio.

(d) *iron and steel articles* fabricated beyond the primary stage and requiring specialized handling or rigging because of size or weight, from points in Indiana, to points in New York, Pennsylvania, West Virginia, and Ohio. The purpose of this filing is to eliminate the gateway of Jackson, Mich. (e) *iron and steel articles* fabricated beyond the primary stage and requiring specialized handling or rigging because of size or weight, from points in Michigan within 300 miles of Chicago, Ill., to points in West Virginia. The purpose of this filing is to eliminate the gateway of Jackson, ich. (f) *iron and steel articles* fabricated beyond the primary stage and requring specialized handling or rigging because of size or weight, between points in Iowa and Wisconsin within 300 miles of Chicago, Ill., and points in Illinois, on the one hand, and, on the other, points in Ohio, Pennsylvania, New York, and West Virginia. The purpose of this filing is to eliminate the gateways of a point in Illinois within 300 miles of Chicago, the Chicago Commercial Zone, and a point in Indiana and Ohio.

(g) *Iron and steel, and iron and steel articles* fabricated beyond the primary stage which require special equipment by reason of size or weight, between points in Massachusetts and Connecticut, on the one hand, and, on the other, points in Illinois, Indiana, and those in Iowa within 300 miles of Chicago, Ill. The purpose of this filing is to eliminate the gateways of a point in Illinois within 300 miles of Chicago, a point in Ohio, the New York, N.Y., Commercial Zone, and Jackson, Mich. (h) *Iron and steel articles* fabricated beyond the primary stage and requiring specialized handling or rigging because of size or weight, between points in Massachusetts and Connecticut, on the one hand, and, on the other, Iowa, Michigan, and Wisconsin within 300 miles of Chicago, Ill. The purpose of this filing is to eliminate the gateways of the Chicago Commercial Zone, Jackson, Mich., the New York Commercial Zone, and a point in Indiana. (i) *Iron, steel and iron or steel articles* which require special equipment by reason of size or weight and heavy machinery, between points in Massachusetts and Connecticut, on the one hand, and, on the other, points in New York, Ohio, Pennsylvania, and West Virginia. The purpose of this filing is to eliminate the gateway of a point in the New York, N.Y. Commercial Zone.

(j) *iron and steel products, machinery and articles* which require the use of special equipment, between points in New Jersey, Delaware, Maryland, New York, the District of Columbia, and that part of Pennsylvania within 150 miles of Philadelphia, Pa., including Philadelphia, on the one hand, and, on the other, Richmond, Va. The purpose of this filing is to eliminate the gateway of New Castle County, Del. (k) *machinery and such commodities* as require special equipment by reason of size or weight, between points in New Jersey, Delaware, Maryland, New York, the District of Columbia, and that part of Pennsylvania within 150 miles of Philadelphia, Pa., including Philadelphia, on the one hand, and, on the other, points in Massachusetts and Connecticut. The purpose of this filing is to eliminate the gateway of the New York, N.Y. Commercial Zone. (l) *iron and steel products and machinery*, between points in New Jersey, Delaware, Maryland, New York, the District of Columbia, that part of Pennsylvania within 150 miles of Philadelphia, Pa., including Philadelphia and Richmond, Virginia, on the one hand, and, on the other, points in Ohio, Pennsylvania, and West Virginia. The purpose of this filing is to eliminate the gateways of a point in Pennsylvania within 150 miles of Philadelphia, Pa. and New Castle County, Del.

(m) *iron and steel products* fabricated beyond the primary stage and requiring specialized handling or rigging because of size or weight, between points in New Jersey, Delaware, Maryland, the District of Columbia, and Richmond, Va., on the one hand, and, on the other, points in Indiana, Illinois, Michigan, Wisconsin, and Iowa within 300 miles of Chicago, Ill., including Chicago, except that service to and from Kenosha, Milwaukee, and Racine, Wis. is restricted against the transportation of steel articles. The purpose of this filing is to eliminate the gateways of New Castle County, Del., a point in Pennsylvania within 150 miles of Philadelphia, Pa., a point in Indiana, the Chicago Commercial Zone, and Jackson, Mich. (n) *iron and steel, and iron and steel articles* which are also size and weight commodities (restricted against the transportation of iron and steel, and iron and steel articles which originate at Anniston, Birming-

ham, Decatur, Gadsden and Tuscaloosa, Ala., or points within 10 miles thereof), between points in Alabama, Arkansas, Louisiana, Kentucky, Mississippi, and Tennessee, on the one hand, and, on the other, points in Ohio, West Virginia, New York, Pennsylvania, Massachusetts, Connecticut, New Jersey, Maryland, Delaware, the District of Columbia, and Richmond, Va. The purpose of this filing is to eliminate the gateways of the Cincinnati, Ohio Commercial Zone, the New York, N.Y. Commercial Zone, a point in Pennsylvania within 150 miles of Philadelphia, and New Castle County, Del.

(o) *iron and steel articles* fabricated beyond the primary stage and requiring specialized handling or rigging because of size or weight. (Restricted against the transportation of iron and steel, and steel articles, which originate at Anniston, Birmingham, Decatur, Gadsden, and Tuscaloosa, Ala., or points within ten miles thereof), between points in Alabama, Arkansas, Kentucky, Louisiana, Mississippi, and Tennessee, on the one hand, and, on the other, points in that part of Illinois, Indiana, Iowa and Wisconsin within 300 miles of Chicago, Illinois, including, Chicago, except that service to and from Kenosha, Milwaukee, and Racine, Wis. is restricted against the transportation of steel articles. The purpose of this filing is to eliminate the gateways of Cincinnati, Ohio, Commercial Zone, a point in Indiana, and the Chicago, Ill. Commercial Zone. (p) *iron and steel articles*, which because of size or weight require the use of special equipment. (Restricted against the transportation of iron and steel articles which originate at Anniston, Birmingham, Decatur, Gadsden, and Tuscaloosa, Ala., or points within ten miles thereof), between points in Alabama, Arkansas, Kentucky, Louisiana, Mississippi, and Tennessee, on the one hand, and, on the other, points in Colorado, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, South Dakota, Wyoming, and Michigan. Restriction—Traffic originating in Michigan is restricted to iron and steel articles fabricated beyond the primary stage. The purpose of this filing is to eliminate the gateways of Cincinnati, Ohio, Commercial Zone, Chicago, Illinois, a point in Illinois, and a point in Ohio.

(q) *machinery, equipment, materials and supplies* used in or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and machinery, materials, equipment and supplies used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof, except in connection with main pipelines, *earth drilling machinery and equipment, machinery, equipment, materials supplies and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair servicing, maintenance and dismantling of drilling machinery and equipment, (b) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, *Commodities* which, because of size or weight, require special handling or special equipment, and which are contractors' machinery, equipment and supplies not requiring special handling or special equipment because of size or weight, between points in Texas, New Mexico, Oklahoma, and Kansas, on the one hand, and, on the other, points in Kansas, Colorado, Illinois, Iowa, Minnesota, Missouri, Nebraska, South Dakota, and Wyoming. The purpose of this filing is to eliminate the gateway of a point in Kansas.

(r) *machinery, equipment, materials and supplies* used in or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and machinery, materials, equipment and supplies used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof, except in connection with main pipe lines, *earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, limited to heavy machinery, contractors' equipment, and steel articles, fabricated beyond the primary stage and requiring specialized handling or rigging because of size or weight, between points in Texas, Kansas, New Mexico, and Oklahoma, on the one hand, and, on the other, points in Illilnois, Indiana, Iowa, Michigan, and Wisconsin within 300 miles of Chicago, Ill. including Chicago, except that service to and from Kenosha, Milwaukee, and Racine, Wisconsin is restricted against the transportation of steel articles. The purpose of this filing is to eliminate the gateway of a point in Kansas and a point in Illinois or Iowa.

(s) *machinery, equipment, materials, and supplies* used in or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and machinery, materials, equipment and supplies used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof, except in connection with main pipe lines, *earth drilling machinery and equipment, and machinery, equipment, materials, supplies* and pipe incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, limited to iron and steel, and iron and steel articles, between points in Texas, New Mexico, Oklahoma, and Kansas, on the one hand, and on the other, points in Ohio, Pennsylvania, New York, West Virginia, Massachusetts, Connecticut, New Jersey, Maryland, Delaware, the District of Columbia, and Richmond, Va. The purpose of this filing is to eliminate the gateways of a point in Kansas, a point in Illinois, the Chicago Commercial Zone, a point in Ohio, the New York, N.Y. Commercial Zone, a point in Pennsylvania within 150 miles of Philadelphia, Pa., and New Castle County, Del.

(t) *machinery, equipment, materials and supplies* used in or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and machinery, materials, equipment and supplies used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof, except in connection with main pipe lines, *earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, limited to iron, steel and iron or steel articles, restricted against the transportation of iron and steel and iron and steel articles which originate at Anniston, Birmingham, Decatur, Gadsden, and Tuscaloosa, Alabama or points within ten miles thereof, and pipe, pipeline dope, and valves used in or in connection with the construction, operation, repair, maintenance, servicing or dismantling of pipelines, including the stringing or picking up of pipe in connection therewith, between points in Texas, New Mexico, Kansas, and Oklahoma, on the one hand, and, on the other, points in Alabama, Arkansas, Kentucky, Louisiana, Mississippi, and Tennessee. The purpose of this filing is to eliminate the gateways of a point in Kansas, the Chicago, Ill. Commercial Zone, and the Cincinnati, Ohio Commercial Zone.

(u) *Heavy machinery, contractors' equipment, and steel articles*, fabricated beyond the primary stage and requiring specialized handling or rigging because of size or weight, between points in Colorado, Illinois, Iowa (beyond 300 miles from Chicago, Ill.), Kansas, Minnesota,

Missouri, Nebraska, South Dakota, and Wyoming, on the one hand, and, on the other, points in Illinois, Indiana, Iowa, Michigan, and Wisconsin within 300 miles of Chicago, including Chicago, except that service to and from Kenosha, Milwaukee, and Racine, Wisconsin, is restricted against the transportation of steel articles. The purpose of this filing is to eliminate the gateway of a point in Illinois within 300 miles of Chicago, Ill. (v) *iron and steel articles* which, because of size or weight, require special handling or special equipment, between points in Colorado, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, South Dakota, and Wyoming, on the one hand, and, on the other, points in New York, Pennsylvania, West Virginia, Ohio, Massachusetts, Connecticut, New Jersey, Maryland, Delaware, the District of Columbia, and Richmond, Va. The purpose of this filing is to eliminate the gateways of the Chicago, Ill. Commercial Zone, the New York, N.Y. Commercial Zone, a point in Pennsylvania within 150 miles of Philadelphia, including Philadelphia, and New Castle County, Del., and a point in Ohio.

No. MC 87103 (Sub-No. 19G), filed February 28, 1975. Applicant: MILLER TRANSFER AND RIGGING CO., a Corporation, P.O. Box 6077, Akron, Ohio 44312. Applicant's representative: A. David Millner, 744 Broad Street, Newark, N.J. 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Heavy machinery and contractors' equipment and supplies* which by reason of size or weight require the use of special devices for handling, between points in Clarion County, Pa., on the one hand, and, on the other, points in Connecticut, Massachusetts, New York, Ohio, Rhode Island, and West Virginia; (2) *articles* which by reason of size or weight require the use of special equipment or devices for handling, between Clarion, Pa., and points within 40 miles thereof, on the one hand, and, on the other, points in Connecticut, Illinois, Indiana, Massachusetts, New York, Ohio, Rhode Island, and West Virginia; (3) *machinery and contractors' equipment and supplies* which by reason of size or weight require the use of special equipment or devices for handling, (a) between points in Connecticut, Massachusetts, New York, Ohio, Rhode Island, and West Virginia, on the one hand, and, on the other, points in Illinois and Indiana; (b) between points in Ohio, on the one hand, and, on the other, points in Connecticut, Massachusetts, New York, Rhode Island, and West Virginia; and (c) between points in Connecticut, Massachusetts, New York, and Rhode Island, on the one hand, and, on the other, points in West Virginia. The purpose of this filing is to eliminate the gateway of New York points within 25 miles of Pittsfield, Mass.

MC 88368 (Sub-No. 27G), filed June 4, 1974. Applicant: Cartwright Van Lines, Inc., 11901 Cartwright Avenue, Grandview, Mo. 64030. Applicant's representative: Charles Ephraim, 1250 Connecticut Avenue, NW., Suite 600, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: 1. Between points in Alabama, Arizona, within 25 miles of Chandler, including Chandler, and those within 25 miles of Parker, including Parker, Ark., California, and Colorado, on the one hand, and, on the other, points in Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, West Virginia, Wisconsin, Wyoming, and the District of Columbia. The purpose of this filing is to eliminate the gateways of Harlan County, Ky.; Harlan, Ky. and points within 5 miles thereof; Jefferson County, Ohio; Philadelphia, Pa.; Valdosta, Ga.; points in Georgia within a territory bounded by a line beginning at the Georgia-Florida state line, and extending along U.S. Highway 1 to Waycross, Ga. thence along U.S. Highway 82 to Albany, Ga., thence along Georgia Highway 3 through Bacontin, Camilla, and Pelham to Thomasville, Ga., thence along U.S. Highway 19 to the Georgia-Florida state line, thence along the Georgia-Florida state line to junction U.S. Highway 1 the point of beginning; Birmingham, Ala. and points in Alabama within 100 miles of Birmingham, not including Montgomery, Ala.; Florence, Sheffield, and Tuscumbia, Ala.; Kansas and Missouri; Missouri and Kansas; points in Montana; Butte, Mont. and points within 125 miles thereof; Bloomington, Ill. and points within 25 miles thereof; Indiana and Illinois, within 100 miles of Danville, Ill., including Danville; Detroit, Tex.; and points in Texas within 200 miles of Detroit; Cherokee County, Tex.; Harlan County, Ky. (except points within 5 miles of and including Harlan, Ky.); Boston, Mass. and points within 25 miles thereof; Harlan, Iowa and points within 15 miles thereof; points in Oklahoma within an area bounded by a line near Goodwin and extending along U.S. Highway 60 to Seiling, Okla., thence along U.S. Highway 270 to El Reno, Okla., thence along U.S. Highway 81 to the Oklahoma-Texas state line, thence west and north along the Oklahoma-Texas state line to junction U.S. Highway 60, the point of beginning, including points on the indicated portions of the highways specified; Canadian County, Okla.; points in Washington; Washington east of the Cascade Mountains and those in Idaho in and north of Idaho County; Cowley County, Kans.; Kimball, Banner, and Cheyenne Counties, Nebr.; points within 25 miles of Chandler, Arizona including Chandler; points in Arizona within 15 miles of Parker, Ariz. including Parker; Klamath County, Oreg.

2. Between points in Alabama, on the one hand, and, on the other, points in Alabama and Arkansas. The purpose of this filing is to eliminate the gateways of Florence, Sheffield, and Tuscumbia, Ala.; Valdosta, Ga.; Harlan, Ky. and points within 5 miles thereof; Harlan County, Ky.; Kansas and Missouri; Missouri and Kansas; Birmingham, Ala. and points in Alabama, within 100 miles of Birmingham, not including Montgomery, Ala.

3. Between points in Alabama, Arizona within 25 miles of Chandler, including Chandler, and those within 25 miles of Parker, including Parker, and California, on the one hand, and, on the other, points in Kansas and Missouri. The purpose of this filing is to eliminate the gateways of Birmingham, Ala. and points in Alabama, within 100 miles of Birmingham, not including Montgomery, Ala.; Kansas and Missouri; Florence, Sheffield, and Tuscumbia, Ala.; points within 25 miles of Chandler, Ariz., including Chandler; points in Arizona, within 25 miles of Parker, Ariz., including Parker, points in Washington, east of the Cascade Mountains and those in Idaho, in and north of Idaho County; points within 15 miles thereof.

4. Between points in Alabama and Arkansas, on the one hand, and, on the other, points in Arizona, within 25 miles of Chandler, including Chandler, and those within 25 miles of Parker, including Parker. The purpose of this filing is to eliminate the gateways of Birmingham, Ala. and points in Alabama, within 100 miles of Birmingham, not including Montgomery, Ala.; Florence, Sheffield, and Tuscumbia, Ala.; Kansas and Missouri; Missouri and Kansas; points in Washington; points in Washington, east of the Cascade Mountains and those in Idaho, in and north of Idaho County; points in Arizona, within 25 miles of Parker, Ariz., including Parker; points within 25 miles of Chandler, Ariz., including Chandler; Newton, Kans., and points within 15 miles thereof; points in Oklahoma, within an area bounded by a line beginning at the Oklahoma-Texas State line near Goodwin, Okla. and extending along U.S. Highway 60 to Seiling, Okla., thence along U.S. Highway 270 to El Reno, Okla., thence along U.S. Highway 81 to the Oklahoma-Texas State line, thence west and north along the Oklahoma-Texas State line to junction U.S. Highway 60, the point of beginning, including points on the indicated portions of the highways specified.

5. Between points in Alabama, Arizona, within 25 miles of Chandler, including Chandler, and those within 25 miles of Parker, including Parker and Arkansas, on the one hand, and, on the other, points in California, Colorado, Montana, and Washington. The purpose of this filing is to eliminate the gateways of Birmingham, Ala. and points in Alabama, within 100 miles of Birmingham, not including Montgomery, Ala.; Florence, Sheffield, and Tuscumbia, Ala.; Kansas and Missouri, Missouri and Kansas, points in Washington east of the Cascade Mountains and those in Idaho, in and north of Idaho County, points in Montana; points within 25 miles of Chandler, Ariz., including Chandler; points in Arizona within 25 miles of

Parker, Ariz., including Parker; points in Idaho, within 125 miles of Butte, Mont.; Butte, Mont. and points within 125 miles thereof, Newton, Kans. and points within 15 miles thereof, points in Oklahoma, within an area bounded by a line beginning at the Oklahoma-Texas state line near Goodwin, Okla. and extending along U.S. Highway 60 to Seiling Okla., thence along U.S. Highway 270 to El Reno, Okla., thence along U.S. Highway 81 to the Oklahoma-Texas state line, thence west and north along the Oklahoma-Texas state line to junction U.S. Highway 60, the point of beginning, including points on the indicated portions of the highways specified; Cowley County, Kans.; Kimball, Banner, and Cheyenne Counties, Nebr.

6. Between points in Arkansas, on the one hand, and, on the other, points in Arizona, within 25 miles of Chandler, including Chandler, and those within 25 miles of Parker, including Parker, and Arkansas. The purpose of this filing is to eliminate the gateways of Missouri and Kansas; Newton, Kans. and points within 15 miles thereof, points in Washington; points in Washington, east of the Cascade Mountains and those in Idaho, in and north of Idaho County; points in Arizona, within 25 miles of Parker, Ariz., including Parker; points within 25 miles of Chandler, Ariz., including Chandler; points in Oklahoma, within an area bounded by a line beginning at the Oklahoma-Texas State line near Goodwin, Okla. and extending along U.S. Highway 60 to Seiling, Okla., thence along U.S. Highway 270 to El Reno, Okla., thence along U.S. Highway 81 to the Oklahoma-Texas state line, thence west and north along the Oklahoma-Texas state line to junction U.S. Highway 60, the point of beginning, including points on the indicated portions of the highways specified; points in Kansas and Missouri; Florence, Sheffield, and Tuscumbia, Ala.; Birmingham, Ala. and points in Alabama, within 100 miles of Birmingham, not including Montgomery, Ala.; Cowley County, Kans.

7. Between points in California, on the one hand, and, on the other, points in Montana and California. The purpose of this filing is to eliminate the gateways of points in Washington, east of the Cascade Mountains and those in Idaho, in and north of Idaho County; points in Washington; points in Idaho, within 125 miles of Butte, Mont.; Butte, Mont. and points within 125 miles thereof.

8. Between points in Colorado, on the one hand, and, on the other, points in California and Colorado. The purpose of this filing is to eliminate the gateways of points in Washington; points in Washington, east of the Cascade Mountains and those in Idaho; in and north of Idaho County; Newton, Kans., and points within 15 miles thereof; points in Missouri and Kansas.

9. Between points in Connecticut, Delaware and Florida, on the one hand, and, on the other, points in Florida and Georgia. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa.; Jefferson County, Ohio; Harlan County, Ky. (except points within 5 miles of, and including Harlan, Kentucky), Harlan County, Ky.; points in Georgia, within a territory bounded by a line beginning at the Georgia-Florida state line, and extending along U.S. Highway 1 to Waycross, Ga., thence along U.S. Highway 82 to Albany, Ga., thence along Georgia Highway 3 through Bacontin, Camilla, and Pelham to Thomasville, Ga. thence along U.S. Highway 19 to the Georgia-Florida State line to junction U.S. Highway 1, the point of beginning; Valdosta, Ga.; Birmingham, Ala. and points in Alabama, within 100 miles of Birmingham, not including Montgomery, Ala.

10. Between points in the District of Columbia, on the one hand, and, on the other, points in Virginia, Washington, West Virginia, and Wyoming. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa.; Jefferson County, Ohio; Bloomington, Ill. and points within 25 miles thereof; points in Missouri and Kansas; points in Kansas and Missouri; Florence, Sheffield, and Tuscumbia, Ala.; Harlan County, Ky.; Harlan, Ky. and points within 5 miles thereof; Newton, Kans. and points within 15 miles thereof; points in Washington, Kimball, Banner, and Cheyenne Counties, Nebr.

11. Between points in Florida, Georgia, and Idaho, on the one hand, and, on the other, points in Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and the District of Columbia. The purpose of this filing is to eliminate the gateways of points in Georgia, within a territory bounded by a line beginning at the Georgia-Florida state line, and extending along U.S. Highway 1 to Waycross, thence along U.S. Highway 82 to Albany, thence along Georgia Highway 3 through Bacontin, Camilla, and Pelham to Thomasville, thence along U.S. Highway 19 to the Georgia-Florida state line to junction U.S. Highway 1, the point of beginning; Valdosta, Ga.; Birmingham, Ala. and points in Alabama, within 100 miles of Birmingham, not including Montgomery, Ala.; Jefferson County, Ohio; Philadelphia, Pa.; Boston, Mass. and points within 25 miles thereof; Harlan County, Ky. (except points within 5 miles of and including Harlan, Kentucky); Harlan County, Ky.; Harlan, Ky. and points within 5 miles thereof; points in Oklahoma within an area bounded by a line beginning at the Oklahoma-Texas state line near Goodwin and extending along U.S. Highway 60 to Seiling, thence along U.S. Highway 270 to El Reno, thence along U.S. Highway 81 to the Oklahoma-Texas state line, thence west and north along the Oklahoma-Texas state line to junction U.S. Highway 60, the point of beginning including points on the indicated portions of the highways specified; Florence, Sheffield, and Tuscumbia, Ala.; Butte, Mont. and points within 125 miles thereof; points in Montana; points in Missouri and Kansas; points in Kansas and Missouri; points in Washington east of the Cascade Mountains and those in Idaho in and north of Idaho County; Newton, Kans. and points within 15 miles thereof; Bloomington, Ill. and points within 25 miles thereof; points in Kimball, Banner, and Cheyenne Counties, Nebr.

12. Between points in Harlan County, Ky., on the one hand, and, on the other, points in Kentucky and Michigan. The purpose of this filing is to eliminate the gateways of Harlan County, Ky. (except points within 5 miles of and including Harlan, Ky.); points in Missouri and Kansas; points in Kansas and Missouri; Florence, Sheffield and Tuscumbia, Ala.; points in Harlan County, Ky.; Harlan, Ky. and points within 5 miles thereof; Bloomington, Ill. and points within 25 miles thereof; points in Indiana and Illinois, within 100 miles of Danville, Ill. including Danville.

13. Between points, in Idaho, Georgia, Florida, Delaware, and Connecticut, on the one hand, and, on the other, points in Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Mexico, North Carolina, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, and Wyoming. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa.; Jefferson County, Ohio; Bloomington, Ill., and points within 25 miles thereof; Missouri and Kansas; Newton, Kans., and points within 15 miles thereof; points in Montana; Butte, Mont., and points within 125 miles thereof; points in Washington east of the Cascade Mountains and those in Idaho in and north of Idaho County, Kimball, Banner, and Cheyenne Counties, Nebr.; Indiana and Illinois within 100 miles of Danville, Ill., including Danville; Harlan, Ky., and points within 5 miles thereof; Harlan County, Ky.; Florence, Sheffield, and Tuscumbia, Ala.; Kansas and Missouri; Harlan, Iowa, and points within 15 miles of Harlan; Cowlev County, Kans.; Canadian County, Okla.; points in Oklahoma within an area bounded by a line beginning at the Oklahoma-Texas State line near Goodwin and extending along U.S. Highway 60 to Seiling, thence along U.S. Highway 270 to El Reno, thence along U.S. Highway 81 to the Oklahoma-Texas State line, thence west and north along the Oklahoma-Texas State line to junction U.S. Highway 60 the point of beginning including points on the indicated portions of the highways specified; Cherokee County, Tex.; Detroit, Tex., and points in Texas within 200 miles of Detroit; Klamath County, Oreg.; points in Washington; Valdosta, Ga.; points in Georgia within a territory bounded by a line beginning at the Georgia-Florida State line and extending along U.S. Highway 1 to Waycross, thence along U.S. Highway 82 to Albany, thence along Georgia Highway 3 through Baconton, Camilla, and Pelham to Thomasville, thence along U.S. Highway 19 to the Georgia-Florida State line thence along the Georgia-Florida State line to junction U.S. Highway 1 the point of be-

ginning; Idaho, within 125 miles of Butte, Mont.; Klamath County, Oreg.; Yakima, Wash.; Multnomah, Hood River, Clackamas, Washington, Columbia, Clatsop, and Marion Counties, Oreg.; and Seattle, Wash.

14. Between points in Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, and Minnesota, on the one hand, and, on the other, points in Illinois, Minnesota, Montana, Nebraska, New Mexico, North Carolina, Ohio, Oregon, South Carolina, Texas, Utah, Virginia, Washington, West Virginia, and Wyoming. The purpose of this filing is to eliminate the gateways of Boston, Mass. and points within 25 miles thereof; Bloomington, Ill. and points within 25 miles thereof; Missouri and Kansas; Indiana and Illinois within 100 miles of Danville, Ill. including Danville; Kansas and Missouri; Florence, Sheffield, and Tuscumbia, Ala.; Harlan County, Ky.; Harlan, Ky. and points within 5 miles thereof; Harlan, Iowa and points within 15 miles of Harlan; Kimball, Banner, and Cheyenne Counties, Nebr.; points in Montana; Newton, Kansas and points within 15 miles thereof; Canadian County, Okla.; Cowley County, Kans.; Klamath County, Oreg.; points in Washington; points in Washington east of the Cascade Mountains and those in Idaho in and north of Idaho County; Valdosta, Ga.; Birmingham, Ala. and points in Alabama, within 100 miles of Birmingham, not including Montgomery, Ala.; Detroit, Tex. and points in Texas within 200 miles of Detroit; points in Oklahoma within an area bounded by a line beginning at the Oklahoma-Texas state line near Goodwin and extending along U.S. Highway 60 to Seiling, thence along U.S. Highway 270 to El Reno thence along U.S. Highway 81 to the Oklahoma-Texas state line, thence west and north along the Oklahoma-Texas state line to junction U.S. Highway 60, the point of beginning, including indicated points on the indicated portions of the highways specified; Cherokee County, Tex.; Butte, Mont. and points within 125 miles thereof; Jefferson County, Ohio; Harlan County, Ky. (except points within 5 miles of and including Harlan, Ky.); Philadelphia, Pa.; Multnomah, Hood River, Clackamas, Washington, Columbia, Clatsop, and Marion Counties, Oreg.

15. Between points in Illinois, Indiana, Iowa, Kansas, Kentucky, and Louisiana, on the one hand, and, on the other, points in Louisiana, Maine, Maryland, Michigan (On traffic between Kentucky and Michigan, it is restricted to that between points in Kentucky, on the one hand, and, on the other, points in lower peninsula of Michigan), New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, South Dakota, Vermont, and the District of Columbia. The purpose of this filing is to eliminate the gateways of Bloomington, Ill. and points within 25 miles thereof; Kansas and Missouri; Florence, Sheffield, and Tuscumbia, Ala.; Birmingham, Ala. and points in Alabama within 100 miles of Birmingham, not including Montgomery, Ala.; Indiana and Illinois within 100 miles of Danville, Ill. including Danville; Missouri and Kansas; Jefferson County, Ohio; Philadelphia, Pa.; Boston, Mass. and points within 25 miles thereof; Harlan County, Ky.; Harlan, Ky. and points within 5 miles thereof; Harlan, Iowa and points within 15 miles of Harlan; Cowley County, Kans.; Cherokee County, Tex.; Harlan County, Ky. (except points within 5 miles of and including Harlan, Ky.); Detroit, Tex. and points in Texas within 200 miles of Detroit.

16. Between points in Indiana and Illinois, on the one hand, and, on the other, points in Indiana and Kentucky. The purpose of this filing is to eliminate the gateways of Bloomington, Ill. and points within 25 miles thereof; Indiana and Illinois within 100 miles of Danville, Ill. including Danville; Harlan, Ky. and points within 5 miles thereof; Harlan County, Ky.; Florence, Sheffield, and Tuscumbia, Ala.; Kansas and Missouri; Missouri and Kansas; Harlan County, Ky. (except points within 5 miles of and including Harlan, Ky.).

17. Between points in Illinois, Indiana and Iowa, on the one hand, and, on the other, points in Iowa, Massachusetts, Mississippi, Oklahoma, Tennessee, and Wisconsin. The purpose of this filing is to eliminate the gateways of Indiana and Illinois within 100 miles of Danville, Ill. including Danville; Bloomington, Ill. and points within 25 miles thereof; Missouri and Kansas; Kansas and Missouri; Florence, Sheffield, and Tuscumbia, Ala.; Harlan County, Ky.; Harlan, Ky. and points within 5 miles thereof; Jefferson County, Ohio; Philadelphia, Pa.; Cowley County, Kans.; Birmingham, Ala. and points in Alabama within 100 miles of Birmingham, not including Montgomery, Ala.; Harlan, Iowa and points within 15 miles of Harlan; points in Oklahoma within an area bounded by a line beginning at the Oklahoma-Texas state line near Goodwin and extending along U.S. Highway 60 to Seiling, thence along U.S. Highway 270 to El Reno, thence along U.S. Highway 81 to the Oklahoma-Texas state line, thence west and north along the Oklahoma-Texas state line to junction U.S. Highway 60, the point of beginning, including points on the indicated portions of the highways specified.

18. Between points in Kansas, on the one hand, and, on the other, points in Kentucky, Massachusetts and Wisconsin. The purpose of this filing is to eliminate the gateways of Missouri and Kansas; Harlan, Ky. and points within 5 miles thereof; Bloomington, Ill. and points within 25 miles thereof; Harlan County, Ky.; Jefferson County, Ohio; Philadelphia, Pa.

19. Between points in Kentucky, on the one hand, and, on the other, points in Iowa and Massachusetts. The purpose of this filing is to eliminate the gateways of Bloomington, Ill. and points within 25 miles thereof; Harlan, Iowa and points within 15 miles of Harlan; Harlan, Ky. and points within 5 miles thereof; Indiana and Illinois within 100 miles of Danville, Ill. including Danville; Harlan County, Ky.; Harlan County, Ky. (except points within 5 miles of and including Harlan, Kentucky); Birmingham, Alabama and points in Alabama within 100 miles of Birmingham not including Montgomery, Alabama; Kansas and Missouri; Missouri and Kansas; Jefferson County, Ohio; Philadelphia, Pennsylvania; Florence, Sheffield, and Tuscumbia, Alabama.

20. Between points in Maine, on the one hand, and, on the other, points in South Dakota. The purpose of this filing is to eliminate the gateways of Boston, Mass., and points within 25 miles thereof; Philadelphia, Pa.; Jefferson County, Ohio; Kansas and Missouri; Harlan, Ky. and points within 5 miles thereof; Harlan County, Ky.; Florence, Sheffield, and Tuscumbia, Ala.; Missouri and Kansas; Harlan, Iowa and points within 15 miles of Harlan.

21. Between points in Maine and Louisiana, on the one hand, and, on the other, points in Tennessee and Wisconsin. The purpose of this filing is to eliminate the gateways of Boston, Mass. and points within 25 miles thereof; Philadelphia, Pa.; Jefferson County, Ohio; Harlan, Ky. and points within 5 miles thereof; Harlan County, Ky.; Birmingham, Ala. and points in Alabama within 100 miles of Birmingham not including Montgomery, Ala.; Florence, Sheffield, and Tuscumbia, Ala.; Kansas and Missouri; Missouri and Kansas; Bloomington, Ill. and points within 25 miles thereof; Cherokee County, Tex.; Cowley County, Kans.

22. Between points in Massachusetts, on the one hand, and, on the other, points in Louisiana. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa.; Jefferson County, Ohio; Harlan County, Ky. (except points within 5 miles of and including Harlan, Ky.); Harlan County, Ky.; Birmingham, Ala. and points in Alabama within 100 miles of Birmingham, not including Montgomery, Ala.

23. Between points in Massachusetts and Maryland, on the one hand, and, on the other, points in Michigan, South Dakota, Tennessee, and Wisconsin. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa.; Jefferson County, Ohio; Harland, Ky. and points within 5 miles thereof; Harlan County, Kentucky; Florance, Sheffield, and Tuscumbia, Ala.; Kansas and Missouri; Missouri and Kansas; Bloomington, Ill. and points within 25 miles thereof; Harlan, Iowa and points within 15 miles of Harlan; Birmingham, Ala. and points in Alabama within 100 miles of Birmingham, not including Montgomery, Ala.

24. Between points in Michigan, on the one hand, and, on the other, points in Maine, the lower peninsula of Michigan, South Dakota and Tennessee. The purpose of this filing is to eliminate the gateways of Bloomington, Ill. and points within 25 miles thereof; Missouri and Kansas; Kansas and Missouri; Florence, Sheffield and Tuscumbia, Alabama; Harlan County, Ky.; Harlan, Ky. and points within 5 miles thereof; Jefferson County, Ohio; Philadelphia, Pa.; Boston, Mass. and points within 25 miles thereof; Har-

lan County, Ky. (except points within 5 miles of and including Harlan, Kentucky); Harlan, Iowa and points within 15 miles of Harlan; Indiana and Illinois, within 100 miles of Danville, Ill., including Danville.

25. Between points in Michigan, Minnesota, Mississippi, Missouri, Montana, and Nebraska, on the one hand, and, on the other, points in New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and the District of Columbia. The purpose of this filing is to eliminate the gateways of Bloomington, Ill. and points within 25 miles thereof; Missouri and Kansas; Kansas and Missouri; Harlan County, Ky.; Florence, Sheffield, and Tuscumbia, Ala.; Harlan, Ky. and points within 5 miles thereof; Jefferson County, Ohio; Philadelphia, Pa.; Boston, Mass. and points within 25 miles thereof; Harlan, Iowa and points within 15 miles of Harlan; Birmingham, Ala. and points in Alabama within 100 miles of Birmingham, not including Montgomery, Ala.; Harlan County, Ky. (except points within 5 miles of and including Harlan, Ky.); Montana; Kimball, Banner, and Cheyenne Counties, Nebr.; Newton, Kans. and points within 15 miles thereof.

26. Between points in Minnesota, on the one hand, and, on the other, points in Tennessee and Wisconsin. The purpose of this filing is to eliminate the gateways of Indiana and Illinois within 100 miles of Danville, Ill., including Danville; Bloomington, Ill. and points within 25 miles thereof; Missouri and Kansas; Harlan, Iowa and points within 15 miles of Harlan; Kansas and Missouri; Harlan, Ky. and points within 5 miles thereof; Florence, Sheffield, and Tuscumbia, Ala.; Birmingham, Ala. and points in Alabama within 100 miles of Birmingham.

27. Between points in Mississippi, on the one hand, and, on the other, points in Mississippi, Oklahoma, Tennessee, Washington, and Wyoming. The purpose of this filing is to eliminate the gateways of Florence, Sheffield, and Tuscumbia, Ala.; Birmingham, Ala. and points in Alabama within 100 miles of Birmingham not including Montgomery, Ala.; Cherokee County, Tex.; Detroit, Tex. and points in Texas within 200 miles of Detroit; Kansas and Missouri; Missouri and Kansas; points in Washington; Cowley County, Kans.; Newton, Kans. and points within 15 miles thereof; Kimball, Banner and Cheyenne Counties, Nebr.)

28. Between points in Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, and North Carolina, on the one hand, and, on the other, points in North Carolina, Ohio, Oregon, South Carolina, South Dakota, Texas, Utah, Virginia, West Virginia, Wisconsin, and Wyoming. The purpose of this filing is to eliminate the gateways of Florence, Sheffield, and Tuscumbia, Ala.; Birmingham, Ala. and points in Alabama within 100 miles of Birmingham not including Montgomery, Ala.; Harlan County, Ky. (except points within 5 miles of and including Harlan Ky.); Kansas and Missouri; Missouri and Kansas; Bloomington, Ill. and points within 25 miles thereof; points in Washington; Cherokee County, Tex.; Cowley County, Kans.; Kimball, Banner, and Cheyenne Counties, Nebr.; Newton, Kans. and points within 15 miles thereof; Valdosta, Ga.; points in Washington east of the Cascade Mountains and those in Idaho in and north of Idaho County; Harlan Iowa and points within 15 miles of Harlan; Detroit, Tex. and points in Texas within 200 miles of Detroit; points in Oklahoma within an area bounded by a line beginning at the Oklahoma-Texas state line near Goodwin and extending along U.S. Highway 60 to Seiling, thence along U.S. Highway 270 to El Reno thence along U.S. Highway 81 to the Oklahoma-Texas state line thence west and north along the Oklahoma-Texas state line to junction U.S. Highway 60 the point of beginning including points on the indicated portions of the highways specified; points in Montana; Butte, Mont. and points within 125 miles thereof; Jefferson County, Ohio; Philadelphia, Pa.; Harlan, Ky. and points within 5 miles thereof; Klamath County, Oreg; Multnomah, Hood River, Clackamas, Washington, Columbia, Clatsop and Marion Counties, Oreg; Seattle, Wash.; Boston, Mass. and points within 25 miles thereof; Canadian County, Okla; Indiana and Illinois within 100 miles of Danville, Ill., including Danville.

29. Between points in Mississippi and Missouri, on the one hand, and, on the other, points in Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, and New Mexico. The purpose of this filing is to eliminate the gateways of Bloomington, Ill. and points within 25 miles thereof; Missouri and Kansas; points in Montana; Jefferson County, Ohio; Philadelphia, Pa.; Boston, Mass. and points within 25 miles thereof; Harlan, Iowa and points within 15 miles of Harlan; Kansas and Missouri; Harlan County, Ky.; Cowley County, Kans.; Cherokee County, Tex.; Harlan County, Ky. (except points within 5 miles of and including Harlan, Ky.); Harlan, Ky. and points within 5 miles thereof; Detroit, Tex. and points in Texas within 200 miles of Detroit; Canadian County, Okla.; Florence, Sheffield, and Tuscumbia, Ala.; Birmingham, Ala. and points in Ala. within 100 miles of Birmingham, not including Montgomery, Ala., Newton, Kans. and points within 15 miles thereof.

30. Between points in Missouri, on the one hand, and, on the other, points in Washington and Wyoming. The purpose of this filing is to eliminate the gateways of points in Washington; Missouri and Kansas; Newton, Kans. and points within 15 miles thereof; Kimball, Banner, and Cheyenne Counties, Nebr.

31. Between points in Montana, on the one hand, and, on the other, points in Oklahoma and New Mexico. The purpose of this filing is to eliminate the gateways of points in Montana; Canadian County, Okla.; Missouri and Kansas; Newton, Kans. and points within 15 miles thereof; Kimball, Banner, and Cheyenne Counties, Nebr.

32. Between points in Nebraska, on the one hand, and, on the other, points in Nebraska, Montana, New Mexico, and Oklahoma. The purpose of this filing is to eliminate the gateways of points in Montana; Missouri and Kansas; Harlan, Iowa and points within 15 miles of Harlan; Cowley County, Kans.; Canadian County, Okla.; Newton, Kans. and points within 15 miles thereof; Kimball, Banner, and Cheyenne Counties, Nebr.

33. Between points in Nebraska, New Hampshire, New Jersey, New Mexico, New York, and North Carolina, on the one hand, and, on the other, points in Tennessee and Washington. The purpose of this filing is to eliminate the gateways of Butte, Mont. and points within 125 miles thereof; points in Montana; Boston, Mass. and points within 25 miles thereof; points in Washington; Missouri and Kansas; Philadelphia, Pa.; Jefferson County, Ohio; Bloomington, Ill. and points within 25 miles thereof; Kansas and Missouri; Harlan, Ky. and points within 5 miles thereof; Harlan County, Ky.; Canadian County, Okla.; Cowley County, Kans.; Detroit, Tex. and points in Texas within 200 miles of Detroit; Cherokee County, Tex.; Florence, Sheffield, and Tuscumbia, Ala.; Newton, Kans. and points within 15 miles thereof; Kimball, Banner and Cheyenne Counties, Nebr.; Birmingham, Ala. and points in Alabama within 100 miles of Birmingham, not including Montgomery, Ala.

34. Between points in New Mexico, on the one hand, and, on the other, points in New Hampshire, New Jersey, New Mexico, New York, Pennsylvania, Rhode Island, Vermont, and the District of Columbia. The purpose of this filing is to eliminate the gateways of Bloomington, Ill. and points within 25 miles thereof; Boston, Mass. and points within 25 miles thereof; Missouri and Kansas; Jefferson County, Ohio; Philadelphia, Pa.; Canadian County, Okla.; Cowley County, Kans.)

35. Between points in New York, on the one hand, and, on the other, points in Oklahoma. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa.; Jefferson County, Ohio; Bloomington, Ill. and points within 25 miles thereof; Missouri and Kansas; Cowley County, Kans.; Cherokee County, Tex; Harlan, Ky. and points within 5 miles thereof; Harlan County, Ky.; Birmingham, Ala. and points in Alabama within 100 miles of Birmingham not including Montgomery, Ala.; Oklahoma within an area bounded by a line beginning at the Oklahoma-Texas state line near Goodwin and extending along U.S. Highway 60 to Seiling thence along U.S. Highway 270 to El Reno thence along U.S. Highway 81 to the Oklahoma-Texas state line thence west and north along the Oklahoma-Texas state line to junction U.S. Highway 60, the point of beginning including points on the indicated portions of the highways specified; Detroit, Tex. and points in Texas within 200 miles of Detroit.

36. Between points in North Carolina, on the one hand, and, on the other, points in Pennsylvania, Rhode Island, Vermont, and the District of Columbia. The pur-

pose of this filing is to eliminate the gateways of Boston, Mass. and points within 25 miles thereof; Jefferson County, Ohio; Philadelphia, Pa.; Harlan County, Ky.; Harlan, Ky. and points within 5 miles thereof; Birmingham, Ala. and points in Alabama within 100 miles of Birmingham not including Montgomery, Ala.

37. Between points in Ohio, Oklahoma, and Oregon, on the one hand, and, on the other, points in Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Vermont, and the District of Columbia. The purpose of this filing is to eliminate the gateways of points in Klamath County, Oreg.; Washington east of the Cascade Mountains and those in Idaho in and north of Idaho County, points in Montana; Butte, Mont. and points within 125 miles thereof; Oklahoma within an area bounded by a line beginning at the Oklahoma-Texas state line near Goodwin and extending along U.S. Highway 60 to Seiling thence along U.S. Highway 270 to El Reno thence along U.S. Highway 81 to the Oklahoma-Texas state line, thence west and north along the Oklahoma-Texas state line to junction U.S. Highway 60, the points of beginning including points on the indicated portions of the highways specified; Boston, Mass. and points within 25 miles thereof; Missouri and Kansas; Bloomington, Ill. and points within 25 miles thereof; points in Washington; Jefferson County, Ohio; Philadelphia, Pa.; Harlan, Iowa and points within 15 miles of Harlan; Harlan, Ky., and points within 5 miles thereof; Harlan County, Ky.; Kansas and Missouri; Valdosta, Ga.; Cowley County, Kans; Florence, Sheffield, and Tuscumbia, Ala.; Newton, Kans. and points within 15 miles thereof; Kimball, Banner, and Cheyenne Counties, Nebr.; Birmingham, Ala. and points in Alabama within 100 miles of Birmingham not including Montgomery, Ala.; Multnomah, Hood River, Clackamas, Washington, Columbia, Clatsop, and Marion Counties, Oreg.

38. Between points in Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, and Tennessee, on the one hand, and, on the other, points in Tennessee, Texas, Utah, Virginia, West Virginia, Wisconsin, and Wyoming. The purpose of this filing is to elminate the gateways of points in Washington east of the Cascade Mountains and those in Idaho in and north of Idaho County; Butte, Mont. and points within 125 miles thereof; points in Montana; Indiana and Illinois within 100 miles of Danville, Ill. including Danville; points in Washington; Bloomington, Ill. and points within 25 miles thereof; Missouri and Kansas; Jefferson County, Ohio; Philadelphia, Pa.; Oklahoma within an area bounded by a line beginning at the Oklahoma-Texas state line near Goodwin and extending along U.S. Highway 60 to Seiling thence along U.S. Highway 270 to El Reno thence along U.S. Highway 81 to the Oklahoma-Texas state line thence west and north along the Oklahoma-Texas state line to junction U.S. Highway 60 the points of beginning including points on the indicated portions of the highways specified; Boston, Mass. and points within 25 miles thereof; Harlan, Iowa and points within 15 miles of Harlan; Harlan County, Ky. (except points within 5 miles of and including Harlan, Ky.); Cowley County, Kans.; Harlan, Ky. and points within 5 miles thereof; Harlan County, Ky.; Kansas and Missouri; Detroit, Tex. and points in Texas within 200 miles of Detroit; Cherokee County, Tex.; Valdosta, Ga.; Florence, Sheffield, and Tuscumbia, Ala.; Newton, Kans. and points within 15 miles thereof; Birmingham, Ala. and points in Alabama within 100 miles of Birmingham not including Montgomery, Ala.; Kimball, Banner, and Cheyenne Counties, Nebr.; points in Washington east of the Cascade Mountains and those in Idaho in and north of Idaho County.

39. Between points in Oklahoma, on the one hand, and, on the other, points in New Hampshire, New Jersey, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Mexico, New York, North Carolina, Ohio, and Oklahoma. The purpose of this filing is to eliminate the gateways of Bloomington, Ill. and points within 25 miles thereof; Missouri and Kansas; Jefferson County, Ohio; Philadelphia, Pa.; Boston, Mass. and points within 25 miles thereof; Oklahoma within an area bounded by a line beginning at the Oklahoma-Texas state line near Goodwin, Okla. and extending along U.S. Highway 60 to Seiling, Okla., thence along U.S. Highway 270 to El Reno, Okla., thence along U.S. Highway 81 to the Oklahoma-Texas state line, thence west and north along the Oklahoma-Texas state line to junction U.S. Highway 60 to the point of beginning including points on the indicated portions of the highways specified; Harlan, Iowa and points within 15 miles of Harlan; Harlan, Ky. and points within 5 miles thereof; Cowley County, Kans.; Harlan County, Ky.; Kansas and Missouri; Detroit, Tex. and points in Texas within 200 miles of Detroit; Cherokee County, Tex.; Canadian County, Okla.; Birmingham, Ala.; and points in Alabama within 100 miles of Birmingham, not including Montgomery, Ala.; Florence, Sheffield, and Tuscumbia, Ala.

40. Between points in Pennsylvania and Rhode Island, on the one hand, and, on the other, points in South Carolina and South Dakota. The purpose of this filing is to eliminate the gateways of points in Missouri and Kansas; Jefferson County, Ohio; Harlan, Iowa and points within 15 miles of Harlan; Boston, Mass. and points within 25 miles thereof; Philadelphia, Pa.; Kansas and Missouri; Harlan, Ky. and points within 5 miles thereof; Harlan County, Ky.; Valdosta, Ga.; Harlan County, Ky. (except points within 5 miles of and including Harlan, Ky.; Florence, Sheffield, and Tuscumbia, Ala.

41. Between Philadelphia, Pa., on the one hand, and, on the other, points in Maine, New Hampshire, Rhode Island, and Vermont. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa.; Boston, Mass. and points within 25 miles thereof.

42. Between points in South Carolina, South Dakota, Tennessee, Texas, and Utah, on the one hand, and, on the other, points in Vermont, and the District of Columbia. The purpose of this filing is to eliminate the gateways of Butte, Mont. and points within 125 miles thereof; points in Montana; Bloomington, Ill. and points within 25 miles thereof; Jefferson County, Ohio, Philadelphia, Pa.; Boston, Mass. and points within 25 miles thereof; Harlan, Iowa and points within 15 miles of Harlan; Missouri and Kansas; Harlan County, Ky. (except points within 5 miles of and including Harlan, Ky.); Valdosta, Ga.; Harlan County, Ky.; Harlan, Ky. and points within 5 miles thereof; Kansas and Missouri; Cowley County, Kans.; Cherokee County, Tex.; Florence, Sheffield, and Tuscumbia, Ala.; Birmingham, Ala. and points in Alabama within 100 miles of Birmingham, not including Montgomery, Ala.; Newton, Kans. and points within 15 miles thereof.

43. Between points in Texas, Utah, Vermont, and Virginia, on the one hand, and, on the other, points in West Virginia, Wisconsin, and Wyoming. The purpose of this filing is to eliminate the gateways of Butte, Mont. and points within 125 miles thereof; points in Montana; Oklahoma within an area bounded by a line beginning at the Oklahoma-Texas state line near Goodwin and extending along U.S. Highway 60 to Seiling thence along U.S. Highway 270 to El Reno thence along U.S. Highway 81 to the Oklahoma-Texas state line thence west and north along the Oklahoma-Texas state line thence west and north along the Oklahoma-Texas state line to junction U.S. Highway 60 to the point of beginning including points on the indicated portions of the highways specified; Missouri and Kansas; Bloomington, Ill. and points within 25 miles thereof; Jefferson County, Ohio; Boston, Mass. and points within 25 miles thereof; Philadelphia, Pa.; Kansas and Missouri; Cowley County, Kans.; Harlan County, Ky.; Harlan, Ky. and points within 5 miles thereof; Detroit, Tex. and points in Texas within 200 miles of Detroit; Cherokee County, Tex.; Florence, Sheffield, and Tuscumbia, Ala.; Newton, Kans. and points within 15 miles thereof; Birmingham, Ala. and points in Alabama within 100 miles thereof; Birmingham, not including Montgomery, Ala.; Kimball, Banner, and Cheyenne Counties, Nebr.

44. Between points in Texas, on the one hand, and, on the other, points in Detroit, Texas and points within 200 miles of Detroit, and points in Texas on and north of U.S. Highway 80. The purpose of this filing is to eliminate the gateways of Oklahoma within an area bounded by a line beginning at the Oklahoma-Texas state line near Goodwin and extending along U.S. Highway 60 to Seiling thence along U.S. Highway 270 to El Reno thence along U.S. Highway 81 to the Oklahoma-Texas state line thence west and north along the Oklahoma-Texas state line to junction U.S. Highway 60, the point of beginning including points on the indicated portions of the

highways specified; Detroit, Tex. and points in Texas within 200 miles of Detroit.

45. Between points in Utah and Virginia, on the one hand, and, on the other, points in Virginia, Texas, and Utah. The purpose of this filing is to eliminate the gateways of Butte, Mont. and points within 125 miles thereof; points in Montana; Oklahoma within an area bounded by a line beginning at the Oklahoma-Texas state line near Goodwin and extending along U.S. Highway 60 to Seiling thence along U.S. Highway 270 to El Reno thence along U.S. Highway 81 to the Oklahoma-Texas state line thence west and north along the Oklahoma-Texas state line to junction U.S. Highway 60 to the point of beginning, including points on the highways specified; Missouri and Kansas; Bloomington, Ill. and points within 25 miles thereof; points in Washington; Jefferson County, Ohio; Philadelphia, Pa.; Kansas and Missouri; Cowley County, Kans.; Harlan, Ky. and points within 5 miles thereof; Detroit, Tex. and points in Texas within 200 miles of Detroit; Harlan County Ky.; Cherokee County, Tex.; Florence, Sheffield, and Tuscumbia, Ala.; Newton, Kans. and points within 15 miles thereof; Birmingham, Ala. and points in Alabama within 100 miles of Birmingham, not including Montgomery, Ala.; Kimball, Banner, and Cheyenne Counties, Nebr.

46. Between points in Washington, on the one hand, and, on the other, points in Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, and Washington. The purpose of this filing is to eliminate the gateways of points in Washington east of the Cascade Mountains and those in Idaho in and north of Idaho County; Butte, Mont. and points within 125 miles thereof; points in Montana; Yakima, Wash.; Boston, Mass. and points within 25 miles thereof; Bloomington, Ill. and points within 25 miles thereof; points in Washington; Missouri and Kansas; Jefferson County, Ohio; Philadelphia, Pa.; Harlan, Iowa and points within 15 miles of Harlan; Oklahoma within an area bounded by a line beginning at the Oklahoma-Texas state line near Goodwin, Okla. and extending along U.S. Highway 60 to Seiling thence along U.S. Highway 270 to El Reno thence along U.S. Highway 81 to the Oklahoma-Texas state line thence west and north along the Oklahoma-Texas state line to junction U.S. Highway 60 the point of beginning, including points on the indicated portions of the highways specified; Kansas and Missouri; Valdosta, Ga.; Cowley County, Kans.; Detroit, Tex. and points in Texas within 200 miles of Detroit; Harlan, Ky. and points within 5 miles thereof; Harlan County, Kentucky; Harlan County, Kentucky (except points within 5 miles of and including Harlan, Ky.); Florence, Sheffield, and Tuscumbia, Ala.; Newton, Kans. and points within 15 miles thereof; Birmingham, Ala. and points in Alabama within 100 miles of Birmingham, not including Montgomery, Ala.; Kimball, Banner and Cheyenne Counties, Nebr.

47. Between points in West Virginia, on the one hand, and, on the other, points in Washington, Wisconsin, and West Virginia. The purpose of this filing is to eliminate the gateways of Bloomington, Ill. and points within 25 miles thereof; Missouri and Kansas; Jefferson County, Ohio; points in Washington, Kansas and Missouri; Harlan, Ky. and points within 5 miles thereof; Harlan County, Ky.; Harlan County, Ky. (except points within 5 miles of and including Harlan Kentucky); Florence, Sheffield, and Tuscumbia, Ala; Newton, Kans. and points within 15 miles thereof; Kimball, Banner, and Cheyenne Counties, Nebr; Birmingham, Ala. and points in Alabama within 100 miles of Birmingham, not including Montgomery, Ala.

48. Between points in Wisconsin, on the one hand, and, on the other, points in Washington, the District of Columbia, Harlan County, Ky., and the lower peninsula of Michigan. The purpose of this filing is to eliminate the gateways of points in Washington; Bloomington, Illinois and points within 25 miles thereof; Missouri and Kansas; Jefferson County, Ohio; Philadelphia, Pa.; Kansas and Missouri; Harlan, Ky.; and points within 5 miles thereof; Harlan County, Ky.; Florence, Sheffield, and Tuscumbia, Ala; Newton, Kans. and points within 15 miles thereof; Indiana and Illinois within 100 miles of Danville, Ill. including Danville.

49. Between points in Wyoming, on the one hand, and, on the other, points in West Virginia, Wisconsin, and Wyoming. The purpose of this filing is to eliminate the gateways of points in Missouri and Kansas; Bloomington, Ill. and points within 25 miles thereof; Jefferson County, Ohio; points in Washington; Washington east of the Cascade Mountains and those in Idaho in and north of Idaho County; points in Montana; Kimball, Banner, and Cheyenne Counties, Nebr.; Newton, Kans. and points within 15 miles thereof.

50. Between points in Virginia, on the one hand, and, on the other, points in Vermont. The purpose of this filing is to eliminate the gateways of Bloomington, Ill. and points within 25 miles thereof; Missouri and Kansas; Jefferson County, Ohio; Philadelphia, Pa.; Boston, Mass. and points within 25 miles thereof; Kansas and Missouri; Harlan, Ky. and points within 5 miles thereof; Harlan County, Ky.; Florence, Sheffield; and Tuscumbia, Ala.

51. Between points in South Carolina, on the one hand, and, on the other, points in South Dakota. The purpose of this filing is to eliminate the gateways of points in Missouri and Kansas; Harlan, Iowa and points within 15 miles of Harlan; Kansas and Missouri; Valdosta, Ga.; Florence, Sheffield, and Tuscombia, Ala.; Birmingham, Alabama and points in Alabama within 100 miles of Birmingham, not including Montgomery, Ala.

52. Between points in Tennessee, on the one hand, and, on the other, points in Kentucky and Montana. The purpose of this filing is to eliminate the gateways of Kansas and Missouri; Bloomington, Ill.; points in Montana; Indiana and Illinois within 100 miles of Danville, Ill., including Danville; Harlan County, Ky.; Harlan, Ky. and points within 5 miles thereof; Birmingham, Ala. and points in Alabama within 100 miles of Birmingham, not including Montgomery, Ala.; Florence, Sheffield, and Tuscumbia, Ala.; Newton, Kans. and points within 15 miles thereof; Kimball, Banner, and Cheyenne Counties, Nebr.

No. MC 110624 (Sub-No. 3G), filed June 4, 1974. Applicant: FALK TRANSPORTATION CO., INC., 10 Ewing Avenue, Spring Valley, N.Y. 10977. Applicant's representative: Robert J. Gallagher, 1776 Broadway, New York, N.Y. 10019. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities* (except those of unusual value, and except dangerous explosives, household goods, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between New York, N.Y., on the one hand, and, on the other, points in Bergen, Essex, Hudson, Morris, Passaic, and Union Counties, N.J., and that part of Middlesex County, N.J. east of the Raritan River. The purpose of this filing is to eliminate the gateways of Orange and Rockland Counties, N.Y., (2) *machinery* (except such machinery the transportation of which requires the use of special motor-vehicle equipment) and *related machinery parts* when their transportation is incidental to the transportation by said carrier of machinery, between New York, N.Y., on the one hand, and, on the other, points in Bergen, Essex, Hudson, Passaic, and Union Counties, N.J.; points in Monmouth County, N.J., on and north of a line beginning at the Atlantic Ocean at a point east of Elberon, N.J., and extending westward through Elberon, Colts Neck, and Gordons Corner, N.J., to the Monmouth-Middlesex County line; points in Middlesex County, N.J., on and north of a line beginning at the above-described point on the Monmouth-Middlesex County line and extending northwestward through Spotswood and Milltown, N.J., to a point on the Middlesex-Somerset County line south of New Brunswick, N.J., points in Somerset County on and north of New Jersey Highway 28 from its intersection with the Middlesex-Somerset County line to its junction with U.S. Highway 206 and those on and east of U.S. Highway 206; points in Morris County, N.J., on and east of a line beginning at the intersection of U.S. Highway 206 and the Somerset-Morris County line and extending northward through Ironia, Succasunna, and Waldon, N.J., to the Morris-Sussex County line; New York, N.Y., points in Nassau County, N.Y.; and points in Westchester County, N.Y., on and south of a line beginning at the intersection of the Connecticut-New York State line and New York Highway 137 and extending westward through Bedford and Peekskill, N.Y., to the Westchester-Rockland County line. The purpose of this filing is to eliminate the gateway of Rockland, County, N.Y.

No. MC 111401 (Sub-No. 423G), filed June 4, 1974. Applicant: GROENDYKE

TRANSPORT, INC., 2510 Rock Island Boulevard, P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Alvin J. Meiklejohn, Jr., Suite 1600, Lincoln Center, 1660 Lincoln Street, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed and animal and poultry feed ingredients*, in bulk, from points in Oklahoma and that part of Texas on and north of U.S. Highway 66 from the Texas-New Mexico State line to junction U.S. Highway 83, and on and east of U.S. Highway 83 from its junction with U.S. Highway 66 to the boundary line between Texas and Mexico, to points in Alabama, Arizona, Arkansas, Colorado, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Nebraska, New Mexico, Oklahoma, Tennessee, Utah, and Wyoming. The purpose of this filing is to eliminate the gateways of Tulsa, Okla. and Freeport, Tex.

No. MC 111401 (Sub-No. 424G), filed June 4, 1974. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Alvin J. Meiklejohn Jr., Suite 1600 Lincoln Center, 1660 Lincoln Street, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Chemicals*, in bulk, (1) from points in Arkansas, Colorado, Kansas, Oklahoma, and that part of Texas on and north of U.S. Highway 66 from the Texas-New Mexico State line to junction U.S. Highway 83, and on and east of U.S. Highway 83 from its junction with U.S. Highway 66 to the boundary line between Texas and Mexico, to points in the United States (except Alaska and Hawaii). The purpose of this filing is to eliminate the gateways of Borger, Chaison or Houston, Etter, Fort Worth, Freeport, Kings Mill, Longview, Sheerin, and Texas City, Tex. and from points in Texas on and north of U.S. Highway 66 to points in New Mexico on and north of U.S. Highway 66, Denver and Jefferson County, Colo., Altus, Ardmore, Cushing, Cyril, Duncan, Ponca City, Sunray, Tulsa, and Wynnewood, Okla. and points in Oklahoma, and Lawrence, Ulysses, and Wichita, Kans.

(2) from Kingsport, Tenn., to points in Oklahoma, Kansas, Colorado, and the part of Texas on and north of U.S. Highway 66 from the Texas-New Mexico State line to junction U.S. Highway 83, and on and east of U.S. Highway 83 from its junction with U.S. Highway 66 to the boundary line between Texas and Mexico. The purpose of this filing is to eliminate the gateway of Longview, Tex. (B) *acrylonitrile*, in bulk, in tank vehicles, from Avondale, La., to points in California. The purpose of this filing is to eliminate the gateway of Longview, Tex. (C) *anhydrous ammonia and fertilizer solutions*, in bulk, in tank vehicles, from the plant site of Phillips Petroleum Company located at or near Hoag, Nebr., to points in Colorado. The purpose of this filing is to eliminate the gateway of Kansas.

No. MC 115840 (Sub-No. 103G), filed May 2, 1975. Applicant: COLONIAL FAST FREIGHT LINES, INC., P.O. Box 10327, Birmingham, Ala. 35202. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street, NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum ingots, bars, sows, and aluminum scrap* (except in dump vehicles), as embraced in aluminum articles, between Birmingham, Ala., on the one hand, and, on the other, points in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas (except Scottsboro, Ala.). The purpose of this filing is to eliminate the gateway of Steele, Ala. (2) *aluminum ingots, bars, sows, and aluminum scrap*, as embraced in aluminum articles and commodities which because of size or weight require the use of special equipment (except in dump vehicles), between points in Tennessee, Georgia, Florida, Mississippi, and Louisiana east of the Mississippi River, on the one hand, and, on the other, points in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas (except Scottsboro, Ala.). The purpose of this filing is to eliminate the gateways of Birmingham, Ala. and points within 10 miles thereof, or Steele, Ala. and points within its commercial zone.

(3) *zinc ingots, bars, sows, and nonferrous scrap metals* as embraced in commodities which because of size or weight require the use of special equipment (except in dump vehicles), between Steele, Ala., on the one hand, and, on the other, points in Tennessee, Georgia, Florida, Mississippi, and Louisiana east of the Mississippi River. The purpose of this filing is to eliminate the gateway of Birmingham, Ala., and points within ten miles thereof. (4) *non-ferrous scrap metals* (except in dump vehicles), as embraced in commodities which because of size or weight require the use of special equipment, between Steele and Attalla, Ala., on the one hand, and, on the other, points in Tennessee, Georgia, Florida, Mississippi, and Louisiana east of the Mississippi River. The purpose of this filing is to eliminate the gateway of Birmingham, Ala., and points within ten miles thereof. (5) *non-ferrous scrap metals* (except in dump vehicles), from points in Arkansas and Oklahoma, to points in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas (except Scottsboro, Ala.). The purpose of this filing is to eliminate the gateways of Steele or Attalla, Ala., or points within their commercial zone. (6) *materials and supplies* used in the argriculture, water treatment, food processing, wholesale groceries, and institutional supply industries, as embraced in aluminum and zinc ingots, bars, sows, and non-ferrous scrap metals, from points on the Warrier-Tombigbee-Alabama River System, located in Alabama, to points in and east of North Dakota, Nebraska, Kansas, Oklahoma, and Texas (except Scottsboro, Ala.). The purpose of this filing is to eliminate the gateway of Steele, Ala., or points within its commercial zone.

No. MC 124090 (Sub-No. 4G), filed June 4, 1974. Applicant: TRANSPORTES AZTECA, York-Flynn Building, Dover, N.J. 07801. Applicant's representative: Bernard F. Flynn, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, commodities requiring special equipment, household goods as defined by the Commission, and Classes A and B explosives), between Laredo and Brownsville, Tex., on the one hand, and, on the other, points in New Jersey, New York, Maryland, Delaware, Pennsylvania, Connecticut, Rhode Island, Massachusetts, Maine, New Hampshire, and Vermont. The purpose of this filing is to eliminate the gateway of Newark, N.J.

INTERSTATE COMMERCE COMMISSION
OFFICE OF PROCEEDINGS

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY—ELIMINATION OF GATEWAY LETTER NOTICES NOTICE

JUNE 19, 1975.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination* Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission *within 10 days* from the date of this publication. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 200 (Sub-No. E1) (Correction), filed June 4, 1974, republished in the FEDERAL REGISTER February 13, 1975. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 2809, Kansas City, Mo. 64142. Applicant's representative: Ivan E. Moody (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A & B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment; (1) between Philadelphia, Pa., on the one hand, and, on the other, points in that part of Morris County, N.J., north of Interstate Highway 80 and points in Sussex, Passaic, and Bergen Counties, N.J. (Rockland County, N.Y.)*; (2) between points in Bergen,

Essex, Union, Passaic, Hudson, Sussex, Morris, Warren, Somerset, Hunterdon, and Middlesex Counties, N.J., on the one hand, and, on the other, points in Albany, Bronx, Columbia, Duchess, Fulton, Greene, Kings, Montgomery Putnam, Rensselaer, Rockland, Saratoga, Schenectady, Ulster, and Westchester Counties, N.Y. (points in New Jersey and New York within 15 miles of New York City)*; and (3) between points in Bergen, Essex, Union, Passaic, Hudson, Morris, Somerset, and Middlesex Counties, N.J., on the one hand, and, on the other, points in Albany, Bronx, Columbia, Duchess, Fulton, Greene, Kings, Montgomery, Orange, Putnam, Rensselaer, Rockland, Saratoga, Schenectady, Sullivan, Ulster, and Westchester Counties, N.Y. (points in New Jersey and New York within 15 miles of New York City)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above. The purpose of this correction is to include (2) and (3) above.

No. MC 531 (Sub-No. E13) (Correction), filed May 31, 1974, published in the FEDERAL REGISTER May 2, 1975. Applicant: YOUNGER BROTHERS, INC., P.O. Box 14048, Houston, Tex. 77021. Applicant's representative: Wray E. Hughes (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products* as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except dairy wax and liquefied petroleum gases), in bulk, in tank vehicles, from points in Orange and Jefferson Counties, Tex., to points in California. The purpose of this filing is to eliminate the gateways of Lake Charles, La., and Bishop, Tex.

No. MC 531 (Sub-No. E14), filed May 30, 1974. Applicant: YOUNGER BROTHERS, INC., P.O. Box 14048, Houston, Tex. 77021. Applicants representative: Wray Hughes (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 (except liquefied petroleum gases), in bulk, in tank vehicles from Baytown, Tex., to points in Alameda, Butte, Humboldt, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Siskiyou, Solano, Sonoma, and Sutter Counties, Calif. The purpose of this filing is to eliminate the gateways of Lake Charles, La., and points within 13 miles thereof and Bishop, Tex.

No. MC 2304 (Sub-No. E2) (Correction), filed March 6, 1975, published in the FEDERAL REGISTER April 29, 1975. Applicant: THE KAPLAN TRUCKING CO., 2900 Chester Ave., Cleveland, Ohio 44114. Applicant's representative: Mr. John P. McMahon, Columbus Center, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel products*, (1) between points in Monmouth, Morris, Essex, Passaic, Union, Somerset, Middlesex, Hudson, and Bergen Counties, N.J., points in New York, Pennsylvania, West Virginia, Ohio, points in that part of Michigan on and south of Michigan Highway 21, points in that part of Indiana on and north of U.S. Highway 30, and points in that part of Illinois on and north of Interstate Highway 80, on the one hand, and, on the other, points in Kentucky within 10 miles of the confluence of the Ohio and Licking Rivers at or near Covington, Ky. (Norwood and Lima, Ohio, and New York, N.Y., and points in Pennsylvania on and west of U.S. Highway 219*); (2) between points in that part of Ohio on and east of a line beginning at Toledo, Ohio, extending along U.S. Highway 24 to junction U.S. Highway 127, thence along U.S. Highway 127 to junction U.S. Highway 33, thence along U.S. Highway 33 to junction U.S. Highway 68, thence along U.S. Highway 68 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction U.S. Highway 23, thence along U.S. Highway 23 to the Ohio-Kentucky State line, on the one hand, and, on the other, points in Illinois on and north of Interstate Highway 70 (Lima, Ohio, and points within 20 thereof, and St. Louis, Mo.*); (3) between points in that part of Ohio on and west of a line beginning at Cleveland, Ohio, extending along U.S. Highway 42 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 23, thence along U.S. Highway 23 to the Ohio-Michigan State line, on the one hand, and, on the other, points in that part of Indiana on, west, and south of a line beginning at Gary, Ind., extending along Interstate Highway 65 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction U.S. Highway 224, thence along U.S. Highway 224 to the Indiana-Ohio State line (Lima, Ohio, and points within 20 miles thereof*);

(4) From points in Monmouth, Morris, Essex, Passaic, Union, Somerset, Middlesex, Hudson, and Bergen Counties, N.J., New York, and Pennsylvania, to Chicago and Peoria, Ill., Evansville and Connersville, Ind., points in Wayne County and Grand Rapids, Mich., points in Indiana on and north of U.S. Highway 40, and points in Michigan on U.S. Highway 10 between Detroit and Saginaw, Mich., including Detroit and Saginaw (Salem, Alliance, and Sebring, Ohio, Ohio Interchange No. 2, and points in Pennsylvania on and west of U.S. Highway 219*); (5) from points in that part of Ohio located on and south of a line beginning at the Pennsylvania-Ohio State line extending along Ohio Highway 5 to junction Ohio Highway 44, thence along Ohio Highway 44 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction Interstate Highway 77, thence along Interstate Highway 77 to junction U.S. Highway 250, thence along U.S. Highway 250 to the Ohio-West Virginia State line and points in West Virginia on and north of Interstate Highway 70 to points in that part of Indiana on and north of a line beginning at the Ohio-Indiana State line extending along Indiana Highway 67 to junction Indiana Highway 18, thence along Indiana Highway 18 to the Indiana-Illinois State line, and Chicago and Peoria, Ill., points in Wayne County and Grand Rapids, Mich., and points in Michigan on U.S. Highway 10 between Detroit and Saginaw, Mich., including Detroit and Saginaw (Salem, Alliance, and Sebring, Ohio, and Ohio Turnpike Interchange No. 2*); (6) from Chicago, Ill., to points in Pennsylvania, New York, points in West Virginia on and north of U.S. Highway 50, and points in Monmouth, Morris, Essex, Passaic, Union, Somerset, Middlesex, Hudson, and Bergen Counties, N.J. (Salem, Ohio, Ohio Turnpike Interchange No. 2, and points in Pennsylvania on and west of U.S. Highway 219*);

(7) Between Baltimore, Md., on the one hand, and, on the other, points in that part of Indiana located on and west of Gary, extending along Interstate Highway 65 to junction U.S. Highway 24, thence along U.S. Highway 24 to the Indiana-Illinois State line, and points in that part of Illinois located on and north of a line beginning at the Indiana-Illinois State line extending along U.S. Highway 24 to junction Interstate Highway 55, thence along Interstate Highway 55 to the Illinois-Missouri State line, restricted to the transportation of commodities which, because of size or weight, require the use of special equipment, where such transportation is performed on ordinary vehicular equipment, and special equipment is provided for loading and unloading and the loading and unloading is performed by the consignor or consignee, or both (Lima, Ohio, and points within 20 miles thereof, and Philadelphia, Pa.*); (8) between Wilmington, Del., on the one hand, and, on the other, points in Indiana, Illinois, and points in Michigan on and south of Michigan on and south of Michigan Highway 21, restricted to the transportation of commodities which, because of size or weight, require the use of special equipment, where such transportation is performed on ordinary vehicular equipment, and special equipment is provided for loading and unloading and the loading and unloading is performed by the consignor or consignee, or both (Lima, Ohio and points within 20 miles thereof, and Philadelphia, Pa.*);

(9) Between points in that part of New Jersey on and south of New Jersey Highway 33, on the one hand, and, on the other, points in that part of Pennsylvania on and south of a line beginning at the New Jersey-Pennsylvania State line, extending along Interstate Highway 76 to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-New York State line, points in that part of New York on and west of Interstate Highway 81, points in that part of West Virginia on and north of a line beginning at the Ohio-West Virginia State line extending along U.S.

Highway 50 to junction Interstate Highway 79, thence along Interstate Highway 79 to junction Interstate Highway 64, thence along Interstate Highway 64 to the West Virginia-Kentucky State line, points in Michigan on and south of Michigan Highway 21, and points in Ohio, Indiana, and Illinois, restricted to the transportation of commodities which, because of size or weight, require the use of special equipment, where such transportation is performed on ordinary vehicular equipment, and special equipment is provided for loading or unloading and the loading and unloading is performed by the consignor or consignee, or both (Lima, Ohio and points within 20 miles thereof*). The purpose of this filing is to eliminate the gateways indicated by the asterisks above.

No. MC 2304 (Sub-No. E3) (Correction), filed March 6, 1975, published in the FEDERAL REGISTER April 29, 1975. Applicant: THE KAPLAN TRUCKING CO., 2900 Chester Ave., Cleveland, Ohio 44114. Applicant's representative: John P. McMahon, Columbus Center, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel mill products*, which because of size or weight or bulk, require the use of flat-bottom equipment, or equipment having sides not exceeding 36 inches in height, minimum 10,000 pounds each from any one consignor, from points in that part of Ohio on and north of a line beginning at the Pennsylvania-Ohio State line extending along Interstate Highway 76 to junction Interstate Highway 71, thence along Interstate Highway 71 to Cleveland, Ohio, points in Pennsylvania on and north of Interstate Highway 80, points in New York, and points in Monmouth, Morris, Essex, Passaic, Union, Somerset, Middlesex, Hudson, and Bergen Counties, N.J., to points in that part of Indiana on and north of U.S. Highway 40. The purpose of this filing is to eliminate the gateways of points in Cuyahoga County, Ohio, and points in Pennsylvania on and west of U.S. Highway 219.

No. MC 29886 (Sub-No. E19) (Correction), filed May 23, 1974, published in the FEDERAL REGISTER March 17, 1975. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 W. Sample St., South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (2) *Automobiles* (imported from foreign countries), from points in California to points in Indiana, South Carolina, and those points in North Carolina west of a line beginning at the Virginia-North Carolina State line extending along U.S. Highway 21 to junction U.S. Highway 70, thence along U.S. Highway 70 to junction U.S. Highway 52, thence along U.S. Highway 52 to the North Carolina-South Carolina State line. The purpose of this filing is to eliminate the gateway of South Bend, Ind. The purpose of this partial correction is to remove a previous restriction. The remainder of the filing remains as previously published.

No. MC 29886 (Sub-No. E92), filed May 16, 1974. Applicant: DALLAS & MAVIS FORWARDING CO., 4000 W. Sample Street, South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Contractors' equipment*, restricted to road construction and earth moving machines and equipment (except trailers designed to be drawn by a truck tractor), from points in Michigan to those points in Tennessee (except Clay, Jackson, Putnam, White, Van Buren, Sequatchie, Hamilton, Bradley, Polk, McMinn, Meigs, Rhea, Bledsoe, Cumberland, Overton, Pickett, Scott, Fentress, Morgan, Roane, Monroe Loudon, Anderson, Campbell, Claiborne, Union, Knox, Blount, Sevier, Jefferson, Grainger, Hancock, Hamblen, Hawkins, Greene, Cocke, Washington, Sullivan, Unicoi, Carter, and Johnson Counties), and those in Georgia on and west of a line beginning at the Tennessee-Georgia State line and extending along Interstate Highway 75 to junction U.S. Highway 80, thence along U.S. Highway 80 to the Georgia-South Carolina State line. The purpose of this filing is to eliminate the gateway of South Bend, Ind.

No. MC 29886 (Sub-No. E93), filed May 16, 1974. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 W. Sample Street, South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Contractors' equipment*, restricted to dump-truck bodies, from those points in Ohio on, north, and west of a line beginning at the Ohio-Indiana State line and extending along U.S. Highway 30 to junction U.S. Highway 30N, thence along U.S. Highway 30N to junction Ohio Highway 4, thence along Ohio Highway 4 to Lake Erie, to points in New Jersey, Connecticut, Rhode Island, Massachusetts, Delaware, Vermont, New Hampshire, Maine, Maryland, West Virginia, Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Tennessee, Arkansas, Louisiana, Texas, Oklahoma, Kansas (except Nemaha, Jackson, Brown, Atchison, Doniphan, Jefferson, Leavenworth, Wyandotte, and Johnson Counties), North Dakota, Montana, Wyoming, Colorado, New Mexico, Arizona, and Utah, those in Pennsylvania on and east of Interstate Highway 81, those in Nebraska on and west of U.S. Highway 281, those in South Dakota on and west of U.S. Highway 281, and the District of Counties), North Dakota, Montana, Wy- eliminate the gateway of Marion, Ohio, and points within 5 miles thereof.

No. MC 29886 (Sub-No. E94), filed May 16, 1974. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 W. Sample Street, South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Contractors' equipment*, restricted to steam shovels, cranes, crawler-type shovels and cranes, straddle trucks, fork trucks, and self-propelled building, construction, and moving machinery, from those points in Missouri on and north of Interstate Highway 44 to points in Maryland, Delaware, and the District of Columbia. The purpose of this filing is to eliminate the gateways of points in Michigan on and south of a line extending along the northern boundaries of Allegan, Barry, and Eaton Counties, Mich., thence along Business Route Interstate Highway 96 to Lansing, Mich., thence on and west of a line extending along U.S. Highway 127 to Jackson, Mich., thence along unnumbered highway (formerly portion U.S. Highway 127) to junction U.S. Highway 12, near Somerset Center, Mich., thence along U.S. Highway 12 to junction U.S. Highway 127, near Somerset, Mich., thence along U.S. Highway 127 to the Michigan-Ohio State line; (2) Benton Harbor, Mich.

No. MC 29886 (Sub-No. E95), filed May 16, 1974. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 W. Sample Street, South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Contractors' equipment*, restricted to road construction and earth moving machines and equipment, from points in Iowa in and north of Mills, Montgomery, Adams, Adair, Madison, Warren, Marion, Jasper, Poweshiek, Iowa, Johnson, Muscatine, and Scott Counties, Iowa, to points in Georgia in and east of Union, White, Habersham, Banks, Madison, Oglethorpe, Greene, Hancock, Baldwin, Wilkinson, Twiggs, Houston, Dooly, Crisp, Worth, Colquitt, and Thomas Counties, Ga., and from those points in Iowa on and north of Interstate Highway 80 to points in Georgia (except those in Dade, Walker, and Chattooga Counties). The purpose of this filing is to eliminate the gateways of points in Michigan on and south of a line extending along the northern boundaries of Allegan, Barry, and Eaton Counties, Mich., thence along Business Route Interstate Highway 96 to Lansing, Mich., thence on and west of a line extending along U.S. Highway 127 to Jackson, Mich., thence along unnumbered highway (formerly portion U.S. Highway 127) to junction U.S. Highway 192, near Somerset Center, Mich., thence along U.S. Highway 12 to junction U.S. Highway 127, near Somerset, Mich., thence along U.S. Highway 127 to the Michigan-Ohio State line, and South Bend, Ind.

No. MC 29886 (Sub-No. E96), filed May 16, 1974. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 W. Sample Street, South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Contractors' equipment*, restricted

to road construction and earth moving machines and equipment (except trailers designed to be drawn by truck tractors); (1) from points in Indiana (except those in Lake and Posey Counties), to points in Washington, Oregon, California, Nevada, Idaho, Montana, Wyoming, North Dakota, South Dakota, those in Minnesota on and north of a line beginning at Lake Superior and extending along Interstate Highway 35 to junction Minnesota Highway 23, thence along Minnesota Highway 23 to the Minnesota-South Dakota State line, and those in Utah (except those in Grand, Wayne, Garfield, Kane, and San Juan Counties); (2) from those points in Indiana on and north of Indiana on and north of Indiana Highway 46 to points in Utah and Arizona; and (3) from points in Indiana (except those in Lake, Porter, Newton, Jasper, Benton, Warren, Fountain, Vermillion, Parke, and Vigo Counties), to points in Minnesota. The purpose of this filing is to eliminate the gateway of South Bend, Ind.

No. MC 29886 (Sub-No. E97), filed May 16, 1974. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 W. Sample Street, South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Contractors' equipment*, the transportation of which because of size or weight requires the use of special equipment; (1) between those points in Illinois, on and north of a line beginning at the Indiana-Illinois State line and extending along Illinois Highway 119 to junction U.S. Highway 136, thence along U.S. Highway 136 to junction U.S. Highway 54, thence along U.S. Highway 54 to the Illinois-Missouri State line, on the one hand, and, on the other, points in Pennsylvania; (2) between points in Illinois, on the one hand, and, on the other, points in Pennsylvania (except those in Beaver, Allegheny, Westmoreland, Somerset, Washington, Fayette, and Greene Counties); (3) between points in Lyon, Osceola, Dickinson, Emmet, Kossuth, Winnebago, Worth, Mitchell, Howard, Winneshiek, Allamakee, Sioux, O'Brien, Clay, Palo Alto, Hancock, Cerro Gordo, Floyd, Chickasaw, Plymouth, Cherokee, Buena Vista, Pocahontas, Humboldt, Wright, Franklin, Woodbury, Ida, Sac, and Monona Counties, Iowa, on the one hand, and, on the other, points in Indiana; (4) between points in Iowa, on the one hand, and, on the other, points in Porter, La Porte, Starke, St. Joseph, Marshall, Elkhart, Koscuisko, Lagrange, Noble, Whitley, Steuben, De Kalb, and Allen Counties, Ind. (those points in Michigan on and south of a line extending along the northern boundaries of Allegan, Barry, and Eaton Counties, Mich., thence along Business Route Interstate Highway 96 to Lansing, thence on and west of a line extending along U.S. Highway 127 to Jackson, thence along unnumbered highway (formerly portion U.S. Highway 127) to junction U.S. Highway 12, near Somerset Center, thence along U.S. Highway 12 to junction U.S. Highway 127, near Somerset, thence along U.S. Highway 127 to the Michigan-Ohio State line)*;

(5) between those points in Ohio in and north of Mercer, Auglaize, Allen, Hancock, Seneca, Huron, Lorain, and Cuyahoga Counties, on the one hand, and, on the other, points in New Jersey; and (6) between those points in Ohio in and north of Hamilton, Butler, Montgomery, Clark, Champaign, Union, Delaware, Knox, Holmes, Stark, Portage, and Trumbull Counties, on the one hand, and, on the other, those points in New Jersey on and north of a line beginning at the New Jersey-Pennsylvania State line and extending along Interstate Highway 78 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction Interstate Highway 287, thence along Interstate Highway 287 to the New Jersey-New York State line (those points in New York on and west of a line beginning at Rochester and extending along U.S. Highway 15 to junction New York Highway 245, thence along New York Highway 245 to junction New York Highway 39, thence along New York Highway 39 to junction U.S. Highway 219, thence along U.S. Highway 219 to the New York-Pennsylvania State line)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 29886 (Sub-No. E98), filed May 16, 1974. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 W. Sample Street, South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Contractors' equipment*, between points in Wisconsin, on the one hand, and, on the other, points in Indiana (except those on and west of a line beginning at Lake Michigan and extending along U.S. Highway 421 to junction Indiana Highway 43, thence along Indiana Highway 43 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Indiana Highway 67, thence along Indiana Highway 67 to the Illinois-Indiana State line, and between points in Indiana (except those in Porter, Lake, Jasper, and Newton Counties), on the one hand, and, on the other, those points in Wisconsin on and north of a line beginning at Lake Michigan extending along Wisconsin Highway 54 to junction Wisconsin Highway 173, thence along Wisconsin Highway 173 to junction Interstate Highway 90, thence along Interstate Highway 90 to the Wisconsin-Minnesota State line. The purpose of this filing is to eliminate the gateways of points in Michigan on and south of a line extending along the northern boundaries of Allegan, Barry, and Eaton Counties, Mich., thence along Business Route Interstate Highway 96 to Lansing, Mich., thence on and west of a line extending along U.S. Highway 127 to Jackson, Mich., thence along unnumbered highway (formerly portion U.S. Highway 127) to junction U.S. Highway 12, near Somerset, Mich., thence along U.S. Highway 127 to the Michigan-Ohio State line.

No. MC 29886 (Sub-No. E99), filed May 31, 1974. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 W. Sample Street, South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steam shovels, cranes, crawler-type shovels and cranes, straddle trucks, fork trucks*, and *self-propelled building, construction, and moving machinery*, the transportation of which because of size or weight require the use of special equipment, and *self-propelled steam shovels, cranes, crawler-type shovels and cranes, straddle trucks, fork trust, and self-propelled building, construction, and moving machinery*, each weighing 15,000 pounds or more, from points in Michigan (except those in the lower peninsula south and east of a line beginning at Lake Michigan and extending along Interstate Highway 94 to junction Michigan Highway 66 to junction Michigan Highway 20, thence along Michigan Highway 20 to junction Michigan Highway 27, thence along Michigan Highway 27 to junction Interstate Highway 75, thence along Interstate Highway 75 to Lake Michigan, to those points in Tennessee, Georgia, South Carolina, and those in Kentucky in and west of Trimble, Oldham, Shelby, Anderson, Mercer, Garrard, Rockcastle, Pulaski, McCreary, and Whitley Counties. The purpose of this filing is to eliminate the gateway of Benton Harbor, Mich.

No. MC 29886 (Sub-No. E100), filed May 31, 1974. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 W. Sample Street, South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Contractors' equipment*, restricted to road construction and earth moving machines and equipment (except trailers designed to be drawn by a truck trailer), the transportation of which because of size or weight requires the use of special equipment, and self-propelled road construction and earth moving machinery and equipment, each weighing 15,000 pounds or more; (1) from points in Iowa (except those in Fremont, Page, Taylor, Ringgold, Clarke, Decatur, Lucas, Wayne, Monroe, Appanoose, Wapello, Davis, Jefferson, Van Buren, Henry, Lee, Louisa, and Des Moines Counties), to points in Delaware, Maryland, West Virginia, North Carolina, South Carolina, those in Florida in and east of Madison and Taylor Counties, and the District of Columbia; (2) from those points in Iowa on and north of Interstate Highway 80 to points in Tennessee in and east of Clay, Jackson, Putnam, White, Van Buren, Sequatchie, and Hamilton Counties, Tenn., and Georgia (except those in Dade, Walker, and Chattooga Counties); (3) from those points in Iowa in and north of Mills, Montgomery, Adams, Adair, Madison, Warren, Marion, Jasper, Poweshiek,

Iowa, Johnson, Muscatine, and Scott Counties to those points in Georgia, in and east of Union, White, Habersham, Banks, Madison, Oglethorpe, Greene, Hancock, Baldwin, Wilkinson, Twiggs, Houston, Dooly, Crisp, Worth, Colquitt, and Thomas Counties (points in Michigan on and south of a line extending along the northern boundaries of Allegan, Barry, and Eaton Counties, Mich., thence along Business Route Interstate Highway 96 to Lansing, thence on and west of a line extending along U.S. Highway 127 to Jackson, thence along unnumbered highway (formerly portion U.S. Highway 127) to junction U.S. Highway 12, near Somerset Center, thence along U.S. Highway 12 to junction U.S. Highway 127, near Somerset, thence along U.S. Highway 127 to the Michigan-Ohio State line, and South Bend, Ind.) *;

(4) from those points in Ohio, on and north of U.S. Highway 30N to points in Wisconsin, Minnesota, South Dakota, North Dakota, Nebraska, Montana, Wyoming, Colorado, Idaho, Utah, Arizona, Nevada, Oregon, Washington, California, and Iowa (South Bend, Ind.) *; and (5) from points in Pennsylvania to points in Washington, Oregon, California, Nevada, Montana, Idaho, Utah, Arizona, Wyoming, Colorado, North Dakota, South Dakota, Nebraska, Minnesota, Iowa, Wisconsin (South Bend, Ind., and points in Michigan on and south of a line extending along the northern boundaries of Allegan, Barry, and Eaton Counties, Mich., thence along Business Route Interstate Highway 96 to Lansing, thence on and west of a line extending along U.S. Highway 127 to Jackson, thence along unnumbered highway (formerly portion U.S. Highway 127) to junction U.S. Highway 12 near Somerset Center, thence along U.S. Highway 12 to junction U.S. Highway 127, near Somerset, thence along U.S. Highway 127 to the Michigan-Ohio State line) *. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 29886 (Sub-No. E101), filed May 31, 1974. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 W. Sample Street, South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Steam shovels, cranes, crawler-type shovels and cranes, straddle trucks, fork trucks*, and *self-propelled building construction*, and *moving machinery*, the transportation of which because of size or weight require the use of special equipment, and *self-propelled steam shovels, cranes, crawler-type shovels and cranes, straddle trucks, fork trucks*, and *self-propelled building, construction, and moving machinery*, each weighing 15,000 pounds or more, from points in Missouri (except those south of a line beginning at the Missouri-Illinois State line and extending along U.S. Highway 66 to junction U.S. Highway 65, thence along U.S. Highway 65 to the Missouri-Arkansas State line, to points in Delaware, Maryland (except those west of Interstate Highway 81), and the District of Columbia. The purpose of this filing is to eliminate the gateway of points in Michigan on and south of a line extending along the northern boundaries of Allegan, Barry, and Eaton Counties, Mich., thence along Business Route Interstate Highway 96 to Lansing, thence on and west of a line extending along U.S. Highway 127 to Jackson, thence along unnumbered highway (formerly portion U.S. Highway 127) to junction U.S. Highway 12, near Somerset Center, thence along U.S. Highway 12 to junction U.S. Highway 127, near Somerset, thence along U.S. Highway 127 to the Michigan-Ohio State line, and Benton Harbor, Mich.

No. MC 29886 (Sub-No. E102), filed May 31, 1974. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 W. Sample St., South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled articles*, each weighing 15,000 pounds or more, the transportation of which because of size or weight require the use of special handling or special equipment; (1) between points in Iowa and Missouri (except those in Ripley, Butler, Stoddard, Scott, Mississippi, Dunklin, New Madrid, and Premiscot Counties, Mo.), on the one hand, and, on the other, points in Pennsylvania; and (2) between points in Ripley, Butler, Stoddard, Scott, Mississippi, Dunklin, New Madrid, and Premiscot Counties, Mo., on the one hand, and, on the other, those points in Pennsylvania (except those south of a line beginning at the Pennsylvania-West Virginia State line and extending along Pennsylvania Highway 844 to junction U.S. Highway 40, thence along U.S. Highway 40 to the Pennsylvania-Maryland State line. The purpose of this filing is to eliminate the gateways of points in Michigan on and south of a line extending along the northern boundaries of Allegan, Barry, and Eaton Counties, Mich., thence along Business Route Interstate Highway 96 to Lansing, thence on and west of a line extending along U.S. Highway 127 to Jackson, thence along unnumbered highway (formerly portion U.S. Highway 127) to junction U.S. Highway 12, near Somerset Center, thence along U.S. Highway 12 to junction U.S. Highway 127, near Somerset, thence along U.S. Highway 127 to the Michigan-Ohio State line.

No. MC 29886 (Sub-No. E103), filed May 31, 1974. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 W. Sample Street, South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Steam shovels, cranes, crawler-type shovels and cranes, straddle trucks, fork trucks, and self-propelled building, construction, and moving machinery, the transportation of which because of size or weight require the use of special equipment or special handling, and self-propelled steam shovels, cranes, crawler-type shovels and cranes, straddle trucks, fork trucks, and self-propelled building, construction, and moving machinery, each weighing 15,000 pounds or more; (1) from those points in Indiana on and north of a line beginning at the Indiana-Illinois State line and extending along Indiana Highway 18 to junction U.S. Highway 52, thence along U.S. Highway 52 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Interstate Highway 74, thence along Interstate Highway 74 to junction U.S. Highway 40, thence along U.S. Highway 40 to the Indiana-Ohio State line to points in New Mexico (except those in Union Quay, Curry, and Roosevelt Counties), and those in Texas in and west of Winkler, Ward, Pecos, Terrell, and Val Verde Counties; and (2) from those points in Indiana on and north of Interstate Highway 74 to points in North Dakota, Montana, Arizona, Utah, Idaho, Washington, Oregon, Nevada, California, those in South Dakota (except those south and east of a line beginning at the Nebraska-South Dakota State line and extending along U.S. Highway 83 to junction U.S. Highway 14, thence along U.S. Highway 14 to the Minnesota-South Dakota State line, and those in Wyoming (except those in Goshen and Laramie Counties). The purpose of this filing is to eliminate the gateway of points in Michigan on and south of a line extending along the northern boundaries of Allegan, Barry, and Eaton Counties, Mich., thence along Business Route Interstate Highway 96 to Lansing, thence on and west of a line extending along U.S. Highway 127 to Jackson, thence along unnumbered highway (formerly portion U.S. Highway 127) to junction U.S. Highway 12, near Somerset Center, thence along U.S. Highway 12 to junction U.S. Highway 127, near Somerset, thence along U.S. Highway 127 to the Michigan-Ohio State line, and, Benton Heights, Mich.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.75-16430 Filed 6-23-75;8:45 am]

[Notice No. 69]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Notice

JUNE 20, 1975.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 C.F.R. 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FED-

ERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 2368 (Sub-No. 48TA), filed June 12, 1975. Applicant: BRALLEY-WILLETT TANK LINES, INC., P.O. Box 495, 2212 Deepwater Terminal Road, Richmond, Va. 23204. Applicant's representative: William T. Marshburn (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal oils*, in bulk, in tank vehicles, from Courtland, Va., to points in Fayetteville, N.C., for 180 days. Supporting shipper: David S. Evans, Vice President, Carolina By-Products Company, Inc., P.O. Box 20687, Greensboro, N.C. 27420. Send protests to: C. M. Harmon, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 10–502 Federal Bldg., 400 N. 8th St., Richmond, Va. 23240.

No. MC 52657 (Sub-No. 726TA), filed June 10, 1975. Applicant: AUTO CARRIERS, INC., 2140 W. 79th St., Chicago, Ill. 60620. Applicant's representative: S. J. Zangri (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers and trailer chassis* (other than those designed to be drawn by passenger automobiles), in initial movements in truckaway service, and materials, supplies and parts (except commodities in bulk) used in the manufacture, assembly or servicing of commodities described above, when moving in mixed shipments and on the same load with such commodities, from Northumberland, Pa., to points in Alabama, Arizona, Colorado, California, Connecticut, Delaware, Florida, Georgia, Iowa, Illinois, Indiana, Kentucky, Louisiana, Massachusetts, Maine, Michigan, Maryland, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, Vermont, Wisconsin, West Virginia, Washington, and Washington, D.C., for 180 days. Supporting shipper: Dempster Brothers Inc., Route 11, Northumberland, Pa. Send protests to: Robert G. Anderson, District Supervisor, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1086, Chicago, Ill. 60604.

No. MC 95084 (Sub-No. 108TA), filed June 12, 1975. Applicant: HOVE TRUCK LINE, Stanhope, Iowa 50246. Applicant's representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hydraulic cylinders, component parts, and materials, equipment and supplies* used in the manufacture, processing, sale, and distribution of hydraulic cylinders and component parts, between points in Alabama, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Missouri, New York, Ohio, Pennsylvania, South Carolina, Tennessee and Oakland, Calif., for 180 days. Supporting shipper: Iowa Industrial Hydraulics, Inc., Industrial Park Road, Pocahontas, Iowa 50574. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 875 Federal Bldg., Des Moines, Iowa 50309.

No. MC 103051 (Sub-No. 346TA), filed June 11, 1975. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Ave., North, Nashville, Tenn. 37209. Applicant's representative: Russell E. Stone (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crude light oil of coal tar*, in bulk, in tank vehicles, from Chattanooga, Tenn., to points in Guntersville, Ala., for 180 days. Supporting shipper: Ashland Petroleum Company, Division of Ashland Oil, Inc., P.O. Box 391, Ashland, Ky. 41101. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, A–422 Federal Bldg., 801 Broadway, Nashville, Tenn. 37203.

No. MC 103798 (Sub-No. 10TA), filed June 12, 1975. Applicant: MARTEN TRANSPORT, LTD., Route 3, Mondovi, Wis. 54755. Applicant's representative: Stanley C. Olsen, Jr., 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese*, from Litchfield, Minn., to points in Spencer, Wis., for 180 days. Supporting shipper: First District Association, Litchfield, Minn. 55355. Send protests to: Raymond T. Jones, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 414 Federal Bldg., and U.S. Court House, 110 S. 4th Street, Minneapolis, Minn. 55401.

No. MC 107496 (Sub-No. 1001TA), filed June 12, 1975. Applicant: RUAN TRANSPORT CORPORATION, Third and Keosauqua Way, Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Water*, in bulk, from Questa, N. Mex., to points in Louviers, Colo., for 180 days. Supporting shipper: Molycorp, Inc., Questa, N. Mex. 87556. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 875 Federal Bldg., Des Moines, Iowa 50309.

No. MC 112822 (Sub-No. 377TA), filed June 11, 1975. Applicant: BRAY LINES INCORPORATED, P.O. Box 1911, Cushing, Okla. 74023. Applicant's representative: Charles D. Midkiff (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, when moving in mixed loads with animal litter, bleaching, cleaning, laundry and scouring compounds and related materials and supplies (except commodities in bulk, in tank vehicles), (1) from the facilities of the Clorox Co., at or near Oakland, Calif., to points in Minnesota, Oregon, Utah, Washington, and Wyoming, and (2) from the facilities of the Clorox Company, at or near Houston, Tex., to points in Arkansas, Louisiana, Mississippi, New Mexico and Oklahoma, for 180 days. Supporting shipper: The Clorox Company, Beverly R. Mitchell, Asst., T.M., 7901 Oakport St., Oakland, Calif. 94621. Send protests to: Marie Spillars, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, Room 240 Old P.O. Bldg., 215 N.W. Third, Oklahoma City, Okla. 73102.

No. MC 113678 (Sub-No. 594TA), filed June 10, 1975. Applicant: Curtis, Inc., P.O. Box 16004, Stockyard Station, Denver, Colo. 80216. Applicant's representative: David L. Metzler, P.O. Box 16004, Stockyards Station, Denver, Colorado 80216. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), From the facilities utilized by Glover, Inc., at or near Roswell, New Mexico, to points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Illinois, Kansas, Louisiana, Mississippi, Missouri, Oklahoma, Oregon, Tennessee, Washington, and Wisconsin. Restriction: Restricted to the transportation of traffic originating at the above-named origin and destined to the above-named destination States. For 180 (days duration). Supporting shippers: Glover, Inc., P.O. Box 40, Roswell, New Mexico 88201. Send protests to: District Supervisor Herbert C. Ruoff, Interstate Commerce Commission, 2022 Federal Building, Denver, Colorado 80202.

No. MC 114896 (Sub-No. 31TA), filed June 11, 1975. Applicant: PUROLATOR SECURITY, INC., 1341 W. Mockingbird Lane, Suite 1001E, Dallas, Tex. 75006. Applicant's representative: William E. Fullingim (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Special nuclear material*, from Sargents, Ohio on the one hand, and, on the other, the Cleveland, Ohio commercial zone, the Dayton, Ohio commercial zone, the Detroit, Michigan commercial zone and the Chicago, Illinois commercial zone, for 180 days. Supporting shipper: Edlow International Company, 1100 17th St., N.W., Washington, D.C. 20036. Send pro-

tests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75202.

No. MC 115311 (Sub-No. 176TA), filed June 11, 1975. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, Ga. 31061. Applicant's representative: K. Edward Wolcott, 1600 First Federal Bldg., Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acoustical ceiling tile and materials, accessories and supplies*, utilized in the installation thereof, from the plantsite and storage facilities of Conwed Corporation, at Atlanta, Ga., to points in Alabama, Florida and North Carolina, South Carolina, for 180 days. Supporting shipper: Conwed Corporation, Cloquet, Minn. 55720. Send protests to: William L. Scroggs, District Supervisor, 1252 W. Peachtree St., N.W., Room 546, Atlanta, Ga. 30309.

No. MC 115311 (Sub-No. 177TA), filed June 11, 1975. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, Ga. 31061. Applicant's representative: Paul M. Daniell, 1600 First Federal Bldg., Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Industial sand*, from the plantsite of Georgia Marble Company, in Marion County, Ga., to points in Alabama, South Carolina and Tennessee, for 180 days. Supporting shipper: Georgia Marble Company, 3460 Cumberland Parkway, N.W., Atlanta, Ga. 30339. Send protests to: William L. Scroggs, District Supervisor, 1252 W. Peachtree St., N.W., Room 546, Atlanta, Ga. 30309.

No. MC 123993 (Sub-No. 36TA), filed June 13, 1975. Applicant: Fogleman Truck Line, Inc., P.O. Box 1504 (1724 W. Mill St.), Crowley, Louisiana 70526. Applicant's representative: Byron Fogleman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Non-Alcoholic beverages* in containers, from plantsite of Louisiana Coca-Cola Bottling Co., Ltd., at Gretna, Louisiana to points in Texas, Arkansas, points in Mississippi on and south of U.S. Highway 80 (except Marion County, Miss.) and Mobile, Alabama, for 180 (days duration). Supporting shippers: The Louisiana Coca-Cola Bottling Co., Ltd., 1050 S. Jefferson Davis Pkwy., New Orleans, Louisiana 70150. Send protests to: Ray C. Armstrong, Jr., District Supervisor, Interstate Commerce Commission, T-9038 U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, La. 70113.

No. MC 126276 (Sub-No. 124TA), filed June 11, 1975. Applicant: FAST, PTPR SERVOCE, OMC? 9100 Plainfield Road, Brookfield, Ill. 60513. Applicant's representative: Albert A. Andrin, 127 N. Dearborn St., Chicago, Ill. 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Containers and container ends*, from the warehouse site of National Can Corp., at St. Louis, Mo., to points in Belleville, Ill., for 180 days. Supporting shipper: Floyd C. Stone, District Traffic Manager, National Can Corporation, 8101 W. Higgins, Chicago, Ill. 60631. Send protests to: Robert G. Anderson, District Supervisor, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1086; Chicago, Ill. 60604.

No. MC 129994 (Sub-No. 7TA), filed June 10, 1975. Applicant: RAY BETHERS TRUCKING, INC., 176 West Central Ave., Salt Lake City, Utah 84107. Applicant's representative: Marilyn B. McNeil (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum board paper*, from San Leandro, Calif., to points in Sigurd, Utah, for 180 days. Supporting: Georgia-Pacific Corporation, 900 S. W. Fifth Ave., Portland, Oreg. 97204. Send protests to: Lyle D. Helfer, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5301 Federal Bldg., 125 South State St., Salt Lake City, Utah 84138.

No. MC 134238 (Sub-No. 10TA), filed June 10, 1975. Applicant: GENE'S INC., 10115 Brookville-Salem Road, Clayton, Ohio 45215. Applicant's representative: Paul F. Beery, 8 East Broad St., 9th Floor, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Ice cream novelties, ice cream, and water ices*, (1) from the facilities of The Kroger Co., at or near Cincinnati, Ohio to the distribution facilities of the Kroger Co., at Kansas City and St. Louis, Mo., and Little Rock, Ark.; (2) from the warehouse of Home Dairy Co., Berne, Ind., to the distribution facilities of The Kroger Co., at Atlanta, Ga.; Charleston, W. Va.; Cincinnati, Cleveland and Columbus, Ohio; Detroit and Grand Rapids, Mich.; Kansas City and St. Louis, Mo.; Little Rock, Ark.; Louisville, Ky.; Memphis, Nashville, Tenn.; Peoria, Ill.; Roanoke, Va.; and Pittsburgh, Pa., the transportation services herein will be performed under a continuing contract, or contracts, with The Kroger Co., of Cincinnati, Ohio, for 180 days. Supporting shipper: Henry deHamel, Manager, Kroger Brands, Planning & Logistics, The Kroger Company, Cincinnati, Ohio 45204. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Bldg., 550 Main St., Cincinnati, Ohio 45202.

No. MC 134375 (Sub-No. 9TA), filed June 12, 1975. Applicant: ELDON GRAVES, d.b.a. ELDON GRAVES TRUCKING, P.O. Box 3044 Union Gap, Yakima, WA 98903. Applicant's representative: Philip G. Skofstad, 3076 E. Burnside, Portland, OR 97214. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay* and *Raw Chemicals* in bags and cartons From Florin, California To: Klamath Falls, Ashland, Eugene and Portland, Oregon, Tacoma, Fife, Seattle, Bellevue and Yakima, Washington, and Boise, Idaho. *Wax* in cartons From: Richmond, California To: Portland, Oregon. *Kilns* in crates From: LaPuente, Torrance and South El Monte, California To: Eugene and Portland, Oregon, Tacoma, Washington and Boise, Idaho. *Raw Chemicals* in bags From: City of Industry and Los Angeles, California To: Portland, Oregon. *Artists Materials* or *Paints* in drums From: Culver City and Menlo Park, California To: Portland, Oregon For 180 (days duration). Supporting shippers: Art-Pak Products, Inc., 8106 N. Denver Avenue, Portland, OR 97217. Send protests to: District Supervisor W. J. Huetig, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 134483 (Sub-No. 3TA), filed June 12, 1975. Applicant: DONALD K. VINE, doing business as DON VINES TRUCKING, 13519½ East Alondra Blvd., Santa Fe Springs, Calif. 90670. Applicant's representative: Donald K. Vines (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen, edible products*, prepared or other than prepared, in straight shipments or in mixed shipments with agricultural commodities exempt under Section 203(b)(6) between all points in California and the points of Phoenix, Tucson, and Nogales, Ariz., for 180 days. Supporting shippers: Blue Ribbon Products Co., 5040 S. Alameda St., Los Angeles, Calif. 90058. Bavarian Specialty Foods, 750 Basin St., San Pedro, Calif. 90731. Butcher Boy Food Products, Inc., 3038 Pleasant St., Riverside, Calif. 92507. Merrigay Foods Corporation, 426 E. Jackson, Phoenix, Ariz. 85004. Karem Frozen Foods, 1111 Morley Ave., Nogales, Ariz. 85621. Send Protests to: Mildred Il Price, Transportation Assistant, Interstate Commerce Commission, Room 1312 Federal Bldg., 300 North Los Angeles St., Los Angeles, Calif. 90012.

No. MC 136605 (Sub-No. 5TA), filed June 11, 1975. Applicant: DAVIS BROS. DIST., INC., 2024 Trade St., P.O. Box 1027, Missoula, Mont. 59801. Applicant's representative: W. E. Seliski (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pre-cut log buildings*, knocked down, *and materials and supplies* used in the construction and erection thereof, including doors, windows and house hardware, from the facilities of Real Log Homes, Inc., near Missoula, Mont., to points in the United States in and west of Ohio, Kentucky, Tennessee, Arkansas and Texas, for 180 days. Supporting Shipper: Real Log Homes, Inc., Route 2, Missoula, Mont. 59801. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Room 222, U.S. Post Office Bldg., Billings, Mont. 59101.

No. MC 136669 (Sub-No. 7TA), filed June 11, 1975. Applicant: PROCESSED BEEF EXPRESS, INC., P.O. Box 522,

Dakota City, Nebr. 68731. Applicant's representative: John F. Roeser, Jr. (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bowling lanes, equipment, parts, and supplies*, used in the construction and maintenance of bowling lanes, from Magazine, Ark., to points in Minnesota, South Dakota and Wisconsin, for 180 days. Supporting shipper: Pro Resurfacers, Thomas Sitzman, Owner, 3905 East 20th St., Sioux Falls, S. Dak. 57103. Send protests to: Carroll Russell, District Supervisor, Suite 620 Union Pacific Plaza, 110 North 14th St., Omaha, Nebr. 68102.

No. MC 136888 (Sub-No. 2TA), filed June 10, 1975. Applicant: NORMAN & SON, INC., 2520 North 69th St., Houston, Tex. 77020. Applicant's representative: Paul D. Angenend, P.O. Box 2207, Austin, Tex. 78767. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron billets*, in bulk, in dump trailer equipment, from Houston, Tex., to points in Oklahoma, for 180 days. Supporting shipper: Miller & Co., 1646 Old Spanish Trail, Houston, Tex. Send protests to: John F. Mensing, District Supervisor, 8610 Federal Bldg., 515 Rusk, Houston, Tex. 77002.

No. MC 136888 (Sub-No. 3TA), filed June 10, 1975. Applicant: NORMAN & SON, INC., 2520 North 69th St., Houston, Tex. 77020. Applicant's representative: Paul D. Angenend, P.O. Box 2207, Austin, Tex. 78767. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sorelmetal billets*, from Houston, Tex., to points in Oklahoma, for 180 days. Supporting shipper: Miller & Co., 1646 Old Spanish Trail, Houston, Tex. Send protests to: John F. Mensing, 8610 Federal Bldg., 515 Rusk, Houston, Tex. 77002.

No. MC 139306 (Sub-No. 2TA), filed June 13, 1975. Applicant: DEL R. STANAGE AND JOE R. STANAGE, doing business as STANAGE TRANSPORTATION, 121 Indian Springs Road, Hot Springs, Ark. 71901. Applicant's representative: Del R. Stanage (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molten aluminum* in crucibles on special trailers, between points in Madrid, Mo., and Wilson Springs, Ark., and their commercial zones, for 180 days. Supporting shipper: General Cable Corporation, Garland County, Industrial Park, Hot Springs, Ark. 71901. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 West Capitol, Little Rock, Ark. 72201.

No. MC 140500 (Sub-No. 2TA), filed June 12, 1975. Applicant: EVERETT TRUCKING, INC., P.O. Box 56, Mount Vernon, Wash. 98274. Applicant's representative: George Kargianis, 2120 Pacific Bldg., Seattle, Wash. 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Specialty foods consisting of tortilla and taco shells* requiring temperature control, from Richmond, Calif., to points in Oregon and Washington, for 180 days. Supporting shipper: Toltec Foods, Inc., 380 Carlson Blvd., Richmond, Calif. 94808. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Bldg., 915 Second Ave., Seattle, Wash. 98174.

No. MC 140859 (Sub-No. 1TA), filed June 13, 1975. Applicant: WESTERN KENTUCKY TRUCKING, INC., 1245 Center St., P.O. Box 1072, Henderson, Ky. 40601. Applicant's representative: Ron L. Ambrose (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tomato and tomatoe paste*, between points in Henderson, Ky., and Owensboro, Ky., for 180 days. Supporting shipper: Richard J. Herman, Traffic Manager, Ragu Foods, Inc., 1680 Lyell Ave., Rochester, N.Y. 14606. Send protests to: Elbert Brown, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, 426 Post Office Bldg., Louisville, Ky. 40202.

Applications of Passengers

No. MC 141030 TA, filed June 9, 1975. Applicant: LANCASTER LIMOUSINE LTD., 228 East Main St., Mount Joy, Pa. 17552. Applicant's representative: William A. Chestnutt, 1776 F St. NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, limited to the transportation of not more than 11 passengers in any one vehicle, not including the driver thereof, between points in Harrisburg International Airport, at or near Middletown (Dauphin County), Pa., on the one hand, and, on the other, John F. Kennedy International Airport, at or near New York, N.Y. Restriction: Restricted to the transportation of passengers and baggage having a prior or subsequent movement by air, for 90 days. Supporting shipper: Trans World Airlines, Inc., 5 Penn Center Plaza, Philadelphia, Pa. 19103. Send protests to: Robert P. Ameine, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 278 Federal Bldg., P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 41032 TA filed June 9, 1975. Applicant: ALCO BUS CORP., 1517 Huebbe Parkway, P.O. Box 1076, Beloit, Wis. 53511. Applicant's representative: Paul Alongi (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage and express parcels and newspapers* in the same vehicle, charter operations authority also requested, the routing to O'Hare shall be from Madison, Wis., via U.S. 12 to I–90 and then I–90 to Janesville exit off I–90 at Wisconsin 26, then to Janesville bus stop on Wisconsin 26, then back to I–90 via Wisconsin 26, then to the Beloit-South Beloit exit off I–90 at Illinois 75 and then Illinois 75 to Beloit and South Beloit stops, then back to I–90 via Illinois 75, then I–90 to O'Hare Airport exit ramp off I–90, then into O'Hare Airport via ramp, and after stops at various O'Hare terminal buildings, then to I–90 for return to Madison with stops at Beloit and South Beloit and Janesville over above described routing, but in reverse, for 180 days. Supporting shipper: There are approximately 20 statements of support attached to the application, which may be examined at the Interstate Commerce Commission, in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, 139 W. Wilson St., Room 202, Madison, Wis. 53703.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.75-16434 Filed 6-23-75;8:45 am]

[Notice No. 795]

ASSIGNMENT OF HEARINGS

JUNE 19, 1975.

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 99493 Sub 4, Central Storage & Transfer Co. of Harrisburg, now being assigned September 15, 1975 (1 week), at Philadelphia, Pa.; in a hearing room to be later designated.

MC 140620, D & K Transport, Inc., DBA Transport, now being assigned September 23, 1975 (1 day) at Seattle, Washington; in a hearing room to be designated later.

MC 118978 Sub 7, Mercury Produce Express Ltd., now being assigned September 24, 1975 (3 days) at Seattle, Washington; in a hearing room to be designated later.

MC 107743 Sub 31, System Transport, Inc., now being assigned September 29, 1975 (1 week) at Seattle, Washington; in a hearing room to be designated later.

MC 113855 Sub 310, International Transport, Inc., now being assigned October 6, 1975 (1 week), at Seattle, Washington; in a hearing room to be later designated.

MC-F-11787, O. N. C. Freight System—Purchase—William Louis Damon, DBA Damon Freight Lines and MC 71459 Sub 49, O. N. C. Freight Systems, now assigned July 8, 1975, at Phoenix, Ariz., will be held in Room 235, 2nd Floor Tax Court, Post Office and Federal Bldg., 522 N. Central Ave.

MC 113855 Sub 295, International Transport, Inc., MC 112989 Sub 41, West Coast Truck Lines, Inc., and MC 106497 Sub 105, Parkhill Truck Company, now assigned July 14, 1975, at Portland, Ore., will be held in Room 103, Pioneer Courthouse, 555 Yamhill St.

MC 123407 Sub 221, Sawyer Transport, Inc., now assigned July 15, 1975, at Portland, Ore., will be held in Room 103, Pioneer Courthouse, 555 Yamhill St.

MC 140013 Sub 1, Pallas Trucking, Inc., now assigned July 17, 1975, at Portland, Ore., will be held in Room 103, Pioneer Courthouse, 555 Yamhill St.

MC 19778 Sub 88, Milwaukee Motor Transportation Company, now assigned July 21, 1975, at Seattle, Wash., will be held in Room 2886, Federal Bldg., 915 Second Ave.

MC 108485 Sub 16, Lewis Truck Lines, Inc., now being assigned September 29, 1975 (1 week) at Bismarck, North Dakota; in a hearing room to be designated later.

MC 139349 Sub 5, Sharon Trucking Corp. application dismissed.

MC 111729 Sub 520, Purolator Courier Corp., now being assigned September 30, 1975 (9 days), at St. Paul, Minn.; in a hearing room to be later designated.

MC-F-12296, Twin City Freight, Inc.—Purchase (Portion)—United-Buckingham Freight Lines, Inc.; MC 103435 Sub 224, United-Buckingham Freight Lines, Inc.; MC 111496 Sub 18, Twin City Freight, Inc.; MC 111496 Sub 20, Twin City Freight, Inc.;

MC-F-12300, Midwest Motor Express, Inc.—Purchase (Portion)—United-Buckingham Freight Lines, Inc. and MC 2153 Sub 45, Midwest Motor Express, Inc.; now being assigned September 15, 1975 (1 week) at St. Paul, Minnesota, in a hearing room to be designated later.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.75-16435 Filed 6-23-75;8:45 am]

[No. 36185]

LOUISIANA INTRASTATE RAIL FREIGHT RATES AND CHARGES—1975

JUNE 19, 1975.

At a Session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 10th day of June, 1975.

By a joint petition authorized under Section 13(3) of the Interstate Commerce Act, filed May 15, 1975, petitioners, sixteen common carriers by railroad[1] subject to Part I of the Interstate Commerce Act and also operating in intrastate commerce in the State of Louisiana, request that this Commission institute an investigation of their Louisiana intrastate freight rates and charges, wherein they will 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. 295, Increased Freight Rates and Charges, 1973, 344 I.C.C. 589 (1973) and Ex Parte No. 305, Nationwide Increase of Ten Percent in Freight Rates and Charges, 1974, orders served June 4, 1974 and thereafter.

By orders entered March 13, 1974 and November 13, 1974, the Louisiana Public Service Commission approved increases on Louisiana intrastate rail freight rates and charges (with certain exceptions and hold-downs) corresponding to the increases approved for interstate application in Ex Parte Nos. 295 and 305, supra. However, certain hold-downs were ordered with the effect of limiting any increase within the State of Louisiana to the lowest level of rates sought in any section of Louisiana. This results in the increases on many commodities being held down in the rate territory in which higher increases were authorized. Higher increases were authorized, in effect, in the territory west of the Mississippi River in Ex Parte Nos. 295 and 305, supra, by virtue of certain hold-downs authorized for interstate application being different in Southern and Western territories.

Petitioners allege that the hold-downs ordered by the Louisiana Public Service Commission result in intrastate rates west of the Mississippi River lower than the corresponding interstate rates, which thus do not and will not contribute their fair share of revenue required by the carriers to meet increased expenses and costs which have been incurred in handling all traffic, and, therefore, cause unjust discrimination against and an undue burden on interstate commerce in violation of section 13 of the Interstate Commerce Act. Petitioners request that rates and charges be prescribed in order to remove the alleged unjust discrimination against and undue burden on interstate commerce.

Under section 13(4) of the Interstate Commerce Act and judicial authority[2] this Commission is directed to institute an investigation of the lawfulness of intrastate rail freight rates and charges upon the filing of a petition by the carrier concerned pursuant to Section 13(3) of the Interstate Commerce Act, regardless of the prior or pending consideration of such rates and charges by any State agency.

Wherefore, and good cause appearing therefor:

It is ordered, That the petition be, and it is hereby, granted; and that an investigation, under sections 13 and 15a of the Interstate Commerce Act, be, and it is hereby, instituted to determine whether the Louisiana 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 and localities in intrastate commerce and those in interstate or foreign commerce, or are otherwise unlawful, by reason of the hold-downs prescribed by the Louisiana Public Service Commission causing such rates and charges to fail to correspond to the increases authorized by this Commission in Ex Parte Nos. 295 and 305, supra; and to determine whether any rates or charges, or maximum or minimum charges, or both, shall be prescribed to remove any unlawful, advantage, preference, discrimination, undue burden or other violation of the law found to exist.

It is further ordered, That all carriers by railroad operating in the State of Louisiana, subject to the jurisdiction of this Commission, be, and they are hereby, made respondents in this proceeding.

It is further ordered, That all persons who wish to actively participate in this proceeding and to file and receive copies of pleadings shall make known that fact by notifying the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423, on or before July 9, 1975. 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. The Commission desires particiaption only of those who intend to take an active part in the proceeding.

It is further ordered, That as soon as practicable after the date of indicating a desire to participate in the proceeding has passed, the Commission will serve a list of the names and addresses of all persons upon whom service of all pleadings must be made and that thereafter this proceeding will be assigned for oral hearing or handling under modified procedure.

And it is further ordered, That a copy of this order be served upon each of the petitioners herein; that the State of Louisiana be notified of the proceeding by sending copies of this order and of the instant petition by certified mail to the Governor of the State of Louisiana and the Louisiana Public Service Commission, Baton Rouge, Louisiana; and that further notice of this proceeding 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, D.C., 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 within the meaning of the National Environmental Policy Act of 1969.

By the Commission, Division 2.

[SEAL] RICHARD W. KYLE,
Acting Secretary.

[FR Doc.75-16438 Filed 6-23-75;8:45 am]

[No. MC-100666 (Sub-No. 262)]

MELTON TRUCK LINES, INC.

Extension—Raceways

JUNE 19, 1975.

At a session of the Interstate Commerce Commission, Division 1, Acting as an Appellate Division, held at its office in Washington, D.C., on the 10th day of June, 1975.

[1] Alabama Great Southern Railroad; Arkansas & Louisiana Missouri Railway Company; Chicago, Rock Island & Pacific Railroad Company; Atchison, Topeka and Santa Fe Railway Company; Illinois Central Gulf Railroad Company; Kansas City Southern Railway Company; Louisiana & Arkansas Railway Company; Louisiana Southern Railway Company; Louisville and Nashville Railroad Company; Missouri Pacific Railroad Company; New Orleans & Lower Coast Railroad Company; New Orleans Terminal Company; St. Louis Southwestern Railway Company; Southern Pacific Transportation Company; The Texas and Pacific Railway Company; and Tremont & Gulf Railway Company.

[2] See Intrastate Freight Rates and Charges, 1969, 339 I.C.C. 670 (1971) affm'd sub nom. State of N.C. ex rel. North Carolina Utilities Com'n. v. I.C.C., 347 F. Supp. 103 (E.D.N.C., 1972), affm'd sub nom. North Carolina Utilities Commission et al. v. Interstate Commerce Commission, et al., 410 U.S. 919 (1973).

It appearing, That by report and order of November 25, 1974, in the above-entitled proceeding, Review Board Number 2, found a need for the proposed service and granted authority to operate as a common carrier by motor vehicle, over irregular routes, of metal conduit for electrical and telephone wiring from Donora, Pa., to points in Alabama, Arkansas, Colorado, Illinois, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, New Mexico, Oklahoma, Tennessee, and Texas;

It further appears, That on March 18, 1975, applicant filed a petition for leave to file a tendered petition for modification of the grant of authority, embracing a tendered verified statement of Russell W. Blase, general manager of the supporting shipper; and that applicant seeks to change the origin point in the grant of authority to reflect the relocation of the supporting shipper's plant from Donora to Charleroi, Pa.; and good cause appearing therefor:

It is ordered, That the tendered petition be, and it is hereby, accepted for filing; and that the record in this proceeding be, and it is hereby, reopened for the purpose of receiving in evidence the tendered verified statement of Russell W. Blase.

It further appearing, That the evidence of record as now made shows that on July 31, 1974, subsequent to the date of the original verified statement of support submitted by applicant, the facilities of the supporting shipper were moved from Donora, Pa., to Charleroi, Pa.; that Charleroi is approximately eight miles from Donora on Pennsylvania State Highway 88; that the supporting shipper requires the same transportation services from its new location at Charleroi that it require from its facilities at Donora; that the grant of authority phrased in terms of the supporting shipper's manufacturing facilities at or near Charleroi will accurately describe the origin point and is warranted; and that the grant of authority should be modified as set forth below;

It further appearing, That since it is possible that other parties who have relied upon the notice in the FEDERAL REGISTER of the application as published may have an interest in and would be prejudiced by the lack of proper notice of the grant of authority herein, a notice of the authority granted will be published in the FEDERAL REGISTER and issuance of the certificate will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in the proceeding setting forth in detail the precise manner in which it has been prejudiced by the grant of authority to serve the manufacturing facilities of the supporting shipper at or near Charleroi, Pa.; and good cause appearing therefor:

It is further ordered, That the findings of Review Board Number 2 in its report and order of November 25, 1974, in the above-entitled proceeding, be, and they are hereby, modified to delete as the origin point "Donora, Pa.," and to substitute in lieu thereof "the manufacturing facilities of Cellco Industries, Inc., at or near Charleroi, Pa.," so as to authorize operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of metal conduit for electrical and telephone wiring, from the manufacturing facilities of Cellco Industries, Inc., at or near Charleroi, Pa., to points in Alabama, Arkansas, Colorado, Illinois, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, New Mexico, Oklahoma, Tennessee, and Texas.

It is further ordered, That notice of the grant of authority as modified herein and set forth above be published in the FEDERAL REGISTER, and that issuance of a certificate be withheld for a period of 30 days from the date of such publication for the purpose set forth above.

It is further ordered, That unless compliance is made by petitioner with the requirements of sections 215, 217, and 221 (c) of the Act within 90 days after the date of service of this order, or within such additional time as may be authorized by the Commission, the grant of authority as modified herein shall be considered as null and void and the application shall stand denied in its entirety effective upon the expiration of the said compliance time.

By the Commission, Division 1, Acting as an Appellate Division.

NOTE.—This decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

[SEAL] RICHARD W. KYLE,
Acting Secretary.

[FR Doc.75-16436 Filed 6-23-75;8:45 am]

[No. MC-129862 (Sub-No. 5)]

RAJOR, INC., EXTENSION—LEISURE TIME PRODUCTS

JUNE 19, 1975.

At a Session of the Interstate Commerce Commission, Review Board Number 3, held at its office in Washington, D.C., on the 6th day of June, 1975.

It appearing, That by application filed January 28, 1974, Rajor, Inc., of Franklin, Tenn., seeks a permit authorizing operation, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of athletic, gymnastic, aquatic and sporting goods, including parts and accessories therefor; adhesives, rubber tire treads, hardware, advertising material, and materials, equipment and supplies utilized in the manufacture, sale and distribution of the described commodities (1) from Santa Ana, Calif., to Arlington, Tex., Atlanta, Ga., Birmingham, Ala., Bridgeton, Mo., Decatur, Ga., Elk Grove Village, Ill., Griffin, Ga., Houston, Tex., Maywood, N.J., Mobile, Ala., Nashville, Tenn., Newark, N.J., New Orleans, La., River Grove, Ill., and Tampa, Fla., and (2) from points in Texas and points in and east of Minnesota, Iowa, Missouri, Arkansas, and Louisiana to Santa Ana, Calif., restricted against the transportation of commodities in bulk and those which by reason of size or weight require the use of special equipment, under a continuing contract or contracts with AMF, Incorporated and its affiliates;

It further appearing, That the application has been processed under the Commission's modified procedure; that applicant has filed verified statements in support of the application; that protestants Caravan Refrigerated Cargo, Inc., Illinois-California Express, Inc., and East Texas Motor Freight Lines, Inc., all motor common carriers, have filed verified statements in opposition to the application; and that applicant filed a rebuttal statement;

It further appearing, That applicant is a contract carrier authorized to serve two persons[1] in interstate commerce; that it will dedicate equipment to supporting shipper's exclusive use and assign driver teams to shipper's service on a permanent basis; that it will furnish round-the-clock service, and timed pickups and deliveries even in off-hours; that it will allow shipper to paint its advertising on trailers dedicated to its exclusive use; that it will work with supporting shipper to eliminate deadhead miles; that it inadvertently omitted Shelby, Ohio, as a destination point in part (1) of the application, but would like authority to serve that point; that it would amend the application to delete Newark, N.J., and to add Edison, N.J.; that it understands that these changes will require publication in the FEDERAL REGISTER; and that it has submitted safety and financial data;

It further appearing, That the witness for supporting shipper is manager, traffic/distribution services, of AMF Voit, Inc., of Santa Ana, Calif., a wholly owned subsidiary of AMF, Incorporated, of White Plains, N.Y.; that support of this application is part of an overall plan for AMF, Incorporated, to obtain the services of a contract carrier; that AMF Voit, Inc., manufactures and distributes a large line of athletic, gymnastic, aquatic, and sporting goods; that AMF Voit maintains manufacturing and distribution facilities at Santa Ana, Atlanta, Elk Grove Village, Tampa, and Maywood; that it makes distributions from the Santa Ana plant to its other facilities for further distribution; that the other destinations involved in part (1) of the application are regular customer locations; that shipper has submitted a list of the volume of products which moved to each of the part (1) destination points in 1973; that shipper also

[1] At the time this application was filed, applicant was authorized to serve two persons, namely York Division of Borg-Warner, of York, Pa., and Pacific Cast Iron Pipe and Fitting Company of Van Nuys, Calif. Since that time authority to serve Pacific Cast Iron has been cancelled and new authority to serve The Magnavox Company, Inc., of Fort Wayne, Ind., has been granted in the Sub-No. 2 proceeding.

supports the destination points of Shelby, Ohio, which is a customer location inadvertently omitted from the original application but which received 90 shipments during 1973, and Edison, N.J., which is a new location of a customer formerly located in Newark; that it has no need for service to Newark; and that shipper has utilized piggyback service to Atlanta with subsequent distribution to Birmingham, Decatur, Griffin, Houston, Mobile, and New Orleans, but will make direct shipments to these points if this application is granted;

It further appearing, That by part (2) of this application shipper hopes to obtain a contract carrier which can offer the same flexibility that it has with its private trucks; that it has submitted a list of origins utilized to obtain supplies between June 1973 and May 1974, but explains that this is representative only as sources of materials are constantly changing; that a contract carrier service is needed so that inbound shipments can be picked up late at night and loaded by drivers after the regular shipping crew has gone home; that shipper has not utilized the services of any of the protestants; that it hopes to eliminate or substantially reduce its private carriage operations if this application is granted; that it also hopes to eliminate the use of piggyback services outbound to Atlanta and inbound from Elk Grove Village; that it considers dedicated equipment and driver teams and the ability to paint its advertising on trucks necessary aspects of applicant's service proposal; that shipper avers that a substantial savings in transportation costs can be effected by use of a contract carrier in place of its private carriage operations and the services of motor common carriers; and that, if this application is granted, a bilateral contract will be executed on behalf of AMF, Incorporated, with applicant;

It further appearing, That protestant Caravan holds pertinent authority to transport playground apparatus, recreational equipment, and sporting goods from Bossier City, La., to points in California; that it fears diversion of traffic it is transporting for a major shipper in Bossier City; and that it has not participated in the traffic for supporting shipper;

It further appearing, That protestant Illinois-California Express is a regular route general commodities carrier serving portions of California, Texas, Missouri, Iowa, Illinois, Indiana, and Ohio; that it alleges it can provide service to points it does not serve directly by various interline agreements; and that it has not participated in the traffic;

It further appearing, That protestant East Texas Motor Freight is also a regular route general commodities carrier with authority to provide single-line service from Santa Ana to Arlington, Atlanta, Birmingham, Elk Grove Village, and Houston and from specified points in Texas, Louisiana, Alabama, Georgia, Tennessee, Arkansas, Missouri, Iowa, Michigan, Illinois, Indiana, and Ohio, to Santa Ana; that it has not participated in supporting shipper's traffic; and that it has submitted argument of counsel along with its vertified statement which avers that applicant does not qualify as a contract carrier because its pattern of rapid expansion may be viewed as a holding out of service inconsistent with the requirement of section 203(a)(15) of the Interstate Commerce Act for a contract carrier to serve "one person or a limited number of persons" and it has failed to show that equipment will be dedicated to supporting shipper's *exclusive* use or that any distinct need which shipper might have will be met;

It further appearing, That inasmuch as trip leasing and the hauling of exempt commodities are recognized methods of promoting the operational feasibility of a contract carriage operation and that such services, when approved by the contracting shipper, do not interfere with the provision of a dedicated service, it would seem that applicant's proposal herein does allow for the dedication of equipment to supporting shipper's exclusive use; that although applicant has filed several applications for authority with this Commission in a relatively short time, it is a new carrier and is currently authorized to serve only two persons in interstate commerce; and that therefore its proposal constitutes contract carriage under section 203(a)(15) of the Act;

It further appearing, That our required examination of the proposal in light of the criteria of section 209(b) of the Act reveals: (1) that if this application is granted, applicant will serve a total of three shippers which is an acceptable showing under the first criterion of section 209(b); (2) that applicant proposes to provide shipper with a dedicated service designed to meet shipper's particular needs, such as permanently-assigned driver teams willing to load trucks in off hours, and will allow extensive advertising to be painted on its trailers dedicated to shipper's use; (3) that protestants have not participated in the traffic and therefore cannot be materially harmed by a grant herein; that to the extent that protestants fear diversion of traffic they are presently hauling for other shippers, a grant of contract carrier authority for a particular shipper will not have a significant effect on that traffic; (4) that a denial of the application would have no effect upon applicant which has not handled any traffic for supporting shipper, but would deprive shipper of a lower cost house carrier service to replace its private carriage operations; and (5) that the changing character of shipper's requirements does not seem to be a significant factor here; and that upon weighing the evidence in light of the cited criteria, we conclude that a grant of authority is warranted as indicated below;

It further appearing, That no need has been shown for Newark, N.J., to be included in the destination points in part (1) of the authority granted herein, but adequate need has been shown to include Edison, N.J., and Shelby, Ohio, in that part of our grant; that because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in this proceeding setting forth in detail the precise manner in which it has been so prejudiced;

It further appearing, That although it is recognized that AMF Voit, Inc., is a wholly owned subsidiary of AMF, Incorporated, the evidence of record reveals that AMF Voit, Inc., maintains a separate identity from AMF, Incorporated, in that its name is used in advertising its products and it maintains its own traffic manager who submitted shipper's verified statement in support herein; that we, therefore, consider AMF Voit, Inc., a separate person for purposes of section 203(a)(15) of the Act; that the designation of the contracting shipper as "AMF, Incorporated and its affiliates" is vague and administratively undesirable and would allow applicant to serve an indefinite number of persons contrary to the provisions of section 203(a)(15) of the Act; and that therefore our grant will be for a service to be performed under a continuing contract with AMF Voit, Inc., of Santa Ana, Calif.;

And it further appearing, That the evidence of record establishes that applicant has suitable and available motor vehicle equipment, is experienced in the transportation of the type commodities involved here, is financially and otherwise fit, willing, and able properly to conduct the operation authorized; and that such evidence in all other respects amply warrants the grant of authority set forth below;

Wherefore, and good cause appearing therefor:

We find, That operation by applicant, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of athletic, gymnastic, aquatic and sporting goods, parts and accessories of the foregoing commodities, adhesives, rubber tire treads, hardware, advertising material, and materials, equipment and supplies utilized in the manufacture, sale, and distribution of the described commodities (1) from Santa Ana, Calif., to Arlington and Houston, Tex., Atlanta, Decatur, and Griffin, Ga., Birmingham and Mobile, Ala., Bridgeton, Mo., Edison and Maywood, N.J., Elk Grove Village and River Grove, Ill., Nashville, Tenn., New Orleans, La., Shelby, Ohio, and Tampa, Fla., and (2) from points in Texas, and points in and east of Minnesota, Iowa, Missouri, Arkansas, and Louisiana, to Santa Ana, Calif., restricted against the transportation of commodities in bulk and those which by reason of size or weight require the use of special equipment, under a continuing contract or contracts with AMF Voit, Inc., of Santa Ana, Calif., will be consistent with the public interest and

the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder; that this decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969; that an appropriate permit should be issued, subject to the condition of prior publication in the FEDERAL REGISTER, as described above; and that the application in all other respects should be denied.

It is ordered, That said application, except to the extent granted herein, be, and it is hereby, denied.

It is further ordered, That upon compliance by applicant with the requirements of sections 215, 218, and 221(c) of the Interstate Commerce Act, with the Commission's rules and regulations thereunder, and with the requirements established in *Contracts of Contract Carriers*, 1 M.C.C. 628, within the time specified in the next succeeding paragraph, an appropriate permit be issued to applicant, subject to prior publication in the FEDERAL REGISTER of a notice of the authority actually granted by this order.

And it is further ordered, That unless compliance is made by applicant with the requirements of sections 215, 218, and 221(c) of the Act within 90 days after the date of service of this order, or within such additional time as may be authorized by the Commission, the grant of authority made herein shall be considered as null and void, and the application shall stand denied in its entirety effective upon the expiration of the said compliance time.

By the Commission, Review Board Number 3.

[SEAL] RICHARD W. KYLE,
Acting Secretary.

[FR Doc.75-16437 Filed 6-23-75;8:45 am]

[Notice No. 13]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 24, 1975.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-75930. By application filed June 16, 1975, V. VAN DYKE, doing business as VAN DYKE TRUCK LINES, 150 South River St., Seattle, WA 98108, seeks temporary authority to lease the operating rights of COOKSTETTER HORSE VAN SERVICE, INC., 1068 Sunset Blvd., Northeast Renton, WA 98055, under section 210a(b). The transfer to V. VAN DYKE, doing business as VAN DYKE TRUCK LINES, of the operating rights of COOKSTETTER HORSE VAN SERVICE, INC., is presently pending.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.75-16431 Filed 6-23-75;8:45 am]

[Notice No. 68]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 19, 1975.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

No. MC 730 (Sub-No. 380TA), filed June 9, 1975. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., 1417 Clay Street, Oakland, Calif. 94612. Applicant's representative: R. N. Cooledge (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Diesel fuel additive*, in bulk, in tank vehicles, from Chicago, Ill., to points in El Paso, Tex., with service for partial unloading at one or more of the following stop-off points; Eugene, Oreg.; Roseville, Bakersfield, Carson, Bloomington, Calif.; and Tucson, Ariz., for 180 days. Supporting shipper: Southern Pacific Pipe Lines, Inc., 610 S. Main St., Los Angeles, Calif. 90014. Send protests to: A. J. Rodriguez, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Ave., Box 36004, San Francisco, Calif. 94102.

No. MC 42487 (Sub-No. 837TA), filed June 4, 1975. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, Calif. 94025. Applicant's representative: V. R. Oldenburg (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, assembled automobiles, and those requiring special equipment), between Columbia, Mo., and the plantsite of Fasco Industries at or near Eldon, Mo., (1) from Columbia over U.S. Highway 63 to Jefferson City, Mo., thence over U.S. Highway 54 to Eldon, Mo., thence over city streets to the plantsite of Fasco Industries, and return over the same route, serving no intermediate points except the junction of U.S. Highway 50 and U.S. Highways 63 and 54 at Jefferson City, Mo., for purposes of joinder only, and (2) Serving the plantsite of Fasco Industries at or near Eldon, Mo., as an off-route point in connection with carrier's present operations, for 180 days. Supporting shipper: Fasco Industries, Inc., 255 N. Union St., Rochester, N.Y. 14605. Send protests to: Claud W. Reeves, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Ave., Box 36004, San Francisco, Calif. 94102.

No. MC 44875 (Sub-No. 4TA), filed June 9, 1975. Applicant: KNIGHT'S EXPRESS & WAREHOUSE, INC., Industrial Drive, Coventry, R.I. 02816. Applicant's representative: Russell B. Curnett, P.O. Box 366, 826 Orleans Road, Harwich, Mass. 02645. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail department stores and mail order houses, in retail delivery service, from Coventry, R.I., to points in Worcester County, Mass., for 180 days. Supporting shipper: Outlet Co., Industrial Drive, Coventry, R.I. 02816. Send protests to: Gerald H. Curry, District Supervisor, 187 Westminster St., Providence, R.I. 02903.

No. MC 107295 (Sub-No. 769TA), filed June 9, 1975. Applicant: PRE-FAB TRANSIT CO., 100 South Main St., Farmer City, Ill. 61842. Applicant's representative: Duane Zehr (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wire products, fence posts, pipe, and structural steel*, from Laredo, Tex., to points in Washington, Oregon, California, Montana, Colorado, North Dakota, South Dakota, Wisconsin, Michigan, Ohio, Indiana, Illinois, Missouri, Mississippi, Louisiana, and Texas, for 180 days. Supporting shipper: Richard C. Lopley, Manager, Steel Products Division, Commerce International Corporation, 931 St. Louis St., New Orleans, La. 70112. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 107544 (Sub-No. 119TA), filed June 9, 1975. Applicant: LEMMON TRANSPORT COMPANY, INCORPORATED, P.O. Box 580, Marion, Va. 24354. Applicant's representative: Daryl J. Henry (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hydraulic lubricating oil*, in bulk, in tank vehicles, from Dixon, Ky., to points in Boone County, W. Va., for 180 days. Supporting shipper: Amoco Oil Company, 200 E. Randolph Drive, Chicago, Ill. Send protests to: Danny R. Beeler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 215 Campbell Ave., S.W., Roanoke, Va. 24011.

No. MC 113678 (Sub-No. 593TA), filed June 9, 1975. Applicant: CURTIS, INC., 4810 Pontiac St., Commerce City, Colo. 80022. Applicant's representative: David L. Metzler, P.O. Box 16004, Stockyards Station, Denver, Colo. 80217. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen and refrigerated sandwiches and food products*, from Phoenix, Ariz., to points in Denver, Pueblo, and Colorado Springs, Colo., for 180 days. Supporting shipper: Dar-San Commissary, Inc., 3919 S. 28th St., Phoenix, Ariz. 85040. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 2022 Federal Bldg., Denver, Colo. 80202.

No. MC 119641 (Sub-No. 130TA), filed June 1975. Applicant: RINGLE EXPRESS, INC., 450 East 9th St., Fowler, Ind. 47944. Applicant's representative: Robert C. Smith, P.O. Box 2278, Colee Station, Fort Lauderdale, Fla. 33303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled combines* restricted to the transportation of shipments having an immediately prior movement by water, from Wilmington, N.C., to the facilities of Long Mfg., Co., at or near Tarboro, N.C., for 180 days. Supporting shipper: Long Mfg., N.C., Inc., 1907 North Main St., Tarboro, N.C. 27886. Send protests to: J. H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 345 West Wayne St., Room 204, Fort Wayne, Ind. 46802.

No. MC 120098 (Sub-No. 27TA) (Correction), filed May 2, 1975, published in the FEDERAL REGISTER issue of May 30, 1975, and republished as corrected this issue. Applicant: UINTAH FREIGHTWAYS, 1030 South Redwood Road, Salt Lake City, Utah 84104. Applicant's representative: William S. Richards, 1515 Walker Bank Bldg., Salt Lake City, Utah 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between Salt Lake City, Utah and Canon City, Colo., serving all intermediate points on U.S. Highway 50 in Colorado; from Salt Lake City, Utah over Interstate Highway 15 to junction U.S. Highway 50, thence over U.S. Highway 50 to Canon City, Colo., and return over the same route, for 180 days. Supporting shipper; Supported by 91 shippers which may be viewed at the Office of the Secretary, Interstate Commerce Commission, Bureau of Operations, Washington, D.C. Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, 5301 Federal Bldg., 125 South State St., Salt Lake City, Utah 84138. The purpose of this republication is to regular routes in lieu of irregular routes.

NOTE.—Applicant intends to join its existing authority with MC 120098 and interline at Salt Lake City, Utah, and interline with other carriers at Grand Junction and Canon City, Colo.

No. MC 124673 (Sub-No. 21TA), filed June 9, 1975. Applicant: FEED TRANSPORTS, INC., P.O. Box 2167, Amarillo, Tex. 79105. Applicant's representative: Gail P. Johnson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pet feed ingredients*, in bulk, from points in Texas, located within the following territory: (a) North of the southern boundaries of Cochran, Hockley, Lubbock, Crosby, Dickens and King Counties and (b) West of the eastern boundaries of Childress, Cottle and King Counties to the plantsite of Ralston Purina Co., at or near Flagstaff, Ariz., for 180 days. Supporting shippers: Amarillo By-Products Co., Box 2067, Amarillo, Tex. 79105. MBPXL Corporation, P.O. Box 910, Plainview, Tex. 79072. National By-Products, Inc., P.O. Box 4147, Amarillo, Tex. 79105. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H-4395, Herring Plaza, Amarillo, Tex. 79101.

No. MC 126709 (Sub-No. 8 TA), filed June 9, 1975. Applicant: SABER, INC., 514 So. Floyd Bldg., Sioux City, Iowa 51101. Applicant's representative: Davey E. Delaney (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid animal blood*, in bulk, in tank trucks, from points in South Dakota, North Dakota, Minnesota, and Nebraska, to points in Sioux City, Iowa, for 180 days. Supporting shipper: John Lindquist, Plant Manager, Flavorland Industries, Inc., 1900 Murray, Sioux City, Iowa. Send protests to: Carroll Russell, District Supervisor, Suite 620 Union Pacific Plaza, 110 North 14th St., Omaha, Nebr. 68102.

No. MC 128642 (Sub-No. 14TA), filed June 11, 1975. Applicant: SKYLINE TRANSPORT, INC., 1910 Russell St., Baltimore, Md. 21230. Applicant's representative: Fife Troxel (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Maple sugar*, in bulk, from Newport, Vt., to points in Baltimore, Md., Brundidge, Ala., and Terre Haute, Ind., for 90 days. Supporting shipper: Carl R. Schlaich, Director of Traffic, Doxee Food Corporation 8323 Pulaski Highway, Baltimore, Md. 21237. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814-B Federal Bldg., Baltimore, Md. 21201.

No. MC 133233 (Sub-No. 40TA) (Correction), filed May 27, 1975, published in the FEDERAL REGISTER issue of June 10, 1975, and republished as corrected this issue. Applicant: CLARENCE L. WERNER, doing business as WERNER ENTERPRISES, 802 32nd Ave., P.O. Box 831, Council Bluffs, Iowa. Applicant's representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Appliances*, from the plantsite and warehouse facilities of The Maytag Company, at or near Newton, Iowa, to points in the states of Alabama, Arkansas, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Kentucky, Louisiana, Maryland, Massachusetts, Mississippi, Nevada, New Jersey, New Mexico New York, North Carolina, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, Washington, and West Virginia, for 180 days. Supporting shipper: The Maytag Company, Lee O. Hays, Traffic Manager, Newton, Iowa 50208. Send protests to: Carroll Russell, District Supervisor, Suite 620 Union Pacific Plaza, 110 North 14th St., Omaha, Nebr. 68102. The purpose of this republication is to state the applicant's correct address.

No. MC 133233 (Sub-No. 41TA), filed June 2, 1975. Applicant: CHARLES L. WERNER, doing business as WERNER ENRERPRISES, 805 32nd Ave., Council Bluffs, Iowa 51501. Applicant's representative: Charles J. Kimball, Suite 646 Metropolitan Bldg., 1612 Court Place, Denver, Colo. 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (unfrozen) in containers, from Stockton, Modesto, Pittsburg, and Antioch, Calif., to points in Missouri, Texas, Wisconsin, Ohio, Indiana, and Michigan, under contract with Tillie Lewis Foods, Inc., for 180 days. Supporting shipper: Tillie Lewis Foods, Inc., Dale Johnson, Manager Traffic/Sales Order, Drawer J, Stockton, Calif. 95202. Send protests to: Carroll Russell, District Supervisor, Suite 620 Union Pacific Plaza, 110 North 14th St., Omaha, Nebr. 68102.

No. MC 134063 (Sub-No. 9TA), filed June 9, 1975. Applicant: MIDWEST TRANSPORTATION COMPANY, 2802 Avenue B, Council Bluffs, Iowa 51501. Applicant's representative: Frank Chullino (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages* (except malt beverages) in containers; and *nonalcoholic beverages* (in containers only) when moving in the same vehicle, at the same time with alcoholic beverages, from points in Illinois, Kentucky, New Jersey, New York, Indiana, Missouri, Ohio, Pennsylvania, Maryland, Michigan, Connecticut, Massachusetts and Tennessee, to points in Minneapolis, Minn., for 180 days. Supporting shipper: Kenneth L. Smith, General Manager, McKesson Wine & Spirits Company, 2309 University Ave., St. Paul, Minn. 55114. Send protests to: Carroll Russell, District Supervisor, Suite 620 Union Pacific Plaza, 110 North 14th St., Omaha, Nebr. 68102.

No. MC 135486 (Sub-No. 12TA), filed June 10, 1975. Applicant: JACK HODGE TRANSPORT, INC., 2410 West 9th St., Marion, Ind. 46952. Applicant's representative: Terrence D. Jones, Suite 300, 1126 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carbonated beverages*, in packages, from the facilities of Inter-State Canning

Company, at Louisville, Ky., to the facilities of The Kroger Company at Cincinnati and Columbus, Ohio and Indianapolis, Ind, restricted to traffic transported under a continuing contract or contracts with The Kroger Company, for 180 days. Supporting shipper: The Kroger Company, Kroger Manufacturing, 1240 State Ave., Cincinnati, Ohio 45204. Send protests to: J. H. Fray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 345 West Wayne St., Room 204, Fort Wayne, Ind. 46802.

No. MC 136273 (Sub-No. 5TA), filed May 28, 1975. Applicant: KENNETH G. MAY AND ORVILLE L. HOWARD doing business as CORONADO TRUCKING CO., 307 Old County Road, Edgewater, Fla. 32032. Applicant's representative: William J. Monheim, P.O. Box 1756, 15942 Whittier Blvd., Whittier, Calif. 90609. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metals, metal products, and materials, equipment and supplies* used in the manufacture sale or distribution of the described commodities for the account of Techalloy Company, Inc., and its subsidiaries, over irregular routes, between Philadelphia, Pa., and its commercial zone, points in Montgomery County, Pa., and points in New Jersey, on the one hand, and, on the other, points in California, from Perris and City of Industry, Calif., to Union, Ill., and from Dunkirk, N.Y., Newport News, Va., and Huntington, W. Va., to Perris and City of Industry, Calif. Restrictions: The operations are to be restricted against the transportation of commodities in bulk, in tank vehicles, and those commodities which because of size or weight require the use of special equipment, for 180 days. Supporting shipper: Techalloy Company, Inc., and its subsidiaries, Rahns, Pa. 19426. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay St., Jacksonville, Fla. 32202.

No. MC 139340 (Sub-No. 1TA), filed June 10, 1975. Applicant: CONRAD YELVINGTON DISTRIBUTORS, INC., 800 Big Tree Road, P.O. Box 1686, Daytona Beach, Fla. 32015. Applicant's representative: Sol H. Proctor, 1107 Blackstone Bldg., Jacksonville, Fla. 32202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Clay pipe*, from Greensboro, NC., to points in Florida, for 180 days. Supporting shipper: United States Concrete Pipe Company, 2121 East Ohio Bldg., Cleveland, Ohio 44114. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay St., Jacksonville, Fla. 32202.

No. MC 140677 (Sub-No. 3TA) (Correction), filed May 22, 1975, published in the FEDERAL REGISTER issue of June 10, 1975, and republished as corrected this issue. Applicant: JOHN T. BREWER, JOHN R. BREWER, AND LEWIS L. BREWER doing business as BREWER TRUCKING, 1603 East Tallent St., Rapid City, S. Dak. 57701. Applicant's representative: J. Maurice Andren, 1734 Sheridan Lake Road, Rapid City, S. Dak. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap or used metals or metal objects and crushed bodies* of highway vehicles and household appliances, from points in Rapid City, S. Dak., and points within five miles of Rapid City, S. Dak., to points in National City, Ill.; Council Bluffs, Iowa; Des Moines, Iowa; Kansas City, Kans.; Joplin and Kansas City, Mo.; Norfolk, and Omaha, Nebr.; Las Vegas, Nev.; Minot, N. Dak., and Spokane, Wash., for 180 days. Supporting shipper: Jalopy Jungle, 4558 Wentworth, Rapid City, S. Dak. 57701. Send protests to: J. L. Hammond, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 369, Federal Bldg., Pierre, S. Dak. 57501. The purpose of this republication is to correct the docket number.

No. MC 141029 TA, filed June 9, 1975. Applicant: JON A. JUILLERAT doing business as JON A. JUILLERAT AND CO., Portland, Ind. 47371. Applicant's representative: John J. Metts, 1110 Merchants Bank Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dog food*, in package and in bulk, and the ingredients therein, from Portland, Ind., to various points and places within the United States and return (plant site of Haynes Milling Co., Inc.), for 120 days. Supporting shipper: Haynes Milling Company, Inc., East Votaw St., Portland, Ind. 47371. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 345 West Wayne St., Room 204, Fort Wayne, Ind. 46820.

APPLICATION OF PASSENGERS

No. MC 141031 TA, filed June 9, 1975. Applicant: MARY A. McCAFFERTY AND LAWRENCE D. WELCH doing business as I & B CHARTER SERVICE, 4480 East Highway 120, Manteca, Calif. 95336. Applicant's representative: William H. Kessler, 638 Divisadero St., Fresno, Calif. 93721. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in special charter service in mini-buses with a capacity of not more than twelve (12) passengers, from points in San Joaquin County, Calif., to points in Douglas and Washoe Counties, Nev., and return to the points of origin, for 180 days. Supporting shippers: There are 6 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof, which may be examined at the field office named below. Send protests to: A. J. Rodriguez, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Ave., Box 36004, San Francisco, Calif. 94102.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.75-16433 Filed 6-23-75;8:45 am]

[Notice No. 12]

MOTOR CARRIER TRANSFER PROCEEDINGS ASSIGNED FOR ORAL HEARING

JUNE 24, 1975.

No. MC-FC-75074. Authority sought by transferee, AMERICAN TANK LINES, INC., 6350 Ordnance Point Road, Curtis Bay, Md. 21225, to acquire by transfer under the provisions of Section 212(b) of the Interstate Commerce Act a portion of the operating rights of transferor, YALE TRANSPORT CORP. (F. Ralph Nogg, Successor Trustee), 215 County Avenue, Secaucus, N.J. 07094. Applicants' attorneys: A. David Millner, 744 Broad Street, Newark, N.J. 07102 and Edward G. Bazelon, 39 South La Salle Street, Chicago, Ill. 60603. Operating rights sought to be transferred: Commodities in bulk, from and to, or between, points as specified in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, and the District of Columbia.

By order of Division 3, acting as an Appellate Division, dated June 12, 1975, the order of October 16, 1974, conditionally approving the application was vacated and set aside and the said application assigned for oral hearing at a time and place hereafter to be fixed for the purpose of determining whether applicants withheld material facts concerning the proposed transaction and whether operations have been conducted by transferor under both the bulk operations sought to be transferred and the nonbulk operations sought to be retained (*Contractors Hauling Serv. Inc. Transferee*, 104 M.C.C. 343, 350) and, hence, whether the application complies with the Rules and Regulations Governing Transfers of Rights to Operate as a Motor Carrier in Interstate or Foreign Commerce (49 CFR Part 1132). Interested parties have until July 24, 1975, in which to file petitions for leave to intervene. Such petitions should set forth the reason or reasons for the proposed intervention, the place where petitioner wishes the hearing to be held, the number of witnesses it expects to present, and the estimated time required for presentation of its evidence.

No. MC-FC-75473. Authority sought by transferee, Cloverleaf Lines, Inc., P.O. Box 4, Paola, Kansas 66071, to transfer

to transferee operating rights of transferor, National Expressways, Inc., P.O. Box 401, Paola, Kansas 66071. Transferee's and transferor's representative: Walter J. O'Toole, Jr., 1400 Professional Bldg., 1103 Grand Ave., Kansas City, Mo. 64106. Operating rights in Certificates No. MC 126822 (Sub-No. 2), MC 126822 (Sub-No. 32) and MC 126822 (Sub-No. 33) sought to be transferred: hides, anhydrous ammonia, fertilizer and fertilizer materials, nonprocessed wool, and pelts, from, to, and between specified points and areas in the United States.

The above-entitled transfer application under section 212(b) of the Interstate Commerce Act is to be assigned for hearing at a time and place to be fixed, for the purpose of determining, among other things, whether transferee, under § 1132.3 of the rules and regulations Governing Transfer of Operating Rights, is fit to acquire the rights proposed for transfer. Interested parties have until July 24, 1975, in which to file petitions for leave to intervene. Such petitions should state the reason or reasons for the intervention, where the petitioner wishes the hearing to be held, the number of witnesses to be presented, and the estimated time required for the presentation of evidence. The Bureau of Enforcement has been directed to participate as a party in the proceeding for the purpose of presenting evidence and otherwise developing the record.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.75-16432 Filed 6-23-75;8:45 am]

UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

GENERAL ADVISORY COMMITTEE ON ARMS CONTROL AND DISARMAMENT

Meeting

Notice is hereby given in accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770, 5 U.S.C. App. I) and paragraph 8b of Office of Management and Budget Circular No. A-63 (Revised) dated March 27, 1974, that a meeting of the General Advisory Committee on Arms Control and Disarmament is scheduled to be held on Thursday, July 24, 1975 from 9:00 a.m. to 6:00 p.m. on Friday July 25, 1975 from 9:00 a.m. to 3:00 p.m., at the Los Alamos Scientific Laboratory, Los Alamos, New Mexico; and the Sandia Corporation, Albuquerque, New Mexico. The purpose of the meeting is for the Committee to receive classified briefings and hold classified discussions concerning continuing international negotiations and other arms control issues.

The meeting will be closed to the public. A determination has been made by the Director of the Arms Control and Disarmament Agency in accordance with section 10(d) of the Federal Advisory Committee Act and paragraph 8d(2) of Office of Management and Budget Circular No. A-63 (Revised) that the meeting will be concerned with matters of the type described in 5 U.S.C. 552(b)(1). This determination was made pursuant to a delegation of authority from the Office of Management and Budget dated June 25, 1973, issued under the authority of Executive Order 11769 dated February 21, 1974.

Dated: June 16, 1975.

SIDNEY D. ANDERSON,
Advisory Committee Management Officer.

[FR Doc.75-16347 Filed 6-23-75;8:45 am]

VETERANS ADMINISTRATION

STATION COMMITTEE ON EDUCATION ALLOWANCES

Meeting

Notice is hereby given pursuant to section V, Review Procedure and Hearings, Rules, Station Committee on Education Allowances, that on July 30, 1975, at 10 a.m., the Baltimore Regional Station Committee on Educational Allowances shall at the Federal Building, 31 Hopkins Plaza, Baltimore, Maryland, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Aviation Enterprises, Inc., Municipal Airport, Frederick, Maryland 21701, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: June 17, 1975.

THOMAS H. PRICE, Jr.,
Director, VA Regional Office.

[FR Doc.75-16298 Filed 6-23-75;8:45 am]

federal register

TUESDAY, JUNE 24, 1975
WASHINGTON, D.C.
Volume 40 ■ Number 122

PART II

FEDERAL TRADE COMMISSION

■

HEARING AID INDUSTRY

Proposed Trade Regulation Rules

FEDERAL TRADE COMMISSION

[16 CFR 440]

HEARING AID INDUSTRY

Proposed Trade Regulation Rule; Notice of Proceeding

Notice is hereby given that the Federal Trade Commission, pursuant to the Federal Trade Commission Act, as amended, 15 U.S.C. 41, et seq., the provisions of Part I, Subpart B of the Commission's procedures and rules of practice, 16 CFR 1.7, et seq., and section 553 of Subchapter II, Chapter 5, Title 5 of the U.S. Code (Administrative Procedure) has initiated a proceeding for the promulgation of a Trade Regulation Rule for the Hearing Aid Industry.

In accordance with the above notice the Commission proposes the following Trade Regulation Rule and to amend Subchapter D, Trade Regulation Rules, Chapter I of 16 CFR by adding a new Part 440:

PART 440—PROPOSED TRADE REGULATION RULE FOR THE HEARING AID INDUSTRY

Sec.

AUTHORITY: 38 Stat. 717, as amended (15 U.S.C. 41, et seq.)

§ 440.1 Preamble.

In connection with the advertising, promotion, offering for sale, sale, marketing, or distribution of hearing aids in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, it is an unfair and deceptive act or practice and an unfair method of competition within the meanings of sections 5 and 12 of that act for any seller to fail to comply with the following provisions of this Part.

§ 440.2 Definitions.

For the purposes of this Part the following definitions shall apply:

(a) *"Hearing aid."* Any wearable instrument or device designed for, offered for the purpose of, or represented as aiding persons with or compensating for impaired hearing.

(b) *"Sale"* or *"purchase."* A sale or purchase, or lease or rental for a period of more than 30 calendar days, of a hearing aid to a member of the consuming public.

(c) *"Seller."* Any person, partnership, corporation, or association engaged in the sale, lease or rental of hearing aids, or any employee, agent, salesperson and/or representative of same, whether made to a "buyer" or to another "seller."

(d) *"Buyer."* Any person, partnership, corporation, or association assuming a financial obligation in connection with a "sale," either for its personal use or for the use of a person on whose behalf the financial obligation is assumed.

(e) *"Purchase price."* The total price paid or to be paid for a hearing aid, including all interest charges, taxes, and charges for services rendered in connection with a sale; *Provided however,* That "purchase price" shall not include the pro rata portion of any charges for services:

(1) When such charges are separately stated in the contract for sale; and

(2) When the "buyer" has been given the option of not purchasing such services; and

(3) When such services have been rendered prior to the date of the buyer's exercise of his right to cancel under § 440.4.

(f) *"Represent" or "representation."* Any direct or indirect statement, suggestion or implication, including but not limited to one which is made orally, in writing, pictorially, or by any other audio or visual means, or by any combination thereof, whether made in an advertisement or otherwise.

(g) *"Advertisement" or "advertising."* Any written or verbal statement, illustration, or depiction, other than a label or in the labeling, which is designed to effect the sale of any hearing aid, or to create interest in the purchase of any hearing aid, whether the same appears in a newspaper, magazine, leaflet, circular, mailer, book insert, catalog, sales promotional material other literature, billboard, public transit card, point-of-purchase material, or in a radio or television broadcast or in any other media. "Advertisement" or "advertising" does not include:

(1) Signs which only identify the name of a seller and are located at the seller's place of business; or

(2) A listing in a telephone directory which gives only the seller's name, address and telephone number, and the brand(s) of hearing aids offered for sale; or

(3) Representations directed solely to physicians or audiologists.

(h) *"Audiologist".* A person who:

(1) Possesses the Certificate of Clinical Competence in audiology granted by the American Speech and Hearing Association (ASHA); or

(2) Meets the educational and experience requirements for ASHA certification in audiology and has successfully completed the examination required for ASHA certification in audiology; or

(3) Meets the requirements of any applicable State law which defines the term "audiologist".

(i) *"Clearly and conspicuously disclose" or "clear and conspicuous disclosure."* Disclosing in a manner which (or a disclosure which):

(1) Can easily be understood (in the case of television and print advertising, also easily seen and read) by the casual observer, listener, or reader among members of the public; and

(2) Occurs each time the representation which creates the requirement for the disclosure is made, and in immediate conjunction with such representation, except that the disclosure required by § 440.8(a) need be made only once, in immediate conjunction with the major theme of an advertisement and at the outset of any other communication; and

(3) Is made in the same language, e.g., Spanish, as that principally used in communicating with the person(s) to whom the disclosure is addressed; and

(4) In any television advertisement, is made in the manner and form prescribed by § 440.3(a); and

(5) In any radio advertisement, is made in the manner and form prescribed by § 440.3(b); and

(6) In any print advertisement, is made in the manner and form prescribed by § 440.3(c).

(j) *"Used hearing aid."* A hearing aid which has been worn for any period of time by a buyer or potential buyer; *Provided however,* That a hearing aid shall not be considered "used" merely because it has been worn by a buyer or potential buyer as part of a bona fide evaluation conducted to determine whether to select that particular hearing aid for that buyer, if such evaluation has been conducted in the presence of the seller or a hearing health professional selected by the seller to assist the buyer in making such a determination.

(k) *"Telephone option."* An option available on hearing aids which enables the wearer to hear the electrical signal on the telephone line rather than the acoustic signal produced by the telephone.

§ 440.3 Form and manner of making required disclosures in television, radio and print advertisements.

(a) *Disclosures in television advertisements.* (1) Except for a disclosure required by § 440.8(a), any disclosure shall be made clearly and conspicuously and at least as clearly and conspicuously as any representation which creates a requirement for such disclosure.

(2) Except for a disclosure required by § 440.8(a) or § 440.10(a) (which shall be made simultaneously in the audio and video portions of the advertisement), any disclosure shall be made in the same portion (audio or video) of the advertisement in which the representation which creates the requirement for the disclosure is made.

(3) The video portion of any disclosure shall contain letters of sufficient size so that it can be easily seen and read on all television sets, regardless of the picture tube size.

(4) The video portion of any disclosure shall contain letters of a color and shade that readily contrast with the back-

ground, and the background shall consist of only one color or shade.

(5) No other sounds, including music, shall occur during the audio portion of any disclosure.

(6) The video portion of any disclosure shall appear on the screen for a sufficient duration to enable it to be completely read by the viewer.

(b) *Disclosures in radio advertisements.* Except in connection with § 440.8 (a), any disclosure in any radio advertisement shall be made clearly and conspicuously, and at least as clearly and conspicuously as the representation which creates the requirement for such disclosure. No other sounds, including music, shall occur during the disclosure.

(c) *Disclosures in print advertisements.* Except in connection with § 440.8 (a), any disclosure in any print advertisement shall be made clearly and conspicuously and at least as clearly and conspicuously as the representation which creates the requirement for such disclosure.

[See § 440.2(i).]

§ 440.4 Buyer's right to cancel.

(a) A seller shall include in every receipt or contract pertaining to a sale, in immediate proximity to the space reserved for the signature of the buyer, or on the first page if there is no space reserved for the signature of the buyer, a clear and conspicuous disclosure of the following specific statement in all capital letters of no less than twelve point bold face type of uniform font and in an easily readable style:

THE BUYER HAS THE RIGHT TO CANCEL THIS PURCHASE OR RENTAL FOR ANY REASON AT ANY TIME PRIOR TO MIDNIGHT OF THE 30TH CALENDAR DAY AFTER RECEIPT OF THE HEARING AID(S). SEE THE ATTACHED "NOTICE OF BUYER'S RIGHT TO CANCEL" FOR AN EXPLANATION OF THIS RIGHT.

(b) A seller shall furnish each buyer, at the time such buyer assumes any financial obligation with respect to the purchase, a completed form in duplicate, captioned "Notice of Buyer's Right to Cancel," which shall contain in no less than ten point type (twelve point bold face type for words in the "Notice of Buyer's Right to Cancel" which appear below entirely in capital letters) of uniform font and in an easily readable style, a clear and conspicuous disclosure of the following specific statements in the following format. A copy of such completed form shall be retained by the seller in accordance with § 440.13(a)(2).

NOTICE OF BUYER'S RIGHT TO CANCEL

This notice is for the buyer and each person who has assumed a financial obligation on the buyer's behalf: YOU HAVE THE RIGHT TO CANCEL THIS PURCHASE OR RENTAL. Here is information on:

Your right to cancel,
How to cancel,
What happens if you cancel, and
Other things you should know.

YOUR RIGHT TO CANCEL.

Any time before the end of _____
_____
(30 calendar days from the date you received the hearing aid(s))

you can cancel this purchase or rental for any reason and get most of your money refunded. If you purchased or rented two or more hearing aids in this transaction, you can cancel your purchase or rental of any or all of them. Upon cancellation, the seller can keep the following *cancellation charges:*

$_____ (for 30 days rental, for each cancelled hearing aid)
$_____ (for each custom ear mold made for the cancelled hearing aid(s))
$_____ (for batteries)

No other cancellation charges, penalties or fees are legal. However, the seller *can* keep the charges for any lease or rental period which ran prior to this transaction.

If, before the end of _____
_____
_____,
(30 calendar days from the date you received the hearing aid(s))

the seller substitutes any other hearing aid(s) for the one(s) you originally purchased or rented, then the seller is required to provide you with a new "Notice of Buyer's Right to Cancel" and an additional 30 day period in which you can cancel the purchase or rental of the substitute hearing aid(s). The seller is not entitled to keep any of the cancellation charges listed above when such a substitution is made, but you will have to pay the additional cost involved if a more expensive hearing aid is being substituted. If you cancel the purchase or rental of the substitute hearing aid(s), the seller can keep only the cancellation charges listed above.

HOW TO CANCEL.

To cancel this purchase or rental, your cancellation must be actually delivered to the seller or postmarked no later than the end of

_____
_____
(30 calendar days from the date you received the hearing aid(s))

You may cancel by giving the seller any form of *written* notice of your cancellation, so long as you make it clear to the seller that you are *cancelling* and, if you received the hearing aid at your home, whether you want the seller to pick it up there. If you wish, you may use the "Cancellation Notice" form provided at the end of this notice. Keep a copy of your cancellation notice for your records.

WHAT HAPPENS IF YOU CANCEL.

The *seller's responsibilities* if you cancel are as follows: Within 15 calendar days after the date of your written cancellation notice he must:

(1) Actually return to you anything you traded in on the cancelled hearing aid(s) (including your old hearing aid(s)); and

(2) Cancel all financial obligations you assumed, as part of the purchase or rental, to cover the purchase or rental of the cancelled hearing aid(s); and

(3) Cancel all security interests (such as a mortgage) which were created in your property, as part of the purchase or rental, to cover the purchase or rental of the cancelled hearing aid(s); and

(4) Refund all payments you made toward the purchase or rental price of the cancelled hearing aid(s), less the cancellation charges listed in this notice and the charges for any lease or rental period which ran prior to this transaction.

Your responsibilities if you cancel are as follows:

(1) If you picked up the hearing aid at the seller's place of business, then you must return it there, either by actually delivering it or by having it postmarked (you must pay the postage) no later than 7 calendar days from the date of your written notice of cancellation; or

(2) If the hearing aid was delivered to your home, then you have a choice of what to do:

(i) You may return the hearing aid to the seller's place of business, either by actually delivering it or by having it postmarked (you must pay the postage) no later than 7 calendar days from the date of your written cancellation notice, or

(ii) If you notified the seller that you will make the hearing aid available at your home, you must do so. Then, if the seller does not pick it up within 20 calendar days from the date of your notice, you may keep it.

OTHER THINGS YOU SHOULD KNOW:

The seller is entitled to receive a cancelled hearing aid back in substantially as good condition as it was when you received it. However, the seller cannot refuse to accept a cancelled hearing aid because it shows signs of normal wear and tear such as scratches on the casing. Nor can the seller refuse to accept a cancelled hearing aid because of its defects, unless those defects were caused by your mistreatment of it.

To protect yourself at the time you cancel, you should do the following: If you deliver a cancelled hearing aid to the seller's place of business or the seller picks it up at your home, you should obtain a receipt from him. If you mail a cancelled hearing aid to the seller, the hearing aid should be sent "certified mail, return receipt requested."

If you cancel but do not fulfill your responsibilities, the seller will be entitled to sue you for the fair market value of the cancelled hearing aid(s) and the services you have in fact received.

If the seller refuses to honor a valid exercise of your right to cancel this purchase, or does not fulfill his other responsibilities, you have a right to sue him to make him fulfill all his responsibilities. In addition to giving you a right to sue the seller, such a refusal or failure would be a violation of a Federal Trade Commission Rule. Such violations should be reported promptly to the Federal Trade Commission, Washington, D.C. 20580.

The granting of this right to cancel does not deprive you of any of the other rights given to buyers under the law. Nor does it limit any rights you have concerning warranties made by the seller or provided by law.

CANCELLATION NOTICE*

_____
(Date of cancellation)

To: _____
(Seller)
_____
_____
(Seller's address)

I hereby cancel my purchase or rental of the hearing aid(s) which I received on _____
(Date you received the hearing aid(s))

(*If* two or more hearing aids were purchased or rented at the same time, the buyer *must* check the appropriate box so that the seller will know how much of the purchase or rental is being cancelled)

I am cancelling the purchase or rental of:

- ☐ both hearing aids
- ☐ the hearing aid for my left ear
- ☐ the hearing aid for my right ear
- ☐ other (explain)

(*If* you received the cancelled hearing aid(s) at your home *and* you want the seller to pick it (them) up there, then check this box: ☐)

(Buyer's signature)

(Buyer's address)

*If you do not use this form you may still provide *written* notice to the seller by any other means, as long as you make it clear to the seller that you are *cancelling* and, if you received the hearing aid at your home but you cannot or do not want to return it to the seller's place of business, that the seller should pick up the hearing aid *at your home*.

(c) Before furnishing copies of the "Notice of Buyer's Right to Cancel" to the buyer, a seller shall complete both copies of each such notice by entering:

(1) The date which is "30 calendar days from the date on which the buyer received the hearing aid(s)", in each of the three blanks provided for it. If the seller does not or cannot know the exact date on which the buyer's receipt of the hearing aid(s) will take place, then the appropriate blanks shall be completed so as to reasonably insure that the 30 calendar day period does not begin to run before receipt by the buyer has actually taken place; and

(2) The cancellation charges allowed under § 440.4(g)(1); and

(3) The seller's full name and address (in the "Cancellation Notice" form); and

(4) The date the buyer received the hearing aid(s) (in the "Cancellation Notice" form). If the seller does not or cannot know the exact date on which the buyer's receipt of the hearing aid(s) will take place, then the date of receipt by the buyer shall be estimated so as to reasonably insure that it does not precede the actual receipt of the hearing aid(s).

(d) A seller shall not include in any contract or receipt any confession of judgment or any waiver of any of the rights to which the buyer is entitled under this Part, including but not limited to the buyer's right to cancel the sale in accordance with the provisions of § 440.4.

(e) At the time the buyer purchases a hearing aid, a seller shall inform him orally of the existence of the buyer's right to cancel.

(f) A seller shall not misrepresent in any manner the buyer's right to cancel; nor shall the seller make any representation or perform any act or practice which in any way negates, contradicts, detracts from or is inconsistent with a full understanding or a proper exercise of such right to cancel.

(g) A seller shall honor any valid notice of cancellation by a buyer and within 15 calendar days after the date of such notice:

(1) Refund all payments made toward the purchase price of the cancelled hearing aid(s), less any lease or rental charges applied as payments toward the purchase price of the cancelled hearing aid(s) and only those "cancellation charges" which are properly set forth in the "Notice of Buyer's Right to Cancel" as required by § 440.4(c) and are within the following limits:

(i) [Following are two mutually exclusive formulas for the "cancellation charge" for 30 days rental]

(A) *Alternative 1.* The cancellation charge for 30 days rental for each cancelled hearing aid shall not exceed the total of $15 plus 5 percent of the purchase price (excluding any "cancellation charges" for any custom ear mold or batteries).

(B) *Alternative 2.* The cancellation charge for 30 days rental shall not exceed the sum of $30 per cancelled hearing aid or 10 percent of the purchase price (excluding any "cancellation charges" for any custom ear mold or batteries), whichever is the lesser. This $30 maximum shall be adjusted annually after the effective date of this part to account for the annual percentage adjustment in the United States City Average All Items Consumer Price Index (1967=100) published by the Bureau of Labor Statistics of the United States Department of Labor. The computation of this annual adjustment shall be as follows: The Index for the month in which this part becomes effective shall be the Base Index. The Index for that same month in subsequent years shall be divided by this Base Index and the result of that division shall be multiplied by the sum of $30 to arrive at the maximum which shall obtain until the publication of the Index in the next subsequent year.

(ii) The cancellation charge for any custom ear mold and a 30 day supply of batteries shall not exceed twice the actual cost of such ear mold and/or batteries to the seller or the seller's regular selling price for such ear mold and/or batteries, whichever is the lesser. In computing the actual cost, all rebates, discounts, and any other similar allowances provided to the seller must be considered; and

(2) Return any goods or property traded in on the cancelled hearing aid(s), in substantially as good condition as when they were received by the seller; and

(3) Take all action necessary or appropriate to terminate:

(i) All financial obligations assumed by the buyer as part of this transaction to cover the purchase of the cancelled hearing aid(s); and

(ii) All security interests created in connection with this transaction to cover the purchase of the cancelled hearing aid(s).

(h) If, within 30 calendar days from the buyer's receipt of a purchased hearing aid, a seller substitutes another hearing aid for the originally purchased one, the seller shall treat such a substitution as a "sale" of a hearing aid for the purposes of § 440.4 by providing each buyer with a new "Notice of Buyer's Right to Cancel" and an additional 30 calendar day period in which to cancel. The cancellation charges set forth in the subsequent "Notice of Buyer's Right to Cancel" shall remain the same as those indicated in the original "Notice of Buyer's Right to Cancel."

(i) The provisions of paragraphs (a) through (h) of this section shall not apply to a sale:

(1) Made pursuant to a written recommendation of a specific hearing aid, by serial number or by model, made by a physician or an audiologist who receives no direct or indirect financial compensation from the seller for such recommendation or for services rendered in connection with such recommendation; *Provided, however;* That § 440.4(i)(1) shall not be construed to prevent any physician or audiologist from requesting or requiring as a condition of his referral to a seller that a patient be offered a trial period prior to a purchase; or

(2) Made to replace a damaged or worn out hearing aid when the replacement hearing aid which is sold is identical to such damaged or worn out hearing aid.

§ 440.5 Leases or rentals.

When leasing or renting a hearing aid for a period of up to 30 calendar days, a seller shall:

(a) Limit any lease or rental charges for any trial period(s) of up to 30 calendar days to only the total dollar amount of cancellation charges permitted to be retained by the seller under § 440.4(g)(1); and

(b) Clearly and conspicuously disclose such lease or rental charges orally to the potential buyer before any financial obligation relating to the lease or rental is assumed by the potential buyer; and

(c) Furnish each potential buyer, at the time any financial obligation relating to the lease or rental is assumed by the potential buyer, a form or contract which clearly and conspicuously discloses, in no less than ten point type of uniform font and in an easily readable style:

(1) The complete name and address of the lessor or renter; and

(2) The dates on which the trial period begins and ends; and

(3) All lease or rental charges.

§ 440.6 Seller may grant greater rights.

The seller may accord a buyer greater or more extensive rights than those to which the buyer is entitled under the provisions of this Part. In such instances, a seller may make suitable amendments in all appropriate documents to reflect the granting of such rights.

§ 440.7 Selling techniques.

(a) No seller shall utilize any device to demonstrate the performance which a consumer can expect from a hearing aid, when the performance of such a device differs in any material respect from that of said hearing aid.

(b) No seller shall visit the home or place of business of a potential buyer for the purpose of inducing a sale without having obtained, prior to any such visit, the express written consent of such potential buyer to such a visit. Such consent shall clearly and conspicuously state that such potential buyer is aware that the seller may attempt to sell a hearing aid during such a visit.

(c) If a hearing aid has been used, loaned, rented, leased, reconditioned, re-

furbished, repaired or rebuilt, that fact shall be clearly and conspicuously disclosed:

(1) In the oral sales presentation, before the buyer assumes any financial obligation with respect to the purchase; and

(2) In any advertisement relating to such hearing aid; and

(3) On the container in which such hearing aid is packaged; and

(4) On a tag which is physically attached to such hearing aid.

(d) No seller shall represent that a person can or may be able to participate in a hearing aid testing or evaluation program if the primary and/or ultimate purpose of such program is to sell hearing aids to persons who participate unless such purpose is clearly and conspicuously disclosed.

(e) No seller shall prepare, approve, fund, disseminate or cause the dissemination of any advertisement which, because of its form and/or content, cannot be easily understood as being designed to effect the sale of hearing aids, or to create interest in the purchase of hearing aids, by the audience to whom such advertisement is directed.

§ 440.8 Prohibited representations concerning hearing aid sellers.

(a) No seller shall make any representation to members of the consuming public without clearly and conspicuously disclosing that it is a seller of hearing aids. The disclosure requirement of § 440.8(a) will be satisfied by a clear and conspicuous statement of the name of the seller's business, if that name includes the words "hearing aid center" or other words which clearly identify that the establishment is a seller of hearing aids.

(b) No seller shall represent that it is a governmental or other public service establishment or a nonprofit medical, educational or research institution unless such is the fact. Such a representation is made by the use of names such as "hearing center" (but not "hearing aid center"), "hearing institute," "hearing aid institute," "hearing bureau," "hearing aid bureau," "hearing clinic," "hearing aid clinic," "speech and hearing center," "speech and hearing aid center," and "senior citizen surveys."

(c) No seller shall represent that it or any of its employees, agents, salespersons and/or representatives is a physician or an audiologist, unless such is the fact. One example of a violation of § 440.8(c) is the use of the term "audiologist" to describe one who is not an audiologist as defined in § 440.2(h); and

(d) No seller shall represent that the service or advice or a physician or an audiologist will be used or made available in the selection, adjustment, maintenance or repair of a hearing aid, unless such is the fact.

(e) No seller shall represent that it or any of its employees, agents, salespersons and/or representatives is a "counselor" or a "consultant."

§ 440.9 Prohibited representations concerning hearing aids.

(a) No seller shall represent that any hearing aid will restore or help restore normal or natural hearing or will enable or help enable wearers to hear sounds normally or naturally.

(b) No seller shall represent that any hearing aid will in any way reverse, halt, or retard, or in any way help to reverse, halt or retard the progression of hearing loss, including but not limited to the use of expressions such as "Act now before it's too late," "Delay may be harmful," or "I caught your hearing loss just in time." Section 440.9(b) does not prohibit, however, a clearly stated and adequately qualified representation as to the difficulties which a consumer may encounted in adjusting to a hearing aid if he gets out of practice in using his hearing.

(c) No seller shall represent that a hearing aid model or feature is new for a period greater than one year from the date on which it was first marketed in the United States.

(d) A seller shall maintain an adequate system for insuring that all advertising it prepares, approves, funds or disseminates is in compliance with § 440.9(c).

(e) No seller shall represent that any hearing aid brand or model possesses any general or specific feature or characteristic or embodies any concept or principle (hereinafter referred to as a "characteristic") unless:

(1) Each such characteristic is clearly and conspicuously disclosed; and

(2) Each such disclosed characteristic provides some significant benefit(s) to the wearer of a hearing aid; and

(3) There is a clear and conspicuous disclosure of each such specific benefit; and

(4) There is a clear and conspicuous disclosure of the specific condition(s) under which or the category or categories of hearing aid wearers by which each such disclosed benefit will be received; and

(5) At the time of making any such representation the seller possesses and relies upon competent and reliable scientific or medical evidence which fully establishes that each benefit is significant and will be received by a significant number of buyers under the condition(s) disclosed; *Provided, however,* That if a seller who is not a manufacturer determines prior to making a representation that the representation is contained in materials which he has received from the manufacturer, such seller shall not be liable for failure to possess and rely upon such evidence if such seller can establish that he neither knew nor had reason to know, nor upon reasonable inquiry could have known:

(i) That the manufacturer did not possess such evidence; or

(ii) That the representation could not be substantiated by such evidence; or

(iii) That the representation was false; and

(6) If the represented characteristic(s) is (are) compared generally or specifically to the comparable characteristic(s) possessed by any other hearing aid brand(s) and/or model(s), including but not limited to any representation of newness (other than a representation that a hearing aid is not "used" as described in § 440.2(j)):

(i) There is a clear and conspicuous disclosure of the hearing aids with which such comparison is made; i.e., so that the comparison is not in the form of a dangling comparison; and

(ii) There is a clear and conspicuous disclosure of each particular characteristic with respect to which such comparison is being made; and

(iii) Each such compared characteristic provides a significantly greater benefit than the benefit provided by the comparable characteristic in the disclosed hearing aid brand(s) and/or model(s) with respect to which the advertised hearing aid(s) is (are) being compared; and

(iv) At the time of making any such representation the seller possesses and relies upon competent and reliable scientific or medical evidence which fully establishes that each compared characteristic provides a significantly greater benefit than the benefit provided by the comparable hearing aid brand(s) and/or model(s); *Provided, however,* That if a seller who is not a manufacturer determines prior to making a representation that the representation is contained in materials which he has received from the manufacturer, such seller shall not be liable for failure to possess and rely upon such evidence if such seller can establish that he neither knew nor had reason to know, nor upon reasonable inquiry could have known:

(A) That the manufacturer did not possess such evidence; or

(B) That the representation could not be substantiated by such evidence; or

(C) That the representation was false.

(f) For purposes of § 440.9(e)(6), a general or unqualified representation that a hearing aid is unique, revolutionary or special will be deemed to be a comparison to all other hearing aid brands and models; *Provided, however,* That a representation that a hearing aid is revolutionary or special will not be deemed to be a comparison to all other hearing aid brands and models if it is clearly and conspicuously disclosed that the comparison being made is to less than all other hearing aid brands and models.

(g) No seller shall represent that a hearing aid model is smaller than other hearing aid models unless, in addition to making all disclosures prescribed by § 440.9(e):

(1) The quality and range of sounds produced by representative samples of such hearing aid model are at least of

substantially the same quality and range as the sounds produced by representative samples of each of the different brand(s) and/or model(s) of hearing aids with which it is being compared, and, at the time of making any such representation the seller possesses and relies upon competent and reliable scientific or medical evidence which fully establishes the relative quality and range of sounds produced by such hearing aids; *Provided, however,* That if a seller who is not a manufacturer determines prior to making a representation that the representation is contained in materials which he has received from the manufacturer, such seller shall not be liable for failure to possess and rely upon such evidence if such seller can establish that he neither knew nor had reason to know, nor upon reasonable inquiry could have known:

(i) That the manufacturer did not possess such evidence; or

(ii) That the representation could not be substantiated by such evidence; or

(iii) That the representation was false; or

(2) It is clearly and conspicuously disclosed that such hearing aid does not produce sounds which are at least of substantially the same quality and range as the sounds produced by the hearing aid brand(s) and/or model(s) with which it is being compared.

(h) No seller shall use the words "prescribe" or "prescription" or any other word(s) or expression(s) of similar import.

(i) No seller shall represent that a hearing aid which routes the signal from one ear to the other ear enables the wearer to hear out of the ear from which the signal is being routed.

(j) No seller shall represent, through the use of words or expressions such as "invisible," "hidden," "hidden hearing," "completely out of sight," "conceal your deafness, "hear in secret," "unnoticed even by your closest friends," "no one will know you are hard of hearing," "your hearing loss is your secret," "no one need know you are wearing a hearing aid," "hidden or out of sight when inserted in the ear canal," or by any other words or expressions of similar import, that any hearing aid or part thereof is hidden or cannot be seen, unless such is the fact.

(k) No seller shall represent, through the use of words or expressions such as "no cord," "cordless," "100 percent cordless," "no unsightly cord dangling from your ear," "no wires," "no tell-tale wires," or other words or expressions of similar import, that a hearing aid can be worn without any visible cord or wire, unless such representation is true and it is clearly and conspicuously disclosed that a plastic tube (or similar device) runs from the instrument to the ear, if such is the fact.

(l) No seller shall represent, through the use of words or expressions such as "no button," "no ear button," "no buttons or receivers in either ear," or other words or expressions of similar import, that a hearing aid can be worn without any button or other receiver in the ear, unless such representation is true and unless it is clearly and conspicuously disclosed that an ear mold or plastic tip is inserted in the ear, if such is the fact.

(m) No seller shall represent that any hearing aid can eliminate unwanted noise; *Provided, however,* That it shall not be a violation of § 440.9(m) to represent accurately the ability of a hearing aid with a telephone option to attenuate acoustical background signals, if such is the fact.

(n) No seller shall represent that any hearing aid can operate without batteries, unless the power source for such a hearing aid can be recharged from a household electric outlet.

§ 440.10 Advertising representations that must be qualified.

No seller shall prepare, approve, fund, disseminate or cause the dissemination of any advertisement:

(a) Which makes any general or specific representation that a hearing aid will or has the capacity to affect hearing capability or hearing quality, unless it is clearly and conspicuously disclosed that many persons with a hearing loss will not receive any significant benefit from any hearing aid; *Provided, however,* That nothing herein shall prohibit a truthful representation that hearing aids can help many persons with a hearing loss.

(b) Which makes any representation that a hearing aid will enable a person with a hearing loss to distinguish or understand speech sounds in noisy situations, unless, in addition to the disclosure required by § 440.10(a), it is clearly and conspicuously disclosed that many persons with a hearing loss will not be able to consistently distinguish and understand speech sounds in noisy situations by using any hearing aid.

(c) Which makes any representation that a hearing aid will enable a person with a hearing loss to distinguish or understand speech sounds in group situations, unless, in addition to the disclosure required by § 440.10(a), it is clearly and conspicuously disclosed that many persons with a hearing loss will not be able to consistently distinguish and understand speech sounds in group situations by using any hearing aid.

(d) Which makes any representation that the use of two hearing aids, one in each ear, will be beneficial to persons with a hearing loss in both ears, unless, in addition to the disclosure required by § 440.10(a), it is clearly and conspicuously disclosed that many persons with a hearing loss in both ears will not receive greater benefits from the use of two hearing aids, one in each ear, than from the use of one hearing aid.

§ 440.11 Required disclosures concerning telephone options.

(a) No seller shall prepare, approve, fund or disseminate any advertisement which represents that a hearing aid has a telephone option, unless it is clearly and conspicuously disclosed that the telephone option will not work on all telephones.

(b) Before a buyer assumes any financial obligation with respect to a hearing aid which has a telephone option, a seller shall clearly and conspicuously disclose the limitations of the telephone option orally to the buyer. Such disclosure shall include the following information:

(1) A statement that the telephone option will not work on all telephones; and

(2) A statement which indicates whether or not the telephone option will work on the telephones in the seller's trade area. If the telephone option will work on some, but not all, of the telephones in the seller's trade area, a statement indicating the types of telephones on which it will work shall be included in this disclosure; and

(3) A statement which indicates whether or not the approximate percentage of telephones in the seller's trade area on which the telephone option will work is increasing, decreasing, or remaining about the same.

§ 440.12 Necessary steps to insure compliance with this Part.

Every seller shall take such steps as are necessary to reasonably insure full compliance with the provisions of this Part by its employees, agents, salespersons, and/or representatives. At a minimum, such steps shall include:

(a) Furnishing each employee, agent, salesperson and/or representative with a copy of the Rule in this Part, either at the time of its promulgation or at the time their employment is commenced; and

(b) Obtaining from each employee, agent, salesperson and/or representative a signed and dated receipt for the copy of the Rule in this Part provided in accordance with § 440.12(a); such receipt to state that the recipient is aware that the seller is required to and will take appropriate disciplinary action for violations of this Part, which shall, in the event of willful violations or repeated violations, consist of the imposition of a fine, suspension, or dismissal of the employee, agent, salesperson and/or representative involved; and

(c) Establish and maintain a disciplinary system which will include, in the event of willful violations or repeated violations, the imposition of a fine, suspension, or dismissal of the employee, agent, salesperson and/or representative involved.

§ 440.13 Record maintenance and retention.

A seller shall maintain accurate and adequate records which may be inspected by Commission staff members upon reasonable notice and which pertain to the activities listed below. Such records shall be retained for a period of no less than three years. In the case of records covered by § 440.13(d), the three year period shall commence each time a representation supported by such records is made.

(a) All hearing aid sales. Documents which must be maintained and retained include but are not limited to:

(1) Copies of all contracts of sale; and

(2) Copies of all "Notices of Buyer's

Right to Cancel" provided to buyers in accordance with § 440.4(b); and

(3) Copies of all cancellation notices of any kind received from buyers exercising the right to cancel; and

(b) All hearing aid leases or rentals. Documents which shall be maintained and retained include but are not limited to copies of all contracts or forms provided in accordance with § 440.5; and

(c) All home sales visits. The prior express written approval required for each home sales visit by § 440.7(b) shall be maintained and retained; and

(d) Substantiation of representations. Documents which must be maintained and retained include but are not limited to all evidence required by §§ 440.9 (e) through (g); and

(e) All steps taken in accordance with the requirements of § 440.12.

§ 440.14 Effect on prior Federal Trade Commission actions and on State laws and ordinances of State political subdivisions.

(a) Sellers in compliance with this Part are exempt from the provisions of the Federal Trade Commission Trade Regulation Rule Concerning a Cooling-Off Period for Door-to-Door Sales, 16 CFR Part 429.

(b) This Part shall not be construed to supersede the Trade Practice Rules for the Hearing Aid Industry, promulgated July 20, 1965, by the Federal Trade Commission (16 CFR Part 214) except in the following instances:

(1) section 440.7(c) of this Part supersedes Rule 14 (a) and (b) (§ 214.14 (a) and (b)).

(2) section 440.8(b) of this Part supersedes Rule 10(a) (§ 214.10(a)).

(3) section 440.8(d) of this Part supersedes Rule 6(a) (§ 214.6(a)),

(4) section 440.9(h) of this Part supersedes Rule 6(c) (§ 214.6(c)).

(5) section 440.9(j) of this Part supersedes Rule 7(a) (§ 214.7(a)).

(6) section 440.9(k) of this Part supersedes Rule 7(b) (§ 214.7(b)).

(7) seection 440.9(l) of this Part supersedes Rule 7(c) (§ 214.7(c)).

(c) This Part shall not be construed to supersede any of the provisions of any outstanding Federal Trade Commission Cease and Desist Orders. The method for resolving any inconsistencies between this Part and such Cease and Desist Orders shall be by a petition to amend the provisions of such Orders.

(d) By taking action in this area, the Federal Trade Commission does not intend to preempt action in the same area, which is not inconsistent with this Part, by any State, municipal, or other local government. This Part does not annul or diminish any rights or remedies provided to consumers by any State law, municipal ordinance, or other local regulation, insofar as those rights or remedies are equal to or greater than those provided by this Part. In addition, this Part does not supersede those provisions of any State law, municipal ordinance, or other local regulation which impose obligations or liabilities upon sellers, when sellers subject to this Part are not in compliance therewith. This Part does supersede those provisions of any State law, municipal ordinance, or other local regulation which are inconsistent with this Part to the extent that those provisions do not provide a buyer with rights which are equal to or greater than those rights granted a buyer by this Part. This Part also supersedes those provisions of any State law, municipal ordinance, or other local regulation requiring that a buyer be notified of a right which is the same as a right provided by this Part but requiring that a buyer be given notice of this right in a language, form, or manner which is different in any way from that required by this Part. In those instances where any State law, municipal ordinance, or other local regulation contains provisions, some but not all of which are partially or completely superseded by this Part, the provisions or portions of those provisions which have not been superseded retain their full force and effect.

(e) This Part is not intended to supersede any State law, municipal ordinance, or other local regulation which more strictly limits the terminology by which hearing aid sellers may legally refer to themselves.

Statement of Reason for the Proposed Rule

It is the Commission's purpose, in issuing this statement, to set forth its reason for proposing this Trade Regulation Rule with sufficient particularity to allow informed comment. For the purpose of assisting persons interested in commenting on the Proposed Rule, as well as the Commission's deliberations on the Proposed Rule, the Commission invites interested persons to direct their attention to the list of questions that follow this Statement in the section under the heading of "Invitation to Comment on the Proposed Rule." It should be emphasized that this listing of questions is solely intended to focus discussion on areas of importance to the Commission's decision and is not to be construed as a limitation upon the scope, form, or content of permissible comment by interested parties. Nor should these questions be interpreted as designating disputed issues of specific fact. Such designations shall be made by the Commission or its duly authorized presiding official pursuant to the Commission's procedures and rules of practice.

The Commission has reason to believe that many consumers buy hearing aids from which they do not receive any significant benefit or any significant additional benefit if they are current hearing aid users buying a second hearing aid or a "better" hearing aid. The commission has reason to believe that there are several, sometimes interrelated, reasons for this. With perhaps two exceptions,[1] the Commission has reason to believe that prospective hearing aid buyers will not be able to determine whether they will in fact obtain a significant benefit (or a significant additional benefit) from the selected hearing aid without being able to wear that aid in a representative variety of actual use situations. The Commission also has reason to believe that many prospective hearing aid buyers will not be able to determine the relative importance to them of the advantages and limitations of a hearing aid, or the nature of the experience of wearing a hearing aid, without the opportunity of wearing an aid in a representative variety of actual use situations. But it appears that many prospective hearing aid buyers are not given the opportunity to wear the selected hearing aid in a representative variety of actual use situations prior to the purchase of the selected aid. In addition, the Commission has reason to believe that hearing aid consumers are often particularly subject to and the victim of a wide variety of selling abuses. Thus the inherent nature of hearing loss and hearing aids, and the selling abuses to which many hearing aid buyers are subjected, appear to result in many consumers purchasing hearing aids from which they receive no significant benefit (or significant additional benefit).

The "buyer's right to cancel" set forth primarily in § 440.4 of the Proposed Rule, is designed to protect consumers from this result.

The Commission has reason to believe that many hearing aid buyers make their puchases in their homes or places of business at the conclusion of a sales visit that they were not expecting. There are various ways in which "leads" to potential buyers are obtained. The Commission is aware of the argument that such "lead" solicitation activities are necessary because many of those who need help will not initiate the necessary contacts on their own. Unfairness to consumers may easily result from sales presentations of which consumers have had no warning and for which they are frequently unprepared. In the past, the Commission has dealt with this matter by requiring advertisements designed to solicit "leads" to disclose that a salesperson may call on those who respond for the purpose of selling a hearing aid.[2] In an effort to protect consumers and at the same time permit industry members to seek out and work with those who

[1] When a professional expert who is financially independent of any seller (either a physician or an audiologist) performs services which, in the expert's professional opinion, are adequate to determine which patients will in fact obtain a significant benefit (or significant additional benefit) from a specific hearing aid, and when a damaged or worn out hearing aid is being replaced by an identical hearing aid.

[2] Mather Hearing Aid Distributors, 78 F.T.C. 709, 742 (1971) and Mountain States Hearing Service, Inc., 77 F.T.C. 640, 646 (1970).

may need help but will not initiate the necessary contacts, the Commission proposes to utilize the remedy set forth in § 440.7(b) (express written consent prior to sales visits to the home or place of business of a potential buyer) instead of the "salesman may call" remedy utilized in the past.

In addition to providing for a "buyer's right to cancel" and requiring that express written consent be obtained prior to any sales visit to the home or place of business of the potential buyer, the Proposed Rule contains various rule provisions of a more traditional nature. These provisions proscribe various practices and prescribe various disclosures, in order to insure that consumers have accurate and adequate information and in order to eliminate deception in the hearing aid industry.

The Commission has determined that it has reason to believe the above statements on the basis of information compiled by the Commission's staff during an extensive investigation of the hearing aid industry. In the course of this investigation the Commission's staff has received documentary evidence of these practices from and has conducted interviews with consumer representatives of various organizations, consumer interest groups, members and representatives from the hearing aid industry, physicians specializing in diseases of the ear, audiologists, representatives of organizations of hearing health professionals, and officials and staff members of Federal, State and local government agencies. The Commission has not adopted any findings or conclusions of the Commission's staff. All findings in this proceeding shall be based solely on matter in the rulemaking record.

Furthermore, the Commission has for some years undertaken extensive adjudicative efforts in the hearing aid industry. The Commission, having reason to believe that adjudication is inadequate to deal with the consumer protection problems which the Commission has reason to believe exist in the hearing aid industry, undertakes this proposed rulemaking proceeding for the purposes of carrying out the provisions of section 5 of the Federal Trade Commission Act by defining with specificity certain acts or practices which it has reason to believe are unfair or deceptive.

Invitation To Propose Issues of Specific Fact for Consideration in Public Hearings

All interested persons are hereby given notice of opportunity to propose any disputed issues of specific fact, in contrast to legislative fact, which are material and necessary to resolve. The Commission, or its duly authorized presiding official, shall, after reviewing submissions hereunder, identify any such issues in a Notice which will be published in the Federal Register. Such issues shall be considered in accordance with section 18(c) of the Federal Trade Commission Act as amended by Public Law 93-637, and rules promulgated thereunder. Proposals shall be accepted until not later than August 25, 1975, by the Special Assistant Director for Rulemaking, Federal Trade Commission, Washington, D.C. 20580. A proposal should be identified as a "Proposal Identifying Issues of Specific Fact—The Hearing Aid Industry," and when feasible and not burdensome, submitted in five (5) copies. The times and places of public hearings will be set forth in a later Notice which will be published in the Federal Register.

Invitation to Comment on the Proposed Rule

All interested persons are hereby notified that they may also submit to the Special Assistant Director for Rulemaking, Federal Trade Commission, Washington, D.C. 20580, data, views or arguments on any issue of fact, law or policy which may have some bearing upon the proposed rule. Written comments, other than proposals identifying issues of specific fact, will be accepted until ten (10) days before commencement of public hearings, but at least until August 25, 1975. To assure prompt consideration of a comment, it should be identified as a "Hearing Aid Industry Comment," and, when feasible and not burdensome, submitted in five (5) copies.

The data, views, arguments and comments received concerning the Proposed Rule and any issues related thereto, together with the transcript of hearings, will be available for examination during regular business hours in the Commission's Division of Legal and Public Records, Room 130, Federal Trade Commission, Washington, D.C. All such data, views, arguments and comments will be considered by the Commission before final action is taken in this matter.

Comments are invited with respect to any aspect of this proposed rulemaking. Whenever possible, comments should be directed at and should refer to specific sections of the Proposed Rule or to issues related thereto. The Commission invites comment particularly with respect to the following:

(a) Do many consumers buy hearing aids from which they receive no significant benefit (or no significant additional benefit if they are current hearing aid users buying a second hearing aid or a "better" hearing aid)? Are you personally aware of any such situations? If so, please describe them in detail.

(b) Is it necessary for a prospective hearing aid buyer to wear the selected hearing aid in a representative variety of actual use situations before it can be determined whether a significant benefit (or a significant additional benefit) will in fact be received?

(c) Can a prospective hearing aid buyer determine the relative importance *to him* of the advantages and limitations of a hearing aid without wearing the selected hearing aid in a representative variety of actual use situations?

(d) Can a prospective hearing aid buyer determine the nature of the experience of wearing a hearing aid without wearing the selected hearing aid in a representative variety of actual use situations?

(e) Are many hearing aid buyers the victims of selling abuses? What selling abuses? Are you personally aware of any hearing aid selling abuses? Will the "buyer's right to cancel" provided by § 440.4 of the Proposed Rule protect consumers from selling abuses? How? Is there any other consumer protection remedy that will protect consumers from selling abuses as well as the "buyer's right to cancel"?

(f) Should the Proposed Rule exempt sellers from the requirements of § 440.4 when a hearing aid is sold pursuant to a written recommendation of a specific hearing aid, by serial number or by model, made by a physician or an audiologist who is financially independent from the seller, as it does in § 440.4 (i) (1)?

(g) Should the Proposed Rule exempt sellers from the requirements of § 440.4 when a hearing aid is sold to replace a damaged or worn out hearing aid when the hearing aid being sold is identical to the hearing aid it is replacing, as it does in § 440.4 (i) (2)?

(h) Is it reasonable to expect that physicians and audiologists who recommend the purchase of specific hearing aids, by serial number or by model, will look out for the best interests of their patients and protect them from sales abuses, as long as such physicians and audiologists are financially independent from the sellers to whom they refer their patients?

(i) Do the hearing aid seller licensure laws which have been enacted in various States adequately protect consumers from sales abuses, so that the protection provided by the Proposed Rule is not really needed?

(j) Is the "Notice of Buyer's Right to Cancel" required by § 440.4(b) clear and adequate?

(k) Is 30 calendar days from receipt an appropriate period of time in which to expect the buyer to decide whether to cancel?

(l) Is it necessary for § 440.4(g) (1) of the Proposed Rule to set maximum limits on the "cancellation charges" that the seller will be permitted to retain upon cancellation?

(m) Are the "cancellation charges" permitted by § 440.4(g) (1) too high for consumers?

(n) Are the "cancellation charges" permitted by § 440.4(g) (1) high enough to effectively discourage buyers from canceling unless they receive no significant benefit from the selected hearing aid? (Or no significant additional benefit over their old hearing aid if a second hearing aid or a "better" hearing aid is being purchased?) Are they high enough to insure that the buyer will make a good faith effort to adjust to and benefit from the selected hearing aid?

(o) Are the "cancellation charges" permitted by § 440.4(g) (1) too low for sellers?

(p) Should § 440.4(g) (1) (i) be changed to permit only one 30 day rental "cancellation charge" based on the purchase price of only one hearing aid, even

if two hearing aids (one for each ear) are being cancelled, in order to discourage the sale of two hearing aids (one for each ear) when only one (or even none) is appropriate?

(q) Should § 440.4(g)(1)(i) utilize either Alternative 1 or Alternative 2 as the formula for computing the maximum permissible 30 day rental "cancellation charge"? Or should § 440.4(g)(1)(i) utilize a different formula? For example, should the formula be 10 percent of the purchase price (excluding any "cancellation charges" for any custom ear mold or batteries)? Or should it be $30, adjusted annually in accordance with the Consumer Price Index?

(r) What are the uses of hearing aids returned by buyers who exercise their right to cancel?

(s) Should § 440.4(g)(1) be amended to permit the seller to retain a "cancellation charge" in the amount of his actual out-of-pocket cost of having wiring embedded in the frames of eyeglasses for the purpose of conducting a signal between the temples in CROS, BICROS and similar types of hearing aids? What safeguards would be needed to discourage the unnecessary sale of such wiring in eyeglass frames?

(t) Should the "buyer's right to cancel" provided by § 440.4 of the Proposed Rule supersede the FTC's Door-to-Door Sales Rule, in effect since June 7, 1974, which provides buyers with the right to cancel a door-to-door sale of a hearing aid (or any other product) selling for $25.00 or more any time up to midnight of the third business day after the sale and receive a refund of all of the purchase price?

(u) Should the definition of "used hearing aid" in § 440.2(j) be amended to allow hearing aids returned by buyers exercising their rights to cancel under this Part to be resold as new if they are reconditioned by the manufacturer and provided with a "new hearing aid" guarantee? What safeguards would be needed to insure honest compliance with the limits of such an exception in the usual meaning of "used"?

(v) Is the limit on any lease or rental charges for a trial period of no greater than 30 days (provided by § 440.5) necessary in order to protect consumers who might otherwise pay more for a 30-day rental of a hearing aid than they would have forfeited as "cancellation charges" if they had purchased instead of rented?

(w) Is § 440.7(b)'s requirement that prior express written consent be obtained prior to sales visits to the home or place of business of a potential buyer necessary in order to protect consumers? Does § 440.7(b) remove the need for any "lead solicitation" to disclose that those who respond may be visited by a salesperson for the purpose of selling a hearing aid?

(x) Is it necessary in order to protect consumers for sellers to be required to disclose that they are sellers whenever they make any representations to the public?

(y) §§ 440.8(b), 440.8(c), and 440.8(e) limit or prohibit the use of certain terms by sellers. Are these limitations and prohibitions appropriate? Are there other terms whose use by sellers should be limited or prohibited?

(z) In order to protect consumers should § 440.10(a) require all hearing advertisements making performance claims to disclose that many persons with a hearing loss (i.e., potential hearing aid buyers) will not receive any significant benefit from any hearing aid? Should § 440.10(a) be amended to prohibit any representation that hearing aids can help *most* of those who have a hearing problem?

(aa) Should § 440.10 (b) and (c) be changed to require any advertisement which makes any representation that a hearing aid will enable a person with a hearing loss to understand conversation better in noisy (or group) situations to disclose that many of those who can benefit from the use of a hearing aid will still have difficulty understanding conversation in noisy (or group) situations?

(ab) Should the Rule be amended to provide that it would be an unfair act or practice for a hearing aid seller to fail to inform a potential buyer of the existence and role of the physician ear specialist and the audiologist prior to entering into purchase negotiations? If so, what should such a disclosure say? To help focus comment on this matter, the following draft rule provision has been developed:

A seller must make a clear and conspicuous disclosure of the precise statement set forth in paragraph (1) below in the manner set forth in paragraphs (2) and (3) below.

(1) "You should know that there are physicians specializing in diseases of the ear and audiologists who can provide valuable assistance in determining whether you can benefit from a hearing aid."

(2) The disclosure must be made clearly and conspicuously in each advertisement which is directed to consumers and in the written consent for a sales visit required by § 440.7(b).

(3) The disclosure must be made prior to the commencement of face-to-face purchase negotiations, whether or not it has already been made to the particular potential buyer involved through the manner set forth in Paragraph (2) above.

(4) The disclosure need not be made in situations in which State law requires the written authorization of both a physician specializing in problems of the ear and an audiologist before a hearing aid may be sold.

(5) The disclosure need not contain the reference to a physician specializing in diseases of the ear in situations in which State law requires the written authorization of a physician specializing in diseases of the ear before a hearing aid may be sold.

(6) The disclosure need not contain the reference to an audiologist in situations in which State law requires the written authorization of an audiologist before a hearing aid may be sold.

(7) In the event that the Food and Drug Administration requires a label disclosure concerning the advisability of obtaining a medical and/or audiological evaluation prior to the purchase of a hearing aid, hearings will be held by the Federal Trade Commission to determine whether the disclosure set forth in paragraph (1) above should be superseded by such a label disclosure.

(ac) What economic effects can the Proposed Rule be expected to have on small business and consumers?

(ad) How prevalent are the acts or practices set forth in the Statement of Reason for the Rule and what is the manner and context in which such acts or practices may or may not be unfair or deceptive?

Issued: June 24, 1975.

By direction of the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.75-16071 Filed 6-23-75;8:45 am]

federal register

TUESDAY, JUNE 24, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 122

PART III

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

■

MEDICARE

Hospital Compliance with Fire Prevention Requirements

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Regs. No. 5, further amended]

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Subpart J—Conditions of Participation; Hospitals

WAIVER OF LIFE SAFETY CODE PROVISIONS

On September 18, 1974, there was published in the FEDERAL REGISTER (39 FR 33539) a notice of proposed rule making which set forth a proposed amendment to Subpart J of Regulations No. 5 relating to the conditions of participation for hospitals. The proposed amendment provided that the Secretary of Health, Education, and Welfare, rather than the State agency, may waive, as to a particular hospital, specific provisions of the Life Safety Code of the National Fire Protection Association (NEPA) which are applicable to hospitals, but only if such waiver would not adversely affect the health and safety of the hospital's patients. The amendment provided further that hospitals would be required to meet NFPA standards on medical gases and inhalation therapy. These changes would conform the conditions of participation for hospitals to those for skilled nursing facilities (20 CFR 405.1134(a) as published in the FEDERAL REGISTER of January 17, 1974 (39 FR 2247).

Comments from the American Hospital Association, the Catholic Hospital Association, several State hospital associations, a number of individual hospitals, State Health Departments, and the public were received in response to the notice of proposed rule making. The comments received, responses thereto, and changes made in the regulations as proposed are summarized below.

1. The proposed regulation § 405.1022 (b)(1)(iv) stated that hospitals would be required to comply with NFPA Standard No. 56B Use of Inhalation Therapy, (1968) and Standard No. 56F Nonflammable Medical Gas Systems, (1970). Comments received suggested that those commenting thought that the proposed regulation mandated the use of inhalation therapy and nonflammable medical gas system in hospitals. This is not the case. Therefore, the regulation was amended to clarify that the NFPA standards mentioned above are applicable only to the extent that the hospital does in fact provide inhalation therapy or utilize medical gas systems.

2. Several hospitals recommended that the Life Safety Code waiver authority should remain with the State agency and not be delegated to the Secretary. There were also a number of comments in favor of the transfer of waiver authority to the Secretary. The Secretary is retained as the waiver authority in the regulation as adopted because the Secretary has the statutory authority, under section 1861 (e)(9) of the Social Security Act, to establish requirements necessary in the interest of the health and safety of hospital patients, and, under section 1861 (j)(13), to grant waivers for skilled nursing facilities. Since both skilled nursing facilities and hospitals are institutions to which the same chapters of the Life Safety Code apply, it is felt that waivers should be consistently applied to both hospitals and skilled nursing facilities. Furthermore, the Life Safety Code itself specifies that "the authority having jurisdiction" may grant exceptions to specific provisions of the Code. The Life Safety Code defines "the authority having jurisdiction" as the authority adopting and enforcing the code, i.e., the Secretary of Health, Education, and Welfare.

3. Existing regulations in § 405.1022 (b)(1)(iii) require that floor materials and mechanical equipment in anesthetizing areas and storage locations for flammable anesthetics comply with the provisions of NFPA Standard No. 56A, Use of Inhalation Anesthetics. In the Notice of Proposed Rule Making, "anesthetic areas" was substituted for the phrases "anesthetizing areas and storage locations for flammable anesthetics" in the existing § 405.1022(b)(1)(iii) as these two phrases are identical in meaning, and a reference to the 1971 edition of the NFPA Standard was added. Comments received in response to the Notice of Proposed Rule Making indicated that several fire authorities were requiring strict compliance with all provisions of NFPA Standard No. 56A. Since we do not intend that compliance with all provisions of the standard be required, we have clarified the proposed regulation by citing specific references to or quoting from the standard. The requirement that the hospital "* * * has floor materials * * * which comply with the provisions of National Fire Protection Association Standard No. 56A * * *" has been rewritten to require conductive flooring in accordance with section 252 of NFPA 56A. The requirement that the hospital "* * * has mechanical equipment * * * which comply with the provisions of National Fire Protection Association Standard No. 56A" has been altered by quoting from section 2601 of the Standard. However, section 2601 requires the equipotential grounding of operating rooms to minimize the hazard from shock to an individual when touching a person who is being monitored electronically or on whom electronic surgical equipment is being used. It is recognized that there are methods of grounding which can achieve the same level of safety without the high cost of installing an equipotential grounding system. We therefore quoted from section 2601 and omitted the word "equipotential."

4. Other comments received concerned portions of the proposed regulations which were copied from existing regulations. While consideration was given to these comments, they have not been adopted. Some of these comments suggested that the Department adopt the latest edition of the Life Safety Code. The 1967 edition of the Code is a statutory requirement for skilled nursing facilities, and to adopt one edition of the Code for hospitals participating in Medicare and another for skilled nursing facilities participating in Medicare would be incompatible with effective administration of the program.

Accordingly, with these changes and additions, the proposed amendment is hereby adopted and set forth below.

(Secs. 1102, 1861(e)(9), and 1871 of the Social Security Act, 49 Stat. 647, as amended, 79 Stat. 314, as amended, and 79 Stat. 331, 42 U.S.C. 1302, 1395x(e)(9), and 1395hh.)

Effective date: This amendment shall be effective July 24, 1975.

(Catalog of Federal Domestic Assistance Program No. 13.800, Health Insurance for the Aged—Hospital Insurance.)

Dated: May 30, 1975.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: June 19, 1975.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

Regulations No. 5 of the Social Security Administration, as amended (20 CFR Part 405), are further amended as set forth below.

Section 405.1022 is amended by revising paragraph (b) to read as follows:

§ 405.1022 Condition of participation-physical environment

* * * * *

(b) *Standard: Life safety from fire.* The hospital meets such provisions of the Life Safety Code of the National Fire Protection Association (21st Edition, 1967) as are applicable to hospitals; except that, the Secretary may waive, after consideration of State survey agency findings and recommendations, if any, for such periods as deemed appropriate, specific provisions of such Code which, if rigidly applied, would result in unreasonable hardship upon a particular hospital, but only if such waiver will not adversely affect the health and safety of the patients; and except that the provisions of the Life Safety Code applicable to hospitals shall not apply in any State if the Secretary makes a finding that in such State there is in effect a fire and safety code, imposed by State law, which adequately protects patients in hospitals. The factors explaining the standard are as follows:

(1) The hospital meets the Life Safety Code standards as are applicable to hospitals.

(2) The hospital maintains written evidence of regular inspection and approval by State or local fire control agencies.

(3) The hospital is equipped with a grounding system, in conjunction with an isolation transformer in each anesthetizing location, adequate to minimize the difference in potential which can occur between any conductive surfaces that the patient or a person touching the patient can contact. This difference in potential, under conditions of the first

fault between either isolated conductor and ground, shall be less than 5 millivolts. Anesthetizing areas where flammable anesthetics are used, shall have conductive flooring which complies with the provisions of section 252 of the National Fire Protection Association Standard No. 56A, Standard for the Use of Inhalation Anesthetics (1971).

(4) To the extent that inhalation therapy is provided and nonflammable medical gas system, such as oxygen and nitrous oxide are, or have been installed, the hospital complies with the applicable provisions of National Fire Protection Association Standard No. 56B, Standard for the Use of Inhalation Therapy (1968), and National Fire Protection Association Standard No. 56F, Nonflammable Medical Gas Systems (1970).

(5) The hospital has procedures for the proper routine storage and prompt disposal of trash.

(6) Written fire control plans contain provisions for prompt reporting of all fires; extinguishing fires; protection of patients, personnel and guests; evacuation; and cooperation with fire fighting authorities.

[FR Doc.75-16326 Filed 6-23-75;8:45 am]

federal register

TUESDAY, JUNE 24, 1975
WASHINGTON, D.C.
Volume 40 ■ Number 122

PART IV

FEDERAL ELECTION COMMISSION

■

ADVISORY OPINION REQUESTS

FEDERAL ELECTION COMMISSION

[Notice 1975–4]

ADVISORY OPINION REQUESTS

Procedure

The Commission announces that pursuant to section 437(f) of Title 2, United States Code, the processing of Advisory Opinion Requests has commenced as of this date. Advisory Opinion Requests submitted heretofore will be published in the FEDERAL REGISTER and through other outlets. Such publication begins today. Advisory Opinion Requests are assigned an AOR Number (such as AOR 1975–1, published today; FR Doc. 75–16358) reflecting year of publication and sequence. Publication will be either in the form of the original submission or in an edited or paraphrased form, as the Commission deems appropriate. Where Advisory Opinion Requests are published in edited or paraphrased form, any interested person may inspect the original at the Commission.

Interested persons wishing to comment on the subject matter of any Advisory Opinion Request may submit written views with respect to such requests within 10 calendar days of the date of the publication of the request in the FEDERAL REGISTER. Such submission should be sent to the Federal Election Commission, Office of General Counsel, Advisory Opinion Request Section, 1325 K Street N.W., Washington, D.C. 20463. Persons requiring additional time in which to respond to any Advisory Opinion Request will normally be granted such time upon written request to the Commission. All timely comments received by the Commission will be considered by the Commission before it issues an advisory opinion. The Commission recommends that comments on pending Advisory Opinion Requests refer to the specific AOR number of the Request commented upon, and that statutory references be to the United States Code citations, rather than to the Public Law Citations.

Date: June 19, 1975.

THOMAS B. CURTIS,
Chairman, for the Federal Election Commission.

[FR Doc.75–16357 Filed 6–23–75;8:45 am]

[Notice 1975–5; AOR 1975–1—AOR 1975–6]

ADVISORY OPINION REQUESTS

AOR 1975–1: NATIONAL POLITICAL PARTY CONVENTIONS

(The following edited Advisory Opinion Requests were submitted respectively by the Democratic National Committee and the Republican National Committee and are published together under a single Advisory Opinion Request Number with the consent of both requesting parties.)

Dear Commissioners:

Request is hereby made for an advisory opinion of the Commission pursuant to section 437f of Title 2, United States Code.

I. *Facts.* The Democratic and Republican Parties ("Parties") plan to hold a Presidential nominating Convention ("Convention") in the summer of 1976. The arrangements for the Conventions will be handled either by the Parties directly or through an entity, possibly a not-for-profit corporation, created specifically for this purpose. In order to induce the Parties to hold these Conventions in their cities, the local authorities of various cities and states have offered the use of various municipal or state facilities or services in connection with the Conventions either for no charge or at reduced charges.

In addition, as a further inducement for the Conventions to be held in a particular city, local businessmen, including hotels in which persons connected with the Conventions will be housed, have offered to provide various other facilities or services in connection with the Conventions either at no charge or at reduced charges. These facilities or services may be provided either directly or through a local host committee or non-profit corporate entity, Chamber of Commerce, Junior Chamber of Commerce, or similar organization.

These inducements have traditionally been a significant element in the site selection process of the Parties. This site selection process has already commenced for both Parties. The facilities or services offered will include the following, among others:

(1) Use of an Auditorium or Convention Center, construction and Convention related services therein;

(2) Various transportation services, including the provision of buses and automobiles;

(3) Law enforcement services necessary to assure orderly Conventions;

(4) Use of convention bureau personnel to provide central housing and reservation services;

(5) Rooms in hotels for office use and sleeping accommodations for officials and staff connected with the Conventions;

(6) Transportation, accommodations and hospitality for committees of the Parties responsible for choosing the site of the Conventions; and

(7) Other similar Convention related facilities and services.

Further, hotels and other local businessmen, including corporations, may offer to defray a portion of certain expenses incurred in connection with the Coventions. The amount available to defray such expenses may consist, in part, of a portion of the sums paid to the various hotels by registered guests connected with the Conventions, without increasing the normal charge paid by such guests.

We understand that these inducements are similar to those which would be offered to any other organization similarly situated to induce it to hold a Convention of similar size and scope in the particular city.

We further understand that such inducements of goods and services, direct and indirect, historically have been provided to both Parties. Background information on this subject may be found in the studies of the Citizens Research Foundation, No. 14, *The Politics of National Convention Finances* and *Arrangements, and Financing the 1968 Election*, pp. 73–78.

In 1972, expenditures by the Parties for Conventions averaged approximately $1,750,000. The value of goods and services of the type described above is not included in that amount. It would be impossible to place an exact dollar figure on such items, but they are very substantial.

II. *Section 610, Title 18, United States Code.* Section 610 of Title 18, United States Code, provides, in pertinent part, that:

"It is unlawful for any National Bank, or any corporation organized by authority of any law of Congress, * * * or for any corporation whatever, or any labor organization to make a contribution or expenditure in connection with any election at which Presidential and Vice Presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to Congress are to be voted for, or in connection with any primary election or political convention or caucus held to select candidates for any of the foregoing offices, or for any candidate, political committee, or other person to accept or receive any contribution prohibited by this Section."

The terms "contribution" and "expenditure" for purposes of Section 610 are defined in Section 591 of Title 18.

We believe that the transactions described above are at arms-length and do not constitute either contributions or expenditures within the above definitions of such terms. We have found no case decision or opinion interpreting Section 610 holding that transactions such as those described above were within the purview of this provision, nor do we perceive any reason why such transactions should be so prohibited. We do bring to your attention that the Internal Revenue Service ruled in 1955 that a contribution to a committee authorized to induce a national political Convention to the locality in which a taxpayer is engaged in a trade or business is deductible as a business expense, provided such contribution is made with a reasonable expectation of a commensurate financial return. (Rev. Rul. 55–265, 1955–1 CB 22.) We further note that the Department of Justice in an informal opinion dated February 21, 1974, stated under similar circumstances that such inducements were not in violation of Section 610.

It is therefore our opinion that arms-length transactions with the Parties made to attract the Conventions are not within the scope of Section 610.

III. *Section 9008(d)(1), Title 26, United States Code.* Section 9008(d)(1), Title 26, United States Code, provides in pertinent part that the Parties "* * * may not make expenditures with respect to a Presidential nominating Convention which, in the aggregate, exceed the amount of ($2,000,000) * * *" The provision of goods and services as described above whether provided by local government bureaus, individuals or businesses should not be deemed "expenditures" of the Party for purposes of this section. In setting the expenditure limitation, Congress was presumably seeking to limit the amounts actually received and disbursed by the Parties and not to reduce this traditional participation in the Convention by the city, state and businesses which directly benefit from hosting the Convention. By including such items within the term "expenditures" it is conceivable that the particular city and its local businesses are in fact assisted by the Federal funding of Conventions to the extent that they are relieved of such responsibilities.

We are of the opinion, therefore, that the provision of such goods and services as described herewith are not "expenditures" under Section 9008(d)(1).

IV. *Sections 9008 (e) and (g), Title 26, United States Code.* Section 9008(e) provides in effect that payments may be made to the Parties no earlier than July 1, 1975. Section 9006(g) provides in effect that the Parties shall file a registration statement with the Commission providing information similar to that required of other political committees under Section 433(b) of Title 2, United States Code. The Commission is then to establish procedures for determining the entitlement of the Parties to

funds and then to certify said entitlement to the Secretary of the Treasury. Further, the Commission is authorized to examine and audit such entitlements at any time prior to December 31, 1976.

We propose that the Parties submit to the Commission by June 1, 1975, a projection of the cost of the Conventions based on their Convention experience in 1972. Based upon this preliminary projection, the Commission would then certify to the Secretary that each Party was entitled to the sum of $600,000 for payment on or shortly after July 1, 1975, assuming that the Commission satisfies itself as to the accuracy and reliability of the projection. A similar procedure would be followed so that an entitlement would then be certified to the Secretary for a like amount on December 1, 1975, and on May 1, 1976. (We would urge the Commission, in any case, to request of the Secretary that payments be made within 15 days of the Commission's certification.)

During this period of time, the Parties would submit to the Commission such reports, vouchers, invoices, etc., as the Commission may require to support the funds advanced to the Parties.

The certification of the last entitlement, if any, up to the $2,000,000 limitation, would be made as soon as practical within two weeks of the conclusion of the Conventions of the respective Parties and would be based upon actual expenditures made.

We are of the opinion that such a procedure would provide the type of financing required to responsibly manage the Conventions and would, at the same time, meet the Commission's responsibility to discharge its responsibilities under the law."

* * * * *

ROBERT S. STRAUS,
(Chairman, Democratic National Committee, April 21, 1975).

(Addendum of May 15, 1975)

Dear Commissioners:

At a meeting on April 21, Commissioner Aikens had requested additional detail on the types of goods and services we will be negotiating for in the course of our Site Selection process. Subject, of course, to a favorable determination by the Commission on the requests submitted to you on the 21st, the following goods and services are among those that we will be seeking.

I would like to reiterate that these goods and services are commonly offered as an inducement for a convention to be held in a particular city. They are offered either directly or through a local host committee, non-profit corporate entity, Chamber of Commerce, Junior Chamber of Commerce or similar organization. We understand that these inducements are similar to those offered to other organizations to induce them to hold conventions of similar size and scope in their particular city.

Convention Hall. The interior of a hall must be designed to meet the peculiar needs of a Presidential nominating convention. A specially designed podium must be constructed. On both sides of the podium, fixed tables for the press must be built.

The floor of a convention becomes so strung with wires for phones, audio equipment, television and radio that a false floor must be built on top of the normal flooring for the safety of the delegates, alternates and the many others who obtain access to the floor.

Camera platforms for television, newsreels and still photographers have traditionally been built by the parties, including one major central platform and several side platforms for different camera angles.

The seating plan for delegates and alternates is usually specially designed to assure adequate sight lines for them and wide enough aisles for their safety and convenience. In many instances, this type of set up may exceed the normal capabilities of a hall and extra materials and labor may be required.

The lighting for the floor and the podium at most convention halls is inadequate to meet the requirements of color television. Thus, additional lighting equipment must be brought in and installed. Air conditioning facilities in the hall may have to be bolstered to offset the heat generated by this lighting. Electrical power for these facilities, plus additional demands for electrical outlets for other convention equipment, can become a very substantial expense.

As noted by the Chairman at our meeting, all of the major contending cities appear to be prepared to waive all rental charges for the hall during the preparatory period of construction and installation, the days of the convention and a reasonable period thereafter to clear the hall.

Among the additional items that may be sought include, janitorial services after each session of the convention, decorations for the hall, offices within the hall, furnishings, equipment for the offices within the hall, microphones and a loud speaker system and the operation of this audio system.

Among the cities bidding for the conventions, the difficulty and expense of providing these goods and services would vary. For example, we understand that the convention center of one of the contending cities would not require the installation of a false floor due to the wiring system already installed in the hall. There are differences, too, in the source of support for providing these goods and services. In others, a tourist development authority, a Chamber of Commerce committee, or a specially organized non-profit committee may bear the major portion of these costs.

Hotels. Another source of major aid to presidential nominating conventions has come from the hotels that house the guests of the convention and thus benefit directly from the convention. The housing of and office space for convention officials and staff is a major burden of convention operations.

Some staff for the convention customarily establish their office and residence in the convention city as early as January of the convention year. The number of such personnel increases as the months pass. Within two weeks of the start of the convention, the full regular staff of the National Committee, plus special convention staff, move to the convention city.

We would be seeking complimentary and reduced rate rooms from convention city hotels to meet some portion of these needs. This number of complimentary rooms sought would be related to the numbers of rooms actually booked by the convention at the particular hotel, possibly four complimentary room nights for each 100 paid room nights of occupancy.

The hotel which acts as headquarters for the convention would, in addition, be requested to provide office space, free use of its public rooms for meetings, and caucuses and furnishings for these purposes, for example, chairs, tables, microphones, etc.

Miscellaneous goods and services. The Site Selection Committee is a 20-member subcommittee of the National Committee, charged with the responsibility of selecting the site for the convention. They held hearings in early April at which six cities made presentations. The Committee will next travel to a number of these cities at their invitation. The Committee will make an on the scene investigation of the cities' facilities. Among the expenses that these localities may offer to assume are the costs of transporting the Committee, housing and a number of hospitality functions such as luncheons, dinners or receptions attended by local civic leaders.

Because of tight time schedules, widely spread convention hotels and traffic problems that exist in every major city, a special shuttle bus system for delegates, alternates and other convention participants will be sought. It may be a totally free system; a flat fee might be charged to those using the system, at a minimum rate, subsidized from local sources. Further, some of the bids have offered to provide from local sources a limited number of private automobiles for transportation of convention officials.

The National Committee has the responsibility for approving all room reservations in convention hotels. This work load may be relieved to some extent by utilizing staff and facilities of the local convention bureau or hotel association.

Security. The security within the convention hall is the direct responsibility of the National Committees. Security services within the hall have been paid for and managed by the National Committees. There is, of course, close coordination of this work with local law enforcement officials and with the Secret Service which now has certain responsibilities for the Presidential candidates.

Outside the convention hall, the Committees have no direct authority to provide or control security. This is, of course, the responsibility of the duly constituted law enforcement agencies of the city, county and state. Again, however, close coordination with these officials is sought to assure an orderly convention in which the elected delegates and alternates can discharge their duties without interference, yet providing ample opportunity for non-delegates to exercise their First Amendment rights. The effort to assure this delicate balance with such large numbers of interested people involved means that a substantial cost for law enforcement will be incurred by any city that hosts a national convention. In 1972, financial grants from the Law Enforcement Assistance Agency were made to Miami Beach for both conventions. We do not know whether such grants will be available in 1976.

ANDREW J. SHEA,
(Director, Democratic National Convention).

Dear Commissioners:

Pursuant to Section 437f of Title 2, United States Code, it is respectively requested hereby that the Commission issue advisory opinions with regard to the Presidential Nominating Conventions of the respective parties and the following recommendations are made relating to the following subject matters for consideration. The recommended advisory opinions are preceded by a statement of background information briefly describing Presidential Nominating Convention procedures.

Presidential nominating convention procedures. The major political parties, the Democratic and Republican (Parties), traditionally every four (4) years hold Presidential Nominating Conventions (conventions). The next conventions will be held in the summer of 1976. Preparation for such conventions are already underway. The Site Committee hearings are being held and the process of determining the sites for the respective parties is underway presently.

The Site Committees of the respective parties have held hearings and have received proposals from would-be host cities and contemplate visiting certain bidding cities and will make a final determination of the rec-

ommended site to the respective National Committees thereafter for confirmation.

Traditionally the bidding cities, in an effort to encourage and induce the choice of their respective cities as a site for the Convention both directly and through convention and tourist attracting entities offer a variety of services and facilities, some at no charge and some at reduced charges. Such convention and tourist attracting entities in the local community or the state such as the Chamber of Commerce, Junior Chamber of Commerce, local Host Committee, nonprofit corporate entities, organizations of local businessmen including those representing hotels in which Convention officials and personnel will be housed join the cities and states in offering such facilities and services.

In evaluating the respective site bids the Site Committee obviously takes into consideration such facilities and services as an important element in the site selection process. It is generally understood that such goods and services made available both directly and indirectly have historically been offered by the bidding cities and organization tourist attracting entities to the Conventions as a matter of history and precedent.

Examples of such inducing facilities and services offered on behalf of the bidding cities, states and connected entities are free use of auditorium or convention center facilities, and construction of interior platforms and seating arrangements therein; parking and staging areas for personnel and for the media; transportation services including bus transportation for the Convention personnel and attendees as well as automobiles for Convention personnel and V.I.P.'s; law enforcement, ambulance and other needed public services; the loaning to the convention of tourist bureau personnel for housing, reservation and entertainment services; hotel facilities as well as convention hall facilities for office use of officials and staff of the conventions and hotels for sleeping accommodation for such officials; transportation, accommodation and hospitality for the site committees responsible for the selection of the site for the convention and numerous other facilities and services related to the convention.

Relating to such services and facilities supplied free or at reduced cost, it is observed that the 2 million dollar limitation for the conventions, in light of the approximate $1,750,000 average cost for the conventions for 1972 exclusive of such services and facilities and in light of increased costs that have occurred since 1972, unless such contributions of facilities and services are permitted, and not chargeable against the $2,000,000 limit, it is obvious that the limit will be inadequate. In addition, it is assumed that Congress having knowledge of the cost of the prior conventions contemplated that such continuing facilities and services would be permitted because otherwise the figure is unrealistic. In view of these facts and circumstances the following questions are asked and the following suggested opinions are proposed.

I. *Relating to the selection of the convention site.* The Site Committees of the Parties have held hearings and have heard proposals of the would-be host cities and are contemplating visitations to the respective sites under consideration, largely to take place before July 1, 1975, when payments may be received from the Federal Election Commission Fund. Traditionally, the interested cities have borne the cost of visits by the Site Committee members and all activities relating thereto. The remaining operating expenses of Site Committee have been borne by National Committee or other entity established to accomplish the objective of financing the National Convention. The expenses of the Site Committee are a necessary cost of holding a National Convention. It is therefore requested the following interpretations of the applicable statute be made.

Statute involved. 26 U.S.C. 9008(c). "Such (Federal) payments shall be used only—(1) to defray expenses incurred with respect to a Presidential nominating convention * * *"

Suggested opinion. The operating expenses of the site selection committees of the parties are "Convention expenses" within the meaning of 26 U.S.C. 9008(c) and reimbursement may be made to the parties or designated entity, pursuant to 26 U.S.C. 9008(e). However, it is recognized that many activities of the site committee take place in response to bid proposals and that it is customary that the bidder defray certain expenses of the committee relating to site inspections and negotiations relating to the selection of the site and this practice will be permitted to continue without charge against the $2,000,000 limitation under 26 U.S.C. 9008(d)(1) and will not be construed as "contribution" or "expenditure" as defined in 18 U.S.C. 591.

II. *Assistance supplied by the cities, states and tourist attraction entities.* Cities and States and other Governmental entities thereunder seeking a Convention traditionally have supplied directly or indirectly a variety of services, facilities and other means of assistance to the Parties to attract conventions to their city. Included have been services and facilities previously discussed herein. In addition, convention bureaus, Chambers of Commerce, Host Committees, non-profit corporations and similar organizations often provide facilities and services to the conventions as also previously discussed. Such facilities and services are provided equally to both major parties as well as to nonpolitical conventions which the cities, states and local entities wish to attract to their area. In view of this acknowledged historical precedent it is recommended that the Commission consider relating to the statute involved an opinion as follows:

Statute involved. 26 U.S.C. 9008(d) "* * * the national committee of a major party may not make expenditures with respect to a Presidential nominating convention which, in the aggregate, exceed the amount of payments to which such committee is entitled ($2 million)."

Suggested opinion. The cities, states, and other governmental entities of the United States are permitted to provide facilities and services in order to assist the Nominating Conventions of the parties in any manner within their means which has traditionally been supplied for such purposes, including but not limited to the use of Convention halls, convention hall improvement, parking and related facilities, police, fire, health and other public service facilities and services, transportation services, bureau convention personnel, rooms, and hotel and meeting hall facilities for convention staff. Services and facilities provided by public service and nonprofit organizations such as convention bureaus, Chamber of Commerce, Host Committees, nonprofit corporations and similar organizations are permitted to provide facilities, services and personnel to such conventions.

Other inducements, services or facilities that are customarily offered to other organizations seeking a convention site as an inducement to any convention of similar size and scope in a particular city involved, including inducements by hotels, hotel associations, or other local businessmen and/or business oriented associations, tourist attracting entities shall be permitted. Such services, facilities and funds made available to defray costs of the convention heretofore described shall not be considered "expenditures" under 26 U.S.C. 9008(d)(1) and therefore not subject to the $2 million limitation and further they shall not be construed as "expenditures" or "contributions" as defined in 18 U.S.C. 591.

* * * * *

MARY LOUISE SMITH,
Chairman, Republican National Committee (April 22, 1975).

(Addendum of May 9, 1975)

Dear Commissioners:

On April 21, 1975, at the meeting of your Commission, certain members requested responses to questions, suggesting that answers be forthcoming from both major political parties. This, the response of the Republican National Committee (RNC) submitted through Counsel, it is hoped, will be of assistance to the Commission and will result in the earliest possible advice by the Commission to the two major parties relating to convention expenses and reimbursement therefore in that such expenses are presently being undertaken as the result of Site Committee activities.

4. What goods and services are the two major parties likely to receive relating to the 1976 conventions and which of these can be accepted by the parties without being charged against the $2 million limit?

Answer: The RNC submits that the Commission should consider this question in the light of similar goods and services customarily made available to other non-political conventions in the light of the previous experience of both political parties and the intent and purpose of the Federal Election Campaign Act of 1971 as amended. This position was submitted to the Commission by both parties on April 21 and the Commission requested the specifics as related to the goods and services for expenditures contemplated by the two parties relating to the 1976 conventions.

The Democratic National Committee is submitting, after consultation with the RNC, a description of such services and the RNC generally subscribes to that submission as properly descriptive of such goods and services and as an adequate response to the question. * * *

WILLIAM C. CRAMER,
General Counsel.

AOR 1975-2: THE MICHIGAN DEMOCRATIC PARTY (MULTI-CANDIDATE POLITICAL COMMITTEES) (EDITED)

Dear Sirs:

1. It is my understanding that 18 U.S.C. section 608(f) entitles state committees and their subordinate committees to make independent expenditures on behalf of a candidate for federal office in an amount up to $10,000 for a United States House of Representatives candidate and up to $.02 times the VAP for a United States Senate candidate.

In order to meet all of the reporting requirements of the federal law and those of our state laws the Michigan Democratic Party maintains two separate accounts—one for federal elections and one for state elections. My question to the Commission which I seek guidance on is this: Even though the moneys for federal elections are not kept in the official account of the Michigan Democratic Party, can they nevertheless be used to make the types of independent expenditures that are permitted for State Central Committees?

* * * * *

2. Section 608(f)(3) states that "A State committee of a political party, including any subordinate committee of a State committee"

may not make an expenditure with regard to the election of a United States senator in Michigan of more than 2¢ times the VAP or for a United States representative, $10,000. How are we to interpret the phrase "subordinate committee"? Michigan statute establishes in addition to a State Central Committee, 83 county committees and 19 congressional district committees of each major party. There are some interlocking relationships between these organizations and the state committee but these relationships do not extend to our controlling their decisions on the raising or expenditure of campaign funds. Are we required under this act to institute a new system of control such as requesting them to file with us so that we can make a consolidated filing of all of their federal election expenditures or are they to be treated as any other political committee and therefore limited to an expenditure of $1,000 on behalf of any candidate or are both they and the state committee permitted to make separate $10,000 expenditures? If they are not subordinate committees, I would presume the entire expenditure limit cited above would apply to the state committee. Since an interpretation that would require consolidated reports would result in the necessity for a great deal of explanation and re-organization within our party, I would urge a prompt response to this question.

3. Section 432(f)(2) and section 433(e) and section 434(2) all state that a political committee which is not a principal campaign committee "shall not file the required reports or statements with the Federal Election Commission" but instead with the appropriate principal campaign committee. Is there other language in the statute or legislative intent in the conference committee report that would indicate that these sections do not apply to state political party committees? A literal interpretation of this language would seem to indicate that we, as a state party, would have to file a complete statement of all contributions received and all expenditures made with every candidate whom we supported. If your answer to my first request also envisions the state party consolidating the reports of all of our local party committees, I believe you can immediately see the horrendous logistical problems such a requirement would create. It also appears to me the intent of this statutory language was to take care of those political committees who were supporting one candidate but were not the principal campaign committee. Since we support a number of candidates, I do not believe it would be practical to interpret the statute any other way but to have us file directly with your Commission. We will need an answer on this question well in advance of the first date on which we need to file.

4. Section 431(f)(4)(C) excludes from the definition of expenditures, communication by any membership organization to its members. Since we are a membership organization in Michigan and since the state party is not organized primarily for the purpose of influencing the election of any person to federal office, are our expenditures for our newsletter not an expenditure under the scope of the statute?

5. Does Section 437a. require the filing of reports by local political committees who do not receive contributions over $1,000 or make expenditures over $1,000 with regard to federal elections, to still report to the Federal Election Commission any moneys received or expended in a lesser amount which are used to influence the outcome of a federal election? Does the phrase "commits any act directed to the public" mean that such routine activities by a political committee as putting up a poster for a candidate for federal office must be translated into a dollar value and reported to the Commission? In the interest of not subjecting a large number of people to criminal prosecution for innocent actions, I suggest the Commission examine carefully the legislative intent behind this statute and write strict regulations regarding its interpretation.

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MORLEY A. WINOGRAD,
Chairperson.

AOR 1975-3: NATIONAL REPUBLICAN CONGRESSIONAL COMMITTEE (MULTI-CANDIDATE POLITICAL COMMITTEE) (EDITED)

Dear Commissioners:

The National Republican Congressional Committee (hereinafter "NRCC"), a political committee as defined by 2 U.S.C. Section 431(d), hereby requests that the Federal Election Commission (hereinafter "FEC"), issue an advisory opinion pursuant to 2 U.S.C. Section 437(f) as to the legality of the transactions and activities described in this letter.

On the basis of the facts and law set forth in this letter, it is requested that the FEC advise the NRCC, a multi-candidate political committee as defined by 18 U.S.C. Section 608(b)(2), that the following services and property which it provides to Republican Members of the House of Representatives (hereinafter "Member"), are non-campaign in nature and, therefore, do not count against its $5,000 campaign contribution limitation to a candidate in any election (*See* 18 U.S.C. section 608(b)(2)) and also do not apply to the Member's election expenditure limitations. (*See* 18 U.S.C. Section 608(c)(1)(E).) These services are:

1. The NRCC's preparing and printing newsletters, questionnaires and other printed matter to be mailed by Members under the Congressional frank.

2. The NRCC's reprinting of excerpts from the *Congressional Record* to be mailed by Members under the Congressional frank.

3. The NRCC's paying the cost of tabulating responses to questionnaires sent by a Member to his constituents under the Congressional frank including the cost of using a computer for such tabulation.

4. The NRCC's reimbursing a Member for the cost of newsletter paper purchased by the Member from the House of Representatives Stationery Room to be used by the Member in preparing materials to be mailed by the Member under the Congressional frank.

Facts. The NRCC is a political committee as defined in 2 U.S.C. section 431(d) and 18 U.S.C. section 591(d) and also qualifies as a multi-candidate political committee pursuant to 18 U.S.C. section 608(b)(2). The NRCC, which was founded in 1866, has traditionally provided various forms of support to Republican Members of the House of Representatives in connection with their fulfilling their duties as federal officeholders.

The NRCC provides to Republican Members of the House of Representatives a variety of services to assist the Members in fulfilling their duties as federal officeholders and in keeping their constituents informed on matters pending before the House. These services are not directed to a Member's campaign efforts. On the contrary, they permit a Member to provide citizens in his District with accurate and up-to-date information on the important issues in Congress as well as allowing the Member to receive and tabulate the opinions of his constituents on these same issues.

The monetary allowance which a Member receives from the federal government is not sufficient to cover the costs of these non-campaign services. The NRCC has for many years provided a certain percentage of the funds for said services and has furnished certain of these services in kind to Members.

The following services are among those which the NRCC has traditionally supplied to Members for non-campaign purposes:

1. The NRCC's preparing and printing newsletters, questionnaires and other printed matter to be mailed by a Member under the Congressional frank.

2. The NRCC's reprinting of excerpts from the Congressional Record to be mailed by Members under the Congressional frank.

3. The NRCC's paying the cost of tabulating responses to questionnaires sent by a Member to his constituents under the Congressional frank, including the cost of using a computer for such tabulation.

4. The NRCC's reimbursing a Member for the cost of newsletter paper purchased by the Member from the House of Representatives Stationery Room to be used by the Member in preparing materials to be mailed by the Member under the Congressional frank.

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STEVEN STOCKMEYER,
Executive Director, National Republican Congressional Committee.

AOR 1975-4: DEMOCRATIC NATIONAL COMMITTEE (DEMOCRATIC PARTY TELETHON) (EDITED)

Dear Commissioners:

On July 26 and 27, 1975, the Democratic National Committee will sponsor a fund-raising telethon, nationally televised over the ABC Network, for the benefit of the Democratic Party.

The telethon effort has developed over the last several years into a highly successful means of raising revenue to meet the operating costs of the Democratic National Committee and of participating State Committees, revenue which is generated for the most part through small individual contributions.

The arrangements for the production and financing of the telethon contemplate a variety of entities, and require certain transfers of funds, which are not typical of the normal operations of a political committee. We therefore request your cooperation in establishing guidelines for the reporting of the various financial transactions involved, and in responding to certain questions raised by the 1974 amendments to Title 18 of the United States Code.

Telethon production. The actual production of the telethon show will be undertaken by the Democratic Telethon Production Committee (hereinafter "Production Committee"), a not-for-profit corporation organized under the laws of the State of California on May 28, 1975, solely for the purpose of assuming this function as an agent of the Democratic National Committee. The Production Committee will be reimbursed for any expenses which it incurs by the Democratic National Committee out of the gross receipts of the telethon.

Expenses incurred in production are obviously very substantial, and many of these costs must be met before any telethon proceeds, or even any pre-telethon solicitation proceeds, are received. For prior telethons, therefore, the production corporation secured its required "front-end" money through a bank loan, guaranteed by one or two individuals. When the corporation's expenses were reimbursed after the telethon by the Democratic National Committee, the loan was immediately repaid.

An attempt is being made in connection with this year's telethon to raise a portion of the funds necessary for production through pre-telethon dinners or other events. It is

possible, however, that this effort will not generate sufficient funds to meet all production expenses. In that case, the Democratic National Committee may have to secure a bank loan, in an amount sufficient to cover the remaining costs of production. Although the telethons held over the last several years have generated funds substantially in excess of expenses, it is unlikely that a bank would lend any substantial amount for telethon purposes without a personal guarantee.

A question has been raised as to the use of this arrangement in light of the amendments to Title 18 set out in the Federal Election Campaign Act Amendments of 1974. Section 591(e) of that Title provides that the term "contribution" shall include the endorsement of guarantee of a loan, to the extent of the unpaid balance or a proportional amount thereof, when such loan is made "for the purpose of influencing the nomination for election, or election, of any person to Federal office," or for certain other purposes.

We believe that the definition of a "contribution" for purposes of Title 18, which is specifically limited to transactions entered into for the purpose of influencing the outcome of a Federal election, does not apply to a loan guarantee made simply for the purpose of facilitating production of the telethon.

If it becomes necessary for the Democratic National Committee to borrow money in connection with the telethon, the proceeds will be expended only for telethon purposes, and the loan will be repaid out of telethon proceeds. The loan proceeds will not inure to the benefit of any candidate, and no part of the proceeds will be used in connection with any Federal election.

Agreement with participating committees. Preliminary arrangement have been worked out between the Democratic National Committee and participating State Committees as to the division of responsibilities and the distribution of proceeds with respect to the telethon.[1] Under the terms of agreement to be executed by participating State Committees and by the Democratic National Committee, the State Committees assume the responsibility for operating and financing state telephone centers. Costs of telephone installation and rental of space will be reimbursed by the Democratic National Committee. Any other expenses attributable to the operation of telephone centers will be borne by the State Committees.

State Committees are also, under the terms of agreement, responsible for planning and implementing at least one of two proposed pre-telethon programs, designated to encourage advance contributions. One of these options is a pre-telethon telephone solicitation effort. Individuals who are contacted by telephone will be requested to send contributions to the national telethon post office box number rather than to the State Committee. Costs incurred in this connection by State Committees will not be reimbursed by the Democratic National Committee. In lieu of, or in addition to, this program, State Committees may arrange to distribute pre-telethon pledge envelopes throughout the state. Contributions made by individuals using these envelopes will also be directed to the national telethon post office box. The Democratic National Committee will bear the costs of printing such envelopes and delivering them to each State Committee, but costs of distribution within the state will be paid by the State Commitee.

State Committees may also, at their option, hold fund-raising dinners or other events in connection with the telethon. At this time it is anticipated that relatively few states will choose to conduct independent events. The financial arrangements for each event will be agreed upon on an individual basis between the Democratic National Committee and the State Committee. Costs of the event may be paid for by the State Committee or by the Democratic National Committee, and in either case costs may be met out of the proceeds of the event. In at least one instance, the costs of the event are to be borne by one or more individuals, who have undertaken to host the event. The terms of agreement as to distribution of proceds will also vary from state to state. In some cases, pledge cards or envelopes will be distributed at the event, with contributions to be sent directly to the Democratic National Committee. Where this is done, there will usually be no charge, or a minimal charge, for admission to the event. In other cases, the agreement may provide for funds to be raised directly through the sale of admission tickets by the State Committee or by the Democratic National Committee. Where either the State committee or the Democratic National Committee has generated funds through ticket sales, there will generally be a subsequent division of the proceeds under the terms of the agreement.

The Democratic National Committee will provide several full-time regional telethon coordinators to work with State Committees in planning and implementing telethon programs. Each State Committee must assign at least two individuals to work full-time on telethon activities for at least a three-month period. The Democratic National Committee has also assigned several members of its regular staff to work on telethon matters on a full-time or part-time basis.

Telethon proceeds will be divided under a formula set out in the terms of agreement. Gross receipts which are directly attributable to the telethon itself will first be applied to reimburse State Committees for certain expenses relating to the operation of state telephone centers, and for certain other expenditures approved in advance by the Democratic National Committee. One-half of telethon receipts remaining after appropriate reimbursement will then be divided among the participating State Committees, in proportion to the percentage which each state contributed to telethon revenue. The Democratic National Committee will also transfer one-half of the funds attributable to the pre-telethon solicitation effort to participating State Committees, again in proportional amounts.

State telethon arrangements. Within the various states, as noted above, telethon activities will be carried on either by the state central committee, which in those cases would be a registered political committee, or by a separate state telethon committee, which in most cases registered in the course of the 1974 telethon as a political committee. Separate telethon committees are used in those states in which the state central committee itself, by the nature and scope of its activities, is not properly characterized as a political committee. In such cases, the state telethon committee will carry on all telethon-related activities, meet all expenses, and receive the state's share of telethon proceeds, and then will transfer the net proceeds after all obligations have been met to the state central committee.

Because the state telethon committee has no independent revenues, it will in certain cases be necessary for the state central committee to advance funds to the telethon committee to enable it to meet initial expenses. In this connection, the state central committee may itself have to secure a bank loan, and the bank may require that the loan be personally guaranteed by one or more individuals. When the state telethon committee receives its share of telethon proceeds, this loan will be repaid, along with any other outstanding obligations, before the final transfer of net proceeds to the state central committee is made.

The state telethon committee will report all expenditures, receipts and transfers, including the final transfer of net proceeds to the state central committee. In connection with prior telethons, we have received rulings from the supervisory officers that the final transfer from the state telethon committee to the state central committee would not affect the status of the state central committee as a non-reporting committee, assuming that the committee does not otherwise make contributions or expenditures, as defined by 2 U.S.C. 431 (e) and (f), in an aggregate amount exceeding $1,000 during a calendar year.

Request for rulings. The Democratic National Committee and participating State Committees wish to comply fully with all reporting requirements which may be applicable to telethon transactions, and to observe all requirements imposed by Title 18 as amended. Rulings have been issued in prior years by the supervisory officers, setting out explicitly the respective reporting obligations of all committees. Copies of the 1974 telethon ruling request submitted on behalf of the Democratic National Committee, and of the responses of the supervisory officers, are attached. We ask the cooperation of the Commission in providing similar guidelines for the 1975 telethon, and in responding to the questions raised above covering the application of certain provisions of Title 18. In this regard, rulings are respectfully requested that:

(1) The endorsement or guarantee by any individual of all or a portion of any bank loan made to the Democratic National Committee for purposes of financing the production of the telethon will not be treated as a "contribution" as defined in 18 U.S.C. 591 (e)(1). Similarly, the guarantee by any individual of a bank loan made to a state central committee, either for use by the state central committee in financing its own telethon obligations, or to enable the state central committee to advance funds to a state telethon committee, will not constitute a "contribution."

(2) Since the telethon effort, with its division of responsibilities and its ultimate distribution of profits, is in effect a joint venture among the various State Committees of the Democratic party and the Democratic National Committee, the provision of staff support from one committee to another and the general coordinating efforts of the Democratic National Committee will not be treated as "contributions" from one committee to another, for purposes of either Title 2 or Title 18 of the United States Code. As described above, the Democratic National Committee will provide several regional coordinators, whose primary function will be to ensure that State Committees understand and fully meet their obligations under the terms of agreement. The regional coordinators, along with several regular Democratic National Committee staff members, will work with the State Committees in order to maximize the effectiveness of the telethon effort, and to protect the interests of the Democratic National Committee in connection therewith. Staff members employed by the

[1] Within each state, telethon activities will be conducted either by the state central committee or by a separate state telethon committee. The term "State Committee" will be used hereafter to refer to whichever committee within a state is charged with telethon responsibility. Specific reference will be made to the state central committee or the state telethon committee where appropriate.

Democratic National Committee will not, however, assume any of the State Committee's own responsibilities. The operation of telephone centers, the pre-telethon solicitation program, and any other state obligations will be carried on by State Committee staff or by volunteers.

(3) In the case of a state central committee which is not itself a reporting committee, the transfer of net telethon proceeds to such committee by the state telethon committee will not affect the state central committee's non-reporting status, assuming that the committee does not otherwise qualify as a "political committee."

(4) The Production Committee (which, pending issuance of a ruling on this question), has registered with the Commission as a political committee) will not be considered as an independent committee for purposes of the Federal Election Campaign Act, but will rather be treated as an agent or subsidiary of the Democratic National Committee. The Production Committee will keep detailed records of its receipts and disbursements, and the transmission of such records to the Democratic National Committee will be considered a condition for relating to the financial transactions of the Production Committee will be included in the report filed by the Democratic National Committee.

(5) Contributions made as a result of or in connection with the telethon are contributions to the Democratic National Committee. Disclosure of all such contributions and other required information pertaining thereto shall, accordingly, be included in the report filed by the Democratic National Committee. Although the State Committees will not be required to include such contributions in their reports, it is acknowledged that in the case of a contribution which is made payable to a State Committee, and which must then be endorsed and transmitted to the Democratic National Committee, the receipt and transmission must be reflected in the State Committee report. In the case of any individual contribution received by the Democratic National Committee which is earmarked by the contributor for any particular committee or other recipient, the details as to amount and all details regarding the identification of the contributor must be shown in reports of both the Democratic National Committee and the recipient.

(6) In the case of states which have set up separate telethon committees, and in which the state central committee has made an initial advance to the state telethon committee to enable it to me its expenses, this advance will be reflected in the state telethon committee's report as a loan from the state central committee, with a loan repayment in an equal amount. The loan transaction, like the final transfer of net proceeds, will have no effect on the status of the state central committee as a non-reporting committee.

(7) The Democratic National Committee will report as expenditures all expenses incurred by the Production Committee, and will provide all detailed information which is required. The Democratic National Committee will report as an expenditure any reimbursement to a State Committee for approved expenses, and will report as a transfer of funds any payment to a State Committee of its share of telethon proceeds.

(8) Each State Committee will report as expenditures all expenses incurred with respect to the telethon, including expenses which are to be reimbursed by the Democratic National Committee. Each State Committee will report as transfers of funds to it the amount of any reimbursement received from the Democratic National Committee, and the final transfer of the state's share of telethon proceeds.

(9) In the case of a special fund-raising event, the expenses incurred in connection with such event will be reported by the committee which has incurred the expenses, whether this be the State Committee or the Democratic National Committee. When an individual has hosted an event, and has absorbed the costs incurred in connection therewith, the State Committee and the Democratic National Committee will each report receipt of a contribution from that individual. The amount of the contribution reported by each will be percentage of the total costs incurred by the individual which is equal to the percentage of total proceeds which, under the agreement, that committee receives. The State Committee and the Democratic National Committee will each report as contributions all proceeds which they directly receive, whether through use of pledge cards or through ticket sales. Any subsequent transfer of all or a portion of the proceeds of an event, either from the State Committee to the Democratic National Committee, or from the Democratic National Committee to the State Committee, will be reflected as a transfer on reports filed by both.

(10) Although the expenses incurred by the Democratic National Committee and by participating State Committees would appear to be "costs incurred with respect to the solicitation of contributions * * * through broadcasting stations," and thus would not be included within the general fund-raising exception to the definition of "expenditure," these expenses will not be incurred on behalf of clearly identifiable candidates. Thus, these expenses, even if they are technically classified as expenditures under Title 18, will not be counted against the applicable limitation for either contribution or expenditures made by the National Committee or any State Committee with respect to any candidate. [The Conference Report provides in this respect, at page 86, that "nothing in this provision of the conference substitute is intended to require multi-candidate committees to allocate among candidates amounts spent for fund raising activities * * *"]

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SHELDON S. COHEN,
(General Counsel, Democratic National Committee).

AOR 1975-5: CONTRIBUTIONS FOR CAMPAIGN DEBTS INCURRED PRIOR TO DECEMBER 31, 1972 (REQUESTS SUMMARIZED BY THE COMMISSION)

Facts. Candidates who ran for federal office in 1970 and 1971 have outstanding debts remaining from their respective election campaigns. Solely to liquidate these past debts, the former candidates and their campaign committees have been accepting contributions from a variety of legitimate sources. The former candidates and their campaign committees wish to continue accepting such contributions if this is permitted by the Federal Election Campaign Act of 1971 as revised by the Federal Election Campaign Act amendments of 1974 (hereinafter referred to as the "Act").

Source:
William B. Stanley. December 13, 1974.
Taft '71 Committee. May 21, 1975.

Issues. (1) To what extent is the Act applicable to current contributions made solely for repayment of debts stemming from federal election campaigns which ended prior to December 31, 1971?

Source:
William B. Stanley. December 13, 1974.
Taft '71 Committee. May 21, 1975.

(2) If 18 U.S.C. Section 608 is applicable to current contributions made solely for the repayment of debts stemming from a federal election campaign ending prior to December 31, 1972, are these contributions to be reported to the Federal Election Commission as relating to a prior election or should these be included within and counted toward the limitations provided for the next forthcoming federal election campaign?

Source: Taft '71 Committee. May 21, 1975.

(3) If 18 U.S.C. Section 608 is applicable to current contributions made solely for the repayment of debts stemming from a federal election campaign ending prior to December 31, 1972, is a distinction made between contributions by the candidate and his immediate family, and contributions by some other person?

Source:
William B. Stanley. December 13, 1974.
Taft '71 Committee. May 21, 1975.

Sources (A.O.R. 1975-5):

William B. Stanley,
17 Meadow Lane,
Box 1129,
Norwich, Connecticut 06360.

Taft '71 Committtee, through its Attorney, Richard Roberts, c/o Richard Roberts, Esquire, Taft, Stettinius & Hollister, Dixie Terminal Building, Cincinnati, Ohio 45202.

AOR 1975-6: CAMPAIGN DEBTS INCURRED DURING THE PERIOD OF JANUARY 1, 1973 THROUGH DECEMBER 31, 1974, INCLUSIVE (REQUEST SUMMARIZED BY THE COMMISSION)

Facts. Candidates for federal office in 1974 have outstanding debts remaining from their respective campaigns. If there is no conflict with the Federal Election Campaign Act of 1974 as revised by the Federal Election Campaign Act Amendments of 1974 (hereinafter referred to as the "Act"), several different approaches are proposed in order to eliminate the outstanding financial obligation:

(a) Former candidate wishes to personally pay her debts and the debts of her campaign committee.

Source: JoAnn Saunders. Feb. 3, 1975.

(b) Former candidates and their campaign committee wish to accept from other political committees contributions to be used solely to liquidate past campaign debts.

Source:
Republican Congressional Boosters Club. Feb. 5, 1975.
Representative Richard Kelley. May 6, 1975.

(c) Former candidate wishes to cancel a debt owed to him by his campaign committee and, if appropriate, have the debt be treated as a contribution made in 1974. Creditor of a campaign committee wishes to cancel the debt owed him by the committee and treat it as a contribution made in 1974.

Source:
Representative Richardson Preyer. Feb. 10, 1975.
Democrats for Harlan, May 22. 1975.

(d) A campaign committee owed a private survey organization two thousand dollars for 1974 election campaign services. In 1974, a private individual pledged to pay this amount in behalf of the committee, and executed a note in this amount in favor of the survey company. This pledge was duly reported by the committee to the previous supervisory officer in the report covering the last quarter of 1974. However, the survey company did not agree to accept the note in satisfaction of the committee's debt until after January 1, 1975.

Source: Hart for Senate Committee, Apr. 23, 1975.

Issues. (1) Is 18 U.S.C. Section 608 applicable to current contributions made solely to pay debts from a federal election campaign held during the period of January 1, 1973 through December 31, 1974, inclusive?

Source:
JoAnn Saunders, Feb. 3, 1975.
Republican Congressional Boosters Club, Feb. 5, 1975.
Representative Richard Kelley, May 6, 1975.
Representative David Emery Committee, May 14, 1975.
James R. Soles, Apr. 30, 1975.

(2) If 18 U.S.C. Section 608 is applicable to current contributions made solely for the repayment of debts stemming from a federal election campaign held during the period of January 1, 1973 through December 31, 1974, inclusive, are these contributions to be reported to the Federal Election Commission as relating to a prior election or should these be included within and counted toward the limitations provided for the next forthcoming campaign?

Source:
Republican Congressional Boosters Club, February 5, 1975.
Representative Richard Kelly, May 6, 1975.
Representative David Emery Committee, May 14, 1975.

(3) If 18 U.S.C. Section 608 is applicable to current contributions made solely for the repayment of debts incurred during the period January 1, 1973 through December 31, 1974, inclusive, is a distinction made between contributions by the candidate and his immediate family and contributions by some other persons?

Source:
JoAnn Saunders, February 3, 1975.
Republican Congressional Boosters Club, February 5, 1975.
Representative Richard Kelly, May 6, 1975.
Representative David Emery Committee, May 14, 1975.
James R. Soles, April 30, 1975.

(4) Is the 1974 Act applicable in a situation in which (a) a political committee owed a private research group $2,000 for 1974 campaign services, (b) an individual supporter of that political committee executed a promissory note in that amount in favor of the creditor in 1974, (c) the committee acknowledged the note as a pledge which was duly reported in the committee's report covering the last quarter of 1974, (d) but the note is not itself accepted by the creditor in satisfaction of the committee's debt until January 1, 1975?

Source: Hart for Senate Committee, April 23, 1975.

(5) If a creditor of a campaign is willing to cancel a campaign debt incurred during the period of January 1, 1973 through December 31, 1974, inclusive, does the cancellation constitute a personal contribution under 18 U.S.C. Section 608 and should it thus be treated as any other contribution to repay campaign debts?

Source: Representative Richardson Preyer, February 10, 1975.

Sources (A.O.R. 1975-6):

Democrats for Harlan, adopted request by Murray T. Johnson,
c/o Democrats for Harlan,
236 Argyle Avenue,
San Antonio, Texas 72809.
By its Request Dated: May 22, 1975.

Representative David Emery Committee,
c/o Robert N. Pyle,
425 Cannon House Office Building,
Washington, D.C. 20515.
By its Request Dated: May 14, 1975.

Hart for Senate Committee,
c/o Harold A. Haddon, Esquire,
Suite 1130 Capitol Life Center,
16th at Grant Street,
Denver, Colorado 80203.
By its Request Dated: April 23, 1975.

Representative Richard Kelly, adopted request by Representative John J. Rhodes,
c/o Honorable Richard Kelly,
1130 Longworth House Office Building,
Washington, D.C. 20515.
By its Request Dated: May 6, 1975.

Representative Richardson Preyer,
c/o Honorable Richardson Preyer,
403 Cannon House Office Building,
Washington, D.C. 20515.
By its Request Dated: February 10, 1975.

Republican Congressional Boosters Club,
c/o I. Lee Potter, Executive Director,
300 New Jersey Avenue, S.E., Suite 522,
Washington, D.C. 20003.
By its Request Dated: February 5, 1975.

JoAnn Saunders,
2123 Alameda Drive,
Orlando, Florida 32804.
By her Request Dated: February 3, 1975.

James R. Soles,
215 Vassar Drive,
Newark, Delaware 19711.
By His Request Dated: April 30, 1975.

THOMAS B. CURTIS,
Chairman, for the
Federal Election Commission.

JUNE 19, 1975.

[FR Doc.75-16358 Filed 6-23-75;8:45 am]