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THURSDAY, MARCH 3, 1977

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

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

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

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

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

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

Title 7—Agriculture

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

SUBCHAPTER E—WAREHOUSE REGULATIONS

PART 102—GRAIN WAREHOUSES

Recognition of Federal Grain Inspection Service Inspectors and Weighers and Certificates Issued

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that the Agricultural Marketing Service (AMS), pursuant to the authority conferred by section 28 of the U.S. Warehouse Act, as amended, (7 U.S.C. 241 et. seq., hereinafter the "Act") is amending warehouse regulations appearing in Part 102 of Subchapter E of Chapter I in Title 7 of the Code of Federal Regulations to recognize the inspection and weighing services conducted by personnel of the Federal Grain Inspection Service (FGIS) and the official certificates issued by that Service.

Regulations under the U.S. Warehouse Act for grain warehouses require, with certain exceptions, that grain received into and delivered out of a licensed warehouse be inspected, graded and weighed by an inspector and/or weigher licensed under that Act. The regulations currently recognize the authority for inspections under the U.S. Grain Standards Act (7 U.S.C. 71 et. seq.) and the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et. seq.) by providing that persons licensed as inspectors under those two Acts will be licensed under the U.S. Warehouse Act without further show of evidence that they can correctly grade grain in accordance with official or approved standards and without a showing of evidence as to adequacy of inspection facilities.

The U.S. Warehouse Act regulations have never recognized any other authority for weights of grain at licensed warehouses since no other federal act contained authority over weighing at grain warehouses. However, the U.S. Grain Standards Act of 1976, Pub. L. 94-582, which became effective November 20, 1976, contains authority for the regulation of weights as well as for grades of grain at certain grain warehouses, some of which are licensed under the U.S. Warehouse Act. At certain of those facilities coming under the jurisdiction of the amended Grain Standards Act, the FGIS, which administers that Act will use authorized federal personnel to either perform the official weighing or provide direct supervision over weighing activities. Personnel of FGIS will also perform initial or original inspections at certain facilities, which inspections had heretofore been done by persons licensed for that purpose.

While authorized personnel of FGIS will be classified as weighers under the amended Grain Standards Act, as stated above, they may not actually perform the weighing functions, such as operating scales. However, their authority and supervision of such activities will preclude establishment of weights without their authority.

The AMS recognizes the authority of the amended Grain Standards Act over both inspection and weighing when performed or supervised by Federal employees and has determined that such services and the certificates issued thereunder offer adequate protection to depositors of grain and, therefore, meet the requirements, intent, and purposes of the U.S. Warehouse Act in those respects. In view of such recognition, AMS does not deem it necessary to issue licenses under the U.S. Warehouse Act to FGIS authorized inspectors and weighers.

It is anticipated that FGIS will also license inspectors and/or weighers at warehouses not served directly by Federal personnel and such persons will, in turn, continue to be licensed under the U.S. Warehouse Act under terms provided in the regulations. Licenses may also be issued under any condition or situation where it is deemed necessary for purposes of the U.S. Warehouse Act. These actions, in most cases will make it unnecessary to license warehouse personnel at warehouses under direct supervision by FGIS but will not preclude licensing such personnel when considered necessary or desirable.

The amendments now being made to the regulations will not, in any way, relieve any inspector, weigher, sampler, or any other person whether or not licensed under the Warehouse Act, from the provisions of section 30 of the U.S. Warehouse Act which specifies criminal penalties for certain violations of the Act.

Said regulations, therefore, are amended to read:

1. Section 102.2 is amended by revising paragraphs (q) and (r).

§ 102.2 **Terms defined.**

* * * * *

(q) *Inspector.* (1) A person licensed under the provisions of section 11 of the United States Warehouse Act (7 U.S.C. 241 et seq.), or (2) a federal employee authorized under section 8 of the United States Grain Standards Act, as amended, (7 U.S.C. 71 et seq.) or the provisions of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.), to inspect, grade and/or certificate the grade of grain stored or to be stored in a warehouse licensed under the U.S. Warehouse Act (the terms "persons duly licensed to inspect" or "licensed inspector" shall be defined accordingly).

(r) *Weigher.* (1) A person licensed under section 11 of the United States Warehouse Act, (7 U.S.C. 241 et seq.), or (2) a federal employee authorized under section 8 of the United States Grain Standards Act, as amended, (7 U.S.C. 71 et seq.) to weigh and/or certificate the weight of grain stored or to be stored in a warehouse licensed under the U.S. Warehouse Act (the terms "duly licensed to weigh" and "licensed weigher" shall be defined accordingly).

* * * * *

2. Section 102.65 is amended by revising paragraph (b) to read:

§ 102.65 **Inspection certificate; form.**

* * * * *

(b) In lieu of an inspection certificate in the form prescribed in paragraph (a) of this section an official inspection certificate issued pursuant to the provisions of the United States Grain Standards Act, as amended, (7 U.S.C. 71 et seq.) or the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.) on grain which is stored or to be stored in a warehouse licensed under the U.S. Warehouse Act will be acceptable for purposes of the Act and the regulations in this part.

* * * * *

3. The introductory text of § 102.67 is designated as paragraph (a), and the existing paragraphs (a) through (i) are renumbered as subparagraphs (1) through (9) and a new paragraph (b) is added to read as follows:

§ 102.67 **Weight certificate.**

(a) Each weight certificate issued under the act by a weigher shall be in a form approved for the purpose by the Service, and shall embody the following information within its written or printed terms:

(1) The caption "United States Warehouse Act, Grain Weight Certificate."

(2) Whether it is an original, a duplicate, or other copy, and that it is not negotiable.

(3) The name and location of the warehouse in which the grain is or is to be stored.

(4) Whether the grain is weighed into or out of the warehouse.

(5) The date of the certificate,

(6) The consecutive number of the certificate,

(7) The net weight, including dockage, if any, of the grain except as provided in § 102.27(b),

((8) A statement that the certificate is issued by a weigher licensed under the United States Warehouse Act and the regulations thereunder, and

(9) The signature of the weigher.

In addition, the weight certificate may include any other matter not inconsistent with the act or the regulations in this part provided the approval of the Service is first secured.

(b) In lieu of a weight certificate in the form prescribed in paragraph (a) an official weight certificate issued pursuant to the provisions of the United States Grain Standards Act, as amended (7 U.S.C. 71 et seq.) on grain which is stored or to be stored in a warehouse licensed under the U.S. Warehouse Act will be acceptable for purposes of the act and the regulations in this part.

* * * * *

4. Section 102.75 is revised to read:

§ 102.75 Unlicensed inspectors and weighers.

No person shall in any way represent himself to be an inspector or weigher for purposes of the U.S. Warehouse Act unless he holds an unsuspended and unrevoked license or authorization in accordance with the provisions of paragraphs (q) and (r) of § 102.2.

It is hereby 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 these amendments until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in view of the fact that FGIS is presently providing official inspection and weighing services at several locations and expects to be providing such services at a number of other locations in the immediate future. Any delay in implementation of these changes will result in unnecessary duplication of effort in inspection, weighing and the certification of inspection results and weights. Furthermore, these changes do not add additional restrictions to warehouses licensed under the United States Warehouse Act or impose any additional requirements upon users of warehouse services.

This amendment shall become effective March 3, 1977.

Done at Washington, D.C., February 25, 1977.

WILLIAM T. MANLEY,
Acting Administrator.

[FR Doc.77-6334 Filed 3-2-77;8:45 am]

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

[Navel Orange Reg. 403]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

This regulation fixes the quantity of California-Arizona Navel oranges that may be shipped to fresh market during the weekly regulation period March 4–10, 1977. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 907. The quantity of Navel oranges so fixed was arrived at after consideration of the total available supply of Navel oranges, the quantity currently available for market, the fresh market demand for Navel oranges, Navel orange prices, and the relationship of season average returns to the parity price for Navel oranges.

§ 907.703 Navel Orange Regulation 403.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel 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 recommendations and information submitted by the Navel 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 Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the respective quantities of Navel oranges that may be marketed from District 1, District 2, and District 3 during the ensuing week stems from the production and marketing situation confronting the Navel orange industry.

(i) The committee has submitted its recommendation with respect to the quantities of Navel oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Navel oranges has improved compared to a week ago. Prices f.o.b. averaged $3.72 a carton on a reported sales volume of 1,054 carlots last week, compared with $3.76 per carton on sales of 1,137 carlots a week earlier. Track and rolling supplies at 584 cars were down 113 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the respective quantities of Navel oranges which may be handled should be fixed as hereinafter set forth.

(3) 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 regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and 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. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on March 1, 1977.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period March 4, 1977, through March 10, 1977, are hereby fixed as follows:

(i) District 1: 1,053,000 cartons;

(ii) District 2: 247,000 cartons;

(iii) District 3: Unlimited movement.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

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

Dated: March 2, 1977.

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

[FR Doc.77-6617 Filed 3-2-77;11:50 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER H—GENERAL

[FmHA Instruction 440.11]

PART 1901—PROGRAM-RELATED INSTRUCTIONS

Grant-in-Aid Information; Revision

Subpart J of Part 1901 of Chapter XVIII, Title 7, Code of Federal Regulations (41 FR 38157) is revised. This revision clarifies procedures for compliance with Treasury Circular 1082 which requires notification of Grant-in-Aid actions by Federal Agencies to certain State Agencies.

This revision is not published for Proposed Rulemaking because its effect is to provide for FmHA compliance with Treasury Circular 1082 issued by the Department of Treasury.

Accordingly, Subpart J of Part 1901 as revised, reads as follows:

Subpart J—Grant-in Aid Information

Sec.
1901.451 Purpose.
1901.452 Policy.
1901.453 Authorities and responsibilities.
1901.454 [Reserved]
1901.455 Preparation of Standard Form 424.
1901.456 Function of the SCIRA.
1901.457–1901.500 [Reserved]

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

Subpart J—Grant-in-Aid Information

§ 1901.451 Purpose.

This subpart outlines the procedures that the Farmers Home Administration (FmHA) must follow to comply with section 201 of the Inter-Governmental Cooperation Act of 1968 as set forth in the Department of Treasury Circular Number 1082. (This section requires that Federal Agencies administering grant-in-aid programs to State Governments or their political subdivisions must supply to the Governor and the legislature of any State, on the request of either the Governor or the legislature, information on the amounts and purposes of all grants under the program in that State.)

§ 1901.452 Policy.

FmHA will provide the required information to the State Central Information Reception Agency (SCIRA) (an Agency designated by the Governor of a State, in consultation with the legislature, to serve as the central reception point in a State for Federal grant-in-aid information) about loans and grants made under the programs subject to clearinghouse procedures in compliance with OMB Circular A–95. These programs are listed in § 1901.352(a).

§ 1901.453 Authorities and responsibilities.

The State Director, for the loans and grants indicated in § 1901.452, will notify SCIRA using section III of Standard Form 424, "Federal Assistance," within 7 days after approval of an initial or subsequent loan or grant or after a change in the amount or purpose of a loan or grant. One copy of SF 424 will be sent to SCIRA and clearinghouse. However, additional copies may be supplied on request.

§ 1901.454 [Reserved]

§ 1901.455 Preparation of Standard Form 424.

This form will be obtained from the Finance Office, St. Louis, Missouri. Standard Form 424 will be completed in accordance with the instructions on the form and grants or loans indicated in § 1901.452. The date of the application (on Form AD–624, "Application for Federal Assistance (For Construction Programs)," for Water and Waste Disposal and Industrial Development grants, and on Form 625, "Application for Federal Assistance (Short Form)," for Technical Assistance grants will be used as the "application received" date in Item 25 of Standard Form 424. A copy of SF 424 will be sent to SCIRA and the clearinghouse. When they are the same only one copy will be sent. A copy will be retained in the State Office. The copies retained in the State Office will be reviewed in October and April and any significant changes will be reported by an amended SF 424 to SCIRA and the clearinghouse in the same manner as above.

§ 1901.456 Function of the SCIRA.

In each State, this Agency will: (a) Distribute information about FmHA loans and grants available to the State and its political subdivisions provided by the State Director to the Governor, State legislature, and other agencies of the State that the Governor may designate. (b) Make the information available to regional and metropolitan agencies and to local Governments of the State.

§§ 1901.457–1901.500 [Reserved]

Effective date: March 3, 1977.

Dated: February 18, 1977.

F. W. NAYLOR, Jr.,
Acting Administrator, Farmers Home Administration.

[FR Doc.77-6465 Filed 3-2-77;8:45 am]

SUBCHAPTER N—OTHER LOAN PROGRAMS

[FmHA Instruction 1980–E]

PART 1980—GUARANTEED LOAN PROGRAMS

Subpart E—Business and Industrial Loan Programs

REVISION

On October 29, 1976, in the FEDERAL REGISTER (41 FR 47462) there was established under Chapter XVIII, Title 7, Code of Federal Regulations, Subchapter N, "Other Loan Programs, Part 1980, Guaranteed Loan Programs," a new Subpart A—General. This Subpart contains materials and forms that are common to the Guaranteed Loan Programs—Subparts B through E, of which Subpart E, "Business and Industrial Loan Program," was published at 40 FR 57643 and amended at 41 FR 11807, 41 FR 20886, 41 FR 39005, and 41 FR 43390.

As revised, Subpart E will contain only specific provisions pertaining to the Business and Industrial Loan Program. Provisions common to other Guaranteed Programs are transferred to Subpart A. Additional administrative provisions have been added to Subpart E to more effectively administer the Business and Industrial Loan program and are identified below. Since this revision does not materially change the originally published regulation, as amended, and the administrative provisions are merely procedural in nature, affecting only internal administration of the program, and both the loan applicants and lenders are not additionally burdened, notice and public procedure thereon, are unnecessary. However, any comments pertaining to this revision may be submitted to the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, South Building, Washington, D.C. 20250, on or before April 4, 1977. Until such time as further changes are made on the basis of comments received, or otherwise, this revision shall remain in effect. The specific changes are as follows:

1. All common material and Forms FmHA 449–34, "Loan Note Guarantee;" 449–35, "Lender's Agreement;" and 449–36, "Assignment Guarantee Agreement," have been deleted and transferred to 1980–A.

2. Section 1980.423 has been revised to add a provision to allow loans made by the Bank for Cooperatives, Federal Land Banks and Production Credit Associations at interest rates based on their administrative and borrowing costs, to be eligible for guarantees.

3. Section 1980.441 has been revised to add a new Administrative Section which deals with new business ventures involved in unproven products, services, or markets.

4. Section 1980.454, Administrative Sections A and B have been revised to correct a cross-reference and to change the term "pre-closing audit" to "pre-guarantee audit."

5. Section 1980.461 has been revised to cross-reference issuance of Lender's Agreements, loan note guarantees and assignment guarantee agreement to appropriate section in Subpart A.

6. Section 1980.469, Administrative Section B2 has been revised to clarify procedures on receiving financial statements and Section E has been revised to authorize the State Director to handle certain provisions of loan servicing.

7. Appendix A has been revised to delete the "Memorandum of Understanding between Small Business Administration and Farmers Home Administra-

tion." Form 449-1, "Application for Loan and Guarantee" has been added as Appendix A.

AUTHORITY: 7 U.S.C. 1989; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.

Accordingly, Subpart E of Part 1980 as revised is set forth below.

Sec.

1980.401 Introduction.
1980.402 Definitions.
1980.403 Citizenship of applicants.
1980.404 [Reserved].
1980.405 Rural area determinations.
1980.406–1980.410 [Reserved].
1980.411 Loan purposes.
1980.412 Ineligible loan purposes.
1980.413 Transactions which will not be guaranteed.
1980.414–1980.418 [Reserved].
1980.419 Eligible lenders.
1980.420–1980.422 [Reserved].
1980.423 Interest rates.
1980.424 Terms of loan repayment.
1980.425 Availability of credit from other sources.
1980.426–1980.431 [Reserved].
1980.432 Environmental impact assessments and statements.
1980.433 Flood or mudslide hazard area precautions.
1980.434 Equal opportunity and nondiscrimination requirements.
1980.435–1980.440 [Reserved].
1980.441 Applicant equity requirements.
1980.442 Feasibility studies.
1980.443 Collateral, personal and corporate guarantees, and other requirements.
1980.444 Appraisal of property serving as collateral.
1980.445–1980.450 [Reserved].
1980.451 Filing and processing applications.
1980.452 FmHA evaluation of application.
1980.453 Review of requirements.
1980.454 Conditions precedent to issuance of loan note guarantee.
1980.455–1980.460 [Reserved]
1980.461 Issuance of lender's agreement, loan note guarantee and assignment guarantee agreement.
1980.462–1980.468 [Reserved]
1980.469 Loan servicing.
1980.470 Defaults by borrower.
1980.471 Liquidation.
1980.472 Protective advances.
1980.473 Additional loans or advances.
1980.474–1980.475 [Reserved]
1980.476 Transfer and assumptions.
1980.477–1980.480 [Reserved]
1980.481 Insured loans.
1980.482–1980.487 [Reserved]
1980.488 Guaranteed industrial development bond issues.
1980.489–1980.494 [Reserved]
1980.495 FmHA Forms.
1980.496–1980.500 [Reserved]
Appendix A—Form FmHA 449-1, "Application for Loan and Guarantee."

AUTHORITY: 7 U.S.C. 1989; Order of Secretary of Agriculture, 7 CFR 2.23; Order of Assistant Secretary of Agriculture for Rural Development, 7 CFR 2.70.

NOTE.—This Subpart supplements the provisions of Subpart A of the regulations with respect to loans guaranteed by the Farmers Home Administration (FmHA).

§ 1980.401 Introduction.

(a) This subpart supplemented by Subpart A of this Part, contains regulations for Business and Industrial (B&I) loans guaranteed or insured by the Farmers Home Administration (FmHA), and applies to lenders, holders, borrowers, and other parties involved in making, guaranteeing, insuring, holding, servicing, or liquidating such loans.

(b) The purpose of the B&I program is to improve, develop, or finance business, industry, and employment and improve the economic and environmental climate in rural communities, including pollution abatement and control. This purpose is achieved through bolstering the existing private credit structure through guarantee of quality loans which will provide lasting community benefits. It is not intended that the guarantee authority be used for marginal or substandard loans or to "bail out" lenders having such loans.

(c) The B&I loan program, like other FmHA programs, is administered by the Administrator through a State Director, serving each State through a District Director to the County Supervisor. The County Supervisor is the focal point for the program and the local contact person for processing and servicing activities; although this Subpart refers in various places to the duties and responsibilities of other FmHA employees.

(d) Throughout this regulation there appear Administrative provisions for the State Director, District Director, and County Supervisor. These provisions establish the internal duties, responsibilities and procedures to carry out the requirements of the program. These provisions are identified as "Administrative" and follow appropriate sections of this Subpart.

§ 1980.402 Definitions.

The following general definitions are applicable to the terms used in this subpart. Additional definitions may be found in Subpart A, § 1980.6.

(a) *Applicant (for loan).* An applicant may be a cooperative, corporation, partnership, trust, or other legal entity organized and operated on a profit or nonprofit basis; an Indian Tribe on a Federal or State reservation or other Federally recognized tribal group; a municipality, county, or other political subdivision of a State; or an individual. Such applicant must be engaged in or proposing to engage in improving, developing, or financing business, industry, and employment and improving the economic and environmental climate in rural areas, including pollution abatement and control.

(b) *Community facilities.* For the purpose of this Subpart, community facilities are those facilities designed to aid in the development of private business and industry in rural areas. Such facilities include, but are not limited to, acquisition and site preparation of land for industrial sites (but not for improvements erected thereon), access streets and road serving the site, parking areas, extension or improvement of community transportation system serving the site, and utility extensions all incidental to site preparation. Projects eligible for assistance under Subpart A of Part 1823 of this Chapter (FmHA Instructions 442.1) are not eligible for assistance under this Subpart.

(c) *Development cost.* These costs include, but are not limited to, those for acquisition, planning, construction, repair, or enlargement of the proposed facility; purchase or buildings, machinery, equipment, land easements, rights-of-way; payment of start-up operating costs, and interest during the period before the first principal payment becomes due, including interest on interim financing.

(d) *Letter of conditions.* Letter issued by FmHA to a borrower setting forth the conditions under which FmHA will make a direct (insured) loan from the Rural Development Insurance Fund.

(e) *Public body.* A municipality, political subdivision, public authority, district, or similar organization.

(f) *Rural area.* Includes all territory of a State, the Commonwealth of Puerto Rico, or the Virgin Islands that is not within the outer boundary of any city having a population of fifty thousand or more and its immediately adjacent urbanized and urbanizing area with a population density of more than one hundred persons per square mile, as determined by the Secretary of Agriculture according to the latest decennial census of the United States.

(g) *State.* Any of the fifty States, Puerto Rico, or the Virgin Islands.

(h) *Working capital.* The excess of current assets over current liabilities. It identifies the relatively liquid portion of total enterprise capital which constitutes a margin or buffer for meeting obligations within the ordinary operating cycle of the business.

§ 1980.403 Citizenship of applicants.

Loans to individuals will be made or guaranteed only to those who are citizens of the United States or reside in the United States after being legally admitted for permanent residence. At least 51 percent of the outstanding interest in any corporation or organization-type applicant must be owned by those who are either citizens of the United States or reside in the United States after being legally admitted for permanent residence.

§ 1980.404 [Reserved]

§ 1980.405 Rural area determinations.

FmHA will determine if any area is rural for purposes of the Guarantee or Insured loan program. The following will be used by FmHA in making area eligibility determinations when it is not clear from the geographical location of the applicant:

(a) Urbanized area immediately adjacent to a city having a population of 50,000 or more: an urbanized area immediately adjacent to a city having a population of 50,000 or more is an area constituting for general social and economic purposes a single community having a boundary contiguous with that of the city. Such community may be in-

corporated or unincorporated and will extend from the contiguous boundary(ies) to the recognizable open country less densely settled areas, or natural boundaries such as forests or water. Minor open spaces such as airports, industrial sites, recreational facilities or public parks will be disregarded. Outer boundaries of an incorporated community will extend at least to its legal boundaries. Cities which may have a contiguous border with another city but are located across a river from such city and recognized as a separate community and are not otherwise considered a part of an urbanized or urbanizing area as defined in this section are not in a nonrural area.

(b) Urbanizing area: An urbanizing area is one defined as a community which is not now or within the foreseeable future not likely to be clearly separate from and independent of a city of 50,000 or more population and its immediately adjacent urbanized areas. A community will be considered as "separate from" when it is separated from the city and its immediately adjacent urbanized area by open country, less densely settled areas, or natural barriers such as forests or water. Minor open spaces such as airports, industrial sites, recreational facilities or public parks will be disregarded. A community will be considered as "independent of" when its social and economic structure (e.g., government; educational, health, and recreational facilities; business, industry, tax base, and employment opportunities) is not primarily dependent on the city and its immediately adjacent urbanized area.

(c) The State Director will proceed as follows in rural area determinations: When the FmHA State Director determines an area to be urbanizing, he must then determine the population density per square mile. If the area appears to be eligible, the State Director will request the National Office to provide him with the correct density figure. All such density determinations will be made on the basis of minor civil divisions or census county divisions as used by the Bureau of the Census. In making the density calculations, there will be excluded large nonresidential tracts devoted to urban land uses such as railroad yards, airports, industrial sites, parks, golf courses, and cemeteries or land set aside for such purposes.

§§ 1980.406–1980.410 [Reserved]

§ 1980.411 Loan purposes.

Loans to borrowers with facilities located in both urban and rural areas will be limited to the amount necessary to finance the facility located in the eligible rural area.

(a) *Private entrepreneurs.* Loans may be for improving, developing, or financing business, industry, and employment and improving the economic and environmental climate, including pollution and abatement control, of rural areas, and may include but not be limited to:

(1) Business and industrial acquisitions, construction, conversion, enlargement, repair, modernization, or development cost.

(2) Purchasing and development of land, easements, rights-of-way, buildings, facilities, leases, or materials.

(3) Purchasing of equipment, leasehold improvements, machinery or supplies.

(4) Pollution control and abatement including those in connection with farming and ranching operations.

(5) Transportation services incidental to industrial development.

(6) Start-up costs and working capital.

(7) The financing of housing development sites located in open country or cities, towns or villages with populations not in excess of those eligible for FmHA Rural Housing Loans, provided the community demonstrates a need for additional housing to prevent a loss of jobs in the area, or to house families moving to the area as a result of new employment opportunities.

(8) Loans for processing or marketing facilities, hatcheries, commercial nurseries and integrated poultry operations. This does not include loans for agricultural production; however, applicants who are in the business of processing, marketing, or packaging as well as agricultural production, may be eligible for loan assistance for that portion of the business other than agricultural production, provided the agricultural production aspect is separate from the rest of the business; i.e., the production aspects are handled through separate legal business entities or through maintenance of the accounting system in such manner as to clearly identify the use of and future accounting of the loan proceeds and operation of the business.

(9) Commercial custom feedlot operations. As used herein, commercial custom feedlot operations mean those lots primarily feeding, on a custom basis, livestock which belongs to other than the feedlot owner-operator. This would not preclude assistance to those borrowers whose principals or members are farmers and ranchers whose individually owned livestock may be custom fed at the lot: provided, such principals' or members' personal financial conditions are not likely to adversely affect the financial success of the custom operation. In those cases where feedlot operators buy and feed for themselves, records and accounts of such operations shall be maintained in such manner that they may be identified separately from the custom feeding operation, and loan agreements and security instruments will specify that any losses incurred in the owner-operator operation will not be chargeable to the custom feeding operations.

(10) Interest (including interest on interim financing) during the period before the first principal payment becomes due or the facility becomes income producing, whichever occurs first.

(11) Feasibility studies.

(12) Refinancing debts in connection with sound projects when it is determined by FmHA that it is necessary to help stabilize the economic base of the rural area and increase or maintain employment.

(13) Reasonable costs, including legal fees, incurred for services rendered by accountants, appraisers, architects, engineers, consultants, and other parties for services in connection with preparation of the loan applications, making the loan, developing the project, and verification of proper project completion. FmHA will determine what is reasonable.

(14) Lender's fees and charges including those for preparation and assembly of applications provided they do not exceed those customarily charged all borrowers in similar circumstances in the ordinary course of business and for the FmHA guarantee fee.

(15) Acquisition of membership and/or stocks, bonds or debentures necessary to obtain a loan from Production Credit Associations, Banks for Cooperatives, Small Business Investment Companies, and other lenders; provided such acquisition is required of all their borrowers. However, a Lender which requires membership fees in such organization or the purchase of securities issued by such organization will not use such proceeds to acquire, lease or improve property which does not benefit its members.

(b) *Public bodies.* See §§ 1980.481 and 1980.488.

§ 1980.412 Ineligible loan purposes.

Loans may not be made or guaranteed if the funds are used: (a) To pay off a creditor in excess of the value of the collateral.

(b) For distribution or payment to the owner, partners, shareholders, or beneficiaries of the applicant or members of their families when such persons will retain any portion of their equity in the business.

(c) For any project that is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by the operation of the applicant. This limitation will not prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary of such entity if the expansion will not result in an increase in the unemployment in the area of original location or in any other area where such entity conducts business operations unless there is reason to believe that such expansion is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

(d) For any project which is calculated to or is likely to result in an increase in the production of goods, materials or commodities, or the availability of services or facilities in the area when there is not sufficient demand for such goods, materials, commodities, services or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon

existing competitive enterprises in the area.

(e) For agricultural production.

(f) For the transfer of ownership of a business unless the loan will keep the business from closing, or prevent the loss of employment opportunities in the area, or provide expanded job opportunities.

§ 1980.413 Transactions which will not be guaranteed.

The following transactions will not be guaranteed by FmHA: (a) The guarantee of lease payments.

(b) The guarantee of loans made by other Federal agencies. This does not preclude the guaranteeing of loans by the Bank for Cooperatives, Federal Land Bank, or Production Credit Association.

§§ 1980.414–1980.418 [Reserved]

§ 1980.419 Eligible lenders. [See Subpart A, § 1980.13.]

ADMINISTRATIVE

Par. (a) of Subpart A, § 1980.13 requires National Office approval for any variations.

Par. (b)(2), (h) of Subpart A, § 1980.13, State Director submits information to National Office with his recommendations.

§§ 1980.420–1980.422 [Reserved]

§ 1980.423 Interest rates.

(a) *Guaranteed loans.* Rates will be negotiated between the lender and the borrower. They may be fixed or variable as long as they are legal.

(1) A variable interest rate must be a rate that is tied to a base rate published periodically in a financial publication specifically agreed to by the lender and borrower. It must rise and fall with the selected base rate and changes can be made no more often than quarterly. There will be no floor or ceiling on variable interest rates.

(2) Under a Memorandum of Understanding between FmHA and the Farm Credit Administration dated September 25, 1974 the interest rate on loans made by the Bank for Cooperatives, Federal Land Banks and Production Credit Associations may be a variable rate based on their administrative and borrowing costs.

(3) Any change in the interest rate between the date of issuance of the Form FmHA 449–14 and before the issuance of the Loan Note Guarantee must be approved by the State Director. Approval of such change will be shown on an amendment to Form FmHA 449–14.

(4) It is permissible to have one interest rate on the guaranteed portion of the loan and another interest rate on the unguaranteed portion of the loan, provided the Lender and borrower agree and:

(i) The rate on the unguaranteed portion does not exceed that currently being charged on loans of similar size and purpose for borrowers under similar circumstances.

(ii) The rate on the guaranteed portion of the loan will not exceed the rate on the unguaranteed portion.

(5) When multi-rates are used the Lender will provide FmHA with the overall effective interest rate for the entire loan.

(b) *Insured loans.* (1) Loans for other than those in paragraph (b)(2) of this section will bear interest at a rate prescribed by FmHA, and will be announced periodically. The interest rate for insured loans will be the rate in effect at the time the loan is approved or at the time the loan is closed, whichever rate is lower.

(2) Loans to public bodies, nonprofit associations, and Indian Tribes used to finance community facilities will bear interest at the rate of five percent (5%) per annum.

§ 1980.424 Terms of loan repayment.

(a) Principal and interest on the loan will be due and payable as provided in the promissory note. The Lender will structure repayments as established in the loan agreement between the Lender and borrower. Ordinarily, such installments will be scheduled for payment as agreed upon by the Lender and applicant but on terms that reasonably assure repayment of the loan. However, the first installment to include a repayment of principal may be scheduled for payment after the project is operable and has begun to generate income, but such installment will be due and payable within three years from the date of the promissory note and at least annually thereafter. Interest will be due at least annually from the date of the note. Ordinarily, monthly payments will be expected, except for seasonal-type businesses.

(b) The maximum time allowable for final maturity for an FmHA guaranteed B&I loan will be limited to thirty (30) years for land, buildings, and permanent fixtures; the usable life of the machinery and equipment purchased with loan funds, but not to exceed fifteen (15) years; and seven (7) years for the working capital portion of the loan. The term for a loan that is being refinanced may be based on the collateral the Lender will take to secure the loan.

(c) The maximum time allowable for final maturity of an FmHA insured loan for community facilities will not exceed 40 years.

§ 1980.425 Availability of credit from other sources.

(a) Inability to obtain credit elsewhere is not a requirement for guaranteed assistance under this subpart.

(b) To be eligible for an insured loan under this subpart, the applicant must be unable to obtain the required credit from private or cooperative sources at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near the applicant's location(s) for loans for similar purposes and period of time. The applicant's inability to obtain such credit elsewhere will be determined in accordance with Part 1823 of this Chapter (FmHA Instruction 442.1).

§§ 1980.426–1980.431 [Reserved]

§ 1980.432 Environmental impact assessments and statements. [See Subpart A, § 1980.40.]

ADMINISTRATIVE

State director will review Form FmHA 449–10, "Applicants Environmental Impact Evaluation," submitted by the applicant and a Form FmHA 440–46, "Environmental Impact Assessment," prepared by the County Supervisor or State Director Designee. The State Director will indicate his decision in the Form FmHA 440–46. If the State Director determines that an EIS is required, he will notify the applicant and lender in writing.

§ 1980.433 Flood or mudslide hazard area precautions. [See Subpart A, § 1980.42.]

ADMINISTRATIVE

The State Director is responsible for determining if a project is located in a special flood or mudslide hazard area. Refer to Subpart B of Part 1806 of this Chapter [FmHA Instruction 426.2].

§ 1980.434 Equal opportunity and nondiscrimination requirements. [See Subpart A, § 1980.41.]

ADMINISTRATIVE

The State Director will assure that equal opportunity and nondiscrimination requirements are met. If there is indication of noncompliance with these requirements, such facts will be reported by the borrower, Lender or County Supervisor in writing to the State Director for remedial action.

Should the State Director need assistance in handling any compliants of noncompliance, he will request assistance from the National Office.

§§ 1980.435–1980.440 [Reserved]

§ 1980.441 Applicant equity requirements.

The applicant will be required to contribute sufficient tangible assets on both guaranteed and insured loans to provide reasonable assurance of a successful project. Normally, a minimum of 10 percent equity will be required on the applicant's balance sheet, at the time of loan closing for insured loans and at the time when the Loan Note Guarantee is issued for guaranteed loans. However, FmHA may require more equity depending on all other credit factors present in the particular project. Ordinarily, more than the minimum amount of equity will be required for new business ventures.

ADMINISTRATIVE

The State Director will be selective in approving loan applicants for new business ventures involved in unproven products, services, or markets. Should such businesses be considered by the State Director, feasibility studies as outlined in § 1980.442, and additional equity will usually be required.

§ 1980.442 Feasibility studies.

FmHA may require an applicant to provide a feasibility study prepared by an independent recognized consultant. The cost of such study will be borne by the applicant and may be paid from funds included in the loan. On loans of one million dollars or more, feasibility studies by recognized independent consultants will ordinarily be required. FmHA may waive this requirement when the financial history of the business, the current financial

condition and guarantees or other collateral is more than adequate to indicate the feasibility of the enterprise. The feasibility study outlined will be approved by FmHA. FmHA personnel may not recommend consultants but may provide the applicant with a list of consultants who have performed satisfactorily on previous projects. An acceptable feasibility study should include but not be limited to:

(a) *Economic feasibility.* Information related to the project site, availability of trained or trainable labor, utilities, rail, air and road service to the site, and the overall economic impact of the project.

(b) *Market feasibility.* Information on the sales organization and management, nature and extent of market and market area, marketing plans for sale of projected output, extent of competition and commitments from customers or brokers.

(c) *Technical feasibility.* An engineering evaluation of the site, type of construction, adequacy of the plant machinery and equipment, operating and maintenance program to produce the projected quantity, and quality of goods, facility layout, and overall business operations.

(d) *Financial feasibility.* An opinion on the reliability of the financial projections and the ability of the business to achieve the projected income and cash flow. An assessment of the cost accounting system, the availability of short term credit for seasonal business and the adequacy of raw material and supplies.

(e) *Management feasibility.* Evidence that continuity and adequacy of management has been evaluated and documented as being satisfactory.

§ 1980.443 Collateral, personal and corporate guarantees, and other requirements.

(a) *Collateral.* (1) The Lender is responsible for seeing that proper and adequate collateral is obtained and maintained in existence and of record to protect the interest of the lender, the holder, and FmHA.

(2) Collateral must be of such a nature that repayment of the loan is reasonably assured when considered with the integrity and ability of project management, soundness of the project, and applicant's prospective earnings. Collateral may include, but is not limited to the following: land, buildings, machinery, equipment, furniture, fixtures, inventory, accounts receivable, cash or special cash collateral accounts, marketable securities, and cash surrender value of life insurance. Collateral may also include assignments of leases or leasehold interest, revenues, patents, and copyrights.

(3) All collateral must secure the entire loan. The Lender will not take separate collateral to secure only that portion of the loan or loss not covered by the guarantee. The Lender will not require compensating balances or certificates of deposit as a means of eliminating the lender's exposure on the unguaranteed portion of the loan. However, compensating balances as used in the ordinary course of business may be used.

(b) *Personal and corporate guarantees.* (1) Personal guarantees from major stockholders or owners having a major interest in a corporation and all partners of partnerships usually will be required. Guarantees of parent, subsidiaries, or affiliated companies may also be required. Guarantees will be required in sufficient amounts depending on the credit factors in each loan to reasonably assure repayment of the loan and provide adequate security.

(2) The requirement for personal guarantees or corporate guarantees may be waived by FmHA if the proposed guarantors cannot provide such guarantee due to other existing contractual obligations or legal restrictions. For those applicants providing documented evidence of successful operations for the past three years, guarantees will be obtained as determined by FmHA.

(3) If a review of all credit factors indicates the need for additional security, FmHA may require additional personal and corporate guarantees. FmHA also may require that such guarantees be secured. Any collateral as referred to in paragraph (a)(2) of this section may be used to secure the guarantees.

(4) *Guarantors of applicants will:* (i) In the case of personal guarantees, provide current financial statements (not over 60 days old at time of filing), signed by the guarantors and disclose community or homestead property.

(ii) In the case of corporate guarantees, provide current financial statements (not over 90 days old at a time of filing), certified by an officer of the corporation.

(iii) Provide written evidence to FmHA of their inability to provide a guarantee because of existing contractual arrangements or legal restrictions.

(c) *Other requirements.* (1) The Lender will ascertain that no claims or liens or laborers, material men, contractors, subcontractors, suppliers of machinery and equipment or other parties are against the collateral of the borrower, and that no suits are pending or threatened that would adversely affect the collateral of the borrower when the security instruments are filed.

(2) Hazard insurance with a standard mortgage clause naming the Lender as beneficiary will be required on every loan in an amount that is at least the lesser of the depreciated replacement value of the property being insured or the amount of the loan. Hazard insurance includes fire, windstorm, lightning, hail, business interruption, explosion, riot, civil commotion, aircraft, vehicle, marine, smoke, builder's risk, public liability, property damage, flood or mudslide, or any other hazard insurance that may be required to protect the collateral.

(3) Ordinarily, life insurance, which may be decreasing term insurance, is required for the principals and key employees of the borrower and will be assigned or pledged to the lender. A schedule of life insurance available for the benefit of the loan will be included as part of the application.

(4) Workmen's compensation insurance is required in accordance with State law.

§ 1980.444 Appraisal of property serving as collateral.

(a) Property that will serve as collateral for loans will be appraised by a qualified appraiser. The appraiser will give his opinion regarding the current market value of the collateral.

(b) The Lender will be responsible for determining that appraisers (other than FmHA appraisers) have the necessary qualifications and experience to make the appraisals. If the Lender has any questions in this regard, it will consult with FmHA before having an appraisal made.

(c) The Lender will determine that the fees or charges of appraisers are reasonable.

(d) If the loan request is for $100,000 or less, an FmHA appraiser may make the appraisal.

(e) Appraisals will be made on forms approved by the Lender, except when appraisals are made by an FmHA appraiser who may use regular FmHA forms.

§§ 1980.445–1980.450 [Reserved].

§ 1980.451 Filing and processing applications.

(a) *Applicants' and lenders' contact.* Applicants and Lenders desiring FmHA assistance as provided in this subpart may file preapplications or applications with the County Supervisor servicing the area in which the project is to be located. The FmHA County Supervisor will promptly arrange an early meeting with the applicant and Lender representatives to discuss assembly, preparation and processing of preapplications and applications.

(b) *Applications from cooperatives.* Applicants eligible for loans from the Bank for Cooperatives will be encouraged to obtain guaranteed loans from that source since the Bank for Cooperatives is experienced in making and servicing such loans and can provide substantial counsel to the applicant. Applications must be submitted to the Bank for Cooperatives as a test for credit elsewhere when an insured loan is being considered.

(c) *Applicants eligible for Small Business Administration (SBA) assistance.* All applicants for loan guarantees eligible for SBA assistance will be advised by FmHA at the time of receipt of the preapplication of the availability of such assistance and will be encouraged to apply to that agency. Appendix A to this subpart includes a copy of the current memorandum of understanding between SBA and FmHA.

(d) *Loan priorities.* Applications and preapplications received by FmHA will be considered in the order received. Priority will be given to projects located in areas and cities having a population of less than twenty-five thousand.

(1) FmHA will cooperate fully with appropriate State agencies in guaran-

teeing and insuring loans in a manner which will assure maximum support of the State's strategies for development of its rural areas.

(2) When applications on hand otherwise have equal priority the applications from a veteran will have preference. A veteran is a person who has been discharged or released from the active forces of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard under conditions other than dishonorable and who served on active duty in such forces:

(i) During the period April 6, 1917, through March 31, 1921;

(ii) During the period of December 7, 1941 through December 31, 1946;

(iii) During the period of June 27, 1950, through January 31, 1955; or

(iv) For a period of more than 180 days, any part of which occurred after January 31, 1955; but on or before May 17, 1975.

Discharges under conditions other than dishonorable include "clemency discharges."

(3) In assigning priorities to applications and in selecting projects for funding, FmHA will consider State development strategies, and clearinghouse (A–95 Agency) comments and recommendations. Funds (Insurance or guarantee authority) allocated for use as prescribed in this regulation are to be considered for use by Indian tribes within the State regardless of whether State development plans include Indian reservations within the State's boundaries. It is essential that Indians residing on such reservations have equal opportunity to participate in any benefits of these programs. Priorities will be assigned by the FmHA State Director in accordance with the following:

(i) Those projects which will save existing jobs.

(ii) Those projects which will enlarge, extend, or otherwise improve existing business and industries.

(iii) Those which will create the highest number of permanent employment opportunities.

(iv) Those projects which will contribute to the overall economic stability of the rural areas but generate little or no permanent employment opportunities beyond the entrepreneur himself.

(e) *Filing preapplications and applications.* Applicants or Lenders may file preapplications and applications described in paragraph (f) of this section if they desire an expression of FmHA interest prior to assembling the complete application and request for Loan Note Guarantee or they may present the complete application, in one package, including the material required in paragraphs (f), (i), (j), and (k) of this section.

(f) *Preapplications.* Applicants may file preapplications with the County Office including:

(1) A letter prepared by the applicant and the Lender which shall include:

(i) Applicant's name, address, contact person, and telephone number.

(ii) Amount of loan request.

(iii) Name of the proposed lender, address, contact person, and telephone number.

(iv) Brief description of the project, products, and services provided.

(v) Type and number of employment opportunities and unemployment rate where the project will be located.

(vi) Amount of applicant's equity and guarantees offered.

(vii) Anticipated loan maturity and interest rates.

(viii) Availability of raw materials and supplies.

(2) Form FmHA 449–22, "Certification of Non-Relocation and Market and Capacity Information Report."

(3) Form FmHA 449–4, "Statement of Personal History," for a proprietor (owner), each partner, officer, director, key employee, and stockholders holding 20 percent or more interest in the applicant except for those corporations listed on a major stock exchange and for those so listed if required by FmHA. Forms FmHA 449–4 are not required to be submitted for elected officials and appointed officials in connection with loan applications from public bodies. Failure to report full, complete and accurate information on the Statement of Personal History may result in FmHA's not making or guaranteeing the loan.

(4) A record of any pending or final regulatory or legal (civil or criminal) action against the applicant, guarantors, principal stockholders, officers, and directors.

(5) A current balance sheet and latest profit and loss statement, and financial statements of existing businesses for the last 3 years.

(6) A detailed projection of gross revenue, net earnings, and cash flow statements for 3 years including assumptions upon which such forecasts are based.

(7) Sales projections indicating the percent of the national and local market the business expects to obtain.

(8) Comments of substate and state A–95 agencies except that loans for small or local enterprises with no significant economic or environmental impact are exempt from A–95 review regulations.

However, a notice of approval for information purposes will be sent to the A–95 agency. If such comments are not immediately available, they may be forwarded to the County Office after submission of the preapplication. Applicants requesting Federal assistance are required to notify the A–95 clearinghouse in the jurisdiction where the project is to be located. Normally, the preapplication material excluding financial information is submitted for A–95 review.

(g) *Preliminary determination by FmHA.* If preapplication information indicates the project will not meet FmHA's minimum credit standards for a sound loan, is ineligible, does not have sufficient priority, or that funds or guarantee authority are not available for the project, FmHA will so inform the applicant. The applicant will be notified in writing with all reasons for the decision indicated. If it appears that the project is eligible, has sufficient priority, is economically feasible and loan guarantee authority is available, FmHA will inform the Lender and applicant in writing and request that they complete the application.

(h) *Department of Labor certifications.* FmHA will submit Form FmHA 449–22 to the Department of Labor for the necessary certification that the proposal will not be in conflict with § 1980.412 (c) and (d).

(i) *Applications will consist of:* (1) Form FmHA 449–1, "Application for Loan and Guarantee."

(2) Form FmHA 449–2, "Statement of Collateral."

(3) Form FmHA 449–10, "Applicant's Environmental Impact Evaluation."

(4) Architectural or engineering plans, if applicable.

(5) Cost estimates and forecasts of contingency funds to cover inflation or project changes.

(6) Appraisal reports.

(7) For existing businesses, a pro forma balance sheet at start-up and for at least three additional projected years, indicating the necessary start-up capital, operating capital and short-term credit based on financial statements for the last three years, or more (if available); and projected cash flow and earnings statements for at least three years supported by a list of assumptions showing the basis for the projections. If debt refinancing is requested, a debt schedule is to be prepared (correlated to the latest balance sheets) reflecting the debts to be refinanced including the name of the creditor, the original loan amount and loan balance, date of loan, interest rate, maturity date, monthly or annual payments, payment status, and collateral that secured such loans.

(8) For new businesses, a pro forma balance sheet at start-up and for the next three years, projected cash flow (monthly first year, quarterly for two additional years) and projected earnings statements for three years supported by a list of assumptions showing the basis for the projections.

(9) Any credit reports obtained by the lender or FmHA.

(10) Form FmHA 400–1, if construction costing more than $10,000 is involved.

(11) Copies of building permits, if applicable, and any necessary certifications and recommendations of appropriate regulatory or other agency having jurisdiction over the project including any pollution control agency.

(12) Personal and corporate financial statements of those guarantors named in § 1980.443.

(13) Proposed loan agreement. (See paragraph VIII of Form FmHA 449–35). Proposed loan agreements between the borrower and Lender will be required. Ordinarily, such agreements include but are not limited to the following:

(i) Requirements for accounting and record keeping.

(ii) Periodic financial reporting.

(iii) An annual audited financial statement from the borrower prepared by an independent certified public accountant or by an independent licensed public accountant, who is certified or licensed by a regulatory authority of a State or other political subdivision of the United States.

(iv) Prohibitions against assuming liabilities or obligations of others.

(v) Restrictions on dividend payments.

(vi) Limitation on purchase or sale of equipment and/or fixed assets.

(vii) Limitation on compensation of officers and/or owners.

(viii) Minimum working capital requirements.

(ix) Minimum debt to net worth ratio.

(x) Restrictions concerning consolidation, mergers or other circumstances.

(xi) Limitations on selling the business without concurrence of the lender and FmHA.

(xii) Repayment and amortization of the loan.

(xiii) List of collateral for the loan.

(xiv) List of persons and/or corporations guaranteeing the loan.

(14) A complete feasibility study when required. (See § 1980.442.)

(15) Any additional information required by FmHA.

(16) For companies listed on major stock exchanges and/or subject to the Securities and Exchange Commission regulations, a copy of Form 10–K, "Annual Report Pursuant to Section 13 or 15 D of the Act of 1934."

(17) Documented evidence that the project is located within or without special flood or mudslide hazard areas.

(18) Notices of compliance with the Privacy Act of 1974.

(i) If the applicant is acting in a personal capacity and not as an entrepreneur for such entities as proprietorships, partnerships, or corporations, and FmHA solicits personal information for him, the individual will be provided Form FmHA 410–9, "Statement Required by the Privacy Act."

(ii) If FmHA desires to obtain information concerning an individual from any source, FmHA will provide such source with Form FmHA 410–10, "Privacy Act Statement to References."

(j) *Use of forms.* FmHA numbered forms will be used where shown in both preapplications and applications. Otherwise, Lenders should use their forms, real estate mortgages, security instruments and other agreements, provided such forms do not contain any provisions that are in conflict or are inconsistent with provisions of this Subpart.

(k) *Certificate of Need.* If the loan request is for health care facilities (e.g., hospitals or nursing homes), a "Certificate of Need" will be obtained by the applicant from the appropriate regulatory or other agency having jurisdiction over the project. If a significant part of the project's income will be from third party payors, e.g., medicare or medicaid, the project will be designed and operated in a manner necessary to meet the requirements of the third-party payors.

ADMINISTRATIVE

A. *The County Supervisor and District Director:* 1. Determines if material and information submitted is complete.

2. Prepares and submits to State Director their comments and recommendations. Such comments will include but are not limited to the following: Community attitude toward project; a summary of comments regarding the proposal by the lender, county leaders, and other interested parties; whether the project is likely to result in the need for additional community facilities such as schools, water, sewer, and health care services, and if so, the community's plan for providing such facilities; availability of any required additional labor force and training plans for such force, if needed; an economic forecast of the effect on the community should the project fail, if financed.

3. The County Supervisor will furnish all individuals acting in a personal capacity at the time of filing a preapplication or application, two copies of Form FmHA 410–9. The individual will sign both copies, retaining one and providing FmHA with the other copy which becomes a part of the loan file.

4. The County Supervisor will provide any source from whom FmHA obtains information concerning an individual with two copies of Form FmHA 410–10. The source will sign both copies, retain one and providing FmHA with the other copy which becomes a part of the loan file.

B. *The State Director:* 1. Will provide the County Supervisor with assistance as may be necessary to assure that the applicants and lenders are currently and correctly advised throughout preapplication and application processing.

2. Will prepare and submit Form FmHA 440–48, "Association or Organization Activity Report" in accordance with FmHA Instruction 440.9. However, the Standard Industrial Classification (SIC) manual will be used in coding of projects rather than the "Loan Purpose Codes" section of the instructions.

3. Will forward immediately to the National Office on all projects:

(a) Form FmHA 449–22, (7 copies). If applicable, attach Form FmHA 449–33, Small Loan Certification," for loans of $100,000 or less where loan proceeds are expected to result in employment of not more than five additional workers at full capacity.

(b) For insured loans where the applicant leases facilities to another, submit Form FmHA 449–22 for such applicant. The lessor(s) will also be required to provide Form FmHA 449–22. Subsequent loan requests require resubmission of Form FmHA 449–22.

(c) Form FmHA 449–4 (4 copies).

NOTE.—As soon as practicable send the Forms FmHA 449–22 and 449–4 so that the Department of Labor and Character Evaluation processing may be completed without delay.

4. On all applications over one million dollars (including previously approved loans where additional subsequent loan brings the total over one million dollars), the State Director will submit a separate narrative report prepared in strict compliance with the following format:

Name and Address of Applicant:
Amount of Loan:
State:
County:

1. Background information. Include general description of business, type of applicant, products, availability of raw material and required supplies, length of time applicant has been in this business, any particular problems being encountered, and other such information.

2. Your appraisal of the gross and net effect of the FmHA loan on levels of employment in the local community. Include information on the labor force, number of unemployed, percent of the population unemployed, and what the loan may do to improve the employment picture. This information may be obtained from the local employment service office. Describe the need for training labor for proposed industry, if any, and applicant and county plans for providing such training. If a technical training school is available, identify it. Indicate the number of jobs to be created and/or saved.

3. Fund (obligation authority) situation in state (current fiscal year):

(a) Allocation		$_____
(b) Projects approved to date	No.___	_____
(c) Active loan applications currently in process (including this application)	No.___	_____
(d) Those in (c) you expect to fund this fiscal year	No.___	_____
(e) Estimated need for additional allocation (if any) for this fiscal year		_____

4. The record of any legal or regulatory actions taken by or against the applicant for the loan (including the principal officers of the proposed enterprise) and known to you, and any civil or criminal suits which are pending. Report any suits listed in any credit reports, financial statements, and disclosed to you by the applicant or any other source.

5. The total debt and the debt to net worth ratio of the applicant.

6. Detailed projections of profit and cash flow together with a list of assumptions showing the basis for the projections. (Provided in an attachment to this report.)

7. The general economic outlook for the type of business or industry, both nationally and in the prospective location. Indicate what percentage increase in sales can be expected nationally and in the applicant's market area, if any, and explain the rationale for this opinion. A good source of information—U.S. Department of Commerce publication, "U.S. Outlook—With Projections".

8. The impact of proposed project on local environment, transportation, and other local facilities and services. Indicate whether the present water, sewer, electric, and energy service facilities will be able to handle the needs of the business being financed, plus the increased need placed on the city school system and other public facilities due to the influx of employees.

9. Indicate if FmHA has previously guaranteed a loan to the proposed lender, and if so, comment on how it was serviced.

10. Any other considerations you feel are important.

Prepared by:

_____
(Signature)

_____
(Name typed)

_____
(Title)

Attach to the above report:

For existing businesses.—Minimum three years and current audited financial statements or balance sheets, profit and loss statements, and the requirements for new businesses.

For new businesses.—Projections for 3 years of gross revenues and net earnings, a cash flow statement with proper assumptions, and a pro-forma balance sheet at start-up.

5. Par. (g). State Director informs applicant of any decision. (Copy sent to County Supervisor.)

6. Par. (i). State Director submits a transmittal letter with recommendations on loan applications requiring National Office review. Included are:

(a) Loan File.

(b) Form FmHA 449-29, "Project Summary," including State Director's spread sheets, financial history, and projections (use attachments to Project Summary if necessary).

(c) Proposed Form FmHA 449-14.

(d) Copy of FmHA State Loan Review Board Minutes.

(e) Notification of required financial and other reports, their frequency, due dates, and fiscal year end.

7. Par. (i) 9. Credit reports.

(a) The National Office has contracted with Dun and Bradstreet, Inc. (the contractor, D&B) for a complete credit reference and monitoring system for use by FmHA National and State Offices. The system will provide an independent source of credit information for analyzing applications and provides a continuous monitoring of all loans.

(b) The State Director will appoint a member of his staff to act as a State Coordinator for the services. Such coordinator will be provided with instructional material necessary to use this service. The contractor will assign a D&B account executive from the nearest D&B office for assistance to the FmHA State Office Coordinator, answer inquiries, assure proper service, deliver the National Reference Books, and deliver inquiry request forms to the State Office Coordinator.

(c) The Credit Reference and Monitoring System Service consist of:

(1) *Credit Reference Service.*—One set of Dun & Bradstreet National Reference Books will be delivered to each State Office. These reference books provide an easy-to-use credit information source.

(2) *Business Information Report Service.*—When the State Director has determined that a preapplication or application will be considered for further processing, he will instruct the State Office Coordinator to order a credit report on an existing business.

The contractor will provide each State Office with a supply of pre-numbered (separate number for each State) Dun & Bradstreet, Inc. Subscriber Inquiry forms JTC 25592 for use in ordering the credit report. The form will contain a complete and correct business name and address. Insert in the "Remarks" section a list of the names of principal(s). The inquiry form is mailed to the designated D&B office for processing. The credit report will be sent by D&B directly to the State Office Coordinator.

For urgent inquiries a telephone request to the local D&B office may be used. (Telephone number will be provided by the account executive.)

If loan dockets are sent to the National Office for review, they will contain a copy of the D&B credit report.

NOTE.—The National Office may also initiate requests for these reports and will notify the State Office.

(3) *Key Account Report Service.*—This is a special comprehensive report on businesses and principals providing an indepth investigation and detailed information. All Key Account Reports will be ordered by the National Office. If a State Director feels a Key Account Report is needed to assist in his review of an application, he may request such report from the National Office, by telephoning or submitting a memo with reasons for the request. In most new business proposals this service will be a valuable tool in the evaluation of the loan and should be requested.

(4) *Change Notification Service.*—This is a continuous monitoring service whereby D&B in Washington, D.C. will coordinate with the National Office for providing certain data relating to then existing Business and Industry Loans.

(i) Each State Coordinator will provide the National Office with an initial listing of all existing business names and addresses where Loan Note Guarantees or letter of conditions has been issued and thereafter, on a monthly basis, a listing of additional names or deletions.

(ii) The National Office will forward the combined listings to D&B, who thereafter will provide a continuous monitoring of these businesses. D&B will report any significant changes that may have developed which affect the business. Such changes will be reported on a D&B change notice Form 9 W2-11 and sent by D&B to the National Office. The National Office will review the change notice and send a copy to the State Office Coordinator who may request a D&B updated credit report or take any appropriate follow-up action required. (This system is to be used as a supplement for FmHA's monitoring functions.)

8. Applications will be organized in a loan file in accordance with FmHA Instruction 151.1, Exhibit B. An 8-position folder will be utilized. The State Director may supplement the Position Guides to include specific legal requirements within their State. If the applicant prepares a complete application package, it may accompany the loan file provided the file is organized in a binder, indexed, tabbed, and feasibility studies are kept separate.

9. On loan applications within the State Director's loan approval authority, the State Director will submit to the National Office items 6 (b) through (e) above, copy of Borrower and Lender Loan Agreement, and comments as per Administrative A 2 above.

§ 1980.452 FmHA evaluation of application.

FmHA will evaluate the application. FmHA will make a determination whether the borrower is eligible, the proposed loan is for an eligible purpose, and that there is reasonable assurance of repayment ability, sufficient collateral, and sufficient equity. If FmHA determines it is unable to guarantee the loan, the Lender will be informed in writing. Such notification will include the reasons for denial of the guarantee. If FmHA is able to guarantee the loan, it will provide the Lender and the applicant with Form FmHA 449-14, listing all requirements for such guarantees. The Conditional Commitment for guarantee may not be issued on any loan until the State Director has been notified by the National Office that the Statement of Personal History(s) has been cleared. FmHA State Directors are authorized to execute Form FmHA 449-14.

ADMINISTRATIVE

State Director evaluates the application and considers:

A. Rural Area determinations. (See § 1980.-405).

B. Community Impact of the proposal which includes:

1. Number of businesses and industries in the town or city.

2. Employment impact upon the community.

3. Availability of skilled and unskilled labor and permanency of employment opportunities.

4. Vocational and educational facilities to provide skilled labor, if applicable.

5. Policies of applicant regarding unemployment, lay-offs, wage scales, etc.

C. If debt refinancing is requested, consider in accordance with § 1980.411(a)(12) and:

1. A complete review will be made to determine whether it is essential to restructure the company's debts on a schedule that will allow the business to operate successfully rather than merely converting an unsound loan to a guaranteed basis.

(a) Obtain a borrower's complete debt schedule. Schedule should agree with applicant's latest balance sheet.

(b) Determine from Lender if the applicant's present loan(s) is on the Lender's regulatory examiners report and if so determine the loan classification.

(c) Analyze Lender's liability ledger on the borrower, individual customer credit file, installment Loan Ledger Card or Computer printouts, and other credit reports.

D. Applications will be analyzed by a FmHA State Loan Review Board prior to execution of Form FmHA 449-14.

1. Generally, the review board consists of State Director as Chairman, Business and Industrial Loan Chief (Specialist), and either the Community Programs Chief, Rural Housing Chief, or Farmer Programs Chief, as appropriate.

2. The State Director may wish to contact non-FmHA sources for expertise, such as bankers or other lenders, industrial development specialists from state commissions, academicians, certified public accountants, tax attorneys, successful business and professional lenders, management consultants, and officials from other Federal agencies. Outside resource consultants may be reimbursed for only their travel costs (transportation and subsistence). (See FmHA Instruction 160.1.)

3. The Rural Housing Loan Chief will be a member of the FmHA State loan review board if a site development loan (see § 1980.-411(a)(7)) is being considered. The Community Programs Chief will be a member if a loan for facilities of the type financed under the provisions of Subpart A of Part 1823 of this chapter (FmHA Instruction 442.1) is being considered. The Farmer Program Chief will be a member of the board if a project, the success of which is dependent on the production of agricultural products, is being considered. If the proposed project covers more than one program area, all the chiefs for those programs involved will be members of the Board. If the approval of an application for a B&I loan may result in benefiting or hindering other FmHA programs the review board will determine whether the making of such loan or guarantee is likely to result in embarrassment for FmHA as a result of a possible conflict of interest whereby other parties may accuse the agency of giving loan preference to housing borrowers (in the case a site development) or producers (in the case of agricultural processing plant) or other FmHA programs.

4. The County Supervisor and District Director will attend the review board meeting to the extent practical taking into consideration other work requirements and travel.

All review board meetings will be fully documented and signed by those FmHA employees serving on the board. A copy of such documentation will be retained in the loan file.

5. The State Director will obligate funds or authority for the project by preparing Form FmHA 440-1, "Request for Obligation of Funds," in an original and three copies. The

State Director will sign the original and one copy and conform two copies. The original and one conformed copy will be forwarded to the Finance Office and the other copies held pending notification from the Finance Office that guarantee or insurance authority is available. The Finance Office will reserve funds or authority for the project and notify the State Director of such reservation by forwarding the original and one copy of Form FmHA 440-57, "Acknowledgement of Obligated Funds/Check Request." Unless the State Director notifies the Finance Office to cancel the reservation or to complete obligation at an earlier date, the Finance Office will complete the obligation on the 15th working day following the date of Form FmHA 440-57. The State Director will time his report to the National Office as required by FmHA Instruction 2015-C in order that notification required by that instruction will be accomplished and the applicant (for an insured loan) or the lender (for a guaranteed loan) is informed of a loan approval not later than the date of obligation. Notice of approval to the applicant or Lender will be accomplished by providing the applicant or Lender with the signed copy of Form FmHA 440-1 and a copy of Form FmHA 449-14, unless the National Office has given prior written authorization to forward Form FmHA 440-1 to the applicant or Lender in advance of issuance of Form FmHA 449-14. The State Director will record the actual date of applicant or lender notification on the remaining copy of Form FmHA 440-1 and make such copy a permanent part of the County Office loan file.

6. State Director, through the County Supervisor, notifies the Lender and applicant if he will not issue the Form FmHA 449-14.

§ 1980.453 Review of requirements.

(a) Immediately after reviewing the conditions and requirements in Form FmHA 449-14, and the options listed on the back of the form, the Lender and applicant should complete and sign the "Acceptance or Rejection of Conditions," and return a copy to the FmHA State Director. If certain conditions cannot be met, the Lender and borrower may propose alternate conditions to FmHA.

(b) If the Lender indicates in the "Acceptance or Rejection of Conditions" that it desires to obtain a Loan Note Guarantee and subsequently decides at any time after receiving a conditional commitment that it no longer wants a Loan Note Guarantee, the lender will immediately advise the FmHA State Director.

ADMINISTRATIVE

The State Director will negotiate with the lender and applicant any changes made to the initially issued or proposed Form FmHA 449-14, "Conditional Commitment for Guarantee." A copy of Form FmHA 449-14 and any amendments thereto will be included when the loan file is submitted to the National Office for review. When the National Office recommends modifications or additions to Form FmHA 449-14, the State Director will further negotiate these recommendations with the Lender and applicant. If as a result of these further negotiations the Lender, applicant or State Director presents alternate conditions which would modify recommendations of the National Office, the State Director will submit them by memorandum to the National Office for consideration with a copy of the revised Form FmHA 449-14 and any amendments thereto.

§ 1980.454 Conditions precedent to issuance of the loan note guarantee.

In addition to the requirements of Subpart A, § 1980.60 the following provisions are required:

(a) *Preclosing conference.* When a date for loan closing has been scheduled, the Lender will contact FmHA for a preclosing review of all conditions and requirements.

(b) *Loan closing.* When loan closing plans are established, Lender will notify the FmHA County Supervisor so that an FmHA representative may attend the loan closing.

ADMINISTRATIVE

A. *The State Director reviews:*

1. The loan agreement between the borrower and Lender which provides for the frequency of submission of financial statements to the County Supervisor. Monthly financial statements should be required on new business enterprises or those needing close monitoring. However, the annual audit report will always be required.

2. Plans for inspection made on construction projects. These should be coordinated with the Lender and borrower. (See Appendix B of FmHA Instruction 442.1). Form FmHA 424-12 may be used by the County Supervisor who will make the majority of the inspections. However, the District Directors, Engineers, or B&I Chief may also make inspections as designed by the State Director. Copies are to be furnished the County Supervisor. Any other special servicing requirements should be added to the Lender's Loan Agreement.

3. Cost overruns, if any, and how they will be met.

4. Basic credit requirements of all loans.

B. State Director will designate representative(s) to attend preclosing conference or loan closing. However, in all cases the District Director will conduct a pre-guarantee audit before issuance of the Loan Note Guarantee to assure that all requirements of the application, Conditional Commitment for Guarantee, and Loan Agreement have been met and will provide such verification in the loan file.

§§ 1980.455–1980.460 [Reserved]

§ 1980.461 Issuance of lender's agreement, loan note guarantee, and assignment guarantee agreement. [See Subpart A, § 1980.61.]

ADMINISTRATIVE

A. *Par. (a) of Subpart A, § 1980.61.* The original Form FmHA 449-35 will be kept in the County Office, a copy may be retained in the State Office.

B. *Par. (b)(1) of Subpart A, § 1980.61.* Copy(s) of the Loan Note Guarantee(s) will be kept in the County Office. Additional copy(s) may be retained in the State Office. Copies of all issued Loan Note Guarantees will be kept in the loan file.

C. *Par. (b)(2) of Subpart A, § 1980.61.* The State Director will approve all substitutions of Loan Note Guarantees for Contracts of Guarantee.

D. It is imperative that the original loan covered by a Contract of Guarantee is current.

E. *The Registered Holder will transmit to the County Supervisor:*

1. Request for substitution together with the original Contract of Guarantee.

2. Copies of notes with Lender's identification numbers. (All requirements of the Lender's Agreement will be complied with before any new notes are used.)

3. Certification that the loan is current and in good standing.

4. Certification of outstanding principal amount of the loan.

5. Executed Lender's Agreement. (FmHA provides form to Lender).

6. Executed Form FmHA 449-19, "Guarantee Fee Report." (Indicate at top of form, "one time substituted fee") (See § 1980.21 of Subpart A for calculation of fee due).

7. Payment for appropriate guarantee fee.

F. *County Supervisor will:*

1. Review all the requirements of paragraph E of this section.

2. If the request is appropriate and complete, forward the request to the State Director.

G. *State Director will:*

1. Verify the submitted request and if in order, send the guarantee fee and guarantee fee report to Finance Office with a notation of the date the new Loan Note Guarantee will be issued. (NOTE.—The substitution of a Loan Note Guarantee for the Contract of Guarantee is not to be considered as a new loan for record keeping purposes).

2. Complete the Loan Note Guarantee (appropriate number for attachment to each note), date and sign the instrument. The following statement will be entered at the top of the form: "This Loan Note Guarantee is issued in substitution of Contract of Guarantee dated _____." The State Director will transfer from the Contract of Guarantee all information pertaining to the loan to the Loan Note Guarantee.

3. Execute Lender's Agreement.

4. Cancel the original Contract of Guarantee.

5. Transmit to the County Supervisor the Loan Note Guarantee, Lender's Agreement and cancelled Contract of Guarantee.

6. State Director may retain for his file, copies of the Loan Note Guarantee, Lender's Agreement and Guarantee Fee Report.

H. *County Supervisor:*

Will then transmit to the Lender the original Loan Note Guarantee, and a copy of executed Lender's Agreement and retain in loan file copies of Loan Note Guarantee with attached original canceled Contract of Guarantee copy of Guarantee Fee Report and the original Lender's Agreement.

All applicable provisions of regulations 1980-A and 1980-E will apply to the loan when the Loan Note Guarantee is signed.

I. *Alternate Procedure:*

If the Registered Holder does not want to deliver his original Contract of Guarantee with his request for substitution, the County Supervisor will accept a copy of the Contract of Guarantee and proceed as above. However, the Loan Note Guarantee will be delivered only upon receipt of the original Contract of Guarantee. The County Supervisor will forward the original Contract of Guarantee to the State Director for cancellation. State Director will return the canceled Contract of Guarantee to the County Supervisor for retention in the loan file.

J. *Par. (b)(3) of Subpart A, § 1980.61.* For reporting purposes where multinotes are issued, the loan to the borrower will be counted as one loan regardless of the number of notes issued.

K. *Par. (b)(4) of Subpart A, § 1980.61.* The State Director will notify the Finance Office of the transaction.

L. *Par. (c) of Subpart A, § 1980.61.* A copy of Form FmHA 449-36 will be kept in the loan file.

M. *Par. (d) of Subpart A, § 1980.61.* State Director signs all Forms FmHA 449-13.

N. *Par. (f) of Subpart A, § 1980.61.* The County Supervisor will:

1. Review Form FmHA 449-19 for completeness.

2. Forward the guarantee fee and original Form FmHA 449-19 to Finance Office.

3. Forward a copy of Form FmHA 449-19, Form FmHA 449-34, Form FmHA 449-35 and Form FmHA 449-36, if applicable, to the State Director.

4. Originals or copies, as appropriate, will be retained in the FmHA loan file.

5. See that the State Director is notified of any discrepancies.

§§ 1980.462–1980.468 [Reserved]

§ 1980.469 Loan servicing.

The Lender is responsible for loan servicing. See paragraph X of Form FmHA 449-35.

ADMINISTRATIVE

A. While the Lender has the primary responsibility for loan servicing and protecting the collateral, the State Director is responsible for seeing that required serving is properly accomplished. Loan servicing is a preventive rather than a curative action. Prompt follow up on delinquent payments and early recognition and solution of problems are keys to resolving many delinquent loan cases.

B. *The State Director will assure that:*

1. A time table for FmHA field visit inspections is established before the Loan Note Guarantee is issued. Field visits to new business borrowers should be made on a monthly basis for the first few months until the business is established. Visits to non-seasoned (current and less than three years old) loan borrowers should be made at least quarterly; seasoned loans (current and more than three years old) at least annually; and special attention loan borrowers as frequently as the need calls for.

2. A review or adequate analysis on all financial statements and field reports is made. A complete update of any "spread sheet" analysis of the borrower's financial condition is made, any appropriate servicing action necessary is taken, and the loan file is properly documented. A memorandum of analysis and a copy of the updated "spread sheet" will be forwarded to the National Office, Attention: Business and Industrial Loan Division only for the following loans:

(a) All loans within the first year of loan closing.

(b) Loans over one year old as determined by the State Director or a National Office assigned loan reviewer who is participating in a field review. In event of a disagreement between the State Director or assigned loan reviewer as to which loans should be included, the assigned loan reviewer's decision will take precedence.

(c) All problem and delinquent loans.

(d) Loans that the State Director would like reviewed by the National Office.

3. A proper followup with the District Director and County Supervisor is made if reports and financial statements are not being transmitted on time or if there are servicing actions needed.

4. Meetings are arranged between the Lender, borrower and FmHA to resolve any problems of late payment, etc.

C. *For projects in amounts not in excess of his loan approval authority, the State Director is authorized to approve:*

1. Alterations in the loan agreement with the borrower which will not prejudice the Governments interest.

2. Any replacement of collateral for the loan.

3. All lien coverage and lien priorities on the collateral established by the lender before issuance of the Loan Note Guarantee.

D. *Within his loan approval authority, the State Director is authorizing to concur in:*

1. Any deferment and reamortization of the loan in concurrence with Holder(s).

2. Use of proceeds from disposition of collateral meeting the provisions of paragraph X of the Lender's Agreement.

E. *The State Director:*

1. As authorized within his loan approval authority to concur in Lender's authorized servicing actions necessary to service the loan(s). The Lender is responsible for notifying the borrower and FmHA of any violations in the Lender's Loan Agreement and to take the appropriate corrective action. The State Director is not authorized to waive any provisions or requirements which would result in a violation of FmHA regulations. If any servicing problems are noted, their disposition is to be documented in the loan file.

2. May consult with the National Office on any servicing problems and if they cannot be handled at the State level, the file will be forwarded to the National Office with proposed recommendations.

F. *County Supervisor:*

1. Assists in loan monitoring at the direction of the State Director.

2. Will make periodic field inspections (with the Lender, if possible) to borrower's place of business in accordance with a preestablished schedule. He will complete the field visit report and transmit it with any recommendations through the District Director to the State Director.

3. Will submit to Finance Office semiannually a Lender's statement reflecting the unpaid principal balances on the loan in order to meet U.S. Treasury reporting requirements. This procedure will remain in effect until reporting system is converted to automatic processing system.

4. Will obtain from the Lender the necessary financial statements, and will check the statements and any other reports for proper certification and signatures. When the County Supervisor has been notified by the Lender of borrower's failure to fulfill any conditions of the Loan Agreement, the County Supervisor will immediately contact the State Director, to determine the action to be taken. He will then forward the financial reports and any recommendations through the District Director to the State Director indicating the date reports were received in the County Office.

5. Will notify in writing the District Director and State Director upon receipt of notice from the Lender when any guaranteed or insured B&I loan is delinquent more than 30 days or when the loan otherwise appears to be developing into a problem case. See paragraph XI of Form FmHA 449-35.

6. Is responsible for establishing an office management system for guaranteed and insured loans in accordance with FmHA Instruction 405.1 to insure timely followup on all required financial statements, audit reports, and any special requirements as set forth in the Loan Agreement with the borrowers.

G. *District Director:*

1. Will assure that the County Supervisor obtains from the Lender the necessary financial statements and reports and transmit the statements with his recommendations to the State Director.

2. Will accompany the County Supervisor on initial field visits to the borrower's place of business and at least annually thereafter. Such visits should be coordinated with the Lender.

3. Will provide guidance and assistance to the County Supervisor if a loan develops into a problem case.

4. Will review all Field Visit Reports and makes recommendations or comments and transmits to the State Director.

§ 1980.470 Defaults by borrower. [See Subpart A, § 1980.63.]

ADMINISTRATIVE

A. In case of default, the Lender will arrange with the County Supervisor or District Director a meeting with the borrower to resolve the problem. A memorandum of the meeting, individuals who attend, a summary of the problem and proposed solutions will be forwarded to the State Director with a copy retained in the loan file. If the State Director receives a notice of default on a loan, he will immediately notify the National Office in writing of the details and will subsequently report the problem loan to the National Office on the monthly status report. The State Director will notify the lender and borrower through the County Supervisor of any decision reached by FmHA.

B. *Purchase of Guarantee Portions by FmHA: See Lender's Agreement and Assignment Guarantee Agreement.*

1. The County Supervisor monitoring the loan will coordinate and process any requests for FmHA to purchase in all instances where the Holder(s) are located in close proximity to the local Lender. If several Holders are located outside the area, the State Director will handle the transaction and notify the County Supervisor.

2. The County Supervisor will review the material submitted, verify the amounts due the Holder(s) and transmit the request by memorandum to the State Director. Copies of evidence of ownership will be included. Any original evidence of ownership will be retained in the County Office. A proposed payment date will be established in order to calculate the interest due the Holder(s).

3. The State Director will verify the amounts payable to the Holder(s) and assure that all necessary material has been obtained. The State Director will request a check to pay the Holder(s) on the appropriate data entry form.

4. Any evidences of ownership retained in the County Office will be considered in any future report of loss calculations. A record of any purchase will be maintained in the loan file.

§ 1980.471 Liquidation. [See Subpart A, § 1980.64.]

ADMINISTRATIVE

A. State Director determines which FmHA personnel will attend meetings with the Lender.

B. *Paragraph XII B.* FmHA will exercise the option to liquidate only when there is reason to believe the Lender's liquidation plan likely not result in maximum recovery. State Directors are authorized to approve Lender liquidation plans to exercise the FmHA option to liquidate when outstanding guarantee is not in excess of his loan approval authority. All other proposals for liquidation will be submitted to the National Office.

C. *Paragraph XII D.* State Directors are responsible for review and acceptance of accounting reports as submitted by Lenders and for submission of such reports to lenders when FmHA is conducting liquidation.

D. *Paragraph XII E 2.* County Supervisors are authorized to accept Report of Loss determinations on Form FmHA 449-30 in those cases where loss will not exceed $50,000; District Directors for loss not to exceed $100,000; and State Directors for all others. The State Director will submit to the Finance Office for payment of any losses on the Form FmHA 449-30. The Finance Office forwards loss payment checks to the State Director for delivery to Lender.

E. *Paragraph XII E 3.* Final loss payments will be made within the 60 days required but

only after an audit to assure all collateral for the loan has been properly accounted for. State Directors are responsible to see that such audits are accomplished in time to be reviewed and accepted or otherwise resolved within the 60-day period. County Supervisors may conduct such audits when the loss does not exceed $50,000; District Directors $100,000; and State Directors for amounts not to exceed their loan approval authority. All audits involving losses in excess of the amounts equal to the State Director's loan approval authority will be submitted to the National Office for review. If the State Director wishes National Office assistance in the conduct of any audit, he may so request.

§ 1980.472 Protective advances. [See Subpart A, 1980.65.]

ADMINISTRATIVE

A. It is not intended that protective advances be made in lieu of addition loans. The State Director is authorized to approve all protective advances; he will consider the following when approving such advances:

1. The total amount of outstanding advances, the amount of those for which approval is requested, the outstanding loan balance, whether the account is current and, if not, the extent of the delinquencies.

2. The borrower's ability to pay the remaining loan balance and any future advances in accordance with the existing repayment schedule.

§ 1980.473 Additional loans or advances. [See Subpart A, 1980.66.]

ADMINISTRATIVE

The State Director may approve additional loans or advances provided that he determines there will be no adverse changes in the borrower's financial situation and that such loan or advance is not likely to adversely affect the collateral or the guaranteed loan.

§§ 1980.474–1980.475 [Reserved]

§ 1980.476 Transfer and assumptions.

(a) All transfers and assumptions will be approved in writing by FmHA. Such transfers and assumptions will be to an eligible applicant.

(b) Transfer and assumptions will be considered without regard to § 1980.451 (d).

(c) The applicant will submit to FmHA Form FmHA 449-4 for the required character evaluation prior to the execution of the Assumption Agreement.

(d) Available transfer and assumption options to eligible applicants include the following:

(1) The total indebtedness may be transferred to another borrower on the same terms.

(2) The total indebtedness may be transferred to another borrower on different terms not to exceed those terms for which an initial loan can be made.

(3) A part of the total indebtedness may be transferred to another borrower on the same terms.

(4) A part of the total indebtedness may be transferred to another borrower on different terms.

(e) In any transfer and assumption case, the transferor, including any guarantor(s) may be released from liability by the Lender with FmHA written concurrence only when the value of the collateral being transferred is at least equal to the amount of the loan or part of the loan being assumed. If the transfer is for less than the entire debt:

(1) FmHA must determine that the transferor has no reasonable debt-paying ability considering his assets and income at the time of transfer.

(2) The FmHA County Committee must certify that the transferor has cooperated in good faith, used due diligence to maintain the collateral against loss, and has otherwise fulfilled all of the regulations of this Subpart to the best of his ability.

(f) Any proceeds received from the sale of secured property before a transfer and assumption will be credited on the transferor's guaranteed loan debt in inverse order of maturity before the transfer and assumption transaction is closed.

(g) When the transferee makes any cash downpayment in connection with the transfer and assumption:

(1) The Lender will employ an independent appraiser, subject to concurrence of both the transferor and transferee, to make an appraisal to determine the fair market value of all the collateral securing the loan. Such appraisal report fee and any other costs related thereto will be paid by the transferor and the transferee as they mutually agree.

(2) The market value of the secured property being acquired by the transferee, plus any additional security the transferee proposes to give to secure the debt, will be adequate to secure the balance of the total guarantee loan owed, plus any prior liens. If any cash downpayment is made, it may be paid directly to the transferor as payment for his equity in the project provided:

(i) The Lender recommends and FmHA approves the cash downpayment be released to the transferor. The Lender and FmHA may require that an amount be retained for an established period of time in escrow as a reserve account as security for use against any future default on the loan. Any interest accruing on such an escrow account may be paid periodically to the transferor.

(ii) Any payments that are to be made by the transferee to the transferor in respect to the downpayment do not suspend the transferee's obligation to continue to meet the guaranteed loan payments as they come due under the terms of the assumption.

(iii) The transferor will agree not to take any actions against the transferee in connection with such transfer in the future without first obtaining the approval of FmHA and the Lender.

(iv) The Lender determines that there is repayment ability for the guaranteed debt assumed and any other indebtedness of the transferee.

(h) The Lender will make, in all cases, a complete credit analysis to determine viability of the project, subject to FmHA review and approval, including any requirements for deposits in an escrow account as security to meet its determined equity requirements for the project.

(i) The Lender will issue a statement to FmHA that the transaction can be properly transferred and the conveyance instruments will be filed, registered, or recorded, as appropriate, and legally permissible.

(j) FmHA will not guarantee any additional loans to provide equity funds for a transfer and assumption.

(k) The assumption will be made on the Lender's form of assumption agreement.

(l) The assumption agreement will contain the FmHA case number of the transferor and transferee.

(m) Loan terms cannot be changed by the Assumption Agreement unless previously approved in writing by FmHA, with the concurrence of any Holder(s) and currence of the transferor (including guarantors) if they have not been released from personal liability. Any new loan terms cannot exceed those authorized in this subpart. The Lender's request will be supported by:

(1) An explanation of the reasons for the proposed change in the loan terms.

(2) Certification that the lien position securing the guaranteed loan be maintained or improved, proper hazard insurance will be continued in effect, and all applicable Truth in Lending requirements will be met.

(n) In the case of a transfer and assumption, it is the Lender's responsibility to see that all such transfer and assumptions will be noted on all originals of the Loan Note Guarantee(s). The Lender will provide FmHA a copy of the transfer and assumption agreement. Notice must be given by the Lender to FmHA before any borrower or guarantor is released from liability.

(o) The Holder(s), if any, need not be consulted on a transfer and assumption case unless there is a change in loan terms.

ADMINISTRATIVE

A. The State Director may approve all transfer and assumption provisions if the guaranteed loan debt balance is within his individual loan approval authority including:

1. Concurrence in writing with the decision concerning release of the transferor and guarantors from liability.

2. Any changes in loan terms.

NOTE.—The assumption will be reviewed as if it were a new loan. The Loan Note Guarantee(s) will be endorsed in the space provided on the form(s).

B. A copy of the Assumption Agreement will be retained in the County Office file. The State Director will notify Finance Office of all approved Transfer and Assumption Cases in order that finance records may be adjusted accordingly.

C. The District Director and County Supervisor will submit recommendations to the State Director.

D. If the guaranteed loan debt balance is in excess of the State Director's loan approval authority, the State Director will forward the file, together with his recommendations and those of the District Director and County Supervisor, to the National Office for approval.

§§ 1980.477–1980.480 [Reserved]

§ 1980.481 Insured loans.

Applications from private parties for whom FmHA and such applicants agree that a guaranteed Lender is not available, and from public bodies shall be processed as insured loans in accordance with the applicable provisions of this Subpart and Subpart A of Part 1823 of this Chapter (FmHA Instruction 442.1), including the credit elsewhere requirement, except as provided in § 1980.488 which provides for the guarantee of taxable bond issues of public bodies. Loans to public bodies will be used only to finance:

(a) Community facilities as defined in § 1980.402(b) and

(b) Constructing and equipping industrial plants for lease to private businesses (not including loans for operating such businesses) when the requested loan is not available under Subpart A of Part 1823 of this Chapter (FmHA Instruction 442.1).

ADMINISTRATIVE

A. All insured loans require National Office concurrence prior to approval.

B. Applications from private parties for insured loans will not be encouraged.

C. Loan closings on insured loans will be in accordance with Instruction of the Regional Attorney and applicable provisions of Subpart A of Part 1823 of this Chapter (FmHA Instruction 442.1).

§§ 1980.482–1980.487 [Reserved]

§ 1980.488 Guaranteed industrial development bond issues.

(a) Loans to public bodies will be guaranteed only in connection with the issuance of any class or series of industrial development bonds (as defined in section 103(c)(2) of the Internal Revenue Code of 1954, as amended (IRC)), the interest on which is includable in gross income under IRC. No part of the loan guaranteed by FmHA may extend to any class or series of industrial development bonds the interest on which is excludable from gross income under section 103(a)(1) of such Code. Before the execution of any Loan Note Guarantee, lender will furnish FmHA evidence regarding interest on bonds being taxable for Federal income tax purposes. Such evidence may be in the form of an unqualified opinion of a recognized bond counsel or a ruling from the Internal Revenue Service.

(b) Loans to public bodies may be guaranteed for the purpose of acquiring, constructing and equipping industrial plants for lease to private businesses (not including loans for operating such businesses).

(c) If FmHA and the applicant agree that a guaranteed Lender is not available, the application will be considered for an insured loan under the provisions of § 1980.481.

ADMINISTRATIVE

A. Guaranteed loans to public bodies may be used only for constructing and equipping the industrial plants for lease to private business and does not provide for funds for debt refinancing, working capital, and other fees or services. The leasee will have to provide necessary working capital and have sufficient financial strength to provide for a sound project.

B. The Lender will notify the State Director of the taxability of the proposed bond issues.

§§ 1980.489–1980.494 [Reserved]

§ 1980.495 FmHA Forms.

Form FmHA 449-1 "Application for Loan and Guarantee" is incorporated herein and made a part hereof.

§§ 1980.496–1980.500 [Reserved]

GENERAL ADMINISTRATIVE

A. *Office of the General Counsel (OGC).* In performing the FmHA functions with respect to B&I loans, the advice and assistance of OGC may be sought and followed on any legal matter. However, in loanmaking, it is the responsibility of the Lender to ascertain that all requirements for making, securing, and servicing the loan are duly met. If FmHA has any questions concerning the Lender's resolution of these matters, it should consult with OGC.

B. *Delegation of Authority.* The State Director may delegate to his staff those administrative duties and responsibilities stipulated in the Administrative sections of this subpart.

Attachments: Appendix A—Form FmHA 449-1, "Application for Loan and Guarantee".

Effective date: This regulation shall become effective on March 3, 1977.

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an impact statement under Executive Order 11821 and OMB Circular A-107.

Dated: February 10, 1977.

J. R. HANSON,
Acting Administrator,
Farmers Home Administration.

FmHA Instruction 1980-E Appendix A

Form FmHA 449-1
(Rev. 8-4-76)

UNITED STATES DEPARTMENT OF AGRICULTURE
FARMERS HOME ADMINISTRATION

FORM APPROVED
OMB NO. 40-R3868

APPLICATION FOR LOAN AND GUARANTEE

FmHA Case Number

General Information: "The application for Loan and Guarantee" is to provide information needed for the analysis and loan determination process.

Part A – is to be completed by the loan applicant. The original and two copies with attachments will be submitted to the proposed lenders.

Part B – is to be completed by the lender. Upon completion, the original and one copy and attachments of Part A and B will be filed with the local FmHA Office.

Specific references are made in this application to sections of the Business and Industrial Loan Instruction. For complete guidance, see FmHA Instruction 1980 A and E and related FmHA Forms.

PART A

Instructions to Applicant: Complete items one through twenty. Submit original and two copies of this application and all supporting documents to the lender. If additional space is required, provide for by an attachment. Additional information may be obtained by the local FmHA County Supervisor.

1. NAME: (Show official name without abbreviations unless the abbreviation is a part of the official name. For proprietor or partnership, show name(s) followed by d/b/a and trade name used, if any and attach a copy of the partnership agreement).

Street		City	County
State	ZIP Code	Telephone Number	Amount of Loan Requested $
Project Location: City		Population (Last Census)	County / State
Franchise ☐Yes ☐No		If Yes, Submit Copy	
2. TYPE OF BUSINESS:		Applicant's Tax Indentification Number	SIC Number
3. THIS PROJECT IS: ☐ A new business venture ☐ A new branch of facility ☐ Refinancing debts ☐ Other (Explain) ☐ An expansion of an existing facility ☐ Transfer of Ownership			Date Enterprise Established:

4. VETERAN - For individual or partner indicate if veteran ☐Yes ☐No
If yet, indicate service From to Branch

5. CITIZENSHIP - For individuals or partner. Are you a U.S. Citizen or reside in the U.S. after being legally admitted for permanent residence? ☐Yes ☐No
For a corporation: Is 51 percent of ownership by U.S. Citizens or those legally admitted for permanent residence? ☐Yes ☐No

6. HISTORY OF BUSINESS - Provide a brief description and history of the business (attach additional sheets if necessary).

7. COMMUNITY BENEFITS - Comment on the benefits the community will receive if the loan is made: (i.e. taxes, jobs and any other benefits).

GOVERNMENT PRINTING OFFICE: 764-068

FmHA 449-1 (Rev. 8-4-76)

8. PREVIOUS FEDERAL FINANCING - List assistance received, requested, or any pending applications. (Include direct, participation, insured, or guarantee loans and grants from any Federal Agency).

9. LITIGATIONS - List details of any pending or final disciplinary or legal (civil or criminal) action against the applicant, guarantors, partners, principal stockholders and directors.

10. NAMES OF ATTORNEYS, ACCOUNTANTS, AND OTHER PARTIES - List the names of all attorneys, accountants, appraisers, agents, and all other parties, (whether individuals, partnerships, associations) engaged by or on behalf of the applicant (whether on a salary, retainer or fee basis and regardless of the amount of compensation) for the purpose of rendering professional or other services of any nature whatever to applicant, in connection with the preparation or presentation of this application to a lender. List all fees or other charges or compensations paid or to be paid for any purpose in connection with this application or disbursement of the loan whether in money or other property of any kind whatever, by or for the account of the applicant, together with a description of such services rendered or to be rendered.

Name and Address (Include ZIP Code)	Description of Service Rendered or to be Rendered	Total Compensation Agreed to be Paid*	Compensation Already Paid

*Enter specific dollar amounts or hourly rates. "Unknown," "Undetermined," or other imprecise terms are not sufficient.

11. SUBSIDIARIES AND AFFILIATES - (1) List the name and addresses of all concerns that are subsidiaries, parent organizations, or affiliates of the applicant, including concerns in which the applicant holds a controlling(but not necessarily a majority) interest:

(2) List all other concerns that are in an affiliated, by stock ownership, management contro - or otherwise, with the applicant. The applicant should comment briefly regarding the trade relationship between the applicant and both subsidiaries or affiliates and if the applicant has no subsidiary or affiliate, a statement to this effect should be made. Signed and dated balance sheets, operating statements and reconcilement of net worth must be submitted for all subsidiaries, parent organizations, and affiliates in the same manner as required of applicant.

12. PURCHASE AND SALES RELATIONS WITH OTHERS - Does borrower buy from, sell to or use the services of, any concern in which an officer, director, major stockholder, or partner, or proprietor of the borrower has a substantial interest? ☐Yes ☐No If "Yes" give names of such officer, director, stockholder, and partners, names of such concerns and explain the nature of the transaction(s).

13. RECEIVERSHIP - BANKRUPTCY - Has applicant or any officer or, partner or director of the applicant, affiliates or any other concern with which such person has been connected ever been in receivership or adjudicated bankrupt? ☐Yes ☐No If "Yes" give names and details.

14. DISCLOSURE OF SPECIAL INFORMATION REGARDING PRINCIPALS - (a) List below the names of any FmHA employees who are related by blood, marriage, or adoption, or who have any present or have had any past, direct or indirect, financial interest in or association with, the proposed borrower, or any of its partners, officers, directors or principal stockholders including such interest in other enterprise; (b) When the proprietor, or any partner, officer, director, or their spouse, is an employee of the U.S. Government including members of the armed forces, detailed information shall be submitted with his application. Check box(s) if (a) or (b) is not applicable. ☐(a) ☐(b)

NAMES AND ADDRESS (INCLUDE ZIP CODE)	Details of Relationship or Interest

15. MANAGEMENT - Enter names of (a) all owners, partners, key officers, directors or stockholders and their annual compensation, including salaries, fees, withdrawals, etc., (b) hired manager, and (c) all other stockholders having 20 percent or more interest in the proposed borrower. Elected officials and managers on applications for loans from public bodies are excluded. Personal guarantees from major stockholders or owners having a major interest in a corporation, and all partners of partnerships usually will be required. If guarantor cannot provide such guarantee due to existing contractual or legal restrictions, explain in an attachment. Final determinations will be made by the FmHA. Attach in the case of personal guarantee, current financial statements not over 60 days old at time of filing and for any corporate guarantee, current financial statements not over 90 days old at time of filing and certified by an officer of the corporation. (Form FmHA 449-5 may be used).

(a) Name	(b) Position	(c) Annual Compensation	(d) % Owner-Ship	(e) Outside Net Worth	(f) Personal Guarantee Offered (Yes or No)	(g) Life Insurance Carried For Benefit of Applicant

16. REGULATORY AGENCIES - List all regulatory agencies (National, State, or Local) which affect this business or project and explain if there are any pending matters with such regulatory agencies.

17. INSTRUCTION TO APPLICANT - Attach to this application the following supporting documents. Reference for 1980-A include sections 1980.1 thru 1980.100 and reference for 1980-E include sections 1980.401 thru 1980.500:

(a) Comments of A-95 review process, if not already submitted. (See FmHA Instruction 1980.451 (f) (8)).

(b) Forms FmHA 449-4, "Statement of Personal History," if not already submitted (See FmHA Instruction 1980.451 (f) (3)).

(c) Form 449-22, "Certification of Non-Relocation and Market and Capacity Information Report," if not already submitted. (See FmHA Instruction 1980.451 (f) (2)).

(d) Financial data for new or existing businesses as required in accordance with FmHA Instruction 1980.451 (i) (7) and (8).

(e) Aging of accounts receivable and payable. (Use 30, 60, 90 days with individual account explanation of items over 90 days old). (See FmHA Instruction 1980.451 (i) (16)).

(f) For companies listed on major stock exchanges and subject to the Securities and Exchange Commission regulations, a copy of the latest SEC 10K report. (See FmHA Instruction 1980.442 (i) (17)).

(g) Provide supporting documentation for your projections, including economic factors, markets, management, etc. For loans in excess of $1 million see FmHA Instruction 1980.442.

(h) If construction is involved, (See FmHA Instruction 1980.451 (i) (11)). Final plans and specifications must be submitted to the lender for approval prior to the commencement of construction. Architectural or engineering plans, if applicable, need be attach. (See 1980.451 (i) (4)).

(i) If construction is involved, provide applicable equal opportunity and nondiscrimination forms. (See FmHA Instruction 1980.41).

(j) Form FmHA 449-10, "Applicants Environmental Impact Evaluation." (See FmHA Instruction 1980.40 and 1980.451 (i) (3)).

(k) Evidence whether the project is located in a flood or mudslide hazard area. (See FmHA Instruction 1980.42 and 1980.451 (i) (18)).

(l) Provide a written statement of effect project would have on Historic Places, if any. (See FmHA Instruction 1980.44 and 1980.451 (i) (15)).

(m) If application is for health facility, attach a "Certificate of Need," from appropriate regulatory agency having jurisdiction over the project. (See FmHA Instruction 1980.451 (k)).

(n) If loan is in excess of $100,000, provide certification and notices as required for the Clean Air Act and Water Pollution Control Act. (See FmHA Instruction 1980.435).

(o) Document utilities availability with letter of commitment from utilities, energy, water, sewer, fire and police protection.

(p) For all persons listed under MANAGEMENT, item 15, provide a brief description of education, technical training, employment and business experience (resumes may be used).

(q) Provide a detailed debt schedule correlated to the latest balance sheet reflecting the name of the creditors, loan purpose, original loan amount and loan balance, date of loan, interest rate, maturity date, monthly or annual payments, payment status and collateral that secures such loans.

18. POLICY AND REGULATIONS CONCERNING REPRESENTATIVES AND THEIR FEES:

(a) An applicant for a loan may obtain the assistance of any attorney, engineer, appraiser, or other representative to aid it in the preparation of its application, however, such representation is not mandatory. In the event a loan is approved, the services of an attorney may be necessary to assist in the preparation of closing documents, title examination, etc. Fees or other compensation which FmHA considers reasonable for services performed by such representatives on behalf of the applicant may be paid from loan proceeds.

(b) There are no "authorized representatives" of FmHA, other than our regular salaried employees. Payment of any fee or gratuity to FmHA employees is illegal and will subject the parties to such a transaction to prosecution.

(c) FmHA will not approve placement or finder's fees for the use or attempted use of influence in obtaining or trying to obtain a loan.

(d) Fees which will be approved will be limited to reasonable sums for services actually rendered in connection with the application or the closing, based upon the time and effort required, and the nature and extent of the services rendered by such representative.

(e) It is the responsibility of the applicant to set forth in Section 10 of this application the names of all persons or firms engaged by or on behalf of the applicant. Applicants are also required to advise FmHA in writing of the names and fees of any representatives engaged by the applicant subsequent to the filing of the application. Failure to so notify FmHA constitutes "misrepresentation" and will void FmHA's guarantee if lender had knowledge of this omission.

(f) Any applicant having any question concerning the payment of fees, or the reasonableness of fees, should communicate with FmHA before the application is filed for a loan guarantee.

19. AGREEMENT OF NONEMPLOYMENT OF FmHA PERSONNEL. In consideration of FmHA guaranteeing any part of the loan applied for in this application, the applicant hereby agrees with FmHA that applicant will not, for a period of two years after date of guarantee of any part of the loan, employ or tender any office or employment to, or retain for professional services, any person who, on the date of such disbursement, or within one year prior to said date, (a) shall have served as an officer, attorney, agent, or employee of FmHA and (b) as such, shall have occupied a position or engaged in activities which FmHA shall have determined, or may determine, involved discretion with respect to the granting of assistance under the Consolidated Farm and Rural Development Act and other Acts administered by FmHA from time to time.

20. CERTIFICATION - The applicant hereby certifies that:

(a) The Applicant has read FmHA Policy and Regulations concerning representatives and their fees (18 above) and has not paid or incurred any obligation to pay, directly or indirectly, any fee or other compensation for obtaining the loan hereby applied for, other than for services and expenses authorized pursuant to paragraph 18 above.

(b) The applicant has not paid or incurred any obligation to pay to any Government employee or special Government employee any fee, gratuity or anything of value for obtaining the assistance hereby applied for. If such fee, gratuity, etc. has been solicited by any such employee, the applicant agrees to report such information to the Office of Inspector General, USDA, Washington, D. C. 20250.

(c) Information contained above and in exhibits attached hereto are true and complete to the best knowledge and belief of the applicant and are submitted for the purpose of requesting FmHA to guarantee a loan by a lender to the applicant. Whether or not the loan herein applied for is approved, applicant agrees to pay or reimburse the lender for the cost of any surveys, title or mortgage examinations, appraisals, etc., performed by nonlender personnel with consent of the applicant.

(d) The applicant hereby covenants, promises, agrees and gives herein the ASSURANCE that in connection with any loan to applicant which FmHA may guarantee as a result of this application, it will COMPLY with the requirements of Executive Order 11245 regarding Equal Credit Opportunity applicant further agrees that in the event it fails to comply with said applicable provision, FmHA may cancel, terminate, accelerate repayment of or suspend in whole or in part the financial assistance provided or to be provided by FmHA, and that FmHA or the United States Government may take any other action that may be deemed necessary or appropriate of this ASSURANCE OF COMPLIANCE. These requirements prohibit discrimination on the grounds of race, religion, color, sex, marital status or national origin recipients of Federal financial assistance, including but not limited to employment practices, and require the submission of appropriate reports and access to books and records. These requirements are applicable to all transferees and successors in interest.

Notice: In accordance with 5 U.S.C. 552a, the Privacy Act of 1974, any individual should be provided a copy of Form FmHA 410-9, "Statement Required by the Privacy Act," at the time this application is completed.

WARNING: Section 1001 of Title 18, United States Code provides: "Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fradulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than 5 years, or both."

Misrepresentation of material facts may also be the basis for denial of credit by the Farmers Home Administration.

*Applicant Name:

_____

_____

CORPORATE SEAL

By _____

Title _____

Attest: _____ Date Signed: _____, 19____

_____ (Title) _____ (Title)

Applicants' Contact Person

_____ name

_____ address

_____ telephone

* (Individual, general partner, trade name, or corporation name).

PART B

INSTRUCTIONS: Lender completes item 21 through 33 and submit the original and one copy of this application and all supporting documents to FmHA.

21. REQUEST FOR GUARANTEE: (For use only by lender) LENDER TAX IDENTIFICATION NO. _____

We propose to make and service a loan to the applicant named on page 1 of this Application. We request an FmHA loan Guarantee subject to the provisions of the applicable FmHA instructions.

22. TERMS AND CONDITIONS OF LOANS: Percent of Guarantee Requested _____ %

(1) Type	Amount	Terms (yrs)	Interest*	Monthly Payments
Real Estate	$ _____	_____ yrs.	_____ %	$ _____
Machinery and Equipment	$ _____	_____ yrs.	_____ %	$ _____
Working Capital	$ _____	_____ yrs.	_____ %	$ _____
Other _____	$ _____	_____ yrs.	_____ %	$ _____
TOTAL	$ _____			$ _____

* If the variable rate follow by a "v" and identify base rate used and what interest differential is added to base rate. If multi-rates are used provide overall effective interest rate for the entire loan: _____ %.

23. SOURCE AND USE OF FUNDS:

Building and Improvements	$ _____	Machinery and Equipment	$ _____
Land and Rights	_____	Contingencies	_____
Fees (list below)	_____	Debt Refinancing	_____
Legal and Engineering Fees	_____	Working Capital	_____
Interim Interest	_____	Other (Specify) _____	_____
		TOTAL	$ _____

24. COLLATERAL AND LIEN POSITION: (Describe collateral, show whether now owned or to be acquired). (Use Form FmHA 449-2 with appropriate appraisal reports).

25. PLANNED DISBURSEMENTS: Record plans for distributing the loan and requirements for compensating balances, if any.

26. PERSONAL AND/OR CORPORATE GUARANTEES RECOMMENDED:

27. INSURANCE: (List requirements for Life, Hazard, Federal Flood, and Liability).

28. COMMENTS OF LENDER: (Attach additional sheets, if necessary).

(a) Evaluate applicants management, past record, repayment ability and other financial analysis.

(b) State whether any officer, director, stockholder, or employee of the lender has a financial interest in borrower or vice versa. If so, give details:

(c) Is applicant indebted to lender? ☐Yes ☐No. If yes, provide history of debt repayment and other details:

(d) List all fees charged for the loan, including those for preparation of application, servicing, etc.. Indicate whether the guarantee fee will be passed on to borrower.

(e) Provide loan servicing plans, including field inspections, frequency of obtaining financial statements and their analysis, use of correspondents or other outside consultants, location of office servicing the loan, and complying with servicing responsibilities of Lender's Agreement, Form FmHA 440-55.

29. LOAN AGREEMENT: A[illegible] proposed lender and borrower loan agreement (S[illegible]HA Instruction 1980.451 (j) (13)).

30. LENDER'S EXPERIENCE WITH FmHA:

(a) Have you made any loans guaranteed by FmHA? ☐Yes ☐No
If yes, check program area: ☐Farmer Programs ☐Rural Housing ☐Business and Industry.

(b) If applicant has or had a loan(s) with you, has such loan(s) appeared in regulatory examination report?
☐Yes ☐No If yes, explain.

31. Verify and Comment on Applicant's Debt Schedules:

32. PLANS FOR CONSTITUTING THE LOAN: (See FmHA Instruction 1980.452).

(a) Will retain entire loan ☐Yes ☐No

(b) Will utilize secondary market for guaranteed portion (indicated by check).
Assignment ____ Participation ____ Multi-note ____

(c) Participation of unguaranteed portion ☐Yes ☐No

33. OPINION: In our opinion, the loan appears feasible and all FmHA requirements in FmHA Instruction 1980-A and B will be met.

WARNING: Section 1001 of Title 18, United States Code provides: "Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fradulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than 5 years, or both."

Misrepresentation of material facts may also be the basis for FmHA not issuing a Loan Note Guarantee.

LENDER:

_____
Name and Address of Lender (Include ZIP)

Contact Person _____

Telephone Number _____

Date _____, 19__

By: _____
Authorized Officer

TITLE

[FR Doc.77-6173 Filed 3-2-77;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

[Ruling 1977—4]

INTERAFFILIATE TRANSACTIONS

Timing of Landed Cost

Facts. Firm X purchases foreign crude oil from its affiliate. The crude oil is loaded in May 1974 at the country of origin and is delivered in the U.S. in June 1974. Firm X takes title and custody of the oil and accrues the cost of the crude oil for accounting and tax purposes at the time of loading. This is the firm's customary procedure which it has consistently and historically applied.

Issues. When may Firm X incur the cost of such crude oil for purposes of § 212.83 (now § 212.82)?

Ruling. Firm X is permitted to incur the applicable cost as part of its "landed cost" when the cost is recognized pursuant to the firm's customary accounting procedures generally accepted and consistently and historically applied, in this case, May 1974.

In October 1974, FEA adopted specific regulations governing the time when such costs may be incurred. In particular § 212.84(h) provides:

(h) *Timing.* The landed cost shall be considered to be incurred when that cost is recognized as having been incurred by application of the refiner's customary accounting procedures generally accepted and consistently and historically applied * * *

In adopting § 212.84, FEA stated that:

To the extent that the standards in these regulations are applied to months earlier than October 1974, they are not intended to alter or to expand in any way the authority which FEA presently has under its existing regulations. Rather the proposed *regulations are interpretative in nature,* setting out with more precision the methods for measurement of actual landed costs, which is required in any application of § 212.83(e).[1]

FEA will compute representative arms-length prices for the period from October 1973 through September 1974 and use such prices as standards for disallowing costs pursuant to § 212.83(e) as it has always read. Because § 212.83 provided only general guidance, however, and because of great price uncertainty during much of this period, FEA may allow somewhat greater leeway in determining appropriate transfer prices for this period than is provided for in the new regulation and FEA may permit some form of offset. In addition, the form of remedy may differ from that for the prospective months. [emph. supp.] 39 FR 38365

Thus, in inter-affiliate transactions preceding adoption of § 212.84, disallowances regarding the landed costs of crude oil have been generally measured in accordance with § 212.84. Accordingly, FEA will not initiate disallowances or other enforcement procedures for the period prior to October 1974 where costs have been incurred on the basis set out in § 212.84(h). If a different rule were applied, e.g., if the time of landing or loading were specified for all refiners, firms would be required to make a further accounting adjustment to take account of the difference in treatment before and after October 1974. The net result of any such adjustment would be to allow refiners to recover the same total cost whether or not refiners were permitted to use their customary accounting practices for the period prior to October 1974.

The use of customary accounting procedures in this connection also accords with FEA's previous experience in adopting § 212.84(h). When that regulation was issued, FEA stated that:

FEA [had] originally proposed that landed costs to a U.S. affiliate would not be considered to be incurred for calculating increased costs before the crude oil was physically landed in the United States. This did not conform with most companies' customary accounting practices, which accrue the cost of acquisition upon the passage of title, which usually occurs at the time of loading in a foreign port. The final rule considers landed costs to be incurred when they are recognized by the firm's customary accounting procedures generally accepted and consistently and historically applied. Adoption of this rule avoids imposing on the companies an additional burden of establishing and maintaining new procedures and records in order to comply with the regulation. It should therefore facilitate the rapid provision to FEA of transaction information. Because records for FEA should conform with the companies' normal accounting practice, auditing should also be easier. 39 FR 38365

It should be emphasized that this ruling is premised on the fact that Firm X's customary accounting procedures for the period prior to October 1974 have been consistently and historically applied by the firm. Moreover, such accounting practices must be considered generally accepted either for purposes of reports to stockholders or for accrual of the expense in determining United States income tax liability.

Issued in Washington, D.C., February 25, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-6420 Filed 2-28-77;3:18 p.m.]

[1] Section 212.83(e) (now § 212.83(b)) provides that: Whenever a firm uses a landed cost which is computed by use of its customary accounting procedures, the FEA may allocate such costs between the affiliated entities if it determines that such allocation is necessary to reflect the actual costs of these entities or the FEA may disallow costs which it determines to be in excess of the proper measurement of costs.

Title 12—Banks and Banking

CHAPTER VI—FARM CREDIT ADMINISTRATION

PART 604—MEETINGS OF THE FEDERAL FARM CREDIT BOARD

Government in the Sunshine Act

The Farm Credit Administration, by its Federal Farm Credit Board, took final action effective March 7, 1977, on additions to its regulations to implement the provisions of the Government in the Sunshine Act. (5 U.S.C. 552b) These regulations (1) define terms used therein, (2) request notification from the public of intention to attend an open meeting, (3) clarify that this addition applies only to meetings of the Federal Board, (4) declare that, unless otherwise specified, every meeting of the Federal Board shall be open to the public, (5) state the basis for closing a meeting to the public, (6) provide for the announcement of meetings, (7) state how a meeting shall be closed, (8) require the keeping of records of closed meetings, (9) state to whom requests for information shall be addressed.

By a notice published in the FEDERAL REGISTER on January 3, 1977, interested persons were afforded the opportunity to file written comments or suggestions on the proposed regulations to implement the Government in the Sunshine Act. Two letters containing substantially the same comments were received. As a result of these comments, changes were made (1) in §§ 604.315 and 604.320 to clarify that a meeting or portion of a meeting will be closed only if the Federal Board determines that it will involve the discussion of matters which are within an exemptive provision and that the public interest is not served by the discussion of such matters in an open meeting, and (2) in § 604.325 to clarify that the Farm Credit Administration will post a notice on its public notice board in its offices of the time, place, and subject matter of a meeting or portion of a meeting except to the extent that information is exempt from disclosure. The substance of other comments in the two letters either is covered by provisions of the regulations or is not required by the Act. As changed, the proposed regulations were adopted by the Federal Farm Credit Board.

Chapter VI of Title 12 of the Code of Federal Regulations is amended by adding a new Part 604—Meetings of the Federal Farm Credit Board to Subchapter A—Administrative Provisions, as follows:

Sec.
604.300 Definitions.
604.305 Notice of public observation.
604.310 Scope of application.
604.315 Open meetings.
604.320 Exemptive provisions.
604.325 Announcement of meetings.
604.330 Closure of meetings.
604.335 Record of closed meetings or closed portion of a meeting.
604.340 Requests for information.

AUTHORITY: 5 U.S.C. 552b.

§ 604.300 Definitions.

(a) For purposes of the part:

(1) The term "agency" means any agency, as defined in 5 U.S.C. 552b(e) which includes the Farm Credit Administration, headed by a collegial body composed of two or more individual members, a majority of whom are appointed by the President with the advice and consent of the Senate, and any subdivision thereof authorized to act on behalf of the agency;

(2) The term "Board" means the Federal Farm Credit Board, which is a collegial body that functions as a unit composed of thirteen individual members,

twelve appointed by the President with the advice and consent of the Senate, and one appointed by the Secretary of Agriculture;

(3) The term "member" means any one of the thirteen members of the Board;

(4) The term "meeting" means the deliberations of at least seven (quorum) members of the Board where such deliberations determine or result in joint conduct or disposition of official Farm Credit Administration business.

(5) The terms "exempt meeting" and "exempt portion of a meeting" mean, respectively, a meeting or that part of a meeting designated as provided in § 604.330 as closed to the public by reason of one or more of the exemptive provisions listed in § 604.320.

(6) The term "open" meeting means a meeting or portion of a meeting which is not an exempt meeting or an exempt portion of a meeting;

(7) The term "public observation" means the right of any member of the public to attend and observe, but not participate or interfere in any way in an open meeting of the Board, within the limits of reasonable and comfortable accommodations made available for such purpose by the Farm Credit Administration.

§ 604.305 Notice of public observation.

(a) A member of the public is not required to give advance notice to the Farm Credit Administration of an intention to exercise the right of public observation of an open meeting of the Board. However, in order to permit the Farm Credit Administration to determine the amount of space and number of seats which must be made available to accommodate individuals who desire to exercise the right of public observation, such individuals are requested to give notice to the Farm Credit Administration at least two business days before the start of the open meeting of the intention to exercise such right.

(b) Notice of intention to exercise the right of public observation may be given in writing, in person, or by telephone to the official designated in § 604.340.

(c) Individuals who have not given advance notice of intention to exercise the right of public observation will not be permitted to attend and observe the open meeting of the Board if the available space and seating are necessary to accommodate individuals who gave advance notice of such intention to the Farm Credit Administration.

§ 604.310 Scope of application.

The provisions of this Part 604 apply to meetings of the Board, and do not apply to conferences or other gatherings of employees of the Farm Credit Administration who meet or join with others, except at meetings of the Board, to deliberate official agency business.

§ 604.315 Open meetings.

(a) Every meeting and portion of a meeting of the Board shall be open to public observation unless the Board determines that such meeting or portion of a meeting will involve the discussion of matters which are within one or more of the exemptive provisions listed in § 604.320, and that the public interest is not served by the discussion of such matters in an open meeting.

§ 604.320 Exemptive provisions.

(a) Except in a case where the Board determines that the public interest requires otherwise, a meeting or portion of a meeting may be closed to public observation where the Board determines that the meeting or portion of the meeting is likely to:

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

(2) Relate solely to the internal personnel rules and practices of the Farm Credit Administration;

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

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

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

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

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) 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, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel;

(8) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of the Farm Credit Administration;

(9) Disclose information the premature disclosure of which would (i) significantly endanger the stability of any Farm Credit bank or association supervised by the Farm Credit Administration; or (ii) be likely to significantly frustrate implementation of a proposed action of the Farm Credit Administration: *Provided*, Said Administration has not already disclosed to the public the content or nature of its proposed action, or is not required by law to make such disclosure on its own initiative prior to taking final action on such proposal; or

(10) Specifically concern participation by the Farm Credit Administration in a civil action or proceeding or otherwise involving a determination on the record after an opportunity for a hearing.

§ 604.325 Announcement of meetings.

(a) The Board meets beginning at 8:30 a.m. in the offices of the Farm Credit Administration, 490 L'Enfant Plaza, Washington, D.C. on the first Monday of February, April, June, August, October and December, except that if any such Monday is a holiday, the meeting begins at the same hour and place on the first full business day thereafter.

(b) At any duly called meeting held previous to any meeting scheduled as provided in paragraph (a) of this section, the Board may fix a different time and place for a subsequent meeting.

(c) At the earliest practicable time, which is estimated to be not later than eight days before the beginning of a meeting of the Board, the Farm Credit Administration shall make available for public inspection by posting notice on its public notice board in its offices, or pursuant to telephonic or written requests, the time, place, and subject matter of the meeting except to the extent that such information is exempt from disclosure under the provisions of § 604.320.

§ 604.330 Closure of meetings.

(a) The majority of the meetings of the Board are exempt meetings, or a portion or portions of a majority of the meetings of the Board are exempt portions of such meetings, by reason of § 604.320(a) (4), (8), (9)(i), or (10). An exempt meeting or an exempt portion of a meeting shall be closed to the public when at least seven members of the Board vote by a recorded vote of the Board at the beginning of the exempt meeting or exempt portion of a meeting to close such meeting or such exempt portion, and the General Counsel, Farm Credit Administration, publicly certifies that, in his or her opinion, the meeting or portion of a meeting may be closed to the public stating each relevant exemptive provision listed in § 604.320.

(b) A copy of the vote of the Board to close a meeting or an exempt portion thereof reflecting the vote of each member on the question, and a copy of the certification of General Counsel, shall be made available for public inspection in the offices of the Farm Credit Administration, or pursuant to telephonic or written requests.

(c) A copy of the certification of General Counsel, together with a statement from the presiding officer of the meeting setting forth the time and place of an

exempt meeting or an exempt portion of a meeting which was closed and the persons present shall be retained by the Farm Credit Administration for a period of at least two years after the date of such closed meeting or closed portion of a meeting.

§ 604.335 Record of closed meetings or closed portion of a meeting.

(a) The Farm Credit Administration shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each closed meeting or closed portion of a meeting, except that in the case of a meeting or portion of a meeting closed to the public pursuant to § 604.320(a) (4), (8), (9)(i), or (10), the Farm Credit Administration shall maintain either such transcript, recording, or a set of minutes.

(b) Any minutes so maintained shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote. All documents considered in connection with any action shall be identified in the minutes.

(c) The Farm Credit Administration shall promptly make available to the public, in its offices, the transcript, electronic recording, or minutes, of the discussion of any item on the agenda of a closed meeting, or closed portion of a meeting, except for such item or items of discussion which the Farm Credit Administration determines to contain information which may be withheld under § 604.320. Copies of such transcript or minutes, or a transcription of such recording disclosing the identity of each speaker, shall be furnished to any person at the actual cost of duplication or transcription.

(d) The Farm Credit Administration shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each closed meeting or closed portion of a meeting for a period of two years after the date of such closed meeting or closed portion of a meeting.

(e) All actions required or permitted by this section to be undertaken by the Farm Credit Administration shall be by or under the authority of the Deputy Governor, Office of Administration.

§ 604.340 Requests for information.

Requests to the Farm Credit Administration for information about the time, place, and subject matter of a meeting, whether it or any portion thereof is closed to the public, and any requests for copies of the transcript or minutes, or of a transcript of an electronic recording of a closed meeting, or closed portion of a meeting, to the extent not exempt from disclosure by the provisions of § 604.320, shall be addressed to the Deputy Governor, Office of Administration, Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

C. K. CARDWELL,
Acting Governor,
Farm Credit Administration.

[FR Doc.77-6397 Filed 3-2-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 76-CE-32-AD; Amdt. 39-2843]

PART 39—AIRWORTHINESS DIRECTIVES

Beech 99 Series Airplanes

A proposal to amend Part 39 of the Federal Aviation Regulations to include an Airworthiness Directive (AD) applicable to Beech 99 series airplanes was published in the FEDERAL REGISTER on November 18, 1976 (41 FR 50839, 50840). The proposal would supersede AD 75-27-10, Amendment 39-2484 (41 FR 1054), and would require, with respect to the aforementioned aircraft, repetitive inspections of the wing front spar lower cap, associated components and wing remaining structure for the detection of cracks and if cracks are discovered the accomplishment of appropriate corrective action. It would also afford relief to owners/operators in the form of extended inspection intervals and spar cap life limits when STC SA1178CE (wing straps) is installed. Finally, the proposal would require repetitive inspections of the STC installation.

Interested persons have been afforded the opportunity to participate in the making of the amendment. Three letters commenting on the proposal were received.

All three commentators pointed out an inconsistency in the date of Aerocon California, Inc. Engineering Order E.O. B-9975-2, which is referred to in Paragraphs V.A.1. and VI of the proposal. The correct date of the Order is November 14, 1975, and Paragraph VI in the Final Rule will be changed accordingly.

Two of the commentators stated that Paragraph V. D. of the proposal was extremely broad and ambiguous. The FAA agrees and Paragraph IV. A. in the Final Rule will be revised to clearly reflect that aircraft modified in accord with STC SA1178CE are exempt from front spar lower cap and associated component replacement requirements. Because of this change, Paragraph V. D. is no longer necessary and is being deleted.

The third commentator was the aircraft manufacturer who offered a number of additional comments and suggestions. The manufacturer objected to the extended scope of the proposal and to the inclusion therein of any reference to STC SA1178CE. In response to that comment, the FAA states that STC SA1178CE, which was approved after the issuance of AD 75-27-10, makes wing straps available for these aircraft and when installed extends the front spar lower cap life indefinitely. As a result of service experience, analysis of the problem and the advent of STC SA1178CE, the agency determined that the additional measures set forth in the proposal are necessary and consistent to assure the continued safe operation of Beech 99 series airplanes. In addition, the inclusion of instructions relating to STC SA1178CE in this proposal rather than in a separate rule making action is advantageous to those owners/operators who have modified some of their aircraft with the wing straps.

The manufacturer also objected to the short time interval allowed between front spar lower cap replacement and the first repetitive inspection of other wing structure because it feels that a very thorough wing structure inspection will be accomplished at the time of front spar lower cap replacement. In view of the fact that failure of certain components other than the lower spar cap could result in unsafe conditions and because crack growth rate data for these components has not been established, the agency does not believe that an increase in the proposed time interval is justifiable at this time.

The manufacturer asserts that the extent of the inspections required when STC SA1178CE is installed may be inadequate. The FAA disagrees. The elimination of or the extension of the time intervals for the inspection of certain structural components of the wing in this AD is warranted by the reduction in operating stress of these components when STC SA1178CE is installed.

Paragraph X of the proposal requires a special inspection prior to the issuance of a ferry permit. The manufacturer proposed the addition of another special inspection in this paragraph. After further review the FAA has determined that safety in air commerce and the public interest will best be served by not limiting Paragraph X to special inspections of one or two critical areas of the wing. Therefore, Paragraph X is being revised accordingly in the Final Rule.

The manufacturer's other comments pertained to minor items of clarification. Where appropriate the Final Rule will include those suggested changes.

After further analysis of the proposal, the agency concludes that Table 3 set forth therein should be revised to more clearly define the inspection intervals for wing remaining structure. In addition, use of the words "wing remaining structure" more aptly describes wing structure referred to as "wing secondary structure" in the proposal. These two revisions will be included in the Final Rule.

Since those changes in the Final Rule that differ from the proposal are clarifying in nature, further notice and public procedure hereon are impracticable and unnecessary.

The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator 14 CFR 11.89 (31 FR 13697), Section 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new AD.

BEECH. Applies to all 99 (Serial Numbers U-1 and up) series airplanes with 3,000 or more hours' time in service.

Compliance: Required as indicated in accordance with the compliance tables set forth in this AD or as otherwise specified herein, unless already accomplished.

To detect any cracking of the wing front spar lower cap, other wing panel front spar carry-through structural components, wing remaining structure or STC SA1178CE wing straps, accomplish the following:

I. Front spar lower cap inspection requirements:

TABLE 1

COMPLIANCE TIMES

Lower Spar Cap Total Time in Service	Inspection Times	
	Initial Inspection in Accordance With This AD	Interval for Repetitive Inspections
0 --- 2999	None	None
3000 —> 7500	Within 100 hours' time in service after accumulation of 3000 hours'. time in service or within 600 hours' time in service after last comparable inspection in accordance with AD 75-27-10	Each 500 hours (X-ray included)
7501 —> Up to 10,000 hours or to spar cap life limit time extension	Within 600 hours' time in service after last comparable inspection in accordance with AD 75-27-10	Each 300 hours except X-ray at 600 hour intervals

A. Inspect, at time intervals noted in Table 1 above, the structural components set forth in Part I of Beechcraft Service Instructions 0388-018, Rev. V, or later approved revisions, and summarized below, using those visual, dye penetrant, eddy current and X-ray methods of inspection set forth in Part I of said service instructions:

1. The right and left lower forward inboard and outboard wing attachment fittings;

2. The lower forward wing fitting-to-spar attachment area and the edges of the forward and aft flanges on the lower forward spar cap in the center section, outboard of each main gear wheel well;

3. The lower forward spar cap in each main gear wheel well;

4. The lower surface of the lower forward spar cap in the nacelle inboard of each main gear wheel well;

5. The four $^{3}/_{16}$-inch brazier head rivets on the lower side of the spar cap in the nacelle inboard of each main gear wheel well;

6. The lower surface of the lower forward spar cap between each nacelle and the fuselage; and

7. The four Jo-bolt holes in the forward flange of the lower forward spar cap inboard of each nacelle in the area of the wing root rib.

II. Wing carry-through components inspection requirements:

TABLE 2

COMPLIANCE TIMES

Aircraft Total Time in Service	Inspection Times	
	Initial Inspection in Accordance With This AD	Interval for Repetive Inspections
0 → 2999	None	None
3000 → 7500	Within 100 hours' time in service after the accumulation of 3000 hours' time in service or within 600 hours' time in service after the last comparable inspection in accordance with AD 75-27-10	Each 500 hours
7501 → and on	Within 600 hours' time in service after the last comparable inspection in accordance with AD 75-27-10	Each 300 hours thereafter

A. Inspect, at time intervals noted in Table 2 above, using visual methods, the structural components set forth in Paragraph o. of Part I of Beechcraft Service Instructions 0388-018, Rev. V, or later approved revisions, and summarized below:

1. The fuselage center line skin in the area between the forward and aft center section spars, and

2. The two fuselage formers aft of the forward center section spar.

III. Wing remaining structure inspection requirements:

TABLE 3

COMPLIANCE TIMES

Aircraft Total Time In Service	Inspection Times	
	Initial Inspection In Accordance With This AD	Interval for Repetitive Inspections
0--- 9,999	None	None
10,000---17,500	Within 600 hours' time in service after the effective date of this AD or at attainment of life limit of original spar cap. These times apply regardless of whether STC SA1178CE is or is not installed.	Each 500 hours
17,501 and on	Within 400 hours' time in service after the effective date of this AD, or at attainment of life limit of original spar cap. These times apply regardless of whether STC SA1178CE is or is not installed.	Each 300 hours thereafter for aircraft that did not have life limit extensions granted. Each 500 hours for the first 7500 hours beyond the extended life of the spar and then at 300 hour intervals thereafter for aircraft that had life limit extensions granted.

A. Inspect, at time intervals noted in Table 3 above, using visual and dye penetrant methods of inspection, the structural components set forth in Part III of Beechcraft Services Instructions 0388-018, Rev. V, or later approved revisions and summarized below:

1. Lower fuselage skin at attachment to the forward spar;
2. Lower skin of each nacelle;
3. Center section skin under the top fairing and around the upper attach flange in each nacelle;
4. Upper flange of keel assembly doubler at the outboard side of each wheel well where the keel attaches to the main spar;
5. Dimpled skin attach holes on the forward side of the main spar at four Jo-bolts, left and right, and at all rivets between the fuselage and each nacelle;
6. Top skin attachment to the aft spar;
7. Lower aft spar cap and skin;
8. Lower strap on front spar at left and right wing stations 68.5;
9. Three stringers nearest the fuselage centerline between spars;
10. Frames and angle clips of the center wing/fuselage at fuselage stations 188, 197, and 207;
11. Four upper forward and eight aft wing-to-center section fittings;
12. Outer wing upper and lower forward spar cap and hinge; and
13. Aft spar and ribs near inboard flaps.

IV. Wing front spar lower cap replacement requirements:

A. On all airplanes, except those having front spar lower cap straps installed in accordance with STC SA1178CE, (1) upon accumulation of 10,000 hours' front spar lower cap time in service or (2) 10,000 hours' time in service after replacing the front spar lower cap and associated components in accordance with Paragraph VI and (3) at 10,000 hours' time in service intervals thereafter, or at the attainment of service life extensions granted prior to January 7, 1976, replace the structural components set forth in Part II of Beechcraft Service Instructions 0388-018, Rev. V, or later approved revisions and summarized below:

1. Lower cap of the front spar, with attachment fitting, in each outer wing panel, and
2. Lower cap of the front spar, with left and right attachment fittings, in the center section.

V. Wing inspection requirements for airplanes having front spar lower cap straps installed per STC SA1178CE:

A. (Front spar lower cap and STC straps): Within 1,000 hours' time in service after installation of above noted STC straps (if front spar lower cap had 1,000 or more hours' time in service at time of strap installation) and thereafter at intervals not to exceed 1,000 hours' time in service or within 2,000 hours' time in service after installation of above noted STC straps (if front spar lower caps had 999 or less hours' time in service at time of strap installation) and thereafter at intervals not to exceed 2,000 hours' time in service:

1. Remove and inspect STC SA1178CE straps in accordance with Aerocon California, Inc. Engineering Order No. E. O. B-9975-2, dated November 14, 1975, or later approved revisions, and

2. Inspect wing front spar lower cap and associated components in accordance with Paragraph I and Items 5 and 8 of Paragraph III of this AD.

B. (Wing carry-through components): Inspect wing carry-through components at the time intervals specified in and per the requirements of Paragraph II of this AD.

C. (Wing remaining structure): Inspect wing remaining structure at the time interval specified and per the requirements of Paragraph III of this AD except that compliance is not required with respect to Items 5, 8 and that portion of Item 12 which refers to the lower spar cap and hinge as specified in said Paragraph III.

VI. If a crack or loose fastener is found during any inspection required by this AD, prior to further flight, accomplish the repair or replacement specified by the applicable portion of Beechcraft Service Instruction 0388-018, Rev. V, or later approved revisions or in accordance with Aerocon California, Inc. Engineering Order No. E.O. B-9975-2 dated November 14, 1975, or later approved revisions.

VII. Aircraft maintenance record entries must be made and notification in writing sent to Chief, Engineering and Manufacturing Branch, FAA, Central Region, stating the location and length of any cracks found during inspections required by this AD and also the total time in service of the component at the time the crack was discovered. Reports may be submitted by letter or through M or D or MRR procedures. (Reporting approved by the Office of Management and Budget under OMB No. 04-R-0174.)

VIII. Within two (2) days after each X-ray inspection, send the radiographs by most rapid means for review and comment to Beech Aircraft Corporation, Wichita, Kansas 67201.

IX. The eddy current inspections required by this AD must be performed by personnel who have received training and are qualified in the operation of eddy current equipment and this equipment must be calibrated using a specimen obtained from the manufacturer which simulates cracking of the spar cap. The replacement of critical parts such as the spar caps and wing attach fittings required by this AD must be performed by personnel or facilities properly equipped and certificated to perform such repairs.

X. Aircraft may be flown in accordance with FAR 21.197 to a base where this AD can be accomplished.

XI. The inspection intervals set forth in Tables 1, 2 and 3 and elsewhere in this AD may be adjusted up as much as 25 hours where required to fit users maintenance cycles if authorized by local FAA Flight Standards Inspectors.

XII. Life limit time extensions, for wing front spar lower cap and associated fittings (also called components) granted in writing prior to January 7, 1976, apply only to those components that were in the aircraft when the time extension was granted and do not apply to new components installed after the extended life limits are attained.

XIII. Equivalent methods of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

This AD supersedes AD 75-27-10 (Amendment 39-2484).

This amendment becomes effective April 7, 1977.

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

Issued in Kansas City, Missouri, on February 16, 1977.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc.77-5862 Filed 3-2-77;8:45 am]

[Docket No. 77-WE-5-AD; Amdt. 39-2845]

PART 39—AIRWORTHINESS DIRECTIVES

Hughes Model 369D Helicopters

There has been a report of binding of the tail rotor control system on a Model 369D helicopter which did not have protective boots P/N 369D21806 and P/N 369D21807 installed. The binding was caused by sand collecting on the tail rotor output shaft and this could result in degradation of the tail rotor control and/or surface damage to the tail rotor output shaft P/N 369D25430. The manufacturer has issued a Service Information Letter to the operators of the affected aircraft, to urge a one time inspection to determine the cleanliness of the system and preflight inspections and cleaning as necessary. However, as the condition is likely to exist or develop in those 369D helicopters which do not incorporate the protective boots, the Federal Aviation Administration has determined that, in addition to the maintenance procedures urged by the manufacturer, an airworthiness directive is necessary to require installation of the protective boots within the shortest practicable period.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

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

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive.

HUGHES HELICOPTERS. Applies to Hughes Model 369D helicopters Serial No. 0003 through 0049, certificated in all categories, that were manufactured without protective boots on the tail rotor output shaft.

Compliance required as indicated unless already accomplished.

To prevent binding of the tail rotor control system and damage to the tail rotor output shaft, accomplish the following:

(a) Within 30 calendar days from the effective date of this AD, disassemble the tail rotor control assembly, install Hughes P/N 369D21806 rotating boot and Hughes P/N 369D21807 stationary boot, and reassemble in accordance with Hughes Handbook of Maintenance Instruction.

(b) Equivalent replacement parts may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(c) Special flight permits may be issued in accordance with 21.197 and 21.199 to operate helicopters to a base for the accomplishment of the installation required by this AD.

This amendment becomes effective March 7, 1977.

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, California on February 18, 1977.

WILLIAM R. KRIEGER,
Acting Director,
FAA Western Region.

[FR Doc.77-6330 Filed 3-2-77;8:45 am]

[Docket No. 13502; Amdt. 39-2847]

PART 39—AIRWORTHINESS DIRECTIVES

Israel Aircraft Industries Jet Commander Model 1121 and West Wind Model 1123 Airplanes

Amendment 39-1779 (39 FR 3669), AD 74-03-03, requires repetitive inspection of the main landing gear upper bodies of Israel Aircraft Industries Jet Commander Model 1121 and West Wind Model 1123 airplanes for cracks, rough surfaces, and tool marks, and repair, rework, or replacement of those parts, as required. After issuing Amendment 39-1779, the FAA determined that the installation of certain new parts of improved design would eliminate the need for further corrective action and that these parts were being incorporated on the fleet. Therefore, the AD is being amended to exclude airplanes incorporating such new parts from the requirements of this AD, and to provide that those airplanes on which the main landing gear upper bodies are replaced with the new parts of improved design are excluded from further compliance with this AD.

Since this amendment provides an alternative means of compliance and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

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

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89) § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-1779 (39 FR 3669), AD 74-03-03, is amended as follows:

(1) By amending the applicability statement to read as follows:

ISRAEL AIRCRAFT INDUSTRIES, LTD. Applies to Jet Commander Model 1121 and West Wind Model 1123 (S/Ns 3 and subsequent) airplanes, except those incorporating main landing gear upper bodies P/N's 5253505-501 and -502.

(2) By adding a new paragraph (f) to read as follows:

(f) The inspection, repair, replacement and rework requirements contained in paragraphs (a) through (e) of this AD may be discontinued when the main landing gear upper bodies P/N's ES 12845-1 and -4 are replaced with main landing gear upper bodies P/N's 5253505-501 and -502.

This amendment becomes effective March 17, 1977.

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C. on February 22, 1977.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.77-6323 Filed 3-2-77;8:45 am]

[Airspace Docket No. 76-NE-33]

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

Alteration of Control Zone; Correction

In FR Doc. 77-4210 appearing at page 8364 in the FEDERAL REGISTER of Thursday, February 10, 1977 (41 FR 8364), the Federal Aviation Administration published a description for an altered Lebanon, New Hampshire, control zone using, in two places, magnetic compass bearings rather than true bearings. This correction changes the magnetic bearings to true bearings as follows:

1. Delete from the description of the Lebanon, New Hampshire, control zone the words:

"* * * the Hanover NDB 246° and 066° bearings * * *"

2. Insert in lieu thereof the words:

"* * * the Hanover NDB 231° and 051° bearings * * *"

Issued in Burlington, Massachusetts, on February 16, 1977.

QUENTIN S. TAYLOR,
Director, New England Region.

[FR Doc.77-6331 Filed 3-2-77;8:45 am]

[Airspace Docket No. 76-CE-12]

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

Designation of Transition Area

The Federal Aviation Administration published a Notice of Proposed Rule Making in the FEDERAL REGISTER on November 22, 1976 (41 FR 51422, 51423), which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Gordon, Nebraska.

Interested persons were given thirty (30) days to submit written comments, objections and views concerning the proposed amendment. Two comments were received. The Air Transport Association stated it had no objection to the proposed designation. The Department of the Air Force objected to the transition area since a portion of it overlapped one of its Olive Branch training routes. The Air Force recommended that either the radius of the transition area be decreased or the instrument approach procedure to the Gordon, Nebraska, Municipal Airport be controlled so that there would be no disruption to the training route. Subsequent to the receipt of the Air Force's comment, the FAA revised the aforementioned instrument approach procedure which will allow approaches to be conducted without conflicting with the Air Force training route traffic. In addition, the agency notes that the coordinates identifying the Gordon, Nebraska, NDB are incorrect as the same appear in the proposal. As a consequence, the correct coordinates will be reflected in the Final Rule.

Since the change in the Final Rule that differs from that in the proposal is minor in nature, further notice and procedure hereon are impracticable and unnecessary.

NOTE—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Accordingly, the proposed amendment as so proposed is hereby adopted as set forth below, subject to the following change:

The Gordon NDB coordinates recited in the Gordon, Nebraska, transition area designation as "(latitude 42°48'03" N, longitude 102°10'45" W)" are changed to read "(latitude 42°48'04" N, longitude 102°10'44" W)".

This amendment becomes effective 0901 G.m.t., April 21, 1977.

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

Issued in Kansas City, Missouri, on February 18, 1977.

C. R. MELUGIN, Jr.,
Director, Central Region.

In § 71.181 (41 FR 441), the following transition area is added:

GORDON, NEBRASKA

That airspace extending upward from 700 feet along the surface within a 7 mile radius of the Gordon, Nebraska, Municipal Airport (latitude 42°48'15" N, Longitude 102°11'45" W); within 3 miles each side of the 032° bearing from Gordon NDB (latitude 42°48'04" N, longitude 102°10'44" W) extending from the 7 mile radius to 8.5 miles northeast of the airport.

[FR Doc.77-6321 Filed 3-2-77;8:45 am]

[Airspace Docket No. 76-SO-66]

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

Alteration of Federal Airways

On December 13, 1976, a Notice of Proposed Rulemaking (NPRM) was pub-

lished in the FEDERAL REGISTER (41 FR 54187) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would realign V-3 and V-35 north and east of Key West, Fla.

Interested persons were afforded an opportunity to participate in the proposed rulemaking through the submission of comments. Only one comment was received. The Air Force expressed concern about the possible detrimental effect that the en route traffic on V-35 would have on the terminal traffic at Homestead Air Force Base, Fla. The normal air traffic control procedures for the separation of IFR traffic will be applied in the area on a first-come first-served basis.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t. June 16, 1977, as hereinafter set forth.

Section 71.123 (42 FR 307, 7121, 41 FR 49805, 53318) is amended as follows:

In V-3 "INT Key West 086°" is deleted and "INT Key West 083°" is substituted therefor. Also "R-2921 and R-2922 is excluded." is deleted and "R-2916, R-2921 and R-2922 is excluded." is substituted therefor.

In V-35 all before "St. Petersburg, Fla.," is deleted and "From Key West, Fla., via INT Key West 083° and Biscayne Bay, Fla., 204° radials; Biscayne Bay; INT Biscayne Bay 288° and Fort Myers, Fla., 137° radials; Fort Myers, including a west alternate from Biscayne Bay via INT Biscayne Bay 262° and Fort Myers 137° radials to the INT of Biscayne Bay 288° and Fort Myers 137° radials;" is substituted therefor.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on February 22, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-6322 Filed 3-2-77;8:45 am]

[Airspace Docket No. 77-WA-1]

PART 73—SPECIAL USE AIRSPACE

Designation of Prohibited Area

NOTE: The following document was originally published in the Federal Register of March 1, 1977 (42 FR 11826). In order to fulfill Day-of-the-Week publication requirements, it is being reprinted below without change.

The purpose of this amendment to Part 73 of the Federal Aviation Regulations is to designate a prohibited area at Plains, Ga. The U.S. Secret Service has requested that aircraft flight be prohibited in the vicinity of President Carter's residence for the security of the President.

Public interest in the President may attract numerous aircraft over the Presidential residence for sight-seeing and photographic purposes. In order to provide adequate safeguards for the protection of the President and persons or property on ground, it is necessary to designate certain airspace above the Presidential residence at Plains, Ga., as a prohibited area. Under the provisions of § 73.83 no person may operate an aircraft within that area without permission from the FAA as the using agency. Requests for such permission may be made through Air Traffic Control.

Since there is a requirement for the immediate adoption of this regulation, further notice and the public procedure are impracticable and good cause exists for making this regulation effective in less than 30 days.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended by adding a new § 73.88 effective March 1, 1977 as hereinafter set forth.

In § 73.88 (42 FR 705) the following is added:

P-77 PLAINS, GA.

Boundaries. That airspace within one mile each side of a line extending from latitude 32°02'00" N., longitude 84°23'28" W.; to latitude 32°01'03" N., longitude 84° 25'25" W., and within a one mile radius of each of the above coordinates.
Designated altitudes. Surface to 1500 feet MSL.
Time of designation. Continuous.
Using agency. Administrator, Federal Aviation Administration, Washington, D.C.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on February 18, 1977.

RAYMOND G. BELANGER,
Director, Air Traffic Service.

[FR Doc.77-6233 Filed 2-28-77;8:45 am]

[Docket No. 16560; Amdt. No. 1062]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Recent Changes and Additions

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAPs) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 8260-3, 8260-4, or 8260-5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 FR 5609).

SIAPs are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Information Center, AIS-230, 800 Independence Avenue, S.W., Washington, D.C. 20591 or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150.00 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30.00 each.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amended by originating, amending, or canceling the following VOR-VOR/DME SIAPs, *effective April 21, 1977.*

Newport, AR—Newport Municipal, VOR/DME-A, Original
Carlsbad, CA—Palomar Airport, VOR-A, Amdt. 3
Carlsbad, CA—Palomar Airport, VOR/DME-B, Amdt. 1
Sacramento, CA—Sacramento Executive Arpt., VOR/DME Rwy 20, Amdt. 5
Delta, UT—Delta Municipal Arpt., VOR Rwy 34, Amdt. 1
Seattle, WA—Seattle-Tacoma Int'l Arpt., VOR Rwy 16L/R, Amdt. 7
Seattle, WA—Seattle-Tacoma Int'l Arpt., VOR Rwy 34L/R, Amdt. 5
LaCrosse, WI—LaCrosse Muni Arpt., VOR Rwy 13, Amdt. 16
LaCrosse, WI—LaCrosse Muni Arpt., VOR Rwy 36, Amdt. 18

* * * *effective April 14, 1977.*

Wilmington, DE—Greater Wilmington Arpt., VOR Rwy 32, Amdt. 1
Orlando, FL—Orlando International Arpt., VOR/DME Rwy 36R, Amdt. 6
Newton, IA—Newton Muni Arpt., VOR Rwy 13, Amdt. 3
Newton, IA—Newton Muni Arpt., VOR Rwy 31, Amdt. 3
Ocean City, MD—Ocean City Arpt., VOR-A, Amdt. 4
Bemidji, MN—Bemidji Muni Arpt., VOR/DME Rwy 31 (TAC), Amdt. 6
Kirksville, MO—Clarence Cannon Memorial Arpt., VOR-A, Amdt. 10
Kirksville, MO—Clarence Cannon Memorial Arpt., VOR/DME-B(TAC), Amdt. 2
Albion, NJ—Albion Arpt., VOR-A, Original
Albion, NJ—Albion Arpt., VOR Rwy 4, Amdt. 1, cancelled
Millville, NJ—Millville Municipal Arpt., VOR Rwy 19, Amdt. 1
Middlefield, OH—Geauga County Arpt., VOR-A, Amdt. 2
Newark, OH—Newark-Heath Arpt., VOR-A, Amdt. 6
Rhinelander, WI—Rhinelander-Oneida County Arpt., VOR Rwy 5, Amdt. 5
Rhinelander, WI—Rhinelander-Oneida County Arpt., VOR Rwy 15, Amdt. 8
Rhinelander, WI—Rhinelander-Oneida County Arpt., VOR/DME Rwy 23, Amdt. 3

* * * *effective March 17, 1977.*

Mankato, MN—Mankato Muni Arpt., VOR Rwy 15, Amdt. 2
Mankato, MN—Mankato Muni Arpt., VOR Rwy 33, Amdt. 3
Park Rapids, MN—Park Rapids Muni Arpt., VOR Rwy 13, Amdt. 1
Park Rapids, MN—Park Rapids Muni Arpt., VOR Rwy 31, Amdt. 6

2. Section 97.25 is amended by originating, amending, or canceling the following SDF-LOC-LDA SIAPs, *effective April 21, 1977.*

Carlsbad, CA—Palomar Arpt., LOC Rwy 24, Amdt. 2
New Orleans, LA—New Orleans International (Moisant Field), LOC (BC) Rwy 28, Amdt. 8
LaCrosse, WI—LaCrosse Muni Arpt., LOC (BC) Rwy 36, Amdt. 4

* * * *effective April 14, 1977.*

Rockland, ME—Knox County Regional Arpt., LOC Rwy 3, Amdt. 3

* * * *effective March 10, 1977.*

Denver, CO—Arapahoe County Arpt., LOC-Rwy 34R, Original
Sterling Rockfalls, IL—Whiteside County-Joseph H. Bittorf Field, LOC(BC) Rwy 7, Original

* * * *effective February 17, 1977.*

Long Beach, CA—Long Beach (Daugherty Field) LOC(BC) Rwy 12, Amdt. 3, cancelled

3. Section 97.27 is amended by originating, amending, or canceling the following NDB/ADF SIAPs, *effective April 21, 1977.*

Newport, AR—Newport Municipal Arpt., NDB Rwy 36, Amdt. 2
Carlsbad, CA—Palomar Arpt., NDB Rwy 24, Amdt. 1
Seattle, WA—Seattle-Tacoma Int'l Arpt., NBD Rwy 34R, Amdt. 4
Seattle, WA—Seattle-Tacoma Int'l Arpt. NDB Rwy 16L/R, Amdt. 2
LaCrosse, WI—LaCrosse Muni Arpt., NDB Rwy 18, Amdt. 5

* * * *effective April 14, 1977.*

Dayton, OH—Dayton General (South) Arpt., NDB Rwy 9, Amdt. 2
Rockland, ME—Knox County Regional Arpt., NDB Rwy 3, Amdt. 2
Meridian, MS—Key Field, NDB Rwy 1, Amdt. 15
Millville, NJ—Millville Municipal Arpt., NDB Rwy 14, Amdt. 4
Columbia-Mt. Pleasant, TN—Maury County Arpt., NDB Rwy 5, Amdt. 3
Columbia-Mt. Pleasant, TN—Maury County Arpt., NDB Rwy 23, Amdt. 5

* * * *effective April 7, 1977.*

Bowman, ND—Bowman Municipal Arpt., NDB Rwy 11, Original
Bowman, ND—Bowman Municipal Arpt., NDB Rwy 29, Original

* * * *effective March 10, 1977.*

Denver, CO—Arapahoe County Arpt., NDB Rwy 10, Amdt. 2, cancelled
Denver, CO—Arapahoe County Arpt., NDB Rwy 34R, Original
Sterling Rockfalls, IL—Whiteside County-Joseph H. Bittorf Field, NDB Rwy 7, Original

4. Section 97.29 is amended by originating, amending, or cancelling the following ILS SIAPs, *effective April 21, 1977.*

Seattle, WA—Seattle-Tacoma Int'l Arpt., ILS Rwy 34R, Amdt. 8
Yakima, WA—Yakima Air Terminal, ILS Rwy 27, Amdt. 23
LaCrosse, WI—LaCrosse Muni Arpt., ILS Rwy 18, Amdt. 4

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1348, 1354, 1421, 1510, and Sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c).)

Issued in Washington, D.C., on February 25, 1977.

JAMES M. VINES,
Chief,
Aircraft Programs Division.

NOTE.—Incorporation by reference provisions in §§ 97.10 and 97.20 approved by the Director of the Federal Register on May 12, 1969, (35 FR 5610).

[FR Doc.77-6329 Filed 3-2-77;8:45 am]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMICS REGULATIONS

[Docket No. 27769; Reg. ER-979]

PART 221a—FARE SUMMARIES

Issuance of a New Part

Correction

In FR Doc. 76-37713 appearing at page 55865 in the issue of Thursday, December 23, 1976, the following changes should be made on page 55868:

1. In the first column, in the fourth line of the third paragraph, the date now reading "June 1, 1976" should read "June 1, 1977".

2. Immediately under the "Authority Citation", in the first column, the section number designated "§ 211a.1" should read "§ 221a.1", and in the middle column, in the next to the last line of this section, immediately after "iations", insert the following: "in the cost of each available fare as well as the variations".

CHAPTER V—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

PART 1201—STATEMENT OF ORGANIZATION AND GENERAL INFORMATION

Revision

This revision of Part 1201 of the National Aeronautics and Space Administration Regulations is to fulfill the current publication requirement relative to the information described in 5 U.S.C. 552(a)(1)(A). It includes editorial changes in addition to the following:

Subpart 2 is changed to reflect the present names and organizational relations of NASA's field installations.

Subpart 3 is changed to show the current availability of texts of decisions of the three described boards, as well as to outline an added function of the Inventions and Contributions Board, and to bring statutory references up to date.

Subpart 4 is changed to show the current availability of information. It also adds information on the availability of NASA-generated technology and knowledge through regional Industrial Applications Centers.

Subpart 1—Introduction

Sec.
1201.100 Creation and Authority.
1201.101 Purpose.
1201.102 Functions.
1201.103 Administration.

Subpart 2—Organization

1201.200 General.

Subpart 3—Boards and Committees

1201.300 Boards and Committees.

Subpart 4—General Information

1201.400 NASA Procurement Program.
1201.401 Public Availability of NASA Technical Documents.
1201.402 NASA Industrial Applications Centers.

AUTHORITY: The provisions of this Part 1201 issued pursuant to 5 U.S.C. 552, as amended.

SOURCE: The provisions of this Part 1201 appear at 37 F.R. 24340, Nov. 16, 1972, unless otherwise noted.

Subpart 1—Introduction

§ 1201.100 Creation and Authority.

The National Aeronautics and Space Administration was established by the National Aeronautics and Space Act of 1958 (72 Stat. 426, 42 U.S.C. 2451 et seq.), as amended (hereafter called the "Act").

§ 1201.101 Purpose.

It is the purpose of the National Aeronautics and Space Administration under the act to carry out the declared policy of the United States that aeronautical and space activities sponsored by the United States shall be the responsibility of, shall be directed by, and shall be under the control of a civilian agency, except to the extent that aeronautical and space activities are determined by the President to be peculiar to or primarily associated with the development of weapons systems, military operations, or the defense of the United States, which activities shall be the responsibility of the Department of Defense.

§ 1201.102 Functions.

In order to carry out the purposes of the Act, NASA is authorized to conduct research into the problems of flight within and outside the earth's atmosphere; to develop, construct, test, and operate aeronautical and space vehicles for research purposes; and to perform such other activities as may be required for the exploration of space. The term "aeronautical and space vehicles" means aircraft, missiles, satellites, and other space vehicles, together with related equipment, devices, components, and parts.

§ 1201.103 Administration.

(a) NASA is headed by an Administrator, who is appointed from civilian life by the President by and with the consent of the Senate. The Administrator is responsible, under the supervision and direction of the President, for exercising

all powers and discharging all duties of NASA and has authority and control over all personnel and activities of the agency.

(b) The Deputy Administrator of NASA is also appointed by the President from civilian life by and with the consent of the Senate. The Deputy Administrator serves on a day-to-day basis as the agency's general manager, under delegations of authority and responsibility from the Administrator, and, in his absence, the Deputy Administrator serves as Acting Administrator.

Subpart 2—Organization

§ 1201.200 General.

Responsibility for overall planning, coordination, and control of NASA programs is vested in NASA Headquarters, located in Washington, D.C. Directors of NASA field installations and other component installations are responsible for execution of NASA's programs, largely through contracts with research, development, and manufacturing enterprises. Certain types of research and development activities are conducted at NASA field installations and other component installations by Government-employed scientists, engineers, and technicians. NASA's basic organization consists of the headquarters, ten field installations, the Jet Propulsion Laboratory (a Government-owned, contractor-operated facility), and several component installations which report to heads of field installations. The NASA field installations are as follows:

(1) Ames Research Center, Moffett Field, Calif. 94035.
(2) Hugh L. Dryden Flight Research Center, Edwards, Calif. 93523.
(3) Goddard Space Flight Center, Greenbelt, Md. 20771.
(4) John F. Kennedy Space Center, Kennedy Space Center, Fla. 32899.
(5) Langley Research Center, Langley Station, Hampton, Va. 23365.
(6) Lewis Research Center, Cleveland, Ohio 44135.
(7) Lyndon B. Johnson Space Center, Houston, Tex. 77058.
(8) George C. Marshall Space Flight Center, Huntsville, Ala. 35812.
(9) Wallops Flight Center, Wallops Island, Va. 23337.
(10) National Space Technology Laboratories, Bay St. Louis, Miss. 39520.

For more detailed description of the organization and functions of the headquarters and field installations, see the "U.S. Government Organization Manual."

Subpart 3—Boards and Committees

§ 1201.300 Boards and Committees.

Various boards and committees have been established as part of the permanent organization structure of NASA. These include:

(a) *Board of Contract Appeals.* (1) The function of the Board is to adjudicate appeals arising from final decisions by NASA contracting officers pursuant to the Disputes Clause of NASA contracts.

(2) The charter of the Board is set forth in Subpart 1 of Part 1209 of this chapter. The Board's rules of procedure are set forth in 14 CFR Part 1241.

(3) The texts of decisions of the Board are published by Commerce Clearing House, Inc., in Board of Contract Appeals Decisions, and are hereby incorporated by reference. All decisions and orders are available for inspection and for purchase from the Recorder of the Board at NASA Headquarters, Washington, D.C. Decisions and orders issued after July 4, 1967, are available for inspection and for purchase at NASA Information Centers. An Index/Digest of Decisions is issued periodically with supplements published as appropriate. These are available for inspection or purchase at the NASA Information Centers (see Subpart 4 of Part 1206 of this Chapter) and from the Recorder of the NASA Board of Contract Appeals.

(b) *Contract Adjustment Board.* (1) The function of the Board is to consider and dispose of requests by NASA contractors for extraordinary contractual adjustments pursuant to Public Law 85–804 (50 U.S.C. 1431–35) and Executive Order 10789 dated November 14, 1958 (23 F.R. 8397).

(2) The charter of the Board is set forth at Subpart 3 of Part 1209 of this chapter. The Board's rules of procedure are set forth at 41 CFR, Chapter 18, Part 18–17.

(3) Indexes of and texts of decisions of the Board are available for inspection and for purchase from the Chairman of the Board, National Aeronautics and Space Administration, Washington, D.C. 20546, and from the NASA Information Centers.

(c) *Inventions and Contributions Board.* (1) The function of the Board is to consider and recommend to the Administrator the action to be taken with respect to: (i) Petitions for waiver of rights to any invention or class of inventions made during the performance of NASA contracts, (ii) applications for licenses under NASA-owned patents and patent applications, and (iii) applications for award for scientific and technical contributions determined to have significant value in the conduct of aeronautical and space activities, pursuant to the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2457 (f) and (g), 2458), and the Government Employees Incentive Awards Act (5 U.S.C. 2121–23), respectively.

(2) The charter of the Board is set forth at Subpart 4 of Part 1209 of this chapter. The Board's rules of procedure are set forth at 14 CFR Parts 1240 and 1245.

(3) The texts of key decisions and an index of all decisions of the Board on requests for waiver are published in Petitions for Patent Waiver (NASA Handbook, NHB 5500.1A) and are hereby incorporated by reference. These are available for inspection and for purchase at NASA Information Centers.

Subpart 4—General Information

§ 1201.400 NASA Procurement Program.

(a) The Office of Procurement, headed by the Assistant Administrator for Procurement, serves as a central point of control and contact for NASA procurements. Although the procurements may be made by the field installations, selected contracts and contracts of special types are required to be approved by the Assistant Administrator for Procurement prior to their execution. The Office of Procurement is also responsible for formulation of NASA procurement policies and provides overall assistance and guidance to NASA field installations to achieve uniformity in NASA procurement processes.

(b) The NASA procurement program is carried out principally at the NASA field installations listed in the "U.S. Government Manual" and in Subpart 2 of this Part, above. The Headquarters Contracts Division is responsible for contracts with foreign governments and foreign commercial organizations, and the procurement of materials and services required by headquarters offices except for minor office supplies and services procured locally.

(c) All procurements are made in accordance with the NASA Procurement Regulation (41 CFR Ch. 18). With minor exceptions, every proposed procurement in excess of $10,000 is publicized promptly in The Commerce Business Daily. Copies of this publication are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, on an annual subscription basis.

§ 1201.401 Public Availability of NASA Technical Documents.

NASA distributes its technical documents and bibliographic tools to 11 special regional libraries located in the organizations listed below. Each library is prepared to furnish the public such services as reference assistance, interlibrary loans, photocopy service, and assistance in obtaining copies of NASA documents for retention.

California: University of California Library, Berkeley.
Colorado: University of Colorado Libraries, Boulder.
District of Columbia: Library of Congress.
Georgia: Georgia Institute of Technology, Atlanta.
Illinois: The John Crerar Library, Chicago.
Massachusetts: Massachusetts Institute of Technology, Cambridge.
Missouri: Linda Hall Library, Kansas City.
New York: Columbia University, New York.
Oklahoma: Bizzell Library, University of Oklahoma, Norman.
Pennsylvania: Carnegie Library of Pittsburgh.
Washington: University of Washington Library, Seattle.

NASA provides the National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161, with one

copy of each NASA or NASA-sponsored document for public use. These documents are reproduced and sold at prices established by NTIS.

§ 1201.402 NASA Industrial Applications Centers.

As part of its Technology Utilization Program—a program designed to transfer new aerospace knowledge and innovative technology to nonaerospace sectors of the economy—NASA operates a network of Industrial Applications Centers. These centers serve U.S. industrial clients on a fee-paying basis by providing access to literally millions of scientific and technical documents published by NASA and by other research and development organizations. Using computers, the NASA Industrial Applications Centers conduct retrospective and current awareness searches of available literature in accordance with client interests and assist in interpretation and adaptation of retrieved information to specified needs. Such services may be obtained by contacting one of the following:

(a) Aerospace Research Applications Center (ARAC), Indianapolis Center for Advanced Research, 1201 East 38th Street, Indianapolis, IN 46205.
(b) Florida Technology Applications Center, State University System, Tallahassee, FL 32304.
(c) Kentucky Technology Applications Center, University of Kentucky, Lexington, KY 40506.
(d) Knowledge Availability Systems Center (KASC), University of Pittsburgh, Pittsburgh, PA 15260.
(e) New England Research Applications Center (NERAC), Mansfield Professional Park, Storrs, CT 06268.
(f) North Carolina Science and Technology Research Center (NC/STRC), P.O. Box 12235, Research Triangle Park, NC 27709.
(g) Technology Applications Center (TAC), University of New Mexico, Albuquerque, NM 87131.
(h) Technology Use Studies Center (TUSC), Southeastern Oklahoma State University, Durant, OK 74701.
(i) Western Research Applications Center (WESRAC), University of Southern California, University Park, Los Angeles, CA 90007.

Effective date: March 3, 1977.

JAMES C. FLETCHER,
Administrator.

[FR Doc.77-6354 Filed 3-2-77;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

SUBCHAPTER B—GUIDES AND TRADE PRACTICE RULES

Rescission of Obsolete Parts

The Federal Trade Commission published a notice January 16, 1976 in the FEDERAL REGISTER (41 FR 2398) inviting comment on proposed rescission of trade practice rules for 50 named industries. A news release to the same effect was issued the same day. Copies of the notice and news release were mailed to persons and organizations thought to be interested in the proposal.

Written statements requesting retention or modification or agreeing to rescission of trade practice rules for 23 industries are subjects of separate reports.

This notice concerns 27 industries about whose trade practice rules no comment has been received. The Commission hereby rescinds the following 16 CFR trade practice rules for those 27 industries:

Part 21—Corset, Brassiere, and Allied Products Industry, promulgated December 1, 1955.
Part 30—Plastics Housewares Industry, promulgated June 22, 1956.
Part 32—Melamine Dinnerware Industry, promulgated June 22, 1956.
Part 39—Steel Bobby Pin and Steel Hair Pin Manufacturing Industry, promulgated June 25, 1957.
Part 43—Outlet and Switch Box Manufacturing Industry, promulgated December 10, 1958.
Part 48—Tire and Tube Repair Material Industry, promulgated December 17, 1959.
Part 50—Cut and Wire Tack Industry, promulgated July 25, 1958.
Part 51—Fluorocarbons Industry, promulgated January 11, 1961.
Part 58—Golf, Baseball and Athletic Goods Industry, promulgated October 29, 1931.
Part 71—Braided Rug Industry, promulgated June 23, 1964.
Part 88—Saw and Blade Service Industry, promulgated December 27, 1946.
Part 92—Woodworking Machinery Industry, promulgated June 24, 1960.
Part 101—Uniform Industry, promulgated May 18, 1940.
Part 136—Paint and Varnish Brush Industry, promulgated June 17, 1958.
Part 144—Sardine Industry, promulgated March 5, 1940.
Part 145—Umbrella Industry, promulgated June 9, 1950.
Part 161—Razor and Razor Blade Industry, promulgated June 20, 1945.
Part 169—Masonry Waterproofing Industry, promulgated August 31, 1946.
Part 181—Handkerchief Industry, promulgated February 18, 1949.
Part 185—Peat Industry, promulgated January 13, 1950.
Part 196—Parking Meter Industry, promulgated November 21, 1950.
Part 198—Milk Bottle Cap and Closure Industry, promulgated March 27, 1951.
Part 199—Canvas Cover Industry, promulgated April 18, 1951.
Part 202—Sun Glass Industry, promulgated April 17, 1959.
Part 217—Cedar Chest Manufacturing Industry, promulgated September 17, 1953.
Part 222—Chemical Soil Conditioner Industry, promulgated October 15, 1954.
Part 227—Wholesale Plumbing and Heating Industry, promulgated April 14, 1958.

The Commission is of the opinion that rescission of trade practice rules and industry guides does not relieve anyone of duties to comply with laws the Commission administers.

(Secs. 5, 6, 18(a)(1)(A), amended FTC Act, 38 Stat. 719, 721, 88 Stat. 2193 (15 U.S.C. 45, 46, 57a); 16 CFR 1.5, 1.6, 17.1.)

Effective: March 3, 1977.

By the Commission.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-6309 Filed 3-2-77;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-13295]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Recordkeeping and Preservation Requirements

On January 4, 1977, there was published in the FEDERAL REGISTER (42 FR 17a-3 and 240.17a-4. No unfavorable setting forth proposed amendments of §§ 240.17a-3 and 240.17a-4 in order to establish recordkeeping requirements for municipal securities brokers and municipal securities dealers while eliminating for such entities the need to comply with more than one set of recordkeeping rules. Interested persons were given the opportunity to submit, not later than January 31, 1977, written comments regarding the proposed amendments of §§ 240.-17a-3 and 240.17a-4. No unfavorable comments have been received.[1]

STATUTORY BASIS AND COMPETITIVE CONSIDERATIONS

Pursuant to the Securities Exchange Act of 1934, and particularly Sections 17(a)(1) and 23(a) thereof, 15 U.S.C. §§ 78q(a)(1), 78w(a), the Commission amends §§ 240.17a-3 and 240.17a-4 in Part 240 of Chapter II of Title 17 of the Code of Federal Regulations in the manner set forth below. The Commission finds that any burden imposed upon competition by these amendments is necessary and appropriate in the furtherance of the purposes of the Act, and particularly to implement the Commission's authority under section 17(a)(1) thereof, 15 U.S.C. § 78q(a)(1), to require brokers and dealers to maintain and preserve appropriate records.

The text of the amendments to §§ 240.-17a-3 and 240.17a-4 follows:

1. A new § 240.17a-3(e) is added as follows:

§ 240.17a-3 Records to be made by certain exchange members, brokers and dealers.

* * * * *

(e) For purposes of transactions in municipal securities by municipal securities brokers and municipal securities dealers, compliance with Rule G-8 of the Municipal Securities Rulemaking Board will be deemed to be in compliance with this section.

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[1] For a more complete description of the background leading to the adoption of these amendments, see Securities Exchange Act Release No. 13109 (December 23, 1976), 42 FR 917 (Jan. 4, 1977) (order giving notice of withdrawal of proceedings with respect to Board's proposed rules); Securities Exchange Act Release No. 12933 (Oct. 23, 1976), 41 FR 48428 (Nov. 3, 1976) (order instituting proceedings with respect to the Board's proposed rules); Securities Exchange Act Release No. 12362 (April 23, 1976), 41 FR 18175 (April 30, 1976) (publication of Board's proposed rules).

2. A new § 240.17a–4(b) is added as follows:

§ 240.17a–4 Records to be preserved by certain exchange members, brokers and dealers.

* * * * *

(b) For purposes of transactions in municipal securities by municipal securities brokers and municipal securities dealers, compliance with Rule G–9 of the Municipal Securities Rulemaking Board will be deemed to be in compliance with this section.

Effective Date: The effective date of the aforementioned amendments is April 1, 1977 since the Commission's interpretations with respect to the application of §§ 240.17a–3, 240.17a–4 and 240.17a–11 to brokers and dealers effecting transactions solely in municipal securities will expire on that same date.[1]

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 24, 1977.

[FR Doc.77–6365 Filed 3–2–77;8:45 am]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

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

PART 295—EMERGENCY REGULATIONS

Order No. 2–A

Order No. 2 determined that a price of or equal to $2.25 per MMBtu "inclusive of all state and local taxes and other adjustments" would be fair and equitable under Section 6 of Pub. L. 95–2 (91 Stat. 4 (1977)).

With respect to a wellhead sale of natural gas, $2.25 per MMBtu is the maximum consideration that may be received by the seller if the natural gas is delivered at the wellhead without prior notification to or authorization by the Administrator. The price is inclusive of any form of payment to the seller or to any affiliate of the seller for any services however denominated that are necessary to deliver the gas at the wellhead. The seller or any affiliate of the seller may not receive in the transaction any additional charges above for commissions, brokerage fees, finders fees or similarly described charges.

Paragraph (3) of Order No. 2 permits a "distribution company" to recover "replacement cost plus applicable transportation and storage costs, if any." An intrastate pipeline that is making sales pursuant to Section 6 of Pub. L. 95–2 is not distinguishable under the law from the "distribution company". The first line of Paragraph (3) of Order No. 2 is hereby amended by inserting following the words "distribution company," the words "or intrastate pipeline".

RICHARD L. DUNHAM,
Administrator.

FEBRUARY 25, 1977.

[FR Doc.77–6271 Filed 3–2–77;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

PART 207—NAVIGATION REGULATIONS

St. Marys Falls Canal and Locks, Mich.

On December 28, 1976 there was published in the FEDERAL REGISTER (Vol. 41, No. 250, page 56339) a notice of proposed rulemaking to amend 33 CFR 207.440 which regulates the use, administration and navigation of the St. Marys Falls Canal and Lock, Michigan. The proposed amendment will affect only paragraph (v) to give the District Engineer the authority to allow passage of vessels not exceeding 767 feet in length to navigate the MacArthur Lock when the Poe Lock is out of service for a period exceeding 24 hours. Interested parties were given the opportunity to submit comments or objections on or before January 27, 1977.

No comments have been received and, accordingly, the proposed amendment is hereby established without change and is set forth below effective on March 1, 1977.

NOTE.—The Department of the Army has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: February 9, 1977.

Approved:

CHARLES R. FORD,
Acting Assistant Secretary of the Army (Civil Works).

§ 207.440 St. Marys Falls Canal and Locks, Michigan; use, administration, and navigation.

* * * * *

(v) The maximum overall dimensions of vessels that will be permitted to transit MacArthur Lock are 730 feet in length and 75 feet in width, except as provided in paragraph (v)(1) of this section. Further, any vessel of greater length than 600 feet must be equipped with deck winches adequate to safely control the vessel in the lock under all conditions including that of power failure.

(1) Whenever the Poe Lock is out of service for a period exceeding 24 hours the District Engineer may allow vessels greater than 730 feet in length, but not exceeding 767 feet in length to navigate the MacArthur Lock. Masters of vessels exceeding 730 feet in length shall be required to adhere to special handling procedures as prescribed by the District Engineer.

* * * * *

[FR Doc.77–6308 Filed 3–2–77;8:45 am]

Title 36—Parks, Forests and Public Property

CHAPTER II—FOREST SERVICE, DEPARTMENT OF AGRICULTURE

PART 231—GRAZING

Grazing Fees

On November 30, 1976, a document was published in the FEDERAL REGISTER, Vol. 41, No. 231, page 52485, proposing to revise the rule on establishment of grazing fees for National Forests in the eleven contiguous western States, National Forests in South Dakota and Nebraska, and National Grasslands. The proposed revision provided for the continuance of 1976 fees through the 1977 fee year.

All comments with respect to the proposed revision were given due consideration. No changes have been made in the proposal. Comments which were considered, but were not accepted, primarily recommended higher grazing fees and continuation of fee increases for 1977. The proposal was not modified since the Federal Land Policy and Management Act of 1976 (Pub. L. 94–579) specifically prohibits increases in 1977 fees on the National Forests in the eleven contiguous western States. Extension of the prohibition on increases of fees to include National Grasslands and National Forests in South Dakota and Nebraska did not receive negative comment. This action provides equity among grazing permittees. Many of these lands are adjacent to or intermingled with National Forest areas and public lands which are covered by the Act, and some permittees graze livestock on lands in each of these classifications.

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

Effective date: The amendment of this part is effective March 1, 1977.

BOB BERGLAND,
Secretary.

FEBRUARY 28, 1977.

Paragraph (a)(4), § 231.5 of Chapter II of Title 36 is amended to read as follows:

§ 231.5 Fees, payments, and refunds or credits.

(a) Fees. * * *

(4) Adjustment between the 1966 average fair market value (base rate) of $1.23 and fees paid in 1966 will be made in annual insallments and will be completed by 1980. Average installments of 7.2 cents were added in 1969, 1971, 1973, and 1974; an installment of 9.0 cents was added in 1976. In addition, increases or decreases in the base rate because of changes in fair market value as determined by the index of private land grazing lease rates will be made each year. Fair market value between 1966 and 1975 increased by 71 cents to $1.94 per animal unit month for the 1976 fee year. Where competitive bidding is used to establish a fee structure representing fair market

[1] Securities Exchange Act Release No. 13108 (December 23, 1976), 42 FR 759 (January 4, 1977).

value, the fee established shall remain unchanged during the period specified in the bid. For 1977, fees on the National Grasslands and Land Utilization Projects, and on the National Forests in the eleven contiguous western States and in South Dakota and Nebraska, will be limited to their 1976 levels.

* * * * *

(Sec. 501, 65 Stat. 290 (31 U.S.C. 483a); Pub. L. 94-579.)

[FR Doc.77-6446 Filed 3-2-77;8:45 am]

Title 46—Shipping

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 73-272]

PART 10—LICENSING OF OFFICERS AND MOTORBOAT OFFICERS AND REGISTRATION FOR STAFF OFFICERS

Change in Effective Date

On October 18, 1976, there were published in the FEDERAL REGISTER (41 FR 45841) amendments to the regulations for merchant marine officers licensing which provided for the acceptance of a First Aid Certificate other than one issued by the United States Public Health Service.

License applicants have been experiencing difficulty in locating facilities which offer the cardiopulmonary resuscitation training courses which are required for qualification for an original license.

In consideration of the foregoing, the effective date for these amendments is changed from November 19, 1976, to June 30, 1977.

Dated: February 23, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc.77-6387 Filed 3-2-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 77-146]

PART 1—PRACTICE AND PROCEDURE

PART 61—TARIFFS

Filing of Tariffs, Petitions for Suspensions and Replies in Light of Government in Sunshine Act

Adopted: February 24, 1977.

Released: February 28, 1977.

Report and Order. In the matter of amendment of §§ 1.4, 1.773, 61.58, 61.60, 61.61, 61.62, 61.63, 61.64 and 61.66 of the Commission's rules and regulations.

1. In this report and order the Commission amends certain of its procedural rules concerning the filing of tariffs, petitions for suspension and replies in light of the Government in the Sunshine Act, Pub. L. 94-409, 90 Stat. 1241 (1976), which becomes effective on March 12, 1977.[1] This legislation is designed to give "the public * * * the fullest practicable information regarding the decision-making processes of the Federal Government * * * while protecting the rights of individuals and the ability of the Government to carry out its responsibilities." 90 Stat. 1241 (1976). Specifically, the Act states that subject to certain exceptions "every portion of every meeting of an agency shall be open to public observation." 90 Stat. 1241 (1976). Usually the Commission must also give the public 7 days notice of the time, place and subject matter of meetings. 90 Stat. 1243 (1976). The Government in the Sunshine Act contains requirements which will have an indirect impact upon our internal processes. Additional decision making and processing are required to determine whether each matter scheduled for consideration is to be the subject of an open or closed meeting, to issue the appropriate notice and, where it is determined that a meeting is to be closed, to issue a written explanation of the decision to close. This processing must take place sufficiently in advance of the date on which a matter is to be considered by the Commission to allow for the required week of public notice concerning the time, place and subject of the meeting. The requirement of notice also compounds pre-existing problems arising from unduly short periods of time in which to dispose of petitions for suspension of tariff filings. In order to assure adequate time for consideration of such matters and in light of the requirements of the Government in the Sunshine Act, we have determined that changes should be made in the times for filing tariffs, petitions for suspension and replies. This is particularly important in the case of petitions for suspension of tariff filings since such matters must be disposed of before the tariff filing becomes effective.

2. The Commission's present rules concerning the period of public notice for tariff filings, petitions for suspension, and replies to such petitions[2] do not allow sufficient time for decision making particularly when the requirements of the new statute are taken into account. For example, § 61.58 of the Commission's rules presently requires 60 days public notice for tariff filings involving changes in rate structure or new service offerings. 41 FR 54767 (1976). Petitions for suspension of such tariff changes are presently due 35 days before the effective date of the tariff filing. Section 1.773(b), 41 FR 54766 (1976). Replies to such petitions are to be filed within 6 days after service of the petition for suspension. Section 1.773(c), 41 FR 54766 (1976). The application of §§ 1.4 (f) and (g) of the Commission's rules, 41 FR 54766 (1976), will usually add several days to this filing period.[3] In the future, this schedule will not allow sufficient time for Commission consideration of such matters. Thus, it appears that the Commission must amend its rules so as to extend the periods of public notice for most tariff filings and shorten the time for filing petitions for suspension as well as replies to such petitions in order to assure adequate time for consideration of such matters.[4]

3. The following is a summary of the rule changes adopted in this Report and Order. In the future, tariff filings involving a new service offering or a change in rate structure are to be filed on 90 days notice. At present, such tariff filings are required to provide for 60 days public notice. Tariff filings involving a rate increase will continue to be filed on 90 days notice. The period of public notice for tariff filings which are not specifically assigned a different period of public notice is increased from 30 to 70 days. The 15 day period of public notice is retained for tariff filings involving a change in the name of a carrier, a change in V&H coordinates, corrections, a change in the list of connecting, concurring or other participating carriers, text changes and the imposition of termination charges. The period of public notice for tariff filings involving charges and regulations for the institution of wire service in the first instance, service on new lines, service via new radio stations, service via new points by radio, individual installations of ticker service, and changes in message telegraph and money order service point listings are being increased to 15 days. Such tariff filings can presently be made on 1 days public notice pursuant to §§ 61.60, 61.61, 61.62, 61.63, 61.64 and 61.66 of the Commission's rules.[5] If no pleadings are received against a tariff filing by the date for filing petitions for suspension, the carrier may apply for

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[1] This legislation was approved on September 13, 1976. With one exception, not pertinent to this discussion, it is scheduled to become effective 180 days after the date of its enactment. 90 Stat. 1248 (1976). The Commission is separately adopting rules which directly implement the requirements of the new statute.

[2] Section 61.58, 41 FR 54767 (1976) (public notice of tariff filings); § 1.773(b), 41 FR 54766 (1976) (petitions for suspension); § 1.773(c), 41 FR 54766 (1976) (replies).

[3] When the filing period for a pleading is relatively short, § 1.4 (f) and (g) of the Commission's rules, 41 FR 54766 (1976), provide for additional time in certain circumstances.

[4] Section 0.291 of the Commission's rules does allow the Chief, Common Carrier Bureau to issue orders requiring a carrier to defer the effective date of a tariff filing made on less than 90 days public notice so as to provide for a maximum total of 90 days notice. 41 FR 54766 (1976). However, we believe that the initial period of public notice should, in most cases, permit disposition of petitions for suspension without deferral of the effective date of the tariff filing. A 15 day period of public notice will be applied in certain cases, however. This is being done because it is unlikely that petitions for suspension of such tariff revisions will be filed.

[5] 47 CFR 61.60, 61.61, 61.62, 61.63, 61.64 and 61.66 (1976). Although we expect that suspension of such tariff filings will rarely be sought, this change will allow the filing of such petitions before the tariff filing becomes effective.

Special Permission to refile the relevant tariff pages to become effective before the full period of public notice initially provided for has elapsed.

4. The periods for filing petitions for suspension and replies are also being modified. In the future, petitions for suspension of tariff filings made on less than 30 days notice are to be filed no more than 7 days after the date of the tariff filing. At present, such petitions for suspension have to be filed 8 days prior to the effective date of the tariff filing.[6] In the future, petitions for suspension of tariff filings made on 30 or more, but less than 90 days notice are to be filed no more than 15 days after the date of the tariff filing. Presently, petitions for suspension of tariff filings made on 30 or more, but less than 60 days notice, are to be filed at least 15 days before the effective date of the tariff revision. Petitions for suspension of tariff filings made on 60 or more, but less than 90 days notice, are presently due at least 35 days before the effective date of the filing. In the future, petitions for suspension of tariff filings made on 90 or more days notice shall be filed no more than 25 days after the date of the tariff filing. Such petitions for suspension must presently be filed at least 45 days before the effective date of the tariff revision. The time for filing replies to petitions for suspension is also being reduced in most instances. In addition, § 1.4 (f) and (g), 41 FR 54766 (1976), are being amended insofar as they relate to the filing of replies so as to reduce the additional time available for filing.

5. These changes in the Commission's procedural rules will place additional burdens upon the carriers and those seeking suspension of tariff filings. However, we believe that they are necessary to ensure adequate time for decision making and compliance with the requirements of the Government in the Sunshine Act and resulting changes in the schedules for internal processing.

6. *Accordingly, it is ordered,* That effective March 4, 1977, Parts 1 and 61 of the Commission's rules are amended as provided below.[7]

7. *It is further ordered,* That these changes in the Commission's rules shall not apply to tariff filings made prior to March 4, 1977.

(Secs. 4, 203, 48 Stat., as amended, 1066, 1070 (47 U.S.C. 154, 203).)

FEDERAL COMMUNICATIONS COMMISSION,[8]
VINCENT J. MULLINS,
Secretary.

Part 1, Subpart A, is amended as follows:

1. In § 1.4, paragraphs (f) and (g) are amended to read as follows:

§ 1.4 Computation of time.

* * * * *

(f) If the filing period is less than 7 days, intermediate holidays shall be excluded in determining the filing date. This paragraph shall not apply in the case of replies to petitions for suspension filed pursuant to § 1.773(c). If the date for filing such a reply falls on a holiday the reply shall be filed on the next business day.

(g) Where service of a document is required by statute or by the provisions of this chapter, where the document is in fact served by mail (see § 1.47(f)), and where the filing period for a response thereto is 10 days or less, an additional 3 days, excluding holidays will be allowed for filing the response. This paragraph shall not apply to documents which are filed pursuant to the provisions of § 1.89, § 1.20(d), § 1.315(b), § 1.316, or § 1.773(c). In the case of replies to petitions for suspension filed under § 1.773 (c) (2) and (3) 3 additional days shall be allowed for filing in the circumstances set forth above, however, that time shall include holidays. If the date for filing such a reply falls on a holiday, the reply shall be filed on the next business day.

* * * * *

Part 1, Subpart E, is amended as follows:

1. In § 1.773, paragraphs (b) and (c) are amended to read as follows:

§ 1.773 Petitions for suspension of tariff schedules.

* * * * *

(b) *When filed.* All petitions for suspension shall be filed with the Commission and served upon the publishing carrier and the Chief, Common Carrier Bureau, and the Chief of the appropriate Division of that Bureau in accordance with the schedule set forth in this paragraph. In case of emergency and within the time limits provided herein, a telegraphic request for suspension may be sent to the Commission setting forth succintly the substance of the matters required by paragraph (a) of this section. A copy of the any such telegraphic request shall be sent simultaneously to the publishing carrier and the Chief, Common Carrier Bureau, and the Chief of the appropriate Division of that Bureau and forthwith confirmed by petition filed and served in accordance with this section. (Section 1.4 does not apply to this § 1.773(b).)

(1) Petitions for suspension of tariff filings made on less than 30 days notice shall be filed and served no more than 7 days after the date of the tariff filing.

(2) Petitions for suspension of tariff filings made on 30 or more, but less than 90 days notice shall be filed and served no more than 15 days after the date of the tariff filing.

(3) Petitions for suspension of tariff filings made on 90 or more days notice shall be filed and served no more than 25 days after the date of the tariff filing.

(c) *Reply.* A publishing carrier may reply to a petition for suspension, but any

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[6] This change will not affect the time for filing petitions for suspension of tariffs providing for 15 days public notice since filing 8 days before the effective date of such a tariff revision will be the same as filing 7 days after the tariff revision is filed.

[7] This action is taken pursuant to the Commission's authority under sections 4(i), 4(j) and 203(a) of the Communications Act, 47 U.S.C. 154(i), 154(j) and 203(a) (1970), and section 203(b) of the Communications Act as amended by Pub. L. 94-376, 47 U.S.C. 203(b) (1970), as amended 90 Stat. 1080 (1976). Section 4(i) of the Act states:

(i) The Commission may perform any and all acts, make such rules and regulations, and issue such orders, not inconsistent with this Act, as may be necessary in the execution of its functions.

47 U.S.C. 154(i) (1970).

Section 4(j) provides in relevant part:

(j) The Commission may conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice * * *.

47 U.S.C. 154(j) (1970).

Section 203(a) states:

(a) Every common carrier, except connecting carriers, shall within such reasonable time as the Commission shall designate, file with the Commission and print and keep open for public inspection schedules showing all charges for itself and its connecting carriers for interstate and foreign wire or radio communication between the different points on its own system, and between points on its own system and points on the system of its connecting carriers or points on the system of any other carrier subject to this Act when a through route has been established, whether such charges are joint or separate, and showing the classifications, practices, and regulations affecting such charges. Such schedules shall contain such other information, and be printed in such form, and be posted and kept open for public inspection in such places, as the Commission may by regulation require, and each such schedule shall give notice of its effective date; and such common carrier shall furnish such schedules to each of its connecting carriers, and such connecting carriers shall keep such schedules open for inspection in such public places as the Commission may require.

47 U.S.C. 203(a) (1970).

Section 203(b) of the Communications Act as amended by Pub. L. 94-376 states:

(b)(1) No change shall be made in the charges, classifications, regulations, or practices which have been so filed and published except after ninety days notice to the Commission and to the public, which shall be published in such form and contain such information as the Commission may be regulations prescribe.

(2) The Commission may, in its discretion and for good cause shown, modify any requirement made by or under the authority of this section either in particular instances or by general order applicable to special circumstances or conditions except that the Commission may not require the notice period specified in paragraph (1) to be more than ninety days.

47 U.S.C. 203(b) (1970) as amended 90 Stat. 1080 (1976).

Section 553(d) of the Administrative Procedure Act, 5 U.S.C. 553(d) (1970) which states that "[t]he required publication or service of a substantive rule shall be made not less than 30 days before its effective date * * *" does not apply because the rule changes adopted in this order are procedural in nature.

[8] Commissioner Quello absent.

such reply shall be filed with the Commission and served simultaneously upon petitioner and the Chief, Common Carrier Bureau in accordance with the following schedule.

(1) Replies to petitions for suspension of tariff filings made on less than 30 days notice shall be filed and served within 4 days after service of the petition for suspension. Sections 1.4 (f) and (g) shall not apply to the filing of such replies.

(2) Replies to petitions for suspension of tariff filings made on 30 or more, but less than 90 days notice shall be filed and served within 5 days after service of the petition for suspension. Except as specified, §§ 1.4 (f) and (g) shall not apply to the filing of such replies.

(3) Replies to petitions for suspension of tariff filings made on 90 or more days notice shall be filed and served within 8 days after service of the petition for suspension. Except as specified, §§ 1.4 (f) and (g) shall not apply to the filing of such replies.

Part 61 is amended as follows:

1. In § 61.58 paragraphs (b), (c), (d) and (e) are amended to read as follows:

§ 61.58 Notice requirements.

* * * * *

(b) Tariff filings involving a change in rate structure, a new service offering, or a rate increase shall give at least 90 days notice to the public and to the Commission.

(c) All tariff filings not specifically assigned a different period of public notice in this part shall give at least 70 days notice to the public and to the Commission.

(d) The Chief, Common Carrier Bureau may issue orders requiring the deferral of the effective date of any tariff filing made on less than 90 days notice so as to provide for a maximum total of 90 days notice to the public and to the Commission regardless of whether petitions opposing the tariff filing have been filed.

(e) If no petitions for suspension or rejection of a tariff filing are received by the date for filing petitions for suspension, the filing carrier may apply for Special Permission to refile the relevant tariff pages to become effective before the full period of public notice initially provided for has elapsed.

2. Section 61.60 is amended to read as follows:

§ 61.60 Tariffs filed in first instance by wire carriers.

Carriers which have not previously established any charges or regulations may establish charges and regulations for wire service in the first instance upon not less than 15 days notice to the Commission and the public.

3. Section 61.61 is amended to read as follows:

§ 61.61 Charges and regulations for service on new lines.

Charges and regulations applicable at, from, to, or via points on new lines for which the Commission has issued a certificate of public convenience and necessity may be established on not less than 15 days notice: *Provided*, That no charges or regulations so applicable have previously been filed and that every schedule containing such charges and regulations shall bear a notation showing the date and number of the certificate.

4. Section 61.62 is amended to read as follows:

§ 61.62 Charges and regulations for service via new radio stations.

(a) Charges and regulations applicable at, from, to, or via new radiotelephone or radiotelegraph stations for which the Commission has issued a construction permit may be established on not less than 15 days notice: *Provided*, That no charges or regulations so applicable have previously been filed and that every schedule containing such charges and regulations shall bear a notation showing the date of the notification to the Commission when the public service tests will begin, if public service is to be rendered prior to issuance of a license, or a notation showing the date and number of the license, if public service is not to be rendered until after issuance of a license.

(b) Charges and regulations applicable at, from, to, or via new radiotelephone or radiotelegraph stations for which the Commission does not require a construction permit but for which the Commission has issued a license may be established on not less than 15 days notice: *Provided*, That no charges or regulations so applicable have previously been filed and that every schedule containing such charges and regulations shall bear a notation showing the date and number of the license.

5. Section 61.63 is amended to read as follows:

§ 61.63 Charges and regulations for service via new points by radio.

Charges and regulations applicable at, from, to, or via new points of communication by radiotelephone or radiotelegraph stations, for which new points the Commission has issued a license or modification of license, may be established on not less than 15 days notice: *Provided*, That no charges or regulations so applicable have previously been filed and that schedules containing such charges and regulations shall bear a notation showing the date and number of the license or modification of license: *And provided further*, That this section shall not apply to new points of communication which are not named either generally or specifically in the license or modification of license.

6. Section 61.64 is amended to read as follows:

§ 61.64 Charges and regulations for ticker service.

Charges and regulations for individual installations of market and stock quotation and baseball ticker service may be established on not less than 15 days notice to the Commission and to the public, when there are no charges and regulations in effect for such service at the points where installations are to be made.

7. Section 61.66 is amended to read as follows:

§ 61.66 Changes in message telegraph and money order service point listings.

(a) When a message telegraph service point or money order service point listing that is already on file and in effect specifies by dates (1) that communication service is available to or from a service point during sporting events, military maneuvers, shipping or resort seasons, or (2) that an office or agent of a carrier is located at such service point for the receipt or delivery of communications during the aforementioned periods, changes in the dates may be published and filed on not less than 15 days notice.

(b) A message telegraph service point listing that is already on file and in effect may be changed on not less than 15 days notice to show (1) that such point is changed from a point at which there is neither an office nor an agent of a telegraph company for the receipt or delivery of telegrams to a point at which there is such an office or agent, or (2) that such point is changed from a point at which there is an agent of a telegraph company to receive or deliver messages to a point at which there is a telegraph company office: *Provided*, That the basic schedules of charges and regulations applicable to such message telegraph service are already on file and in effect.

(c) A money order service point listing that is already on file and in effect may be changed on not less than 15 days notice to show (1) that such point is changed from a point at which there are no local facilities for handling money orders to a point at which money orders are paid or accepted, (2) that such point is changed from a point at which money orders are paid only, to a point at which money orders are paid and accepted, or (3) that such point is changed from a point at which money orders are paid and accepted by an agent of the telegraph company to a point at which money orders are paid and accepted by a telegraph company office: *Provided*, That the basic schedules of charges and regulations applicable to such money order service are already on file and in effect.

(d) A message telegraph service point or money order service point listing may be changed on not less than 15 days notice to reflect a discontinuance, reduction or impairment of service to accordance with a certificate or authorization granted by the Commission: *Provided*, That the total charges to the customer for service are not increased and that every schedule containing such changes shall bear a notation showing the date and number of the certificate or authorization.

[FR Doc. 77-6302 Filed 3-2-77;8:45 am]

Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

[OST Docket No. 1; Amdt. 1-127]

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

Commandant of the Coast Guard; Authority Regarding Fishery Conservation and Management Act

The purpose of this amendment is to delegate to the Commandant of the Coast Guard the authority vested in the Secretary by Fishery Conservation and Management Act of 1976 (Pub. L. 94-265).

Since this amendment relates to Departmental management, procedures and practices, notice and public procedure thereon are unnecessary and it may be made effective in fewer than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, § 1.46 of Part 1 of Title 49, Code of Federal Regulations, is amended by adding at the end thereof a new paragraph (v) to read as follows:

§ 1.46 Delegations to Commandant of the Coast Guard.

The Commandant of the Coast Guard is delegated authority to

* * * * *

(v) Carry out the functions vested in the Secretary by the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265 16 U.S.C. 1801 et seq.), except that the authority to approve seizure of a vessel may not be redelegated and shall be exercised in each instance only after consultation with the Department of State.

Effective date: This amendment is effective February 25, 1977.

(Sec. 9(e), Department of Transportation Act, 49 U.S.C. 1657(e).)

Issued in Washington, D.C., on Feb. 25, 1977.

BROCK ADAMS,
Secretary of Transportation.

[FR Doc.77-6285 Filed 3-2-77; 8:45 am]

CHAPTER II—FEDERAL RAILROAD ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. RSOR-5, Notice No. 4]

PART 220—RADIO STANDARDS AND PROCEDURES

Final Rule; Correction

In FR Doc. 77-2584 appearing at page 5065 in the FEDERAL REGISTER of Thursday, January 27, 1977, subparagraph (b)(4) of § 220.61 appearing on page 5071 is corrected by adding the words, "the time", to the second sentence, immediately following the word, "complete", and immediately before the words, "and the initials", to read as follows:

(4) After the train order has been received and copied, it shall be immediately repeated in its entirety. After verifying the accuracy of the repeated train order, the dispatcher shall then state "complete", the time, and the initials of the employee designated by the railroad. Employees copying train orders must then acknowledge by repeating "complete" and the time.

Issued in Washington, D.C. on February 25, 1977.

BRUCE M. FLOHR,
Deputy Administrator.

[FR Doc.77-6333 Filed 3-2-77;8:45 am]

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 73-8; Notice 04]

PART 572—ANTHROPOMORPHIC TEST DUMMY

Dummy Calibration Test Procedures and Dummy Design Specifications

Correction

In FR Doc. 77-3513, appearing at page 7148 in the issue for Monday, February 7, 1977, make the following changes:

1. In the third column, the last line should read "tremes, "stack up" to cause the need . . .".

2. On page 7149 in the first line of the first full paragraph, "Moterenverken", should be spelled "Motorenverken".

3. In the second column of page 7152, in § 572.7(b), delete the fifth line entirely.

Title 50—Wildlife and Fisheries

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

PART 611—FOREIGN FISHING

Foreign Fishery Allocations

On February 11, 1977, the National Marine Fisheries Service published in the FEDERAL REGISTER (42 FR 8813) foreign fishing regulations under the Fishery Conservation and Management Act of 1976. As part of these regulations, 50 CFR 611.20, listed the total allowable level of foreign fishing for certain fisheries.

The Fishery Conservation and Management Act provides that the Secretary of State, in cooperation with the Secretary of Commerce, shall determine the allocation among foreign nations of the surpluses listed in § 611.20. On February 17, 1977, the Department of State informed the National Marine Fisheries Service of the 1977 allocation of each fishery for each foreign nation. These allocations are based on calendar year 1977. Thus, foreign catches taken during January and February 1977 will be subtracted from the allocations listed in this amendment, and only the remaining balance will be available for foreign fishing between March 1, 1977 and December 31, 1977. Similarly, the remaining balance will be used by the United States in calculating the "poundage fees" assessed for foreign fishing for the period March 1–December 31, 1977.

The allocations set forth in this amendment involve a foreign affairs function of the United States, and are exempt from the rulemaking procedures of the Administrative Procedure Act. Formal notice of proposed rulemaking is therefore not required. This amendment to 50 CFR 611.20 will be effective on March 1, 1977.

Signed at Washington, D.C., on February 25, 1977.

ROBERT W. SCHONING,
Director, National Marine Fisheries Service.

Therefore, paragraph (c) of § 611.20, is amended by adding a new (c)(1) to provide fishery allocations for certain foreign nations which have signed governing international fishery agreements with the United States, subject to the entry into force of the governing international fishery agreements. New paragraph (c)(1), revised paragraph (d), and new paragraphs (e), (f) and (g) are set forth below:

§ 611.20 Allowable level.

* * * * *

(c) * * *

(1) The allocations (tonnage and vessel days) among foreign nations are presented in the following tables:

TABLE 1.—*Atlantic Coast Allocation*

Country	Fishery	1977 allocation (metric tons)
Bulgaria	Silver hake	1,570
	Atlantic mackerel	4,000
	Atlantic herring	100
	Short-finned squid	400
	Other finfish	2,000
Romania	Atlantic mackerel	1,100
	Atlantic herring	100
	Other finfish	200
Poland	Atlantic mackerel	20,200
	Atlantic herring	5,100
	Long-finned squid	850
	Short-finned squid	4,910
	Other finfish	6,200
Japan	Long-finned squid	7,820
	Short-finned squid	3,440
	Butterfish	3,300
	Other finfish	7,000
Spain	Long-finned squid	4,390
	Short-finned squid	4,910
	Butterfish	1,500
	Other finfish	3,600
Soviet Union	Red hake	30,080
	Silver hake	72,150
	Atlantic mackerel	22,800
	Atlantic herring	3,400
	Long-finned squid	1,000
	Short-finned squid	7,370
	Other finfish	31,100
German Democratic Republic	Atlantic mackerel	12,400
	Atlantic herring	4,825
	Other finfish	3,000
European Economic Community:		
Federal Republic of Germany	Atlantic mackerel	1,100
	Atlantic herring	4,725
	Long-finned squid	500
	Other finfish	200
France	Atlantic herring	1,000
	Other finfish	200
Italy	Atlantic mackerel	300
	Long-finned squid	1,640
	Short-finned squid	980
	Butterfish	400
	Other finfish	900

TABLE 2.—*Pacific Coast Allocation*

Country	Fishery	Area	1977 allocation (metric tons)
Japan	Pollock	Bering Sea/Aleutians	792,300
	do	Gulf of Alaska	44,100
	Sablefish	Aleutians	[1] 2,000
	do	Bering Sea	[1] 3,600
	do	Gulf of Alaska, Southeast area	3,750
	do	Gulf of Alaska, other	10,150
	Pacific Cod	Bering Sea/Aleutians	38,100
	do	Gulf of Alaska	1,600
	Yellowfin sole	Bering Sea/Aleutians	62,100
	Other Flounders	do	61,500
	Flounders (except halibut)	Gulf of Alaska	18,700
	Herring	Bering Sea/Aleutians	5,800
	Pacific Ocean Perch	Aleutians	6,500
	do	Bering Sea	2,800
	do	Gulf of Alaska	19,800
	Other Rockfishes	do	2,700
	Squid	Bering Sea/Aleutians	10,000
	Other Groundfish	Aleutians	23,100
	do	Bering Sea	44,400
	do	Gulf of Alaska	4,200
	Seamount Groundfish	Western Pacific	[2] 1,000
	Snow (Tanner) Crab	Bering Sea/Aleutians	12,500
	Snails	do	2,700
U.S.S.R.	Pollock	do	112,700
	do	Gulf of Alaska	63,100
	Sablefish	Aleutians	[3] 200
	do	Bering Sea	[3] 600
	Pacific Cod	Bering Sea/Aleutians	17,200
	do	Gulf of Alaska	600
	Yellowfin sole	Bering Sea/Aleutians	40,800
	Other Flounders	do	40,400
	Flounders (except halibut)	Gulf of Alaska	1,800
	Herring	Bering Sea/Aleutians	13,600
	Pacific Ocean Perch	Aleutians	8,100
	do	Bering Sea	3,500
	do	Gulf of Alaska	8,700
	Other Rockfishes	do	1,200
	Other Groundfish	do	11,800
	do	Aleutians	9,900
	do	Bering Sea	17,400
	Hake	Northwest Pacific	[4] 105,200
	Atka Mackerel	Gulf of Alaska	21,000
	Seamount Groundfish	Western Pacific	[5] 1,000
	Jack Mackerel	Northeast Pacific	2,000
ROK	Pollock	Bering Sea/Aleutians	40,000
	do	Gulf of Alaska	35,800
	Sablefish	Aleutians	[1] 200
	do	Bering Sea	[1] 400
	Sablefish	Gulf of Alaska, Southeast area.	0
	do	Gulf of Alaska, other	1,600
	Pacific Ocean Perch	Gulf of Alaska	500
	Other Rockfishes	do	100
	Other Groundfish	do	100
	do	Aleutians	890
	do	Bering Sea	1,600
Taiwan	Pollock	Bering Sea/Aleutians	5,000
	Sablefish	Aleutians	0
	do	Bering Sea	[3] 200
	Other Groundfish	Aleutians	110
	do	Bering Sea	200
Poland	Pollock	Gulf of Alaska	6,000
	Other Groundfish	do	100
	Atka Mackerel	do	1,000
	Pacific Cod	do	100
	Hake	Northeast Pacific	[6] 18,000
	Jack Mackerel	do	2,000

[1] Includes incidental catch of trawl fishery.
[2] Incidental catch only.
[3] 1,000 metric tons or 25 vessel days, whichever occurs first.
[4] 105,200 metric tons or 7,514 vessel days, whichever occurs first.
[5] 1,000 metric tons or 25 vessel days, whichever occurs first.
[6] 18,000 metric tons or 391 vessel days, whichever occurs first.

(d) The above allocations are based on calendar year 1977. Thus, foreign catches taken during January and February 1977 will be subtracted from the allocations listed in the above tables, and only the remaining balance will be available for foreign fishing between March 1, 1977 and December 31, 1977. Similarly, the remaining balance will be used by the United States in calculating the "poundage fees" assessed for foreign fishing for the period March 1–December 31, 1977.

(e) An allocation in terms of vessel days has been provided by the National Marine Fisheries Service for the Pacific seamount groundfish fishery and the Northeast Pacific hake fishery, in addition to a tonnage allocation.

(f) The foreign nation shall take the necessary measures to ensure that fishing vessels of that nation shall not in any year exceed such nation's allocation for any fishery.

(g) Failure by the Director to notify the competent authority of the foreign nation in accordance with paragraph (c) of this section shall not excuse the foreign nation from complying with the requirements of paragraph (e) of this section.

[FR Doc.77-6266 Filed 3-2-77;8:45 am]

Title 9—Animals and Animal Products

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, MEAT AND POULTRY INSPECTION, DEPARTMENT OF AGRICULTURE

PART 331—SPECIAL PROVISIONS FOR DESIGNATED STATES AND TERRITORIES, AND FOR DESIGNATION OF ESTABLISHMENTS WHICH ENDANGER PUBLIC HEALTH AND FOR SUCH DESIGNATED ESTABLISHMENTS

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

Designation of the State of Ohio

AGENCY: Department of Agriculture, Animal and Plant Health Inspection Service, Meat and Poultry Inspection.

ACTION: Final Rule.

SUMMARY: The Secretary of Agriculture hereby designates the State of Ohio as required under section 301(c)(3) of the Federal Meat Inspection Act and section 5(c)(3) of the Poultry Products Inspection Act. The Governor of Ohio has advised this Department that the State of Ohio is no longer in a position to continue administering the State meat and poultry inspection programs after March 31, 1977.

EFFECTIVE DATE: March 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. J. K. Payne, Federal-State Relations Officer, Field Operations, Meat and Poultry Inspection Program, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250. (202–447–6313).

SUPPLEMENTARY INFORMATION. The Governor of the State of Ohio has advised this Department that the State of Ohio is no longer in a position to continue administering the State meat inspection program after March 31, 1977, and has requested the Department to assume the responsibility for carrying out the provisions of titles I and IV of the Federal Meat Inspection Act, with respect to establishments within the State at which cattle, sheep, swine, goats, or equines are slaughtered or their carcasses, or parts or products thereof, are prepared for use as human food, solely for distribution within such State, and with respect to intrastate operations and transactions concerning meat products and other articles and animals subject to the Federal Meat Inspection Act, and persons, firms, and corporations engaged therein.

Also, the Governor of the State of Ohio has advised this Department that the State of Ohio is no longer in a position to continue administering the State poultry inspection program after March 31, 1977, and has requested the Department to assume the responsibility for carrying out the provisions of sections 1–4, 6–10, and 12–22 of the Poultry Products Inspection Act with respect to establishments within the State at which poultry

are slaughtered or poultry products are processed for use as human food, solely for distribution within such State, and with respect to intrastate operations and transactions concerning products and other articles and animals subject to the Poultry Products Inspection Act, and persons, firms, and corporations engaged therein.

The Secretary heretofore determined that the State of Ohio had developed and activated requirements at least equal to the requirements under titles I and IV of the Federal Meat Inspection Act and sections 1–4, 6–10, and 12–22 of the Poultry Products Inspection Act. However, such titles and sections contemplate continuous, ongoing programs, and in view of the termination date now applicable to the Ohio programs, it is hereby determined that Ohio is not effectively enforcing requirements at least equal to those imposed under titles I and IV of the Federal Meat Inspection Act and sections 1–4, 6–10, and 12–22 of the Poultry Products Inspection Act. Therefore, notice is hereby given that the Secretary of Agriculture designates said State under section 301(c)(3) of the Federal Meat Inspection Act and section 5(c)(3) of the Poultry Products Inspection Act.

On April 3, 1977, the provisions of titles I and IV of the Federal Meat Inspection Act shall apply to intrastate operations and transactions in said State and to persons, firms, and corporations engaged therein, to the same extent and in the same manner as if such operations and transactions were conducted in or for "commerce," within the meaning of the Federal Meat Inspection Act, and any establishment in the State of Ohio which conducts any slaughtering or preparation of carcasses or parts or products thereof of cattle, sheep, swine, goats, horses, mules, or other equines, must have Federal inspection or cease its operations, unless it qualifies for an exemption under section 23(a) or 301(c) of the Federal Meat Inspection Act.

Also, on April 3, 1977, the provisions of sections 1–4, 6–10, and 12–22 of the Poultry Products Inspection Act shall apply to intrastate operations and transactions in said State and to persons, firms, and corporations engaged therein, to the same extent and in the same manner as if such operations and transactions were conducted in or for "commerce," within the meaning of the Poultry Products Inspection Act, and any establishment in the State of Ohio which conducts any slaughtering or processing of poultry or poultry products must have Federal inspection or cease its operations, unless it qualifies for an exemption under section 15 or 5(c)(2) of the Poultry Products Inspection Act.

Therefore, the operator of each such establishment who desires to continue any such operations after March 31, 1977, should immediately communicate with the Regional Director for Meat and Poultry Inspection, as listed below, for information concerning the requirements and exemptions under the Acts and application for inspection and survey of the establishment:

Dr. L. H. Burkert, Director, North Central, Meat and Poultry Inspection Program, U.S. Courthouse Building, East First and Walnut Streets, Des Moines, Iowa 50309 (Telephone: 515–284–4042).

Accordingly, the table in § 331.2 of the Federal meat inspection regulations (9 CFR 331.2) is amended as follows:

1. In the "State" column, "Ohio" is added immediately below "North Dakota."

2. In the "Effective date of application of Federal provisions" column, "April 3, 1977" is added on the line with "Ohio."

(Secs. 21 and 301(c), 34 Stat. 1260, as amended; 21 U.S.C. 621, 661(c); 37 F.R. 28464, 28477.)

Further, the table in § 381.221 of the poultry products inspection regulations (9 CFR 381.221) is amended as follows:

1. In the "State" column, "Ohio" is added immediately below "North Dakota."

2. In the "Effective date of application of Federal provisions" column, "April 3, 1977" is added on the line with "Ohio."

(Secs. 5(c) and 14, 71 Stat. 441, as amended, 21 U.S.C. 454(c), 463; 37 F.R. 28464, 28477.)

These amendments of the Federal meat inspection regulations and the poultry products inspection regulations are necessary to reflect the determination of the Secretary of Agriculture under section 301(c) of the Federal Meat Inspection Act and section 5(c) of the Poultry Products Inspection Act. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Secretary. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that such public procedure is impracticable and unnecessary.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Done at Washington, D.C., on March 2, 1977.

DONALD L. HOUSTON,
Acting Administrator, Animal and Plant Helath Inspection Service.

[FR Doc.77-6588 Filed 3-2-77;9:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 1479]

PART 1—INCOME TAX: TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Change of Annual Accounting Period for Foreign Corporations

On March 23, 1976, a notice of proposed rule making with respect to amendment of the Income Tax Regulations (26 CFR Part 1) under section 442 of the Internal Revenue Code of 1954, relating to the procedure a foreign corporation must follow in order to change its annual accounting period was published in the FEDERAL REGISTER (14 CFR 12017). A public hearing was held on June 29, 1976. The amendments to the regulations will require that a controlled foreign corporation (as defined in section 957) and a foreign corporation that meets the stock ownership requirements of a foreign personal holding company (as defined in section 552) must obtain the prior approval of the Commissioner before they are allowed to change their annual accounting period.

The principal draftsperson of this regulation was Mr. Robert A. Katcher of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style. Mr. Katcher may be contacted at 202-566-3828 or at 1111 Constitution Avenue, NW., Washington, D.C. 20224. Attention: CC:LR:T.

Adoption of amendments to the regulations. After full and careful consideration of all relevant matters presented by interested persons regarding the rules proposed, the amendments of the Income Tax Regulations (26 CFR Part 1) are hereby adopted as set forth below.

Section 1.442-1 is amended by adding a new paragraph (b)(3), revising the first sentence of paragraph (c)(1), revising paragraph (c)(2)(iv) and by adding a new paragraph (c)(5) to read as follows.

§ 1.442-1 Change of annual accounting period.

* * * * *

(b) Prior approval of the Commissioner. * * *

(3) *Certain foreign corporations.* Application for approval to change such taxable year of either a controlled foreign corporation (as defined in section 957 or a foreign corporation that meets the stock ownership requirements of a foreign personal holding company (as defined in section 552) shall be made by filing an application in accordance with paragraph (b)(1) of this section. The application shall be made by one or more of such controlled foreign corporation's United States shareholders (as defined in section 951(b)), by one or more individuals who comprise a foreign corporation's "United States group" (as defined in section 552(a)(2)), or by the respective corporations. In general, a change of such a taxable year will be approved if the annual accounting period of such controlled foreign corporation or foreign corporation meeting the stock ownership requirements of a foreign personal holding company is changed to conform to the requirements of foreign law or because bona fide foreign business reasons make such a change nec-

essary or desirable and the other applicable provisions of paragraph (b)(1) of this section are satisfied.

(c) *Special rule for certain corporations.* (1) A corporation (other than a corporation to which subparagraphs (4) and (5) of this paragraph applies) may change its annual accounting period without the prior approval of the Commissioner if all the conditions in subparagraph (2) of this paragraph are met, and if the corporation files a statement with the district director with whom the returns of the corporation are filed at or before the time (including extension) for filing the return for the short period required by such change. * * *

(2) * * *

(iv) If a corporation had a special status either for the short period or for the taxable year immediately preceding such short period, it must have the same special status for both the short period and such taxable year (for the purpose of this subdivision, special status includes only: a personal holding company, a corporation that is an exempt organization, a foreign corporation not engaged in a trade or business within the United States, a Western Hemisphere trade corporation, and a China Trade Act corporation); and

* * * * *

(5) A controlled foreign corporation (as defined in section 957) or a foreign corporation that meets the stock ownership requirements of a foreign personal holding company (as defined in section 552) may change its taxable year only if it secures the prior approval of the Commissioner in accordance with paragraph (b) (1) and (3) of this section. A controlled foreign corporation or a foreign corporation that meets the stock ownership requirements of a foreign personal holding company that is not subject to United States income tax shall be treated for the purposes of this section as a taxpayer within the meaning of section 7701 (a)(14).

(Sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).)

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: February 14, 1977.

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

[FR Doc.77-6443 Filed 2-28-77;3:42 pm]

[T.D. 7472]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Rules for Source of Income of Certain Dividends From a DISC or Former DISC

On September 16, 1976, notice of proposed rule making with respect to the amendments of the Income Tax Regulations (26 CFR Part 1) under section 861 (a)(2)(D) of the Internal Revenue Code of 1954 to conform the regulations to changes made by section 503 of the Revenue Act of 1971 (85 Stat. 550) was published in the FEDERAL REGISTER (41 FR 39761). Section 503 of the Act, which amends section 861(a)(2) by adding a new subparagraph (D) to provide in effect that certain dividends from a DISC or former DISC are treated as gross income from sources within the United States except to the extent attributable to qualified export receipts, is effective generally for taxable years ending after December 31, 1971.

The Treasury decision does not reflect changes made by sections 1063, 1065, and 1101 of the Tax Reform Act of 1976 (Pub. L. 94-455), which added, in general for taxable years beginning after December 31, 1975, section 995(b)(1)(D), (E), (F)(ii), and (F)(iii) to the Internal Revenue Code of 1954 to provide additional deemed distributions made by a DISC taxable as dividends. It is contemplated that a notice of proposed rule making to provide rules for source of income of these dividends from a DISC will be forthcoming.

DRAFTING INFORMATION

The principal draftsperson of this regulation was Anthony Bonanno of the Legislation and Regulations Division of the Office of Chief Councel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style. Mr. Bonanno may be contacted at 202-566-3829 or at 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendments of the regulations as proposed are hereby adopted.

(Sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).)

DONALD C. ALEXANDER,
Commissioner.

Approved: February 18, 1977.

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

In order to conform the Income Tax Regulations (26 CFR Part 1) to the amendments made to the Internal Revenue Code of 1954 by section 503 of the Revenue Act of 1971 (85 Stat. 550), § 1.861-3 is amended by revising paragraph (a)(1), by adding a sentence to the end of paragraph(a)(2), by adding a new paragraph (a)(5), and by revising the first sentence of paragraph (d). These revised and added provisions read as follows:

§ 1.861-3 Dividends.

(a) *General*—(1) *Dividends included in gross income.* Gross income from sources within the United States includes a dividend described in subparagraph (2), (3), (4), or (5) of this paragraph. For purposes of subparagraphs (2), (3), and (4) of this paragraph, the term "dividend" shall have the same meaning as set forth in section 316 and the regulations thereunder. See subparagraph (5) of this paragraph for special rules with respect to certain dividends from a DISC or former DISC.

(2) *Dividend from a domestic corporation.* * * * See subparagraph (5) of this paragraph for the treatment of certain dividends from a DISC or former DISC.

* * * * *

(5) *Certain dividends from a DISC or former DISC*—(i) *General rule.* A dividend described in this subparagraph is a dividend from a corporation that is a DISC or former DISC (as defined in section 992(a)) other than a dividend that—

(*a*) Is deemed paid by a DISC under section 995(b)(1)(D) and § 1.995-2(a)(4) (relating to a deemed distribution of a certain amount of taxable income in qualified years) to the extent provided in subdivision (iii) of this subparagraph or

(*b*) Reduces under § 1.996-3(b)(3) accumulated DISC income (as defined in subdivision (ii)(*b*) of this subparagraph) to the extent provided in subdivision (iv) of this subparagraph.

Thus, a dividend deemed paid under section 995(b)(1)(A), (B), or (C) (relating to certain deemed distributions in qualified years) will be treated in full as gross income from sources within the United States. To the extent that a dividend from a DISC or former DISC is paid out of other earnings and profits (as defined in § 1.996-3(d)), subparagraph (2) of this paragraph shall apply. To the extent that a dividend from a DISC or former DISC is paid out of previously taxed income (as defined in § 1.996-3(c)), see section 996(a)(3) (relating to the exclusion from gross income of amounts distributed out of previously taxed income). In determining the source of income of certain dividends from a DISC or former DISC, the source of income from any transaction which gives rise to gross receipts (as defined in § 1.993-6), in the hands of the DISC or former DISC, is immaterial.

(ii) *Definitions.* For purposes of this subparagraph, the term—

(*a*) "Dividend from" means any amount actually distributed which is a dividend within the meaning of section 316 (including distributions to meet qualification requirements under section 992(c)) and any amount treated as a distribution taxable as a dividend pursuant to section 995(b) (relating to deemed distributions in qaulified years or upon disqualification) or included in gross income as a dividend pursuant to section 995(c) (relating to gain on certain dispositions of stock in a DISC or former DISC), and

(*b*) "Accumulated DISC income" means the amount of accumulated DISC income as of the close of the taxable year immediately preceding the taxable year in which the dividend was made increased by the amount of DISC income for the taxable year in which the dividend was made (as determined under § 1.996-3(b)(2)).

For purposes of subdivisions (i)(*b*) and (iv) of this subparagraph, if by reason of section 995(c), gain is included in the shareholder's gross income as a dividend, accumulated DISC income shall be treated as if it were reduced under § 1.996–3(b)(3).

(iii) *Determination of source of income for deemed distributions under section 995(b)(1)(D).* (*a*) If for its taxable year a DISC has no taxable income from any transaction which gives rise to gross receipts (as defined in § 1.993–6) which are not qualified export receipts (as defined in § 1.993–1) other than a transaction giving rise to gain described in section 995(b)(1)(B) or (C), then for such year the entire amount treated under section 995(b)(1)(D) as a deemed distribution taxable as a dividend will be treated as gross income from sources without the United States.

(*b*) If for its taxable year a DISC has taxable income described in (*a*) of this subdivision, then for such year the portion of the amount treated under section 995(b)(1)(D) as a deemed distribution taxable as a dividend that will be treated as income from sources within the United States is equal to 50 percent of such taxable income. The remainder of such dividend will be treated as gross income from sources without the United States.

(iv) *Determination of source of income for dividends that reduce accumulated DISC income.* (*a*) If no portion of the accumulated DISC income of a DISC or former DISC is attributable to taxable income described in subdivision (iii)(*a*) of this subparagraph from any transaction during a year for which it is (or is treated as) a DISC, then the entire amount of any dividend that reduces under § 1.996–3(b)(3) accumulated DISC income will be treated as income from sources without the United States.

(*b*) If any portion of the accumulated DISC income of a DISC or former DISC is attributable to taxable income described in subdivision (iii)(*a*) of this subparagraph from any transaction during a year for which it is (or is treated as) a DISC, then the portion of any dividend during its taxable year that reduces under § 1.996–3(b)(3) accumulated DISC income that will be treated as income from sources within the United States shall be equal to the amount of such dividend multiplied by a fraction (determined as of the close of such year) the numerator of which is the amount of accumulated DISC income attributable to such taxable income, and the denominator of which is the total amount of accumulated DISC income. The remainder of such dividend will be treated as gross income from sources without the United States.

(v) *Special rules.* For purposes of subdivisions (iii) and (iv) of this subparagraph—

(*a*) Taxable income shall be determined under § 1.992–3(b)(2)(i) (relating to the computation of deficiency distribution), and

(*b*) The portion of any deemed distribution taxable as a dividend under section 995(b)(1)(D) or amount under § 1.996–3(b)(3) (i) through (iv) that is treated as gross income from sources within the United States during the taxable year shall be considered to reduce the amount of taxable income described in subdivision (iii) (*a*) of this subparagraph as of the close of such year.

(vi) *Illustrations.* This subparagraph may be illustrated by the following examples:

Example (1). (a) Y is a corporation which uses the calendar year as its taxable year and which elects to be treated as a DISC beginning with 1972. X is its sole shareholder. In 1973, Y has $18,000 of taxable income from qualified export receipts (none of which are interest and gains described in section 995(b)(1)(A), (B), and (C)) and $1,000 of taxable income giving rise to gross receipts which are not qualified export receipts. Under these facts, X is deemed to have received a distribution under section 995(b)(1)(D) of $9,500, i.e., $19,000×½. X is treated under subdivision (iii)(*b*) of this subparagraph as having $500, i.e., $1,000×50 percent, from sources within the United States and $9,000 from sources without the United States.

(b) For 1972, assume that Y had no taxable income described in subdivision (iii)(a) of this subparagraph. Pursuant to subdivision (v)(*b*) of this subparagraph, at the beginning of 1974, $500 of Y's accumulated DISC income is attributable to taxable income from transactions which gave rise to gross receipts which are not qualified export receipts (as described in subdivision (iii)(*a*) of this subparagraph), i.e., $1,000—$500.

Example (2). The facts are the same as in example (1) except that in 1973, in addition to the taxable income described in such example, Y has $450 of taxable income from gross interest from producer's loans described in section 995(b)(1)(A). Under these facts, the deemed distribution of $450 under section 995(b)(1)(A) is treated in full under subdivision (i) of this subparagraph as gross income from sources within the United States. The deemed distribution under section 995(b)(1)(D) of $9,500 will be treated in the same manner as in example (1).

Example (3). (a) The facts are the same as in example (1) except that in 1973, in addition to the distributions described in such example, Y makes a deemed distribution taxable as a dividend of $100 under section 995(b)(1)(E) (relating to foreign investment attributable to producer's loans) and actual distributions of all of its previously taxed income and of $2,000 taxable as a dividend which reduces accumulated DISC income (as defined in subdivision (ii)(*b*) of this subparagraph). Under § 1.996–3(b)(3), accumulated DISC income is first reduced by the deemed distribution of $100 and then by the actual distribution taxable as a dividend of $2,000. As indicated in example (1), for 1972 Y had no taxable income described in subdivision (iii)(*a*) of this subparagraph. Assume that Y had accumulated DISC income of $12,000 at the end of 1973, $500 of which under example (1) is attributable to taxable income described in subdivision (iii)(*a*) of this subparagraph.

(b) The distribution from previously taxed income is excluded from gross income pursuant to section 996(a)(3).

(c) Of the deemed distribution of $100, X is treated under subdivision (iv)(*b*) as having $4.17, i.e., $100×500/12,000, from sources within the United States and $95.83, i.e., $100—$4.17, from sources without the United States.

(d) Of the actual distribution taxable as a dividend of $2,000, X is treated under subdivision (iv)(*b*) as having $83.33, i.e., $2,000×500/12,000, from sources within the United States and $1,916.67, i.e., $2,000—$83.33, from sources without the United States.

(e) The sum of the amounts deemed and actually distributed as dividends for 1973 that are treated as gross income from sources within the United States is as follows:

	Total dividend	Amount of dividend from sources within the United States
Deemed distribution under sec. 995(b)(1)(D)	$9,500	$500.00
Deemed distribution under sec. 995(b)(1)(E)	100	4.17
Actual distribution that reduces accumulated DISC income	2,000	83.33
Totals	11,600	587.50

Thus, pursuant to subdivision (v)(*b*) of this subparagraph, at the beginning of 1974 Y has $412.50, i.e., $1,000—$587.50, of taxable income described in subdivision (iii)(*a*) of this subparagraph.

(f) The result would be the same if Y made an actual distribution taxable as a dividend of $1,500 on March 30, 1973, and another distribution of $500 on December 31, 1973.

* * * * *

(d) *Effective date.* This section applies with respect to dividends received or accrued after December 31, 1966, except that paragraph (a)(5) of this section applies to certain dividends from a DISC or former DISC in taxable years ending after December 31, 1971. * * *

[FR Doc.77-6444 Filed 3-1-77;4:53 pm]

[T.D. 7469]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Computation of Policyholders' Share of Investment Yield on Consolidated Tax Returns of Life Insurance Companies and Inadvertent Distributions From the Policyholders Surplus Account

This document contains amendments to the Income Tax Regulations (26 CFR Part 1) in order to conform such regulations to the provisions of the Act of January 12, 1971 (Public Law 91–688, 84 Stat. 2072), which added section 818(g) to the Internal Revenue Code of 1954, and the Act of June 30, 1976 (Public Law 94–331, 90 Stat. 781) which added section 815(d)(6).

Section 818(g) provides that life insurance companies filing consolidated tax returns must compute the amount of their investment yield which is taxable to them as if they were filing separate returns and thus they cannot eliminate intercorporate dividends. This provision follows the decision of the Court of Appeals for the Fourth Circuit in *Jefferson Standard Life Insurance Co.* v. *United States*, 408 F. 2d 842 (4th Cir. 1969), and applies to taxable years beginning after December 31, 1957.

Section 815(d)(6) provides that inadvertent distributions from the policyholders surplus account made during the last month of a taxable year are not to be included in the income of a life insurance Company. That section only applies however, if the amounts so distributed are returned to the company no

later than the time prescribed by law (including extensions thereof), for filing the company's return for the taxable year in which the distribution was made.

In order to conform the Income Tax Regulations (26 CFR Part 1) to sections 818(g) and 815(d)(6) of the Code (as added by the Act of January 12, 1971; Public Law 91-688, 84 Stat. 2072, and by the Act of June 30, 1976; Public Law 94-331, 90 Stat. 781), relating to the taxation of life insurance companies, the following regulations are adopted.

The principal draftsperson of this regulation was David Jacobson of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style. Mr. Jacobson may be contacted at 202-566-3923 or by mail at 1111 Constitution Avenue, N.W., Washington, D.C. 20224. Attention: CC:LR:T.

Par. 1. Section 1.815 is amended by adding a new section 815(d)(6) and revising the historical note. The added and revised provisions are to read as follows:

§ 1.815 Statutory provisions; life insurance companies; distributions to shareholders.

SEC. 815. *Distributions to shareholders.*

* * * * *

(d) *Special rules.*— * * *

(6) *Restoration of amounts distributed out of policyholders surplus account.*—Notwithstanding any other provision of this subchapter, no amount shall be subtracted from a taxpayer's policyholders surplus account with respect to a distribution made during the last month of the taxable year which, without regard to this paragraph, would be treated in whole or in part as a distribution of the policyholders surplus account, to the extent that amounts so distributed are returned to the taxpayer no later than the time prescribed by law (including extension thereof) for filing the taxpayer's return for the taxable year in which the distribution was made. For purposes of this paragraph, amounts returned to a taxpayer with respect to a distribution shall be first applied to the return of amounts which, without regard to this paragraph, would have been treated as distributed out of the policyholders surplus account. This paragraph shall not apply if, at the time such distribution was made, the taxpayer intended to avail itself of the provision of this paragraph by having its shareholders return all or a part of such distribution. Nothing in this paragraph shall affect the tax treatment of the receipt of the distribution by any shareholder, and the basis to a shareholder of his stock in the taxpayer shall not be increased by reason of amounts returned under this paragraph to the extent that a dividends received deduction or exclusion was allowable in respect of the distribution of such amount under any provision of this title.

* * * * *

(Sec. 815 as added by sec. 2, Life Insurance Company Income Tax Act of 1959 (73 Stat. 129); amended by sec. 3, Act of October 10, 1962 (Pub. L. 87-790, 76 Stat. 808); sec. 3(b), Act of October 23, 1962 (Pub. L. 87-858, 76 Stat. 1136); secs. 2, 3, and 4, Act of September 2, 1964 (Pub. L. 88-571, 78 Stat. 857); sec. 4, Act of December 27, 1967 (Pub. L. 90-225, 81 Stat. 733); sec. 907(b), Tax Reform Act, 1969 (83 Stat. 715); sec. 1, Act of June 30, 1976 (Pub. L. 94-331, 90 Stat. 781).)

Paragraph 2. Section 1.818 is amended by adding a new paragraph (g) and by revising the historical note. The added and revised provisions read as follows:

§ 1.818 Statutory provisions; life insurance companies; accounting provisions.

SEC. 818. *Accounting provisions.*

* * * * *

(g) *Computation on consolidated returns of policyholders' share of investment yield.* For purposes of this part, in case of a life insurance company filing or required to file a consolidated return under section 1501 for a taxable year, the computations of the policyholders' share of investment yield under subparts B and C (including all determinations and computations incident thereto) shall be made as if such company were not filing a consolidated return.

(Sec. 818 as added by sec. 2, Life Insurance Company Tax Act 1955 (70 Stat. 46); amended by sec. 2, Life Insurance Company Income Tax Act 1959 (73 Stat. 1336; sec. 1, Act of January 12, 1971 (Pub. L. 91-688, 84 Stat. 2072).)

§ 1.818-1 [Amended]

Par. 3. Section 1.818-1 is amended by deleting "1.818-7" and inserting in lieu thereof "1.818-8".

Par. 4. A new § 1.818-8 is added immediately following § 1.818-7. This new section reads as follows:

§ 1.818-8 Special rules relating to consolidated returns and certain capital losses.

Section 818(g) provides that, in the case of a life insurance company filing or required to file a consolidated return under section 1501 for a taxable year, the computations of the policyholders' share of investment yield under subparts B and C, part I, subchapter L, chapter 1 of the Code (including all determinations and computations incident thereto) shall be made as if such company were not filing a consolidated return. Thus, for example, if X and Y are life insurance companies which are entitled to file a consolidated return for 1975 and X has paid dividends to Y during such taxable year, Y must include such dividends in the computation of gross investment income under section 804(b). For other rules relating to the filing of consolidated returns, see sections 1501 through 1504 and the regulations thereunder.

Because this Treasury decision in essence only codifies statutory material, it is found unnecessary to issue this Treasury decision with notice and public procedure thereunder under 5 U.S.C. 553(b) or subject to the effective date of limitations of 5 U.S.C. 553(d).

(This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).)

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: February 18, 1977.

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

[FR Doc.77-6642 Filed 2-28-77;3:42 pm]

SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

[T.D. 7471]

PART 404—TEMPORARY REGULATIONS ON PROCEDURE AND ADMINISTRATION UNDER THE TAX REFORM ACT OF 1976

Temporary Regulations Relating to Disclosures of Return Information to Certain Officers and Employees of the Department of Commerce and Federal Trade Commission for Statistical Purposes and Related Activities

This document contains temporary regulations on procedure and administration (26 CFR Part 404) under section 6103(j)(1), (2), and (4) of the Internal Revenue Code of 1954, as added by section 1202 of the Tax Reform Act of 1976 (Pub. L. 94-455, 90 Stat. 1678), in order to provide rules governing disclosures of return information (as defined by section 6103(b)(2)) to certain officers and employees of the Department of Commerce and Federal Trade Commission for statistical purposes and related activities authorized by section 6103(j)(1) and (2) of the Code.

The temporary regulations describe in detail the particular return information which the Internal Revenue Service will disclose to officers and employees of the Bureau of the Census and the Bureau of Economic Analysis and the Division of Financial Statistics of the Bureau of Economics of the Federal Trade Commission for use in statistical programs and related activities authorized by law. The temporary regulations also prescribe the procedures to be followed with respect to requested disclosures of return information and the limited extent to which such return information can be redisclosed and provide that the confidentiality of return information disclosed as provided by the regulations must be protected to the satisfaction of the Service.

These temporary regulations are effective on January 1, 1977.

The principal draftsperson of this regulation was David E. Dickinson of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style. Mr. Dickinson may be contacted at 202-566-3363 or by mail at 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

Adoption of amendment to the regulations. In order to prescribe temporary regulations on procedure and administration relating to disclosures of return

information to certain officers and employees of the Department of Commerce and Federal Trade Commission for statistical purposes and related activities authorized by section 6103(j) (1) and (2) of the Internal Revenue Code of 1954, as added by section 1202 of the Tax Reform Act of 1976 (Pub. L. 94-455, 90 Stat. 1678), and to prescribe temporary regulations under section 6103(j)(4) restricting redisclosure of such return information by such officers and employees, the following temporary regulations are hereby adopted and added to Part 404 of Title 26 of the Code of Federal Regulations.

§ 404.6103(j)(1)-1 Disclosures of return information to officers and employees of the Department of Commerce for certain statistical purposes and related activities.

(a) *General rule.* Pursuant to the provisions of section 6103(j)(1) of the Internal Revenue Code of 1954 and subject to the requirements of paragraph (d) of this section, officers or employees of the Internal Revenue Service will disclose return information (as defined by section 6103(b)(2)) to officers and employees of the Department of Commerce to the extent, and for such purposes as may be, provided by paragraphs (b) and (c) of this section.

(b) *Disclosure of return information to officers and employees of the Bureau of the Census.* (1) Officers or employees of the Internal Revenue Service will disclose to officers and employees of the Bureau of the Census for purposes of conducting and preparing, as authorized by law, intercensal estimates of population and per capita income for all geographic areas included in the general revenue sharing program the following return information reflected on the 1975 return of an individual taxpayer with respect to the tax imposed by chapter 1 and contained in the individual master files of the Service—

(i) Taxpayer identity information (as defined in section 6103(b)(6), other than the name of the taypayer), validity code with respect to the taxpayer identifying number (as described in section 6109), and taxpayer identifying number of spouse, if reported,

(ii) District office and service center codes,

(iii) Marital status,

(iv) Numbers and classifications of reported exemptions,

(v) Adjusted gross income,

(vi) Wage and salary income,

(vii) Dividend income,

(viii) Interest income,

(ix) Gross rent and royalty income,

(x) Entity code,

(xi) Revenue sharing code and answer to the revenue sharing question,

(xii) Code indicators for Form 1040, Schedules C, D, E, F, and SE, and

(xiii) Julian date relative to filing.

(2) Officers or employees of the Internal Revenue Service will disclose to officers and employees of the Bureau of the Census for purposes of conducting, as authorized by law, economic statistics programs and conducting and preparing economic censuses the taxpayer name directory derived from, and the following return information reflected on the return of a taxpayer and contained in, the business master files of the Service—

(i) Entity records consisting of taxpayer identity information (as defined in section 6103(b)(6)), the principal industrial activity code, and monthly corrections of, and additions to, such entity records;

(ii) From a quarterly employment tax return—

(A) Taxpayer identifying number (as described in section 6109),

(B) Total compensation paid,

(C) Taxable wages for purposes of chapter 21,

(D) Taxable tip income reported,

(E) Master file tax account number,

(F) Taxable period covered by such return,

(G) Employment code,

(H) Final return indicator,

(I) Document locator number, and

(J) Record code;

(iii) From an annual employment tax return filed by an employer with respect to agricultural employees—

(A) Taxpayer identifying number,

(B) Total taxable cash wages paid for purposes of chapter 21,

(C) Master file tax account number,

(D) Taxable period covered by such return,

(E) Final return indicator,

(F) Document locator number, and

(G) Record code.

(3) Officers or employees of the Internal Revenue Service will disclose to officers and employees of the Bureau of the Census for purposes of conducting and preparing, as authorized by law, economic censuses and censuses of agriculture the following business related return information reflected on the return of a taxpayer and contained in the master files of the Service—

(i) From Form 1040, Schedule C, taxpayer identity information (as defined in section 6103(b)(6)), the principal industrial activity code, and reported gross receipts less returns and allowances;

(ii) From Form 1120F, Section II, and Forms 1065, 1120, 1120S, 990C, and 990T, the taxpayer identifying number (as described in section 6109), the principal industrial activity code, and reported gross receipts less returns and allowances.

(iii) From Form 1040, Schedule F, taxpayer identity information and reported gross profits (cash basis) or gross sales (accrual basis);

(iv) From Form 1040, Schedule C, and Forms 1065, 1120, and 1120S, answers to the business activity questions;

(v) From Form 1040, Schedule C, business address and answer to the question relating to Form 941; and

(vi) From Form 990PF, the taxpayer identifying number, the principal industrial activity code, and reported total receipts.

(4) Officers or employees of the Internal Revenue Service will disclose to officers and employees of the Bureau of the Census for purposes of conducting and preparing, as authorized by law, economic censuses return information relating to a taxpayer and contained in the exempt organization master files of the Service which consists of taxpayer identity information (as defined in section 6103(b)(6)), activity codes, and filing requirement code, and monthly corrections of, and additions to, such return information.

(c) *Disclosure of return information to officers and employees of the Bureau of Economic Analysis.* Officers or employees of the Internal Revenue Service will disclose to officers and employees of the Bureau of Economic Analysis for purposes of conducting and preparing, as authorized by law, statistical analyses return information consisting of Statistics of Income transcript-edit sheets containing return information reflected on returns of designated classes or categories of corporations with respect to the tax imposed by chapter 1 and microfilmed records of return information reflected on such returns where needed for further use in connection with such conduct or preparation.

(d) *Procedures and restrictions.* Disclosure of return information by officers or employees of the Internal Revenue Service as provided by paragraphs (b) and (c) of this section will be made only upon written request to the Commissioner of Internal Revenue by the Secretary of Commerce describing the particular return information to be disclosed and the taxable period or date to which such return information relates and designating by name and title the officers and employees of the Bureau of the Census or the Bureau of Economic Analysis to whom such disclosure is authorized. No such officer or employee to whom return information is disclosed pursuant to the provisions of paragraph (b) or (c) shall disclose such return information to any person, other than the taxpayer to whom such return information relates or other officers or employees of such bureau whose duties or responsibilities require such disclosure for a purpose described in paragraph (b) or (c), except in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer. If the Service determines that the Bureau of the Census or the Bureau of Economic Analysis, or any officer or employee thereof, has failed to, or does not, satisfy the requirements of section 6103(p)(4) or regulations or published procedures thereunder, the Service may take such actions as are deemed necessary to ensure that such requirements are or will be satisfied, including suspension of disclosures of return information otherwise authorized by section 6103(j)(1) and paragraph (b) or (c) of this section, until the Service determines that such requirements have been or will be satisfied.

§ 404.6103(j)(2)–1 Disclosures of return information to officers and employees of the Federal Trade Commission for certain statistical purposes and related activities.

(a) *General rule.* Pursuant to the provisions of section 6103(j)(2) of the Internal Revenue Code of 1954 and subject to the requirements of paragraph (b) of this section, officers or employees of the Internal Revenue Service will disclose to officers and employees of the Division of Financial Statistics of the Bureau of Economics of the Federal Trade Commission for purposes of developing and preparing, as authorized by law, the Quarterly Financial Report the following return information (as defined by section 6103(b)(2)) reflected on the return of a corporation with respect to the tax imposed by chapter 1 and contained in the business master files of the Service:

(i) Taxpayer identity information (as defined in section 6103(b)(6)),

(ii) Consolidated return and final return indicators,

(iii) Principal industrial activity code,

(iv) Partial year indicator,

(v) Annual accounting period,

(vi) Gross receipts less returns and allowances,

(vi) Net income or loss, and

(vii) Total assets.

(b) *Procedures and restrictions.* Disclosure of return information by officers or employees of the Internal Revenue Service as provided by paragraph (a) of this section will be made only upon written request to the Commissioner of Internal Revenue by the Chairman of the Federal Trade Commission describing the particular return information to be disclosed and the taxable period or date to which such return information relates and designating by name and title the officers and employees of the Division of Financial Statistics of the Bureau of Economics to whom such disclosure is authorized. No such officer or employee to whom return information is disclosed pursuant to the provisions of paragraph (a) shall disclose such return information to any person, other than the taxpayer to whom such return information relates or other officers or employees of such division whose duties or responsibilities require such disclosure for a purpose described in paragraph (a), except in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer. If the Service determines that the division, or any officer or employee thereof, has failed to, or does not, satisfy the requirements of section 6103(p)(4) or regulations or published procedures thereunder, the Service may take such actions as are deemed necessary to ensure that such requirements are or will be satisfied, including suspension of disclosures of return information otherwise authorized by section 6103(j)(2) and paragraph (a) of this section until the Service determines that such requirements have been or will be satisfied.

Because of the need for immediate guidance with respect to the provisions contained in this Treasury decision, it is found impracticable to issue it with notice and public procedure thereon under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (c) of that section.

(Sec. 6103(j) and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1678, 68A Stat. 917; 26 U.S.C. 6103(j), 7805).)

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: February 18, 1977.

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

[FR Doc.77-6445 Filed 2-28-77;3:42 pm]

proposed rules

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1011]

[Docket No. AO-251-A20]

MILK IN THE TENNESSEE VALLEY MARKETING AREA

Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

Notice is hereby given of a public hearing to be held at the Holiday Inn Downtown, U.S. Highway 441 (Chapman Highway) at Blount Avenue, Knoxville, Tennessee, beginning at 9:30 a.m., on March 24, 1977, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Tennessee Valley marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

PROPOSED BY DAIRYMEN, INC.

Proposal No. 1. Add the following sections to the order:

§ 1011.90 Base milk.

"Base milk" means milk received at pool plants from a producer during any of the months of March through June which is not in excess of such producer's daily average base computed pursuant to § 1011.92, multiplied by the number of days in such month.

§ 1011.91 Excess milk.

"Excess milk" means milk received at pool plants from a producer during any of the months of March through June which is in excess of the base milk of such producer for such month, and shall include all milk received during such months from a producer for whom no daily average base can be computed pursuant to § 1011.92.

§ 1011.92 Computation of daily average base for each producer.

Subject to the rules set forth in § 1011.93, the daily average base for each producer shall be an amount calculated by dividing the total pounds of milk received from such producer at all pool plants during the months of September through December immediately preceding, by the number of days' production represented by such deliveries: *Provided*, That the divisor shall be the actual days of production, or 100, whichever is greater. *Provided further*, That any producer who, during the preceding months of September through December, delivered his milk to a nonpool plant which became a pool plant after the beginning of such period shall be assigned a base in the same manner as if he had been a producer during such period, calculated from his deliveries during such September through December period to such plant.

§ 1011.93 Base rules.

The following rules shall apply in connection with the establishment and assignment of bases:

(a) Subject to the provisions of paragraph (b) of this section, the market administrator shall assign a base calculated pursuant to § 1011.92 to each person for whose account producer milk was delivered to pool plants during the months of September through December;

(b) A base which is assigned pursuant to the proviso of § 1011.92 shall be nontransferable. Base which is otherwise assigned shall be transferred in increments of not less than 300 pounds, or total available to transfer, whichever is less, effective as of the end of any month during which an application for such transfer is received by the market administrator, such application to be on forms approved by the market administrator and signed by the baseholder, or his heirs. In the case of a transfer of a full and entire base the transfer shall be effective on the date of transfer; provided a transfer form, properly signed, is received in the market administrator's office on or before the third day after the transfer; *Provided*, That if a base is held jointly, base shall be transferable only upon the receipt of such application signed by all joint holders or their heirs;

(c) Any producer who transfers base during any February through May period cannot receive a transfer of base during the remainder of that February through May period. Any producer who receives base by transfer during any February through May period cannot transfer a portion of his base during the remainder of that February through May period; the producer can, however, transfer his entire base subject to other provisions herein;

(d) A base which has been established by two or more persons operating a dairy farm as a partnership may be divided between the partners on any basis agreed to in writing by the partners; provided written notification of the agreed division of base signed by each partner is received by the market administrator prior to the first day of the month on which such division is to be effective; and

(e) A Hardship Committee composed of five (5) producers shall be appointed by the market administrator. Such committee shall meet once each year during the first 15 days of March and review all hardship evidence or hear each person, who so desires, present evidence to prove, that during the preceding months of September through December in which base was earned, that he suffered loss of production due to natural disaster, official quarantine for disease or pesticide residue, or condemnation of milk from PCB residue. A producer's daily average base may be increased to a maximum of 80 percent of the producer's daily average production in the first full month's production in the current March through June period. Each hardship case must be submitted in writing on a form available in the market administrator's office on or before March 1 of each year. All hardship adjustments must be approved by the market administrator.

§ 1011.94 Announcement of established bases.

On or before February 1 of each year, the market administrator shall notify each producer, and the handler receiving milk from such producer, of the daily average base established by such producer, and shall notify a cooperative association of which such producer is a member of such daily average base if the cooperative association so requests.

Proposal No. 2. Revise § 1011.32 to read as follows:

§ 1011.32 Other reports.

(a) Each handler who receives milk from producers shall report to the market administrator on or before the 6th day after the end of each of the months of March through June, the aggregate quantity of base milk received during the month at each of his pool plants, and on or before the 20th day after the end of each of the months of March through June the pounds of base milk received during the month from each producer.

(b) In addition to the reports required pursuant to paragraph (a) of this

section and §§ 1011.30 and 1011.31, each handler shall report such other information as the market administrator deems necessary to verify or establish each handler's obligation under the order.

Proposal No. 3. Revise § 1011.61 to read as follows:

§ 1011.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) For each month the market administrator shall compute the weighted average price and for each of the months of July through February, the uniform price per hundredweight for milk of 3.5 percent butterfat content at pool plants at which no location adjustment applies as follows:

(1) Combine into one total the values computed pursuant to § 1011.60 for all handlers who filed the reports prescribed in § 1011.30 for the month and who made the payments pursuant to § 1011.71 for the preceding month;

(2) Add one-half the unobligated balance in the producer-settlement fund;

(3) Add an amount equal to the total value of the location adjustments computed pursuant to § 1011.75;

(4) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1011.60(f); and

(5) Subtract not less than 4 cents, nor more than 5 cents per hundredweight. The results shall be the "weighted average price" and shall be the "uniform price" per hundredweight for milk of 3.5 percent butterfat received from producers in each of the months of July through February.

(b) For each of the months of March through June, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content f.o.b. market, as follows:

(1) Compute the total value of excess milk for all handlers included in the computations pursuant to paragraph (a)(1) of this section as follows:

(i) Multiply the hundredweight quantity of such milk which does not exceed the total quantity of producer milk assigned to Class III milk in the pool plants of such handlers by the Class III price;

(ii) Multiply the remaining hundredweight quantity of excess milk which does not exceed the total quantity of producer milk assigned to Class II milk in the pool plants of such handlers by the Class II price;

(iii) Multiply the remaining hundredweight quantity of excess milk by the Class I price; and

(iv) Add together the resulting amounts;

(2) Divide the total value of excess milk obtained in paragraph (b)(1) of this section by the total hundredweight of such milk and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk of 3.5 percent butterfat content received from producers;

(3) From the amount resulting from the computations pursuant to paragraph (a)(1) through (3) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(4)(ii) of this section by the weighted average price;

(4) Subtract the total value of excess milk determined by multiplying the uniform price obtained in paragraph (b)(2) of this section times the hundredweight of excess milk from the amount computed pursuant to paragraph (b)(3) of this section;

(5) Divide the amount calculated pursuant to paragraph (b)(4) of this section by the total hundredweight of base milk included in these computations; and

(6) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (b)(5) of this section. The resulting figures shall be the uniform price for base milk of 3.5 percent butterfat content f.o.b. market.

Proposal No. 4. Revise § 1011.62 to read as follows:

§ 1011.62 Announcement of uniform prices and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The 5th day after the end of each month the butterfat differential for such month; and

(b) The 10th day after the end of each month the applicable uniform prices pursuant to § 1011.61 for such month.

Proposal No. 5. Revise § 1011.71(a)(2)(i) by replacing the word "price" with the word "prices".

Proposal No. 6. Revise § 1011.71(a)(2)(ii) by changing the words "uniform price" to "weighted average price".

Proposal No. 7. Revise subparagraph (a)(1) of § 1011.73 by replacing the words "uniform price" with the words "weighted average price".

Proposal No. 8. Within the introductory text of subparagraph (a)(2) of § 1011.73 replace the words "uniform price" with the words "appropriate uniform price(s)", and replace the words "of milk" with the words "of milk or base milk and excess milk".

Proposal No. 9. Revise subparagraph (c)(1) of § 1011.73 by changing the words "uniform price" to the words "weighted average price".

Proposal No. 10. Revise subparagraph (c)(2) of § 1011.73 by replacing the words "uniform price" with the words "appropriate uniform price(s)".

Proposal No. 11. Revise subparagraphs (d)(3) through (d)(6) of § 1011.73 by renumbering such subparagraphs to (d)(4) through (d)(7) and adding a new subparagraph (d)(3) to read as follows:

(3) For the months of March through June the total pounds of base milk received;

Proposal No. 12. Revise § 1011.74 by changing the words "uniform price" to the words "uniform prices".

Proposal No. 13. Revise paragraph (a) of § 1011.75 by changing the word "price" to the word "prices".

Proposal No. 14. Revise paragraph (b) of § 1011.75 by changing the words "uniform price" to the words "weighted average price" wherever they appear in the paragraph.

Proposal No. 15. Revise subparagraph (a)(4) of § 1011.76 by changing the words "uniform price" to the words "weighted average price" wherever they appear in the subparagraph.

PROPOSED BY THE DAIRY DIVISION, AGRICULTURAL MARKETING SERVICE

Proposal No. 16. Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator J. E. Bobo, 218 Kingston-Forest Building, 4711 Old Kingston Pike, S.W., Knoxville, Tennessee 37919 or from the Hearing Clerk, Room 112-A, Administration Building, United States Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

Signed at Washington, D.C., on: February 28, 1977.

WILLIAM T. MANLEY,
Deputy Administrator,
Program Operations.

[FR Doc.77-6447 Filed 3-2-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

[10 CFR Part 35]

HUMAN USES OF BYPRODUCT MATERIAL

Specific Licenses to Individual Physicians and Institutions

Following its organization under the Energy Reorganization Act of 1974 (Pub. L. 93-438), the Nuclear Regulatory Commission (NRC) has stated its intention of reviewing those of its regulations and procedures pertaining to the licensing and regulation of nuclear facilities and materials that were originally promulgated by the Atomic Energy Commission, with a view to considering what changes should be made.

Summary. The Nuclear Regulatory Commission has under consideration an amendment to its regulations in 10 CFR Part 35, "Human Uses of Byproduct Material." The amendment would require a medical institution to be licensed for byproduct material used in the institution, rather than the individual physician using the byproduct material. This would be accomplished by limiting the granting of individual physician licenses under § 35.12 to a physician or group of physicians in private practice in an office outside the institution. (In order not to impede the delivery of nuclear medicine services at small medical institutions or clinics, an exception would be made for private practice in an institution or clinic to allow a physician(s) to

bring byproduct material into a hospital (1) to administer radiopharmaceuticals to a patient for therapeutic or diagnostic purposes, (2) to perform diagnostic studies on patients to whom a radiopharmaceutical has been administered or (3) perform in vitro diagnostic studies. The physician(s) would be required to remove from the premises, when he (they) depart(s), all byproduct materials except those remaining in the patient. As provided in § 30.34(c), the licensee shall confine his possession and use to the locations and purposes authorized in the license.)

Institutions and Individual Practice. "The Manual on Radition Protection in Hospitals and General Practice," published by the World Health Organization (1974) in cooperation with the International Labor Organization and the International Atomic Energy Agency, offers the following guidance:

> Responsibility for radiation protection affects all members of the administrative system, from the employing authority to the individual carrying out a radiological procedure. The authority in charge of any establishment is ultimately responsible for the protection of all staff, patients, and members of the public who may come within range of any radiation from its equipment.

In context, this statement is used to encourage management to designate a person in each department concerned with ionizing radiations to take care of day-to-day protection measures; however, the admonition for management responsibility and involvement in radiation safety is regarded here as the goal for medical use and other radiation safety programs.

With this goal in mind, the Commission is proposing a rule change that would, in effect, require a medical institution, now operating a nuclear medicine program under an individual physician license, to be licensed as an institution under § 35.11 at the time of expiration of the individual physician license obtained under § 35.12. In order for a physician to continue to practice nuclear medicine in a medical institution he would have to be named on the institution's license by the time his individual physician license expires. At the expiration of the individual physican license, the Commission would not renew authorization for practice within a medical institution. Medical institutions which already hold an institution license would be encouraged to add the names of individual physicians to their institution license immediately, rather than wait until the physician's individual license expires. The proposed rule change, in effect, provides that institutional licenses and individual physician licenses are mutually exclusive.

Under the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendment to 10 CFR Part 35 is contemplated. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed amendment should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by April 18, 1977. Copies of comments may be examined in the NRC Public Document Room at 1717 H Street, NW., Washington, D.C.

§ 35.12 is revised to read as follows:

§ 35.12 Specific licenses to individual physicians for human use of byproduct material.

(a) An application by an individual physician or group of physicians for a specific license for human use of byproduct material will be approved if:

(1) The applicant satisfies the general requirements specified in § 30.33 of this chapter;

(2) The application is for use in the applicant's practice in an office(s) outside a medical institution;

(3) The applicant has access to a hospital possessing adequate facilities to hospitalize and monitor the applicant's radioactive patients whenever it is advisable; and

(4) The applicant has extensive experience in the proposed use, the handling and administration of radioisotopes, and where applicable, the clinical management of radioactive patients. (The physician(s) shall furnish suitable evidence of such experience with the application. A statement from the medical isotope committee in the institution where the applicant acquired experience, indicating its amount and nature, may be submitted as evidence of such experience.)

(b) The Commission will not approve an application by an individual physician or group of physicians for a specific license to receive, possess or use byproduct material on the premises of a medical institution unless:

(1) The use of byproduct material is limited to:

(i) The administration of radiopharmaceuticals for diagnostic or therapeutic purposes;

(ii) The performance of diagnostic studies on patients to whom a radiopharmaceutical has been administered; or

(iii) The performance of in vitro diagnostic studies;

(2) The physician brings the byproduct material with him and removes the byproduct material when he departs. (The institution cannot receive, possess or store byproduct material other than the amount of material remaining in the patient.); and

(3) The medical institution does not hold a byproduct material license under § 35.11.

(Sec. 161, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201); Sec. 201, Pub. L. 93-438, 88 Stat. 1243 (42 U.S.C. 5841))

Dated at Washington, D.C. this 24th day of February, 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-6374 Filed 3-2-77;8:45 am]

[10 CFR Part 51]

ENVIRONMENTAL REPORTS BY CERTAIN APPLICANTS

Licensing

Notice is hereby given that the Nuclear Regulatory Commission is considering the amendment of its regulations in 10 CFR Part 51. The proposed amendments are of a minor nature or are procedural and clarifying changes.

Section 51.40 of the Commission's regulation "Licensing and Regulatory Policy and Procedures for Environmental Protection," 10 CFR Part 51, requires applicants for materials licenses issued pursuant to 10 CFR Parts 30, 40, or 70, which are covered by 10 CFR 51.5(a), to submit to the Commission 150 copies of an environmental report which discusses the matters described in 10 CFR 51.20.

The proposed amendment of 10 CFR 51.40 set forth below would reduce the number of copies of environmental reports applicable to Parts 30, 40, and 70 licenses from 150 to 100 copies.

The amendment of 10 CFR 51.40 also would require that 15 copies of the environmental reports applicable to Parts 30, 40, and 70 licenses be submitted to the NRC and that an additional 85 copies of the environmental report be retained by the applicant for distribution to Federal, State and local officials in accordance with written instructions issued by the Director of Nuclear Material Safety and Safeguards.

Direct distribution by the applicant of the additional copies of the environmental report would materially expedite the distribution of such copies by eliminating duplicate handling of them by the applicant and the NRC staff. This procedure also would alleviate problems of the NRC staff with regard to the receipt, storage, assembly, and remailing of large volumes of environmental reports.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, the National Environmental Act of 1969, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments to Title 10, Chapter I, Code of Federal Regulations, Part 51 is contemplated. All interested persons who wish to submit written comments or suggestions for consideration in connection with the proposed amendments should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 Attention: Docketing and Service Branch, by May 2, 1977. Copies of the comments on the proposed amendments may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

1. In section 51.40 of 10 CFR Part 51, paragraph (a) is amended by deleting "Except as provided in paragraph (b) of this section" and substituting therefor "Except as provided in paragraphs (b) and (c) of this section", and by adding a new paragraph (c) to read as follows:

§ 51.40 Environmental reports.

* * * * *

(c) Applicants for licenses, amendments to licenses, and renewals thereof, issued pursuant to Parts 30, 40, and/or 70 of this chapter, covered by paragraphs (a)(4), (a)(5), (a)(6), (b)(4), (b)(5), and (b)(8) of § 51.5 shall submit to the Director of Nuclear Material Safety and Safeguards 15 copies of an environmental report which discusses the matters described in § 51.20. The applicant shall retain an additional 85 copies of the environmental report for distribution to Federal, State, and local officials in accordance with written instructions issued by the Director of Nuclear Material Safety and Safeguards.

(Secs. 53, 62, 81, 161i, Pub. L. 83-703, as amended; 68 Stat. 930, 932, 935, 948 (42 U.S.C. 2073, 2092, 2111, 2201(i)); sec. 201, Pub. L. 93-438, as amended, 88 Stat. 1242, 89 Stat. 413 (42 U.S.C. 5841); Sec. 102, Pub. L. 91-190, 83 Stat. 853).

Dated at Bethesda, Maryland this 10th day of February 1977.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

[FR Doc.77-6375 Filed 3-2-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 211]

REEVALUATION OF CRUDE OIL BUY/SELL PROGRAM

Public Hearing and Opportunity for Public Comment

The Federal Energy Administration ("FEA") hereby gives notice that it will hold a public hearing and receive written comments with respect to the adequacy of and continuing necessity for the Mandatory Crude Oil Allocation Program (the "buy/sell program"), 10 CFR 211.65. As part of its continuing review of the operation of the mandatory allocation regulations for the petroleum industry, FEA is considering whether to eliminate the buy/sell program or, in the alternative, modify the program to facilitate its administration and to reflect current conditions in the petroleum industry. Elimination or modification of the program is under consideration because the current supplies of crude oil for small and independent refiners appear to be adequate, taking into account allocations under the crude oil supplier/purchaser freeze (10 CFR 211.63) and the general availability of imported crude oil in the world markets.

I. BACKGROUND

The first crude oil allocation program was promulgated in January 1974, and provided for sales and purchases of crude oil among refiners so that each refiner would have access to available supplies of crude oil at the national average supply-to-capacity ratio for all refiners. Refiners with supply-to-capacity ratios greater than the national average were required to sell their crude oil supplies that were in excess of the national average supply-to-capacity ratio. Refiners with less than the national average supply levels were entitled to purchase sufficient crude oil from sellers to increase their supply level to the national average supply-to-capacity ratio.

The current program, which became effective in June 1974, provides allocations only to small and independent refiners (refiner-buyers) to ensure equitable access to crude oil for this class. Each refiner-buyer is eligible to purchase during each allocation quarter an amount of crude oil equal to one quarter of its crude oil runs to stills in the year 1972 less the volume of crude oil runs to stills for the period February through April 1974, with certain adjustments. Provision is also made for allocation of crude oil with respect to new or expanded refinery capacity as defined in 10 CFR 211.62. The fifteen major refiners, or refiner-sellers, are required to offer crude oil for sale to the refiner-buyers. The sales obligations are based upon each refiner-seller's percentage share of the total refining capacity of all refiner-sellers as of January 1, 1973. Crude oil allocated to refiner-buyers is priced at the weighted average cost of imported crude oil for the particular refiner-seller plus a handling fee and transportation and quality adjustments.

FEA commenced its reevaluation of the buy/sell program primarily because more normal supply conditions have returned to the petroleum industry since the program was originally promulgated immediately following the end of the Arab embargo. FEA believes it is significant that refiner-buyers are currently exercising only approximately 30 percent of their purchase opportunities under the program. This indicates generally that small and independent refiners have access to the greater portion of their crude supplies either under the domestic crude oil supplier/purchaser rule or in the domestic and world markets. Therefore, it is important to determine whether, in light of this relatively low level of participation, the allocation of crude oil through the buy/sell program is still necessary to fulfill FEA's continuing statutory mandate to protect the viability of the small and independent sector of the petroleum industry.

Another factor prompting a reevaluation of the buy/sell program is that FEA believes that in many cases refiner-buyers are using the program only to the extent that they can obtain a price advantage, rather than for supply purposes.

FEA also believes that the administrative complexities of the current program may be creating market distortions, and the program may be unduly burdensome for participants. Under the current program, FEA publishes a buy/sell notice on the fifteenth day before each allocation quarter. The notice contains a list specifying the quantity of crude oil each refiner-buyer is eligible to purchase, the total allocation obligation for all refiner-sellers, the fixed percentage share for each refiner-seller and the quantity that each refiner-seller will be obligated to sell to refiner-buyers. Participants in the program have fifteen days in which to negotiate sales of allocated crude oil. FEA may direct specific sales of crude oil upon request from a refiner-buyer which has been unable to negotiate a contract to purchase crude oil within fifteen days of the publication of the buy/sell list. These procedures require FEA to prepare new buy/sell lists every three months, and to make complex adjustments to calculate the correct purchase opportunities of refiner-buyers, taking into account the diminishing volumes of Canadian crude oil, Federal royalty oil, changes in processing agreements and future refining capacity allocations. In addition, the necessity for FEA to arrange for directed sales further complicates administration of the program. FEA is inviting comments as to whether these procedures are necessary, and indeed whether or not they may constitute an unnecessary interference with market mechanisms, in the current supply situation.

Finally, the lack of continuity inherent in the current program also creates difficulties. Refiner-sellers are required to maintain in reserve a certain volume of crude oil for possible sale under the program and do not know until the start of each allocation period what volume of allocated crude oil sales will in fact be required. This is disadvantageous for refiner-sellers particularly in light of the lead time required to arrange deliveries of imported crude oil. Moreover, refiner-buyers which participate in the program must in many cases renegotiate their supply relationships every three months, which injects uncertainty into the planning process for both buyers and sellers.

II. ALTERNATIVE PROPOSALS FOR COMMENT

As a result of these considerations, FEA has decided to hold a public hearing and receive written comments with respect to possible elimination or modification of the buy/sell program. FEA specifically invites persons participating in this proceeding to address three alternative proposals.

1. Under the first alternative proposal, the buy/sell program would be discontinued. This alternative assumes adequate supplies of domestic crude oil are being provided to small and independent refiners through the supplier/purchaser rule and their other crude oil requirements can be satisfied in the domestic or world markets. It also recognizes that dependence on allocated crude oil under normal supply conditions may distort the structure of the petroleum industry.

2. Under the second alternative, the buy/sell program would be discontinued, and 10 CFR 211.63 would be modified to

enable FEA to assign supplier/purchaser relationships for those refiner-buyers which could demonstrate their inability to obtain crude oil supplies because of lack of access to foreign crude oil. FEA specifically invites comments on the appropirate level for allocations and on the criteria for eligibility for these assigned supplier/purchaser relationships and for determining which refiners or producers would be required to sell what quantities of crude oil.

3. Under FEA's third alternative proposal, the buy/sell program would be revised to provide for the establishment of semi-permanent relationships between buyers and sellers of crude oil, reviewed at six-month intervals, with eligibility to purchase under the program based on lack of access to imported crude oil. This alternative assumes that large independent refiners, small refiners located on the coast or on major pipelines routes, and petrochemical plants have access to imported crude oil and would therefore be ineligible for the program. A refiner that was not eligible under these criteria could apply for exception relief if it could demonstrate that a serious hardship would result from its exclusion from the program. Allocations under this alternative would be made to specific refineries. With respect to this alternative, FEA invites specific comments on appropriate criteria for participation in the program and for determination of the purchase opportunities for eligible refiners. Purchase opportunities could, for example, take into account past levels of crude runs to stills, refinery capacity or previous participation in the program. FEA also invites comments on an appropriate method to determine sellers' sales obligations.

FEA also invites general comments as to possible revisions to the program other than the alternatives outlined above.

III. Written Comment and Public Hearing Procedures

Written comments regarding the subject matter of this notice will be accepted and considered if filed by March 21, 1977. Comments should be submitted to Executive Communications, Room 3309, Federal Energy Administration, Box KR, the Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461. Comments should be identified on the outside of the envelope and on documents submitted to FEA with the designation, "Reevaluation of the Crude Oil Buy/Sell Program." Fifteen copies should be submitted.

A public hearing on the subject matter of this notice will be held beginning at 9:30 a.m., e.s.t., on March 21, 1977, in Room 2105, 2000 M Street, NW., Washington, D.C., to receive comments from interested persons.

Any person who has an interest in the subject matter of this notice, or who is a representative of a group or class of persons which has such an interest, may make a written request for an opportunity to make an oral presentation. Such a request should be directed to Executive Communications, FEA, and must be received before 4:30 p.m., e.s.t., March 7, 1977. Such a request may be hand-delivered to Room 3309, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., e.s.t., Monday through Friday. The person making the request should be prepared to describe the interest concerned; if appropriate, to state why he or she is a proper representative of a group or class of persons which has such an interest; and to give a concise summary of the proposed oral presentation and a phone number where he or she may be reached through March 21, 1977. Each person selected to be heard will be notified by FEA before 5:30 p.m., e.s.t., March 9, 1977, and must submit 100 copies of his or her statement to the Office of Regulations Management, FEA, 2000 M Street, NW., Washington, D.C., before 4:30 p.m., e.s.t., on March 18, 1977.

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

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

Any interested person may submit questions to be asked of any person making a statement at the hearing to Executive Communications, FEA, before 4:30 p.m., e.s.t., March 17, 1977. Any person who makes an oral statement and who wishes to ask a question at the hearing may submit the question in writing to the presiding officer. FEA, or the presiding officer if the question is submitted at the hearing, will determine whether the question is relevant, and whether time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

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

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

Eric J. Fygi,
Acting General Counsel.

February 28, 1977.

[FR Doc.77-6419 Filed 2-28-77;3:18 pm]

FEDERAL DEPOSIT INSURANCE CORPORATION

[12 CFR Part 329]

[26373]

INTEREST ON DEPOSITS

Notice of Proposed Amendments Pertaining to Certain "Noninsured Banks" in Massachusetts

Section 18(g) of the Federal Deposit Insurance Act, 12 U.S.C. 1828(g) ("Section 18(g)"), provides the Federal Deposit Insurance Corporation ("FDIC") with the authority to regulate the rates of interest or dividends paid on time and savings deposits by FDIC insured State-chartered banks that are not members of the Federal Reserve System ("insured nonmember banks") and by non-FDIC insured banks in certain states ("noninsured banks"). The Commonwealth of Massachusetts is a State in which noninsured banks are subject to interest and dividend rate regulation by the FDIC. Pursuant to the authorization of section 18(g), the Board of Directors of the FDIC has promulgated regulations which establish the rates of interest which may be paid by all insured nonmember banks, regardless of location, and by noninsured banks (including noninsured mutual savings banks) in Massachusetts. (12 CFR Part 329)

One form of noninsured bank operating in Massachusetts is the "banking company," which is authorized by chapter 172A of the Annotated Laws of Massachusetts. Mass. Ann. Laws, ch. 172A. Banking companies operate on a limited scale. The bulk of their loans are consumer loans. They are prohibited from making commercial loans and are subject to strict limitations on real estate loans. Banking companies are permitted to accept and pay interest on deposits. The existing banking companies operating in Massachusetts are few in number, small in size, and generally located in low to moderate income neighborhoods.

Banking companies are more akin to mutual savings banks than to commercial banks and because of the similarity they are viewed as competitors of mutual savings banks. Part 329 of the Corporation's regulations is currently worded so that banking companies are treated as commercial banks and, therefore, they are limited to the payment of a lower maximum rate of interest on time and savings deposits. To eliminate this unfair competitive disadvantage and to permit banking companies to effectively compete with mutual savings banks, the Board of Directors of the FDIC proposes to adopt the following amendments to Part 329. The amendments would group Massachusetts banking companies with

mutual savings banks and guaranty savings banks in New Hampshire for purposes of Part 329. This will afford such banking companies the same .25 percent rate differential advantage over commercial banks as that afforded mutual savings banks.

Interested persons may participate in this proposed rulemaking by submitting written data, views, or arguments to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429. Each person submitting a comment should include his name and address, and give reasons for any recommendations. All comments received before April 4, 1977, will be considered before final action is taken on the proposal. The proposal may be changed in the light of the comments received.

The proposed amendments to 12 CFR Part 329 are as follows:

1. In § 329.0 the third sentence is revised to read as follows:

§ 329.0 Scope.

* * * Except for §§ 329.7, 329.8, and 329.10, the provisions of this Part 329 do not apply to: (1) mutual savings banks; (2) guaranty savings banks operating in the State of New Hampshire, so long as the guaranty savings banks operate substantially under and pursuant to the laws of the State of New Hampshire pertaining to mutual savings banks and do not engage in commercial banking; or (3) corporations operating in the Commonwealth of Massachusetts as banking companies pursuant to the provisions of Chapter 172A of the Annotated Laws of Massachusetts.

2. In § 329.7 paragraph (a) is revised to read as follows:

§ 329.7 Maximum rates of interest or dividends payable on deposits by insured nonmember mutual savings banks.

(a) *Definition.* For the purposes of this section, the term "mutual savings bank" includes: (1) any mutual savings bank, (2) any guaranty savings bank which operates in the State of New Hampshire substantially under and pursuant to the laws of that State pertaining to mutual savings banks so long as the guaranty savings bank does not engage in commercial banking, and (3) any corporation operating in the Commonwealth of Massachusetts as a banking company pursuant to the provisions of Chapter 172A of the Annotated Laws of Massachusetts.

By Order of the Board of Directors, February 25, 1977.

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

[FR Doc.77-6370 Filed 3-2-77;8:45 am]

FARM CREDIT ADMINISTRATION

[12 CFR Parts 614, 619]

LOAN POLICIES AND OPERATIONS

Proposed Rulemaking

Notice is hereby given that the Farm Credit Administration, by its Federal Farm Credit Board, has under consideration proposed amendments of its regulations as set forth below in tentative form. These amendments would: (1) specify the types of loss sharing agreements which may be entered into by Farm Credit banks and associations; (2) specify the type of guaranty agreement which may be entered into by Farm Credit banks and associations; (3) specify the factors which are relevant to a determination of single versus separate credit exposures; and (4) redefine loss sharing agreements.

Prior to final adoption of such amendments, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing (10 copies) no later than April 1, 1977, to C. K. Cardwell, Acting Governor, Farm Credit Administration, Washington, DC 20578. Copies of all communications received will be available for examination by interested persons in the Office of Director, Information Division, Office of Administration, Farm Credit Administration.

Chapter VI of Title 12 of the Code of Federal Regulations is amended by revising §§ 614.4340, 614.4345, 614.4354(e), and 619.9200. These amendments are as follows:

PART 614—LOAN POLICIES AND OPERATIONS

§ 614.4340 General.

With approval of the boards of directors of the respective banks, Farm Credit banks and associations may enter into agreements to share losses as provided in paragraphs (a) and (b) of this section. The loss sharing agreements shall cover, but not be limited to, definition of terms, terms and conditions for activation, determination of assesment formulas, limitation on assessments, reimbursements, administration, arbitration, and provisions for amendment and termination. All loss sharing agreements shall be subject to Farm Credit Administration approval.

(a) Loss sharing agreements to protect against the impairment of capital stock and participation certificates may, unless otherwise authorized by the Farm Credit Administration, be entered into by:

(1) The 12 Federal land banks;

(2) The 12 Federal intermediate credit banks;

(3) The 12 district banks for cooperatives; and

(4) The 37 Farm Credit banks.

(b) Loss sharing agreements other than those provided for in paragraph (a) of this section may be entered into:

(1) By a Federal land bank with Federal land bank associations in its district for sharing the gain or losses on loans or on security held therefor or acquired in liquidation thereof;

(2) With the approval of the supervising bank, by a Federal land bank association with other like associations in its district for sharing losses on loans endorsed by each association that is a party to such agreement;

(3) By a Federal intermediate credit bank with production credit associations in its district, and with other Federal intermediate credit banks;

(4) With the approval of the supervising bank, by a production credit association with other like associations in its district.

§ 614.4345 Guaranty agreements.

With approval of the Farm Credit Administration, guaranty agreements under which a percentage of the risk associated with specific loans is assumed may be entered into (a) by those parties authorized to enter into loss sharing agreements in § 614.4340(b), and (b) by banks for cooperatives.

§ 614.4345 Banks for cooperatives.

* * * * *

(e) The term "one borrower" is generally defined as a cooperative organization and, if any, its affiliated organizations which are controlled by a common directorate or management, or wherein such primary organization owns in excess of 50 percent of the net worth or voting stock of an affiliated organization: *Provided, however,* That any such affiliated organization shall be defined as a separate borrower under certain conditions, subject to prior approval by the Farm Credit Administration. Such definition shall be based primarily on the conclusion that the affiliated organization would be viable in the event of the demise of the other organization. Particular consideration should be given to, but not limited to, the following items:

(1) Composition and independence of directorate and management.

(2) Independence and control of operations and funds flow.

(3) Strength and diversity of other equity holders.

(4) Ability to generate and to retain earnings and cash flow.

(5) Diversity of product or service.

PART 619—DEFINITIONS

§ 619.9200 Loss sharing agreements.

A contractual arrangement under which the parties agree to share losses associated with loans or otherwise, as may be provided for in the agreement.

(Secs. 5.9, 5.12, 5.18, 85 Stat. 619, 620, 621.)

C. K. CARDWELL,
Acting Governor,
Farm Credit Administration.

[FR Doc.77-6398 Filed 3-2-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 16561]

ISRAEL AIRCRAFT INDUSTRIES MODEL 1123 AIRPLANES

Airworthiness Directive

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to certain Israel Aircraft Industries (IAI) Model 1123 airplanes. There have been reports of failures of the hydraulic pressure line between the hydraulic pump and the firewall as the result of fatigue stresses caused by the unsatisfactory bend radius of the hydraulic line. Rupture of the hydraulic pressure line coud jeopardize safe operation by introducing a fire hazard and by possibly depriving the airplane of essential hydraulic services. Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed airworthiness directive would require replacement of the hydraulic line with a new type having a larger bend radius.

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, Office of the Chief Counsel, attion: Rules Docket, AGC-24, 800 Independence Avenue, S.W., Washington, D.C. 20591. All communications received on or before April 18, 1977, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in the 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 Rules Docket for examination by interested persons.

(Sec. 313(a), 601, and 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423), 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:

ISRAEL AIRCRAFT INDUSTRIES (IAI). Applies to Model 1123 airplanes, S/N's 107, 151, 152, 153, 155 through 180, and 182 through 186, except those modified in accordance with IAI Service Bulletin No. WW-7A.

Compliance is required within the next 150 hours time in service after the effective date of this AD.

To prevent possible rupture of the hydraulic pressure line between the hydraulic pump and the firewall, accomplish the following:

(a) Remove and discard hose P/N 6723087-43 attached between the hydraulic pump pressure port and the AN837-6 elbow installed on pylon.

(b) For airplanes S/N's 175 through 180 and 182 through 186, remove and discard brackets P/N's 5723548-3 and -5.

(c) Remove the AN837-6 elbow from pylon, and reinstall with washer P/N 5723548-7 on engine side of firewall.

(d) Install hose P/N 6723087-57 between hydraulic pump pressure port and AN837-6 elbow, with 45-degree fitting of hose attached to elbow on pylon. (NOTE: Position the elbow on pylon to allow hose to be as straight as possible. Bend radius of hose may not be less than 50 inches).

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C. on February 24, 1977.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.77-6328 Filed 3-2-77; 8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77-SO-3]

FEDERAL AIRWAY SEGMENT

Proposed Designation

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate an east alternate to V-97 airway between Miami, Fla., and LaBelle, Fla.

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before April 4, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, S.W., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

Request for copies of this notice of proposed rulemaking should be addressed to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591. The FAA has determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

The proposed amendment would designate an east alternate to V-97 between Miami and LaBelle via the INT of Miami 343°T(343°M) and LaBelle 120°T(121°M) radials.

This alternate route would help to improve the flow of traffic arriving at Ft. Lauderdale, Fla., and satellite airports.

This amendment is proposed under the authority of Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on February 23, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-6327 Filed 3-2-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77-SO-2]

ALTERATION OF FEDERAL AIRWAY

Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would realign Victor 35W between Sugarloaf Mountain, N.C., and Holston Mountain, Tenn.

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320. All communciations received on or before April 4, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, S.W., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

Request for copies of this notice of proposed rulemaking should be addressed to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591. The FAA has determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

The proposed amendment would realign V-35W from over Sugarloaf Mountain, N.C., VORTAC via INT Sugarloaf Mountain 329°T (33°M) and Holston Mountain, Tenn., 203°T (205°M) radials; Holston Mountain.

The proposed realignment would reduce the existing V-35W mileage between Sugarloaf Mountain and Holston Mountain.

This amendment is proposed under the authority of Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on February 23, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-6325 Filed 3-2-77;8:45 am]

[14 CFR Part 75]

[Airspace Docket No. 77-WE-1]

JET ROUTE

Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 75 of the Federal Aviation Regulations that would realign J-50 in the vicinity of Los Angeles, Calif.

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All communications received on or before April 4, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

Request for copies of this notice of proposed rulemaking should be addressed to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591. The FAA has determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

The proposed amendment would realign J-50 from Bakersfield, Calif., VORTAC direct Ontario, Calif., VORTAC in lieu of the current Los Angeles, Calif., VORTAC direct Ontario VORTAC segment.

The proposed realignment would be used for those flights overflying the Los Angeles area between the Phoenix/Tucson and the San Francisco Bay areas. Currently this traffic is placed on radar vectors or cleared direct Ontario-Bakersfield. The proposed realignment would provide for precise pilot navigation. With the realignment of J-50 there would still remain several designated jet routes between Los Angeles and Ontario.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)), and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on February 23, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-6326 Filed 3-2-77;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 292]

[EDR-319; Docket 30176; Dated: February 22, 1977]

ALASKAN AIR CARRIERS

Classification and Exemption; Correction

In FR Doc. 77-5788, appearing at page 11016, in the issue for February 25, 1977, in the third column, page 11017, the second full paragraph should read as follows:

"As to merits of Wien's petition, we have tentatively concluded that amendment which it proposes does indeed conform to the Board's intention underlying Part 292, insofar as that regulation reflects a policy favoring protection of certificated routes in Alaska against excessive incursions by regular or frequent off-route charter operations of other carriers."

On page 11018, in the eighth line of the first full paragraph in the first column, the words "long-standing" should be changed to read "certain".

By the Civil Aeronautics Board.

Dated: February 25, 1977.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-6433 Filed 3-2-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 34-13293; File No. S7-678]

REGULATIONS OF TRANSFER AGENTS

Proposed Rulemaking

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The rules being proposed, when adopted, are intended: (1) To assure that registered transfer agents perform their functions in a prompt and accurate manner; (2) to provide early warning of inadequate transfer agent performance; (3) to provide a mechanism to limit expansion of transfer agent activities when transfer agents are unable to meet the performance time standards; (4) to assure prompt response to inquiries concerning the status of items presented for transfer; and (5) to require the maintenance and preservation of certain records necessary to monitor compliance with the proposed rules.

DATES: Comments must be received on or before: April 13, 1977.

ADDRESSES: Written comments, submitted in triplicate, should be addressed to The Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and refer to File No. S7-678.

FOR FURTHER INFORMATION CONTACT:

Harry F. Day, Assistant Director, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549. (202-472-4515 or 202-755-8834).

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Securities and Exchange Commission ("Commission") has under consideration a proposal to amend Title 17, Chapter II, Part 240 of the Code of Federal Regulations to add §§ 240.17Ad-1, 240.17Ad-2, 240.17Ad-3, 240.17Ad-4, 240.17Ad-5, 240.17Ad-6 and 240.17Ad-7 (hereinafter "revised rules") under the Securities Exchange Act of 1934 ("Act"), in particular sections 2, 17, 17A and 23(a) of that Act, 15 U.S.C. 78b, 78q, 78q-1 and 78w(a). In accordance with Section 17A(d)(3)(A)(i) of the Act, 15 U.S.C. 78q-1(d)(3)(A)(i), the Commission consulted and requested the views of the Federal bank regulatory agencies at least fifteen days prior to announcing the revised rules.

I. INTRODUCTION

A. BACKGROUND

On May 12, 1976, the Commission published in Securities Exchange Act Release No. 12440 (41 FR 22595, June 4, 1976) notice of proposed rules (hereinafter "draft rules") prescribing performance standards for registered transfer agents. The proposed standards would have: (1) Established time limits within which registered transfer agents must perform specified functions, such as cancel certificates presented for transfer and issue and make new certificates available to the presentor or respond to inquiries; (2) required registered transfer agents to notify regulatory authorities when a specified percentage of the agents' work was not being accomplished within the required time periods; (3) prohibited registered transfer agents from expanding their transfer agent business during the time they were unable to satisfy the performance time standards; and (4) required that certain records be kept which regulatory authorities could examine to determine whether registered transfer agents were complying with the rules.

The rules proposed herein represent for the most part a revision of the draft

rules.[1] The Commission received approximately 150 letters of comment on the draft rules, and those comments have been carefully considered in drafting the revised rules.

The comments, generally speaking, were directed toward provisions of the draft rules other than the basic requirement that at least 90 percent of all routine items be turned around within three business days. It appears, therefore, that this standard is a reasonable one, and those registered transfer agents not presently performing within this standard are urged to use the time between the publication of these revised rules and their adoption to assure that they will be in compliance.

B. The Purpose of the Revised Rules

The revised rules are intended to protect investors and persons facilitating transactions by and behalf of investors and to contribute to the establishment of a national system for the prompt and accurate clearance and settlement of transactions in securities by: (1) Assuring that the transfer agent community performs its functions in a prompt, accurate and more predictable manner; (2) providing an early warning system to alert the transfer agent regulatory agencies[2] that a transfer agent is not meeting the performance standards, thereby enabling those agencies to take timely preventive and remedial measures to protect the public interest and investors; (3) precluding a transfer agent from expanding its transfer agent activities when it has been unable to comply with performance standards and, in the event of continued substantial performance failures, requiring such transfer agent to alert issuers of securities serviced by it of its performance failures; (4) assuring prompt response to inquiries concerning the status of items presented for transfer and to certain other inquiries, in order to promote more prompt identification of lost securities and to assist broker-dealers undergoing examination and seeking to comply with quiries, in order to promote more prompt identification of lost securities and to assist broker-dealers undergoing examination and seeking to comply with requirements relating to control of customer securities; and (5) prescribing recordkeeping and record retention requirements to permit regulatory authorities to monitor transfer agent compliance with the revised rules.

C. Effect on Rules of Self-Regulatory Organizations

Commentors have asked whether the Commission's turnaround rules would supercede similar rules imposed by self-regulatory organizations which require, among other things, that transfer agents acting for certain listed issues effect turnaround within 48 hours.[3] The Commission's turnaround rules do not replace these self-regulatory organization rules.

II. Discussion of the Revised Turnaround Rules in Light of Comments Received

A. The Major Proposed Revisions

Draft § 240.17Ad–1 prescribed turnaround performance in terms of hours, requiring transfer agents to turn around at least 90 percent of all routine transfer items within 72 hours. Commentors stated that measuring turnaround time in units of days would be administratively easier, would accomplish the desired result and would be more compatible with current industry practice. The revised rule adopts "three days" in lieu of "72 hours," provides for a noon-to-noon cutoff and specifies when an item is considered received. As a result, the need to log the exact hour and to compute the difference in hours between receipt and dispatch of every item has been eliminated.

Draft § 240.17Ad–2(a) required a transfer agent to file a written notice when turnaround performance fell below 95 percent in any calendar week. Commentors maintained that a 95 percent reporting standard, together with the 90 percent performance standard, would complicate recordkeeping and performance monitoring by transfer agents. Some commentors also argued that a 95 percent reporting standard was too stringent in light of the variety of circumstances beyond a transfer agent's control which can affect its ability to effect transfers. Revised § 240.17Ad–2 establishes with respect to routine items a single standard of 90 percent for turnaround or processing performance and requires reporting for performance that falls below 90 percent.

With regard to the weekly reporting required by draft § 240.17Ad–2, commentors asserted that this requirement would result in the possibility of too frequent reporting. Commentors stated that the monitoring period should encompass a longer time frame to enable the peaks and valleys of volume to be averaged. In order to avoid this problem but still permit regulatory agencies to identify transfer agents who are not complying with the revised rules before operational difficulties jeopardize the public interest or the interests of investors, the revised rule provides for computation and reporting on a monthly basis.

Draft § 240.17Ad–2(b) required transfer agents to monitor and to report when turnaround performance fell below 90 percent on an issue-by-issue basis. This requirement was in addition to the similar provisions of paragraph (a) of that rule, which applied on an aggregated basis to all issues handled by the transfer agent. Commentors advised that a requirement to monitor turnaround performance and to meet minimum turnaround times on an issue-by-issue basis would not only impose an undue administrative burden but also would unfairly penalize the transfer agent for failing to meet the prescribed turnaround times in a single issue when it was performing more than adequately for all issues taken together. While the revised rules do not prescribe turnaround monitoring or performance on an issue-by-issue basis, the Commission expects that transfer agents will not differentiate among issues serviced, extending turnaround for a particular issue beyond three days while turning around other issues within three days.

The turnaround rules as initially proposed would have required three-day turnaround of "routine transfer items." Commentors raised a number of questions about the circumstances in which an item would be considered routine as opposed to non-routine. It was urged that "routine" items be defined so that all "legal" and "mail" items could be considered as non-routine. This suggestion has not been adopted. A revised definition of "routine" items (See infra) is proposed herein.

Draft § 240.17Ad–1(b) required, among other things, a transfer agent to send, within forty-eight hours of receipt of a non-routine item, an advice to the presentor specifying any additional matter needed to effect transfer. Draft § 240.17Ad–4(f) required associated recordkeeping to demonstrate compliance with the rule. The revised rules do not contain these requirements. Moreover, non-routine items are not required to be treated within a specific time frame. Instead, revised § 240.17Ad–2(d) requires transfer agents to give "diligent and continuous" attention to non-routine items and to effect turnaround as soon as possible. Complementing this requirement, revised § 240.17Ad–6(a)(2)(iii) requires maintenance of a record showing the age of non-routine items not transferred at the end of the month.

B. Section-by-Section Discussion of the Revised Rules

Revised § 240.17Ad–1—Definitions.— Revised § 240.17Ad–1 has been devoted to defining salient terms used in the revised rules. Familiarity with these definitions is essential for understanding the rules.

The basic unit for which turnaroumd times and other requirements are prescribed is an "item." Commentors sug-

[1] See Securities Exchange Act Release No. 34–12440 (May 12, 1976); 9 SEC Docket 627 (May 25, 1976); 41 FR 22595 (June 4, 1976). Comments were requested by July 2, 1976, and that deadline was extended to July 19, 1976 in Securities Exchange Act Release No. 34–12594 (July 2, 1976); 9 SEC Docket 1029 (July 21, 1976); 41 FR 28798 (July 13, 1976).

[2] These agencies are the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation and the Securities and Exchange Commission. Section 3(a)(34)(B) of the Act, 15 U.S.C. 78c(a)(34)(B).

[3] The rules usually mentioned in this connection are the New York Stock Exchange's Rule 496 and the American Stock Exchange's Rule 891. See 2 NYSE Guide (CCH) ¶ 2496 and 2 Am. Stock Ex. Guide (CCH) ¶ 9691.

gested that the term be defined to describe individual transfer instructions rather than a bulk transmittal of more than one issue of securities from a single presentor. Revised § 240.17Ad–1 defines "item" to mean the certificates of a single issue of securities presented under one ticket, or, if there is no ticket (as is often the case with mail items from individuals), the certificates of a single issue of securities presented by one presentor. The definition also extends to items presented under a transfer agent custodian arrangement. Finally, the definition provides that, for an outside registrar, each certificate to be countersigned is an item.

The term "transfer" is defined as accomplished when all acts necessary to cancel the certificates presented and to issue new certificates, "including the performance of the registrar function," are completed and the item is made available to the presentor. The second part of the definition of "transfer" refers to the manner in which a transfer may be accomplished under a transfer agent custodian program.

"Turnaround" of an item is accomplished, in the case of a transfer agent which acts in the dual capacity of transfer agent and registrar with respect to that item, when the item is transferred; and for other transfer agents, when the item is made available to the outside registrar.

A number of commentors expressed concern that a transfer agent's turnaround time might include the time during which an item is being processed by an outside registrar. Since the revised rule provides that the turnaround of an item is accomplished when it is made available to an outside registrar, the time required by the outside registrar to perform the registrar function would not be charged to the transfer agent to which the certificate initially was presented for transfer. Revised § 240.17Ad–2(f) requires transfer agents to have appropriate procedures to assure, and in fact to assure, that items received from an outside registrar are promptly made available to the presentor.

Draft § 240.17Ad–1(b) required that a transfer agent, within 48 hours of receipt of a non-routine item, notify the presentor of all reasons why turnaround properly could not be effected, specifying all additional matter needed. Commentors indicated that it might not be possible within this time frame to evaluate and identify the additional matter needed before turnaround could be effected properly and to prepare lengthy and technical advices. These commentors recommended both increasing the amount of time allowed for sending out advices and treating documented telephone calls as written advices in those instances where additional information can be obtained by a telephone call. After consideration of these comments, the Commission has determined not to require transfer agents to notify presentors within a minimum time frame of the additional matter required to effect transfer.

Draft § 240.17Ad–1(b): *Further provided*, That if the presentor makes no response to the advice, the items must be returned within 60 days. A number of commentors indicated that the determination of when to return items should be left to the discretion of the transfer agent or to the demand of the presentor, but should not be subject to any rule. This view has been adopted; the revised rules do not provide requirements with respect to the return of items presented.

Consideration was given to establishing a minimum time period within which items received from an outside registrar must be made available to the presentor. In the absence of any indication that this matter has been a source of delay, the Commission, as noted earlier, proposes in revised § 240.17Ad–2(f) to require that a transfer agent make such items available "promptly" to the presentor.

For the purpose of measuring the performance of an outside registrar, the term "turnaround" does not apply; instead, the term "process" is used. An outside registrar is considered to have processed an item when all acts necessary to perform the registrar function are completed and the item is made available to the presenting transfer agent, or when the presenting transfer agent is advised why the registrar function for the item is delayed or may not be completed.

The time period for turnaround or processing of an item does not begin until the item is received by the registered transfer agent. In revised § 240.17Ad–1(g) the Commission adopts the suggestion of some commentors and provides that "receipt" occurs upon arrival of an item at the premises at which the transfer agent performs transfer agent functions.

Thus, items received at a "drop," "window" or mail room at the premises at which the transfer agent performs transfer agent functions shall be deemed to have been received. On the other hand, items received at a "drop" or "window" maintained at a significant distance from the premises where the transfer agent performs its transfer agent functions usually would not be considered received for the purposes of revised § 240.17Ad–2 upon arrival at such "drop" or "window," but would be considered received upon delivery at the premises where the transfer agent performs transfer agent functions. Additionally, items presented for transfer but rejected at a "drop" or "window" are not deemed to be received.

Revised § 240.17Ad–2(e) also requires a transfer agent that receives items at a location other than the premises at which it performs transfer agent functions to have appropriate procedures to assure that the items are forwarded "promptly" to the premises at which receipt will be deemed to occur.

Revised § 240.17Ad–1(h) provides, among other things, that items received at or before noon on a business day shall be deemed to have been received at noon on that day, and that items received after noon a a business day, on a weekend or on a holiday shall be considered as received at noon on the next business day.[4]

The quantitative performance standards of the revised rules apply to items that are considered "routine," as defined by revised § 240.17Ad–1(i). It should be noted that distinctions between "routine" and "non-routine" do not depend on whether an item is received through the mail.

The first provision in paragraph (i) does not apply to a transfer agent that has exhausted the supply of certificates which it customarily retains in inventory; that provision refers to an arrangement under which the transfer agent does not maintain any working supply of unissued certificates but requisitions them as needed from another source, such as the issuer. Under the revised rule, legal items are not necessarily "non-routine." For example, if a legal item requires no more than a review of the supporting documentation listed in paragraph (i)(4) (that is, "assignments, endorsements or stock powers, certified corporate resolutions, * * *"), the item would be considered routine. If that review, however, raised the need to obtain additional documentation, opinion of counsel or other matter listed in paragraph (i)(3), the item would be considered "non-routine."

Revised § 240.17Ad–2 — Turnaround, processing and forwarding of items.— Paragraph (a) of revised § 240.17Ad–2 sets forth the basic requirement that transfer agents, with regard to at least 90 percent of routine items received during any month, must perform their functions ("turnaround" such items) within three business days of the items' receipt.

Paragraph (b), which pertains to an outside registrar, requires that at least 90 percent of all items received during any month at or before noon on any business day be processed by the close of business that day and that at least 90 percent of all items received after noon on any business day be processed

[4] For example, this provision, together with the three-day turnaround requirement in revised § 240.17Ad–2(a), operates as follows: An item received at 11:00 a.m. on a Monday that is not a holiday would be considered as received at noon on that day and, assuming none of the intervening days are holidays, would have to be turned around by noon on Thursday. Assuming either one of the intervening days or Thursday is a holiday, the item would have to be turned around by noon of the following business day (Friday). An item received on a Friday afternoon, or received on a weekend, would be considered as received at noon on Monday and, assuming the intervening weekdays are business days, would have to be turned around by noon of the following Thursday. An item received on a Tuesday that is a holiday would be considered as received at noon on Wednesday (*Provided*, That Wednesday is not a holiday) and, assuming the intervening weekdays are business days, would have to be turned around by noon on Monday. Again, if the day for receipt or accomplishment of turnaround is not a business day, then the time of receipt or the deadline for turnaround would be noon of the next business day.

by noon of the next business day. Certain items are excluded from the term "items received" in paragraph (b) in order to remove items which may present special difficulties from the processing time requirement.

In view of the length of time—usually a few hours—within which an outside registrar customarily processes items, the requirement in paragraph (b) may provide more time for processing items than is necessary. Consideration was given to prescribing this time standard in terms of hours; however, it appears that the resulting recordkeeping necessary to monitor performance could be burdensome. Comment is invited on whether outside registrars should be required to complete processing within a specific number of hours and, if so, how many hours should be allotted and what records are necessary to permit monitoring by regulatory authorities.

Paragraph (c) prescribes a notice requirement for transfer agents which, during any month, fail to comply with the performance standards of paragraphs (a) or (b).[5] The information required in such notice is intended to inform the regulatory authorities of the extent to which the reporting transfer agent has failed to meet the turnaround requirements and to alert those authorities to the need for monitoring the transfer agent's performance and to the possible need for supplementing the disabilities imposed by § 240.17Ad–3 with remedial action.[6]

The written notice under draft § 240.17 Ad–2 was required to be filed with regulatory authorities within six business days after the end of a week. Commentors suggested that the six days allotted were not sufficient to calculate performance and to file the notice. Paragraph (c) of revised § 240.17Ad–2 retains the six business day period with two important differences: The reporting period is a month instead of a week, and the transfer agent must within six business days "send" instead of "file" the notice. As a result, in addition to the possible need for less frequent reporting, the notice only need be placed in the mail within six business days rather than be required to reach the regulatory authorities by the sixth business day.

Revised § 240.17Ad–2(d) provides that the 10 percent of routine items not required to be turned around or processed within the time periods established by revised § 240.17Ad–2(a) and 2(b) must be turned around or processed "promptly." Paragraph (d) also requires that all non-routine items shall receive diligent and continuous attention and shall be turned around as soon as possible.

Revised § 240.17Ad–3—Disability. This revised rule sets forth the consequences which automatically result from a transfer agent's failure to meet the prescribed performance standards on a continuing basis. Paragraph (a) applies disabilities to transfer agents who fail for three consecutive months to meet the 90 percent turnaround and processing standards of paragraphs (a) and (b) respectively of revised § 240.17Ad–2 (and who therefore are required to file monthly notices under paragraph (c) of that section). The disabilities attach on the fifth business day following the end of the third consecutive month in which a notice was required by revised § 240.17 Ad–2(c) and remain in effect for six consecutive months thereafter.

During the six month disability period, a transfer agent may not begin to perform a transfer agent activity for issues for which it does not perform, or is not under agreement to perform,[7] transfer agent activities before the fifth business day (the "disability date"). Similarly, after the disability date, a transfer agent may not begin to perform for issues for which it performs a transfer agent activity any new transfer agent activity which the transfer agent does not perform, or is not under agreement to perform, prior to the disability date.[8]

Once the disabilities attach, whether because of failure to comply with paragraphs (a) or (b) or both, they remain effective until the transfer agent's performance has met the standards of both paragraphs (a) and (b) of revised § 240.17Ad–2 for six consecutive months, i.e., turnaround and processing of 90 percent or more of accountable transfer agent and registrar items within the prescribed periods of time. The Commission believes that a transfer agent that is unable to satisfy or exceed minimum performance standards for established accounts should not be permitted to service additional accounts or begin performing additional activities for established accounts until it can demonstrate over a period of six months that its performance satisfies or exceeds the minimum standard.

Paragraph (b) describes disabilities which attach to a transfer agent that is unable for two consecutive months to process at least 75 percent of the accountable items under revised § 240.17Ad–2(a) and (b). Paragraph (b) applies the disabilities of paragraph (a), discussed above, and also requires the transfer agent to notify the chief executive officer of each issuer of each issue serviced by the transfer agent (including the chief executive officer of an issuer that acts as its own transfer agent) that performance has falled below the 75 percent standard. Transfer agents are allowed 20 business days before notice must be made to issuers; the additional 15 business days beyond the day a disability attaches may be used by the transfer agent to apply to its appropriate regulatory agency for relief upon the grounds that the failure to perform was caused, in significant part, by circumstances beyond the transfer agent's control.[9]

The disabilities imposed by paragraphs (a) and (b) may operate cumulatively so that, for example, a transfer agent that performs at the 80 percent level for two months, and then at the 70 percent level for the next two months, would become subject to the disability imposed by paragraph (a) at the end of the third month and would become subject to the additional requirement of paragraph (b) (notices to issuers) at the end of the fourth month.

With regard to both the timeliness of performance requirements and the disability provisions of the draft rules, several commentors suggested that a force majeur clause be added to prevent the attachment of a disability when a transfer agent fails to meet the performance standards because of circumstances beyond its control. Examples of such circumstances include strikes, power failures, acts of God and other occurrences which ordinarily cannot be foreseen.

The revised rules do not contain a force majeur provision because the subjective application of it by each transfer agent would make enforcement of the rules too uncertain. The Commission believes, however, that the disabilities proposed in the revised rules generally should not attach to transfer agents when failure to meet the minimum standards is a result of circumstances

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[5] Revised § 240.17Ad–3, discussed infra, prescribes certain disabilities that attach to transfer agents which, because of failure to meet the performance standards, are required to file notices repeatedly.

[6] Repeated failure to perform at the level prescribed by § 240.17Ad–2 (a) and (b) requires filing notices with the regulatory authorities and, if continued, attachment of disabilities designed to limit the expansion of the transfer agent's business until the agent can demonstrate an ability to meet the standards. During this time, the regulatory authority can monitor the transfer agent's performance to determine whether to initiate, under sections 17A(c)(3)(A), 17A(d) and 21(d) of the Act, 15 U.S.C. 78q–1(c)(3)(A), 78q–1(d) and 78 u(d), administrative or civil action which may lead to the imposition of a remedial sanction upon, or the enjoining of, the transfer agent. Of course, an intentional failure to comply with the requirements of any of the revised sections may constitute a criminal violation of the federal securities laws (section 32(a) of the Act, 15 U.S.C. 78ff(a)).

[7] Unlike draft § 240.17Ad–2, the disability imposed by revised § 240.17Ad–3 does not preclude a transfer agent who has agreed to act in a new capacity prior to the attachment of a disability from carrying out the terms of the agreement.

[8] Thus, a transfer agent who, prior to the attachment of a disability, is under agreement to act as a dividend disbursing agent for an issue (even though the dividend disbursing activity does not begin until after the disability attaches) would be permitted by paragraphs (a)(1) and (a)(2) to act as dividend disbursing agent for that issue. In contract, if the agreement to perform a new activity for an issue, such as disbursing dividents were not signed until the fifth business day after the end of the month, i.e., after the disability attached, the transfer agent would be prohibited from initiating that, or any other, new activity for that issue.

[9] Section 17A(c)(1) of the Act, 15 U.S.C. 78q–1(c)(1), in relevant part, empowers the appropriate regulatory agency to exempt under certain circumstances transfer agents registered with it from any rule or regulation imposed pursuant to section 17A of the Act.

beyond their control. Accordingly, when the transfer agents believe that a failure to meet minimum performance standards results in significant part from such circumstances, application may be made to the appropriate regulatory authority for relief from a disability that otherwise would attach under revised § 240.17Ad–3. Because a disability attaches only after turnaround or processing performance fails to meet the required standards for two or three months, it is reasonable to anticipate that in most cases a transfer agent that experiences a force majeur will have time to realize the impact and to make timely application for relief and that the regulatory agency will be able, when appropriate, to act swiftly to stay the attachment of a disability.[10]

Revised § 240.17Ad–4—Applicability of §§ 240.17Ad–2, 240.17Ad–3 and 240.17Ad–6(a)(1)–(7). A number of commentors acting as service agents for open-end investment companies urged that the proposed turnaround rules not be applicable to such companies. Those commentors noted that the activities performed by transfer agents for open-end investment companies involve for the most part the redemption of fund shares which is governed by section 22(e) of the Investment Company Act of 1940, 15 U.S.C. 80a–22(e), and that the steps involved therein are significantly different from those required to transfer the ownership of stocks and bonds on an issuer's records. The Commission believes that it would be desirable to study further the need for, and the nature of, minimum performance standards for the transfer of securities effected by open-end investment companies registered under Section 8 of the Investment Company Act of 1940, 15 U.S.C. 80a–8. The Commission expressly invites comments on whether such standards are necessary or desirable and, if so, what form they should take. Accordingly, paragraph (a) provides that §§ 240.17A–2, 240.17Ad–3 and 240.17Ad–6(a)(1) through (a)(7) do not apply to the issuance, redemption or transfer of securities issued by open-end investment companies registered under section 8 of the Investment Company Act of 1940.[11]

Several commentors asked whether transfers of limited partnership interests are subject to the turnaround rules. From the information provided in Forms TA–1, 17 CFR 249b.100, the low volume of transfers of such interests suggests that they may appropriately be exempted from revised §§ 240.17Ad–2, 240.17Ad–3, 240.17Ad–6(a)(1) through (a)(7) (certain turnaround and processing requirements, disability provisions and certain of the recordkeeping requirements). Accordingly, paragraph (a) also provides certain exemptions for transfers of interests in limited partnerships. Comment is invited on the question whether the exemption as envisioned in revised section 17Ad–4(a) is appropriate in light of the purposes of the revised rules.

Approximately 2,400 transfer agents have registered with either the Commission or one of the bank regulatory authorities. Information on Forms TA–1 received at the time of registration indicates that the amount of transfer activity conducted by registered transfer agents varies widely. In view of the fact that the activity of many transfer agents is relatively minor and involves issues which are not traded actively, a number of commentors suggested that it is not necessary or appropriate to require these transfer agents to comply with the proposed minimum performance standards and certain recordkeeping provisions. Paragraph (b) of revised § 240.17Ad–4, therefore, exempts for §§ 240.17Ad–2 (a), (b) (c) and (g), 240.17Ad–3 and 240.17Ad–6 (a)(2) through (a)(7) any registered transfer agent that receives within any six consecutive months fewer than 500 items for transfer: *Provided*, The transfer agent files within ten business days of the close of the sixth such month the notice described in that paragraph.

Paragraph (c) sets forth the conditions under which a transfer agent loses its exemption under paragraph (b). The last sentence of paragraph (c) requires that a transfer agent, which previously was exempt and thereafter has a volume of activity that removes the exemption, remain subject to the performance standards for six consecutive months before again qualifying for an exemption. This provision is intended to relieve both a transfer agent and the regulatory authority from the administrative burden that would be imposed when a transfer agent's volume of activity hovers around the exemption breakpoint.

Revised § 240.17Ad–5—Written inquiries. This rule sets forth the conditions under which transfer agents are required to respond to written inquiries made with respect to their performance of certain transfer agent functions. The four paragraphs of the section are intended to cover four separate circumstances in which various persons make written inquiry about the transfer agent's performance of the transfer function. The information which the inquirer must present to trigger the application of the paragraphs is the type of information that in practice is given to a transfer agent and is found sufficient to enable the agent to identify the account involved and the item presented.

Paragraph (a) is written for "any person" who asks in writing about the "status of * * * [his] items presented for transfer." A transfer agent is required to respond, orally or in writing, within five business days after receiving the inquiry. For example, a written inquiry received on a Monday which is a business day must, assuming the intervening weekdays are business days, be responded to by close of business the following Monday. To allow for circumstances in which the transfer agent has received the item and is able to effect transfer, paragraph (a) provides that a response is not required: *Provided*, The item being inquired about is transferred within five business days after receipt of the written inquiry.

Paragraph (b) is written to complement existing § 240.15c3–3(c)(3), 17 CFR 240.15c3–3(c)(3). Paragraph (b) applies when a broker-dealer requests in writing that a registered transfer agent either confirm the agent's possession of a security previously presented for transfer by the broker-dealer or revalidate a window ticket for the security. The transfer agent is required to respond in writing within five business days, giving the required information. Again, no written response is required if the transfer agent makes a new certificate available to the presentor within five business days following receipt of the inquiry.

Paragraph (c), although applicable by its terms to "any person," has particular meaning for a broker-dealer performing or undergoing a securities positions examination. Accordingly, this paragraph speaks of a written request that a transfer agent "confirm possession of a certificate as of a given date." In view of the specificity of the request, the transfer agent is allowed ten business days to confirm or deny possession of the security on the given date. Moreover, the alternative of making available the certificate in question is not given because, in most cases, the paragraph applies to confirmation activities by auditors of broker-dealers and relates to a certificate already transferred.

Reference to a fee in paragraphs (c) and (d) was made in recognition of the current practice of charging a fee for supplying the specific historical data described in those paragraphs and to confirm that their operation is not intended to affect established practices. Neither paragraph affirmatively requires the charging of a fee nor conditions the response to a request made thereunder on the time any such fee is paid, although a transfer agent may require assurance that payment will be received.

The applicability of revised § 240.17 Ad–5 is predicated upon the transfer agent's receipt of sufficient information to readily identify the subject of the inquiry. Accordingly, the operation of paragraphs (a) through (c) depend, among other things, upon the inquirer's supplying the transfer agent with certain information.

Revised § 240.17Ad–5 limits the types of inquiries which trigger an application of that rule. The Commission expressly invites comments on whether such provisions should be extended to other kinds of inquiries.

Revised § 240.17Ad–6—Recordkeeping. The previously proposed recordkeeping

[10] Some commentors suggested that special provision be made for failures caused by high volume resulting from dividend dates. The Commission believes that, by imposing disabilities only on the basis of performance during consecutive months, the revised rule would permit volume increases associated with record dates to be accommodated in the regular course of a transfer agent's business.

[11] The revised rules do apply to registered transfer grants performing transfer agent functions for securities issued by closed-end investment companies.

and retention requirements received widespread comment, with most commentors stating that the proposed rules would be unduly burdensome. These comments have been carefully considered.

The recordkeeping and retention requirements are intended to permit the regulatory authorities to examine registered transfer agents on an historical basis for compliance with applicable rules. The recordkeeping rules are flexible with respect to the form in which most records must be kept and have been drawn to minimize to the greatest possible extent records that transfer agents are required to keep in addition to those that currently are maintained.

Persons who comment on the proposed recordkeeping and retention rules are requested to divide their comments and suggestions between the provisions which relate to records that currently are not being maintained and the provisions which relate to records that currently are being maintained.

Paragraph (a)(1) requires that "a receipt, ticket, schedule, log or other record" be kept showing the business day (that is, the year, month and day as determined under revised § 240.17Ad–1(h)) on which each routine and non-routine item is received from a presentor or outside registrar and is made available to such persons. For example, many transfer agents preserve the tickets accompanying items, and such tickets, if stamped with the required information, would comply with this rule. A transfer agent that uses a batch method for handling transfer items would use an "other record" referred to in the paragraph by recording the required information with reference to a batch of items.

Paragraphs (a)(2)(ii) and (a)(2)(iii) require a transfer agent to maintain, as of the last business day of each month, a record of aged items showing on a daily basis the number of routine items that have been in-house beyond three business days (that is, the number of routine items in-house for four business days, five business days and so on). Non-routine items, on the other hand, may be "batched" on the basis of five business day intervals (that is, the number of non-routine items in-house for one to five business days, six to ten business days, eleven to fifteen business days and so on).

Paragraph (a)(3) requires a record of the calculations made in connection with performance monitoring under revised § 240.17Ad–2. This provision does not require any specific form of calculations; nevertheless, transfer agents seeking to comply with the 90 percent performance standards of revised § 240.17Ad–2 necessarily will perform monthly calculations to determine compliance therewith. For example, a transfer agent, at the end of the third business day following the preceding month, would know the total number of routine items received during the preceding month and the total number of such routine items that were turned around within three business days during such preceding month. Dividing the total number of routine items received into the total number of such items turned around within three business days would give the percentage of routine items turned around within the time limits prescribed by revised § 240.17 Ad–2.

Subparagraph (7)(i) requires an outside registrar to keep, with respect to his registrar activities, information similar to that required of transfer agents in subparagraph (1). The remaining portions of paragraphs (a) and (b) are self-explanatory and are believed to cover the kinds of information that transfer agents normally would preserve even in the absence of these rules.

Revised § 240.17Ad–7.—Record retention. Paragraphs (a) through (c) specify the length of time that records, required under revised § 240.17Ad–6, must be kept. The periods of time specified are believed to be no longer than the retention periods transfer agents presently observe, or are required to observe, under generally recognized record retention schedules. Transfer agents, nevertheless, may preserve such records for longer periods of time; the retention periods specified in revised § 240.17Ad–7 are not intended to replace longer retention periods that might be required under or in connection with other Federal rules (such as for tax purposes) or state law.

Paragraph (e) permits records to be maintained upon microfilm under specified conditions, and records required to be kept may be placed upon microfilm at any time.

Paragraph (f) is intended to assure that records in the possession of service agents who act under contract with transfer agents are available for examination by regulatory authorities.[12]

The question was asked whether the phrase "easily accessible place" would permit records to be kept in "low-storage-cost" record centers from which the records could be retrieved within twenty-four hours. The purpose of requiring that records be kept in an "easily accessible place" is to insure that regulatory authorities may examine them as necessary or appropriate in discharging regulatory responsibilities. Inasmuch as the "easily accessible place" requirement applies only to the first year of the record retention period for all record (except those relating to fingerprinting being maintained under § 240.17f–2, 17 CFR 240.17f–2), it is expected that records subject to that requirement will be made available either immediately or on the same day as the request to examine them is made.

The revised rules being proposed to be added to Title 17, Chapter II, Part 240 of the Code of Federal Regulations follow:

[12] Paragraph (f) permits registered transfer agents who currently return all cancelled certificates and other records to the issuer to continue to do so: *Provided*, The issuer agrees to make the certificates and records available for examination by, and to furnish copies upon request to, the transfer agent regulatory agencies.

§ 240.17Ad–1 Definitions.

As used in this section and §§ 240.17 Ad–2, 240.17Ad–3, 240.17Ad–4, 240.17Ad–5, 240.17Ad–6 and 240.17Ad–7:

(a) The term "item" means a certificate presented for transfer, or certificates of the same issue of securities covered by one ticket (or, if there is no ticket, presented by one presentor) presented for transfer, or an instruction to a transfer agent which holds securities registered in the name of the presentor to transfer or to make available all or a portion of those securities. In the case of an outside registrar each certificate to be countersigned is an item.

(b) The term "outside registrar" with respect to a transfer item means a transfer agent which performs only the registrar function for the certificate or certificates presented for transfer and includes the persons performing similar functions with respect to debt issues.

(c) An item is "made available" when:

(1) In the case of an item for which the services of an outside registrar are not required, the transfer agent dispatches or mails the item to, or the item is awaiting pick-up by, the presentor or a person designated by the presentor, or

(2) In the case of an item for which the services of an outside registrar are required, the transfer agent dispatches or mails the item to, or the item is awaiting pick-up by, the outside registrar, or

(3) In the case of an item for which the services of an outside registrar are required, the outside registrar dispatches or mails the item to, or the item is awaiting pick-up by, the presenting transfer agent.

(d) The "transfer" of an item is accomplished when all acts necessary to cancel the certificate or certificates presented for transfer and to issue a new certificate or certificates in accordance with the presentor's instructions, including the performance of the registrar function, are completed and the item is made available to the presentor, or when a transfer agent which holds securities registered in the name of the presentor completes all acts necessary to issue a new certificate or certificates representing all or a portion of those securities and makes the new certificate or certificates available to the presentor or a person designated by the presentor or completes registration of transfer of all or a portion of those securties in accordance with the presentor's instructions.

(e) The "turnaround" of an item is completed when transfer is accomplished or when all acts necessary to cancel the certificate or certificates presented for transfer and to issue a new certificate or certificates in accordance with the presentor's instructions, except for performance of the registrar function, are completed and the item is made available to an outside registrar.

(f) The term "process" means the accomplishing by an outside registrar of all acts necessary to perform the registrar function and to make available to the presenting transfer agent the completed certificate or certificates or to advise the

presenting transfer agent, orally or in writing, why performance of the registrar function is delayed or may not be completed.

(g) The "receipt" of an item occurs when the item arrives at the premises at which the transfer agent performs transfer agent functions, as defined in section 3(a)(25) of the Act.

(h) A "business day" is any day during which the transfer agent is normally open for business and excludes Saturdays, Sundays and legal holidays or other holidays normally observed by the transfer agent. Items received at or before noon on any business day shall be deemed to have been received at noon on that day, and items received after noon on any business day, or on a Saturday, Sunday, legal holiday or other holiday normally observed by the transfer agent, shall be deemed to have been received at noon on the next business day.

(i) An item is "routine" if it does not (1) require requisitioning certificates of an issue for which the transfer agent, under the terms of its agency, does not maintain a supply of certificates; (2) include a certificate as to which the transfer agent has notice of a stop order, adverse claim or any other restriction on transfer; (3) require any additional certificates, documentation, instructions, assignments, guarantees, endorsements, explanations or opinions of counsel before transfer may be effected; (4) require review of supporting documentation other than assignments, endorsements or stock powers, certified corporate resolutions, signature or other common and ordinary guarantees or appropriate tax or tax waivers; (5) involve a transfer in connection with a reorganization, tender offer, exchange, redemption or liquidation; (6) include a warrant, right or convertible security received on or within two business days before the last day for exercise or conversion; or (7) include a security of an issue whose outstanding amount was increased by twenty-five percent or more within the previous fifteen business days in a public offering of securities registered pursuant to the Securities Act of 1933.

§ 240.17Ad–2 Turnaround, processing and forwarding of items.

(a) Every registered transfer agent (except when acting as an outside registrar) shall turnaround within three business days of receipt at least 90 percent of all routine items presented for transfer on the business days of any month.

(b) Every registered transfer agent acting as an outside registrar shall process at least 90 percent of all items received on the business days of any month (1) by the close of business in the case of items received at or before noon on any such business day, and (2) by noon of the next business day, in the case of items received after noon on any such business day. For the purposes of paragraph (b) and paragraph (c)(2) of this section, "items received" shall not include any item enumerated in § 240.17Ad–1(i) (5), (6) and (7) or any item which is not accompanied by a debit or cancelled certificate.

(c) Any registered transfer agent which fails to comply with paragraphs (a) or (b) of this section with respect to any month, shall, within 6 business days following the end of such month, send to the Commission and the transfer agent's appropriate regulatory agency, if it is not the Commission, a written notice in accordance with paragraph (g) of this section. Such notice shall state:

(1) In the case of items presented for transfer, the number of routine items and the number of non-routine items received during the month, the number of routine items which the registered transfer agent failed to turnaround in accordance with the requirements of paragraph (a) of this section, the percentage that such routine items represent of all routine items received during the month, the reasons for such failure and the steps which have been taken, are being taken or will be taken to prevent a future failure; and

(2) In the case of items received for performance of the registrar function, the number of items received during the month, the number of items which the registered transfer agent failed to process in accordance with the requirements of paragraph (b) of this section, the percentage that such items represent of all items received during the month, the reasons for such failure and the steps which have been taken, are being taken or will be taken to prevent a future failure.

(d) All routine items not turned around within three business days of receipt and all items not processed within the periods prescribed by paragraph (b) of this section shall be turned around or processed promptly, and all non-routine items shall receive diligent and continuous attention and shall be turned around as soon as possible.

(e) A registered transfer agent which receives items at locations other than the premises at which it performs transfer agent functions shall have appropriate procedures to assure, and shall assure, that items are forwarded to such premises promptly.

(f) A registered transfer agent which receives processed items from an outside registrar shall have appropriate procedures to assure, and shall assure, that such items are made available to the presentor promptly.

(g) Any notice required by this section or § 17Ad–4 or § 17Ad–7(f) shall be filed as follows:

(1) Any notice required to be filed with the Commission shall be filed in triplicate with the principal office of the Commission in Washington, D.C. 20549 and, in the case of a registered transfer agent for which the Commission is the appropriate regulatory agency, an additional copy shall be filed with the Regional Office of the Commission for the region in which the registered transfer agent has its principal office for transfer agent activities.

(2) Any notice required to be filed with the Comptroller of the Currency shall be filed with the Office of the Comptroller of the Currency, Administrator of National Banks, Washington, D.C. 20219.

(3) Any notice required to be filed with the Board of Governors of the Federal Reserve System shall be filed with the Board of Governors of the Federal Reserve System, Washington, D.C. 20251 and with the Federal Reserve Bank of the District in which the registered transfer agent's principal banking operations are conducted.

(4) Any notice required to be filed with the Federal Deposit Insurance Corporation shall be filed with the Federal Deposit Insurance Corporation, Washington, D.C. 20429.

§ 240.17Ad–3 Disability.

(a) Any registered transfer agent which is required to file notices pursuant to § 240.17Ad–2(c) with respect to three consecutive months shall not, from the fifth business day following the end of the third such month until the end of the next following period of six successive months during which no such notices have been required:

(1) Initiate the performance of any transfer agent activity for an issue for which the transfer agent does not perform, or is not under agreement to perform, transfer agent functions prior to such fifth business day; and

(2) With respect to an issue for which transfer agent functions are being performed on such fifth business day, initiate for that issue the performance of an additional transfer agent activity which the transfer agent does not perform, or is not under agreement to perform, prior to such fifth business day.

(b) Any registered transfer agent which for two consecutive months fails to turnaround at least 75 percent of all routine items in accordance with the requirements of § 240.17Ad–2(a) or to process at least 75 percent of all items in accordance with the requirements of § 240.17Ad–2(b) shall be subject to the limitations made applicable by paragraph (a) of this section to any registered transfer agent which files notices pursuant to § 240.17Ad–2(c) with respect to three consecutive months; and further shall, within twenty business days of the close of the second such month, send to the chief executive officer of each issuer of each issue serviced by such registered transfer agent a copy of the written notice filed pursuant to § 240.17Ad–2(c) with respect to the second such month.

§ 240.17Ad–4 Applicability of §§ 240.17Ad–2, 240.17Ad–3 and 240.17Ad–6.

(a) Sections 240.17Ad–2, 240.17Ad–3 and 240.17Ad–6 (a)(1) through (a)(7) shall not apply to interests in limited partnerships or to securities issued by open-end investment companies registered under section 8 of the Investment Company Act of 1940.

(b) Except as provided in paragraph (c) of this section, §§ 240.17Ad–2 (a),

(b), (c) and (g), 240.17Ad–3 and 240.17Ad–6 (a)(2) through (a)(7) shall not apply to any registered transfer agent which during any six consecutive months shall have received fewer than 500 items for transfer or processing and which, within ten business days following the close of the sixth such consecutive month, shall have filed with the Commission, and with the appropriate regulatory agency, if it is not the Commission, a notice certifying to that effect (hereinafter an "exempt transfer agent").

(c) Within five business days following the close of each month, every exempt transfer agent shall calculate the number of items which it received during the preceding six months. Whenever any exempt transfer agent receives 500 or more items for transfer during any six consecutive months, it shall, within ten business days after the end of such month, file with the Commission and with the appropriate regulatory agency, if it is not the Commission, a notice to that effect. Thereafter, beginning with the first month following the month in which such notice is required to be filed, the registered transfer agent shall no longer be exempt under paragraph (b) of this section from the requirements of §§ 240.17Ad–2 (a), (b), (c) and (g), 240.17Ad–3 and 240.17Ad–6 (a)(2) through (a)(7). Any registered transfer agent which has ceased to be an exempt transfer agent shall not qualify again as an exempt transfer agent until it has conducted its transfer agent operations pursuant to §§ 240.17Ad–2 (a), (b), (c) and (g), 240.17Ad–3 and 240.17Ad–6 (a)(2) through (a)(7) for six consecutive months following the month in which it filed the notice required by this paragraph.

§ 240.17Ad–5 Written inquiries.

(a) When any person makes a written inquiry to a registered transfer agent concerning the status of an item presented for transfer by such person or anyone acting on its behalf, which inquiry identifies the issue, the number of shares (or principal amount of debt securities or number of units if relating to any other kind of security) presented, the approximate date of presentment and either the number of the certificate presented or the name in which it is registered, the registered transfer agent shall, within five business days of receipt of the inquiry, respond, stating whether the item has been received; if received, whether it has been transferred; if received and not transferred, the reason for the delay and what additional matter, if any, is necessary before transfer may be effected; and, if received and transferred, the date and manner in which the completed item was made available, the addressee and address to to which it was made available and the number of any new certificate which was registered and the name in which it was registered. If a new certificate is made available to the presentor within five business days following receipts of an inquiry pertaining to that certificate, no further response to the inquiry shall be required pursuant to this paragraph.

(b) When any broker-dealer requests in writing that a registered transfer agent acknowledge the transfer instructions and the possession of a security presented for transfer by such broker-dealer or revalidate a window ticket with respect to such security, which inquiry identifies the issue, the number of shares (or principal amount of debt securities or number of units if relating to any other kind of security), the approximate date of presentment, the number of the certificate presented, and the name in which it is registered, every registered transfer agent shall, within five business days, in writing, confirm or deny possession of the security, and, if the registered transfer agent has possession, (1) acknowledge the transfer instructions and possession or (2) revalidate the window ticket. If a new certificate is made available to the presentor within five business days following receipt of an inquiry pertaining to that certificate, no further response to the inquiry shall be required pursuant to this paragraph.

(c) When any person requests in writing that a transfer agent confirm possession of a certificate as of a given date, which inquiry identifies the issue, the number of shares (or principal amount of debt securities or number of units if relating to any other kind of security), the approximate date of presentment, the number of the certificate presented, the name in which the certificate presented was registered and the name in which the new certificate is to be registered, every registered transfer agent shall, upon assurance of payment of a reasonable fee, if required by such transfer agent, within ten business days make available a written response to such person confirming or denying possession of such security as of such given date.

(d) When any person requests in writing a transcript of such person's account with respect to a particular issue, either as the account appears currently or as it appeared on a specific date not more than six months prior to the date the registered transfer agent receives the request, every registered transfer agent shall, upon assurance of payment of a reasonable fee, if required by such transfer agent, make the requested transcript available to such person within twenty business days following receipt of the request.

§ 240.17Ad–6 Recordkeeping.

(a) Every registered transfer agent shall make and keep current the following:

(1) A receipt, ticket, schedule, log or other record showing the business day each routine item and each non-routine item is (i) received from the presentor and, if applicable, from the outside registrar and (ii) made available to the presentor and, if applicable, to the outside registrar;

(2) A log, tally, journal, schedule or other record showing:

(i) For each month—

(A) The number of routine items received,

(B) The number of routine items turned around,

(C) The number of non-routine items received, and

(D) The number of non-routine items turned around;

(ii) The number of routine items in such registered transfer agent's possession for more than three business days as of the last business day of each month, aged in increments of one business day;

(iii) The number of non-routine items in such registered transfer agent's possession as of the last business day of each month, aged in increments of five business days;

(3) A record of calculations demonstrating the registered transfer agent's monitoring of its performance under § 240.17Ad–2(a) and (b);

(4) A copy of any written notice filed pursuant to § 240.17Ad–2;

(5) Any written inquiry or request received concerning an item, whether the inquiry or request is subject to the requirements of § 240.17Ad–5, showing the date received; a copy of any written response to an inquiry or request, showing the date dispatched to or mailed to the presentor; if no response to an inquiry or request was made, the date the certificate involved was made available to the presentor; or, in the case of an inquiry or request under § 240.17Ad–5(a) responded to by telephone, a telephone log or memorandum showing the date and substance of any telephone response to the inquiry;

(6) A log, journal, schedule or other record showing the number of inquiries subject to § 240.17Ad–5 received during each month and the length of time taken to respond thereto;

(7) If such registered transfer agent acts as an outside registrar:

(i) A receipt, ticket, schedule, log or other record showing the date and time (A.M. or P.M.):

(A) Each item is—

(*1*) Received from the presenting transfer agent, and

(*2*) Made available to the presenting transfer agent;

(B) Each written or oral notice of refusal to perform the registrar function is made available to the presenting transfer agent (and the substance of the notice); and

(ii) A log, tally, journal, schedule or other record showing for each month:

(A) The number of items received; and

(B) The number of items processed in accordance with the requirements of § 240.17Ad–2(b);

(8) Any document, resolution, contract, appointment or other writing, and any supporting document, concerning the appointment and the termination of such appointment of such registered transfer agent to act in any capacity for any issue on behalf of the issuer, on behalf of itself as the issuer or on behalf of

any person who was engaged by the issuer to act on behalf of the issuer;

(9) Any record of an active (i.e., unreleased) stop order, notice of adverse claim or any other restriction on transfer; and

(10) A copy of any transfer journal and registrar journal prepared by such registered transfer agent.

(b) Every registered transfer agent which, under the terms of its agency, maintains security holder records for an issue shall, with respect to such issue, make and keep current the following:

(1) Any document, corporate resolution, opinion of counsel, statement or other writing concerning the total number of shares or principal amount of debt securities or total number of units if relating to any other kind of security of any class issued pursuant to corporate action and any increase or decrease therein;

(2) Each share, warrant, right, bond, indenture, requisition, evidence of indebtedness or other certificate of ownership received and all accompanying documentation, except legal papers supporting transfer which are returned to the presentor; and

(3) Any document, opinion of counsel, contract, statement, agreement or other writing concerning a reorganization, tender offer, exchange, redemption, liquidation, stock dividend, conversion or the original issuance and sale of securities registered pursuant to the Securities Act of 1933.

§ 240.17Ad–7 Record retention.

(a) Every registered transfer agent required by § 240.17Ad–6 (a)(1) through (a)(7) or (b)(3) to make and keep current certain records shall preserve such records for a period of not less than two years, the first year in an easily accessible place.

(b) Every registered transfer agent required by § 240.17Ad–6(a)(8) to make and keep current certain records shall preserve such records until one year after the termination of the transfer agency: *Provided*, Such records shall be kept in an easily accessible place prior to such termination.

(c) Every registered transfer agent required by § 240.17Ad–6 (a)(9), (a)(10), (b)(1) or (b)(2) to make and keep current certain records shall preserve such records permanently, the first year in an easily accessible place.

(d) Every registered transfer agent shall preserve in an easily accessible place:

(1) All records required under § 240.17f–2(d) until at least three years after the termination of employment of those persons required by § 240.17f–2 to be fingerprinted, and

(2) All records required pursuant to § 240.17f–2(e) for three years.

(e) The records required to be maintained pursuant to § 240.17Ad–6 may be produced or reproduced on microfilm and be preserved in that form for the time required by this § 240.17Ad–7. If such microfilm substitution for hard copy is made by a registered transfer agent, he shall: (1) At all times have available for examination by the Commission and the appropriate regulatory agency for such transfer agent, facilities for immediate, easily readable projection of the microfilm and for producing easily readable facsimile enlargements; (2) arrange the records and index and file the films in such a manner as to permit the immediate location of any particular record; (3) be ready at all times to provide, and immediately provide, any facsimile enlargement which the Commission and the appropriate regulatory agency by its examiners or other representatives may request; and (4) for the period for which the microfilmed records are required to be maintained, store separately from the original microfilm records a copy of the microfilm records.

(f) If the records required to be maintained and preserved by a registered transfer agent pursuant to the requirements of §§ 240.17Ad–6 and 240.17Ad–7 are maintained and preserved on behalf of the registered transfer agent by an outside service bureau, other recordkeeping service or the issuer, the registered transfer agent shall obtain, from such outside service bureau, other recordkeeping service or the issuer, an agreement, in writing, to the effect that:

(1) Such records are subject at any time, or from time to time, to such reasonable periodic, special, or other examinations by representatives of the Commission and the appropriate regulatory agency for such registered transfer agent, if it is not the Commission; and

(2) The outside service bureau, recordkeeping service, or issuer will furnish to the Commission and the appropriate regulatory agency, upon demand, at either the principal office or at any regional office, complete, correct and current hard copies of any and all such records.

All interested persons are invited to submit their views upon revised §§ 240.17Ad–1, 240.17Ad–2, 240.17Ad–3, 240.17Ad–4, 240.17Ad–5, 240.17Ad–6 and 240.17Ad–7 in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, no later than April 13, 1977. Reference should be made to File No. S7–678. All comments received will be available for public inspection.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 24, 1977.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1975

Proposed Repeal of Section 963 of Subpart F

Notice is hereby given that the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by April 18, 1977. Pursuant to 26 CFR 601.601 (b), designations of material as confidential or not to be disclosed, contained in such comments, will not be accepted. Thus persons submitting written comments should not include therein material that they consider to be confidential or inappropriate for disclosure to the public. It will be presumed by the Internal Revenue Service that every written comment submitted to it in response to this notice of proposed rule making is intended by the person submitting it to be subject in its entirety to public inspection and copying in accordance with the procedures of 26 CFR 601.702(d)(9). Any person submitting written comments who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit a request, in writing, to the Commissioner by April 18, 1977. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1), the proposed amendment to such regulations made by paragraph 2 of a notice of proposed rule making published in the FEDERAL REGISTER (41 FR 24359) on June 16, 1976 (relating to the foreign tax credit for domestic corporate shareholders of a foreign corporation, and to the proposed amendment to such regulations made by paragraph 4 of a notice of proposed rule making published in the FEDERAL REGISTER (41 FR 33290) on August 9, 1976 (relating to foreign base company shipping income), to conform subtitle A of the Internal Revenue Code of 1954 to the repeal of section 963 (relating to the receipt of minimum distributions by domestic corporations) by section 602 (a)(1) of the Tax Reduction Act of 1975 (89 Stat. 58).

The repeal of section 963 is effectuated by providing a new section in the regulations, § 1.963–0, which also contains transitional rules for 1976, the first year in which the repeal is effective, a provision which requires deficiency distributions to be made for appropriate tax-

able years subsequent to the effective date of the repeal of section 963, and a provision which stipulates that any special adjustments to be made under the special rules of section 963 and the regulations thereunder (such as the special adjustments required under § 1.963–4), for a taxable year subsequent to the taxable year in which an election to receive a minimum distribution under section 963 was made, shall be made notwithstanding the repeal of section 963.

Three cross-references to section 963 or the regulations thereunder (those contained in §§ 1.954–1, 1.1248–3 and 1.1248–4) utilize the referred-to segment in a substantive manner which is unrelated to the minimum distribution concept. Since these provisions will survive the repeal of section 963, they have been amended in order to restate the same rules but without any reference to section 963.

A second group of cross-references to section 963 or the regulations thereunder has prospective effect despite the repeal of section 963. In each of these cases, the cross-reference encompasses an event taking place in a year in which section 963 was still in effect which will continue to have tax consequences for taxable years subsequent to the effective date of the repeal of section 963. In order to assure the retention of these references in the regulations, the parenthetical "(as in effect prior to the Tax Reduction Act of 1975)" was added to the following provisions:

§ 1.952–1(c)(2)(ii).
§ 1.959–3(b)(3).
§ 1.960–1(c)(1)(v).
§ 1.964–1(b)(2) (flush material).
§ 1.964–1(c)(2).
§ 1.964–1(c)(6)(iv) and (flush material).
§ 1.964–2(c)(1) (flush material).

A third group of cross-references has no application for years subsequent to the repeal of section 963. Due to the effective date method of repeal utilized in § 1.963–0, no amendment of the following sections was required:

§ 1.78–1(a).
§ 1.78–1(f).
§ 1.864–5(d).
§ 1.951–1(a)(2)(i).
§ 1.952–1(c)(2)(iii).
§ 1.960–2(a).
§ 1.964–1(b)(3) (Example 2).
§ 1.964–1(c)(5).
§ 1.964–3(b)(1).
§ 1.964–3(c)(2).
§ 1.964–4(c).

The last three cross-references were previously amended by a notice of proposed rule making published in the FEDERAL REGISTER (41 FR 24357), on June 16, 1976 (relating to the foreign tax credit for United States corporate shareholders in foreign corporations):

§ 1.902–3(a)(7).
§ 1.902–3(c)(5)(i).
§ 1.902–3(c)(5)(ii).

Additionally, all references to § 1.954–1 (b) (3) and (4) reflect the redesignation of such subparagraphs by the notice of proposed rule making published in the FEDERAL REGISTER (41 FR 33290) on August 9, 1976 (relating to foreign base company shipping income).

The principal draftsperson of this regulation was Mr. Karl P. Fryzel of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style. Mr. Fryzel may be contacted at 202–566–3294 or by mail at 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

PROPOSED AMENDMENTS TO THE REGULATIONS

In order to conform the Income Tax Regulations (26 CFR Part 1) to the repeal of section 963 of the Internal Revenue Code of 1954 by section 602(a)(1) of the Tax Reduction Act of 1975, such regulations are amended as follows, effective for taxable years of foreign corporations beginning after December 31, 1975, and to taxable years of United States shareholders (within the meaning of section 951(b) of the Internal Revenue Code of 1954) within which or with which such taxable years of such foreign corporations end:

Paragraph 1. Section 1.902–1(g)(3) of the notice of proposed rule making published in the FEDERAL REGISTER (41 FR 24357) on June 16, 1976, relating to the foreign tax credit for United States corporate shareholders in foreign corporations, is amended by adding the following sentence immediately after the second sentence:

§ 1.902–1 Credit for domestic corporate shareholder of a foreign corporation (before amendment by Revenue Act of 1962).

* * * * *

(g) * * * However, in the case of a foreign corporation with respect to which there applies under § 1.963–1(c)(1) an election by a corporate United States shareholder to exclude from its gross income for the taxable year the subpart F income of a controlled foreign corporation for the last taxable year of such foreign corporation beginning before January 1, 1976, the controlling United States shareholders shall make the choice referred to in paragraph (g)(1) of this section (including the elections permitted by § 1.964–1 (b) and (c)) for all taxable years beginning after December 31, 1975, no later than 30 days from the time that these regulations are adopted as a Treasury decision.

§ 1.952–1 [Amended]

Par. 2. Section 1.952–1(c)(2)(ii) is amended by inserting "(as in effect prior to the Tax Reduction Act of 1975)" immediately after the words "or paragraph (d)(2)(ii) of § 1.963–2".

Par. 3. Paragraph (b) of § 1.954–1, as amended by paragraph 4 of the appendix to the notice of proposed rule making published on August 9, 1976 (41 FR 33290), is further amended as follows:

1. A new example (3) is added to paragraph (b)(3)(vii).
2. Paragraph (b)(4)(ii) is amended.
3. Example (3) of paragraph (b)(4)(vii) is amended.

These revised and added provisions read as follows:

§ 1.954–1 Foreign base company income; taxable years beginning after December 31, 1975.

* * * * *

(b) Exclusions from foreign base company income. * * *

(3) Income of controlled foreign corporation not availed of to substantially reduce income or similar taxes. * * *

(vii) *Illustrations.* * * *

Example (3). (i) Controlled foreign corporation Y, which owns and operates a fleet of foreign flag tankers, is incorporated under the laws of foreign country L. L imposes an effective rate of tax of 10 percent on the income (after allocable deductions other than income or similar taxes) from shipping operations. The sum of the normal tax rate and the surtax rate (determined without regard to the surtax exemption) prescribed by section 11 for all relevant taxable years is 48 percent. It is assumed that had Y been incorporated in the United States and owned and operated a fleet of United States flag tankers, it could have avoided payment of any taxes on its income from shipping operations because of its ability to reduce taxable income by means of deposits of amounts equal to such income into a capital construction fund under part 3 of this chapter. It is further assumed that had Y been incorporated in the United States and owned and operated a fleet of foreign flag tankers, it would have paid income taxes to the United States on its income from shipping operations at the rate prescribed by section 11.

(ii) Since the effective rate of tax on income from such shipping operations paid to country L (10 percent) does not equal or exceed 90 percent of the 48 percent rate prescribed by section 11 (43.2 percent), such income cannot be excluded from foreign base company income under paragraph (b)(3)(i) of this section by reason of the application of paragraph (b)(3)(ii) (*a*) of this section and paragraph (b)(4)(ii) of this section.

(iii) Also, the fact that Y could have avoided paying any taxes in the United States on its shipping income will not establish to the satisfaction of the district director that the incorporation of Y in foreign country L did not have as a significant purpose a substantial reduction of income or similar taxes, since such avoidance of United States tax would have been possible only upon the occurrence of additional events other than incorporation in the United States (i.e., the use of United States flag tankers and the depositing of amounts into the capital construction fund), which events did not actually occur.

(4) No substantial reduction of income or similar taxes * * *

(ii) *Foreign personal holding company income and foreign base company shipping income.* For purposes of paragraph (b)(3)(ii) (*a*) of this section, there will be considered to have been no substantial reduction of income, war profits, excess profits, or similar taxes with respect to an item of foreign personal holding company income described in § 1.954-2 or an item of foreign base company shipping income described in § 1.954–6 if the effec-

tive rate of such taxes (after allocable deductions other than such taxes) paid by a controlled foreign corporation to a foreign country for the taxable year in respect of such item of income equals or exceeds 90 percent of a percentage which equals the sum of the normal tax rate and the surtax rate (determined without regard to the surtax exemption) prescribed by section 11 for the taxable year of the United States shareholder within which or with which ends such taxable year of such controlled foreign corporation.

* * * * *

(vii) *Illustrations* * * *

Example (3). Controlled foreign corporation A, incorporated under the laws of foreign country X, is a wholly owned subsidiary of domestic corporation M. Both corporations use the calendar year as the taxable year. In 1976, A Corporation derived interest and rent not excluded under section 954(c)(3) or (4). With respect to the item of interest, A Corporation paid an income tax to country X in an amount effectively equal to 44 percent of such item (after allocable deductions other than income or similar taxes) and, with respect to the item of rent, paid an income tax to country Y in an amount effectively equal to 40 percent of such item (after allocable deductions other than income or similar taxes). No other income or similar tax was paid by A Corporation with respect to such items. In 1976, the sum of the normal tax rate and the surtax rate (determined without regard to the surtax exemption) prescribed by section 11 for the taxable year of M Corporation is 48 percent. Therefore, with respect to the item of interest, there will be considered to have been no substantial reduction of income or similar taxes (44 percent being more than 90 percent of 48 percent), and such interest is not included in foreign base company income of A Corporation. With respect to the item of rent, however, there will be considered to have been a substantial reduction of income or similar taxes (40 percent being less than 90 percent of 48 percent), and the exclusion from foreign base company income provided by section 954(b)(4) will not apply to such item unless it is established in accordance with subparagraph (b)(3)(i) of this paragraph that both the creation or organization of A Corporation under the laws of foreign country X and the effecting through A Corporation of the transaction which gave rise to such rental income did not have as a significant purpose a substantial reduction of such taxes.

* * * * *

§ 1.959–3 [Amended]

Par. 4. Paragraph (b)(3) of § 1.959–3 is amended by adding "(as in effect prior to the Tax Reduction Act of 1975)" immediately after the words "paragraph (e) of § 1.963–3".

§ 1.960–1 [Amended]

Par. 5. Paragraph (c)(1)(v) of § 1.960–1 is amended by adding "(as in effect prior to the Tax Reduction Act of 1975)" immediately after the words "paragraph (e) of § 1.963–3."

Par. 6. The following new section is added immediately after § 1.963:

§ 1.963–0 Repeal of section 963; effective dates.

(a) *Repeal of section 963.* Except as provided in paragraphs (b) and (c) of this section, the provisions of section 963 and §§ 1.963–1 through 1.963–7 are repealed for taxable years of foreign corporations beginning after December 31, 1975, and for taxable years of United States shareholders (within the meaning of section 951(b)) within which or with which such taxable years of such foreign corporations end.

(b) *Transitional rules for chain or group election*—(1) *In general.* If a United States shareholder (within the meaning of section 951(b)) makes either a chain election pursuant to § 1.963–1(e) or a group election pursuant to § 1.963–1(f) for a taxable year of such shareholder beginning after December 31, 1975, then a foreign corporation shall be includible in such election only if—

(i) It has a taxable year beginning before January 1, 1976, which ends within such taxable year of the United States shareholder, and

(ii) It is either—

(A) A controlled foreign corporation or

(B) A foreign corporation by reason of ownership of stock in which such shareholder indirectly owns (within the meaning of section 958(a)(2)) stock in a controlled foreign corporation to which this subparagraph applies.

(2) *Series rule.* If any foreign corporation in a series of foreign corporations is excluded by subparagraph (1) of this paragraph from a chain or group election of a United States shareholder for its taxable year, then any foreign corporation in which the United States shareholder owns stock indirectly by reason of ownership of stock in such excluded corporation shall also be excluded from such election to the extent of such indirect ownership regardless of when its taxable year begins.

(3) *Illustration.* The application of this paragraph may be illustrated by the following example:

Example. (a) M is a domestic corporation. A, B, D, and E are controlled foreign corporations, and C is a foreign corporation other than a controlled foreign corporation. All five foreign corporations each have only one class of stock outstanding. M owns directly all of the stock of A, which in turn owns directly all of the stock of B, which in turn owns directly 60 percent of the stock of D, which in turn owns directly all of the stock of E. M also owns directly 40 percent of the stock of C, which in turns owns directly the remaining 40 percent of the stock of D. M is a United States shareholder with respect to no other foreign corporation. M and B each use the calendar year as the taxable year. A, C, D, and E each use a fiscal year ending on November 30 as the taxable year. For calendar year 1976, M may make either a first-tier election with respect to A, a chain election with respect to C and D (to the extent of M's indirect 16-percent stock interest in D by reason of its direct ownership of 40 percent of the stock of C) or a group election with respect to A, C, D (to the extent of such 16-percent stock interest) and E (to the extent of M's indirect 16-percent stock interest in E).

(b) M's indirect 100 percent stock interest in B will be excluded from any chain or group election made by M for calendar year 1976 since B is a controlled foreign corporation which does not have a taxable year beginning before January 1, 1976, which ends within the taxable year of M beginning after December 31, 1975, for which M has made either a chain or group election.

(c) M's indirect 60 percent stock interest through A and B in D and E will be excluded from any chain or group election made by M for calendar year 1976 since such 60 percent interests are indirectly owned by M by reason of its indirect ownership of stock in B, which is a foreign corporation which does not have a taxable year beginning before January 1, 1976, which ends within the taxable year of M beginning after December 31, 1975, for which M has made either a chain or group election.

(d) If C used the calendar year as its taxable year and was therefore excluded from a chain election made with respect to it and D, then D would also be excluded from such an election, since D would then be a foreign corporation in which M owns stock indirectly by reason of ownership of stock in C, which is excluded from such election.

(c) *Deficiency distributions.* The rules relating to deficiency distributions under section 963(e)(2) and § 1.963–6 shall continue to apply to a taxable year beginning after the effective date of the repeal of section 963 in which it is determined that a deficiency distribution must be made for an earlier taxable year for which a United States shareholder made an election to secure the exclusion under section 963 but failed to receive a minimum distribution.

(d) *Special adjustments pursuant to section 963 to be taken into account for taxable years subsequent to the repeal of section 963.* If, by reason of an election by a United States shareholder of a controlled foreign corporation under section 963 with respect to a taxable year, any adjustments are required to be made pursuant to the special rules contained in such section and the regulations thereunder, then such adjustments shall be taken into account for subsequent taxable years notwithstanding the repeal of such section. Examples of such special adjustments include, but are not limited to, those to be made pursuant to § 1.963–4 (relating to the minimum overall tax burden test) to the earnings and profits of a controlled foreign corporation, the foreign income taxes paid by a controlled foreign corporation, the foreign tax credit that may be claimed by a United States shareholder of a controlled foreign corporation pursuant to either section 902 or section 960, and the ordering of actual distributions made out of the earnings and profits of a controlled foreign corporation.

§ 1.964–1 [Amended]

Par. 7. Section 1.964–1 is amended by adding "(as in effect prior to the Tax Reduction Act of 1975)" in the following places:

1. Immediately after the words "under section 963(c)(2)(B) or (3)(B)" in the second sentence following paragraph (b)(2)(ii).

2. Immediately after the words "under section 963(c)(2)(B) or (3)(B)" in paragraph (c)(2).

3. Immediately after the words "under section 963" in paragraph (c)(6)(iv) and immediately after the words "under section 963(c)(2)(B) or (3)(B)" in the

second sentence following paragraph (c)(6)(iv).

§ 1.964–2 [Amended]

Par. 8. The third sentence following paragraph (c)(1)(ii) of § 1.964–2 is amended by inserting "(as in effect prior to the Tax Reduction Act of 1975)" immediately after the words "(within the meaning of § 1.963–6)".

§ 1.1248–3 [Amended]

Par. 9. Section 1.1248–3 is revised as follows:

1. Example (1) of paragraph (c)(3) is amended by deleting "80 percent" from the last sentence thereof and inserting in lieu thereof "30 percent".

2. Paragraph (c)(4) is amended by deleting the words "(d)(2)(i) (*d*) and (*e*) of § 1.963–2" and inserting in lieu thereof the words "(e) (2) and (3) of § 1.951–1".

3. Paragraph (d)(6) is amended by deleting the words "(d)(2)(i) (*d*) and (*e*) of § 1.963–2" and inserting in lieu thereof the words "(e)(2) and (3) of § 1.951–1".

§ 1.1248–4 [Amended]

Par. 10. Paragraph (e)(3) of § 1.1248–4 is amended by deleting the words "(d)(2)(i) (*d*) and (*e*) of § 1.963–2" and inserting in lieu thereof the words "(e) (2) and (3) of § 1.951–1".

[FR Doc.77–6441 Filed 2–28–77;3:42 pm]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 110]

[CGD 76–46]

MACKEREL COVE, BAILEY ISLAND, MAINE

Proposed Special Anchorage Area

The Coast Guard is considering amending the anchorage regulations by establishing a Special Anchorage Area in Mackerel Cove, Bailey Island, Maine. The anchorage would be for the general use of the public. In special anchorage areas, vessels under 65 feet in length, when at anchor, are not required to carry or exhibit anchor lights.

Interested persons may participate in this proposed rulemaking by submitting written data, views, or arguments concerning the proposal to the Commander, First Coast Guard District, 150 Causeway Street, Boston, Massachusetts, 02114. Each person submitting comments should include his name and address and organization, if any, identify the notice number (CGD 76–46), and give reasons for any recommended change in the proposal. Copies of all written comments will be available for examination by interested persons at the Office of the Commander, First Coast Guard District.

The Commander, First Coast Guard District will forward all comments received before April 17, 1977, and his recommendation to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, who will evaluate all communications received and take final action on the proposal. The proposed regulations may be changed in the light of comments received.

In view of the foregoing, it is proposed to amend Part 110 of Title 33 of the Code of Federal Regulations by adding a new paragraph (a–2) to § 110.5 to read as follows:

§ 110.5 Casco Bay, Maine.

* * * * *

(a–2) Mackerel Cove, Bailey Island, Harpswell. The water area of Mackerel Cove lying northeasterly of a line from a point on Abner Point at latitude 43°43'28" N., longitude 70°00'19" W., to a point on Bailey Island at latitude 43°43'18.2" N., longitude 70°00'12.2" W.

* * * * *

(Sec. 1, 30 Stat. 98, as amended (33 U.S.C. 180); sec. 6(g)(1)(B), 80 Stat. 937; (49 U.S.C. 1655(g)(1)(B)); 49 CFR 1.46(c)(2).)

The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: February 24, 1977.

O. W. Siler,
Admiral U.S. Coast Guard,
Commandant.

[FR Doc.77–6388 Filed 3–2–77;8:45 am]

VETERANS ADMINISTRATION

[38 CFR Part 13]

FIDUCIARY ACTIVITIES

Competency Determinations; Due Process

It is proposed to revise the language of § 13.56 of Title 38, Code of Federal Regulations to reflect changes to § 3.353 of this title which provide for the extension of due process and competency rating authority and procedures to non-veteran adult beneficiary cases. It is further proposed to establish a time limitation for the withholding of funds which would be otherwise available to an incompetent adult beneficiary except that the beneficiary is determined by the Veterans Services Officer to be not capable of managing the entire amount of entitlement, and is being paid direct as a temporary payee with the Veterans Officer's supervision.

Interested persons are invited to submit written comments, suggestions or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. All relevant material received before April 4, 1977, will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm, Monday through Friday (except holidays), during the mentioned 30-day period and for 10 days thereafter. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Notice is also given that it is proposed to make this change effective the date of final approval.

NOTE.—The Veterans Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A–107.

Approved: February 25, 1977.

R. L. Roudebush,
Administrator.

In § 13.56, paragraphs (a) and (b) are revised to read as follows:

§ 13.56 Direct payment.

(a) *Veterans.* Veterans Administration benefits payable to a veteran rated incompetent may be paid directly to the veteran in such amounts as the Veterans Services Officer determines the veteran is able to manage with continuing supervision by the Veterans Services Officer, provided a fiduciary is not otherwise required. Any amount as determined by the Veterans Services Officer paid directly to a veteran rated incompetent which is less than the full amount of entitlement shall be paid for a limited period generally not to exceed 4 months, at the end of which period full entitlement will be restored and any funds withheld as a result of this section will be released to the veteran, if not otherwise payable to a fiduciary.

(b) *Other adults.* Veterans Administration benefits payable to an adult beneficiary who has been rated or judicially declared incompetent may be paid directly to the beneficiary in such amounts as the Veterans Services Officer determines the beneficiary is able to manage with continuing supervision by the Veterans Services Officer, provided a fiduciary is not otherwise required. Any amount as determined by the Veterans Services Officer paid directly to an adult beneficiary who has been rated or judicially declared incompetent which is less than the full amount of entitlement shall be paid for a limited period generally not to exceed 4 months at the end of which period full entitlement will be restored and any funds withheld as a result of this section will be released to the beneficiary, if not otherwise payable to a fiduciary.

* * * * *

[FR Doc.77–6341 Filed 3–2–77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 2]

[Docket No. 21116; FCC 77-116]

AMATEUR RADIO SERVICE

Prohibiting Marketing of External Radio Frequency Amplifiers Capable of Operation on Any Frequency From 24 to 35 MHz

Adopted: February 10, 1977.

Released: February 28, 1977.

In the matter of amendment of Part 2 of the Commission's rules to prohibit the marketing of external radio frequency amplifiers capable of operation on any frequency from 24 to 35 MHz.

1. Notice of proposed rulemaking is hereby given in the above-captioned matter. The Commission has become aware in recent months that a number of equipment manufacturers have marketed equipment ostensibly for use in the Amateur Radio Service where its use would be legal, but in fact, such equipment was intended to be attached to transmitters in the Citizens Band (CB) Radio Service in violation of the Commission's rules. Most noteworthy among such equipment is the so-called "linear" amplifier which increases the operating power of a CB station above that permitted, thereby greatly increasing the potential for interference to CB receivers, TV receivers, and other electronic equipment. The wide-spread use of this device has contributed significantly to the problems of the CB service, and therefore, such use must ultimately increase the Commission's level of regulation.

2. Our first attempt to deal with the problem of external "linear" amplifiers resulted in the regulations adopted in the Report and Order in Docket No. 20118, 40 FR 1243, 50 FCC 2d 310, which placed a limited ban against the marketing of external radio frequency amplifiers. In this Order, the Commission added a new § 2.815 to its marketing rules in Subpart I of Part 2. This section prohibts the marketing of external radio frequency amplifiers capable of being used with a transmitter operating on any frequency or frequencies between 24 MHz and 35 MHz with certain exceptions.

3. To illustrate the manner in which the new rules were circumvented, almost immediately after the Report and Order was released, there appeared on the market a device commonly called a "broadband linear". These devices may be considered to meet the strict letter of our rules, inasmuch as they claim to provide for operation on the frequency bands specified under our exemption. However, these devices have an even greater potential for interference due to the higher level of spurious emissions.

4. The advertisements for external radio frequency amplifiers generally carry a specific disclaimer to the effect that "Use of this equipment is not permitted in the Citizens Band (CB) Radio Service in the United States." However, the suppliers of such equipment consistently place their advertisements in publications which cater to the CB operator and seldom, if ever, advertise in publications that cater to amateur operators who could use such power amplifiers legally. Thus, some equipment suppliers see fit to comply only with the strict letter of the law, and at the same time disregard the spirit of the law, encouraging subversion of the Commission's regulations and efforts at improving the quality of the Citizens Band for all licensees. This is our next step in increasing the level of regulation applicable to the marketing of external RF power amplifiers.

5. The Commission's requirements for limited output power in the Citizens Band Radio Service were designed to minimize the potential for interference among licensees and, thereby, make it a more useful service for all users. By using increased power, the user may obtain a limited benefit insofar as his particular operation is concerned, but such benefit is achieved at the expense of the other CB operators and the television viewers, as our records of television interference due to overpower CB operation will attest. In order to obtain the maximum benefit from CB operation as a short-range service, the principle of reusability of the channels must be maintained. This cannot be accomplished with the wide-spread use of external amplifiers. When such amplifiers are employed, the service area of the transmitted signal increases, precluding a higher percentage of additional stations from using that frequency. In the case of an amplifier with a high spurious signal output, this will cause interference to TV receivers in addition to the effect upon the CB users.

6. We are convinced that the large majority of equipment manufacturers and licensees are interested in what is best for the CB Radio Service and conscientiously obey not only the letter but the spirit of our rules and regulations. For these people, we do not wish to add yet more rules which may be a burden to them and could be easily disobeyed by those so inclined. However, in all fairness to those manufacturers and users who earnestly endeavor to comply with our regulations, a situation such as this cannot be ignored.

7. Therefore, we are herein proposing to prohibit the marketing of all external radio frequency power amplifiers capable of operation in the frequency range of 24.00 MHz to 35.00 MHz. This action is intended to completely eliminate this equipment from the "legal" market, regardless of the service under which it would be operated. However, as there are certain legitimate laboratory and testing uses for amplifiers in this frequency range, the Commission would entertain requests for waivers for clearly defined legitimate users and manufacturers of external RF amplifiers designed for medical or industrial use. Comments are requested in this area as to how the Commission should define these legitimate users and what steps should be taken to accomplish this goal without opening another "loop-hole" in our rules which would allow for the continued manufacture of amplifiers designed for CB operation.

8. The 24 MHz and 35 MHz limits were chosen so that practical circuitry could be used to achieve adequate suppression of radio frequency energy appearing on the CB frequencies. In addition, we believe the frequency range proposed would create a minimum effect upon the licensees in other services. Except for those services discussed above and the 10-meter amateur band, the other services which have a need for an amplifier are far enough removed from this frequency range that such a prohibition should have no effect upon their operation. While we regret the limitations this may place on the amateur operator, the Commission believes that this prohibition would achieve this goal. The marketing rules of Subpart I of Part 2 would be amended, as shown below, so as to prohibit the marketing of all such devices. There could then be no legal use for such devices, and thus, no subterfuge under which they could be marketed. We believe that the complete prohibition of the marketing of external radio frequency power amplifiers is an effective means to prevent their use. Comments are solicited as to any further regulations which may be necessary to achieve this goal.

9. Comments are also solicited concerning the practicality of such a prohibition and possible techniques which could be used to produce such an amplifier. Such comments should also address the problems associated with preventing the few unscrupulous manufacturers from including such features as accessible wiring which can be cut to provide for operation on the prohibited frequencies, controls both external and internal which could provide for operation on these frequencies, or any other concepts which could be used to circumvent this prohibition.

10. The Commission strongly regrets the inconvenience this proposal may place on the amateur operator. In order to lessen the impact of this proposal upon the amateur operator who wishes to use the 10-meter band, we are proposing that a licensed amateur operator may construct one unit of a particular model amplifier for use at his own station. This amplifier may also be sold to another licensed amateur operator. At this time, the construction of these amplifiers will be restricted to those operators with a General or higher class license. This is being done in consideration of the high degree of technical competence and experience which must be demonstrated to obtain such a license. In addition, it is felt that an amateur operator with this degree of technical ability would be less inclined to construct these amplifiers for non-amateur purposes. However, we will rely strongly on the comments received on this proposal to determine if the license class restriction should be lowered, as we assume that all amateur operators will respect the intent of this regulation.

11. In light of the prohibitory ramifications of this proceeding, we request that a careful study of this matter be made and that the pros and cons be thoroughly discussed and evaluated. The comments should deal specifically with the issues raised herein. Respondents are urged to be as complete and as detailed as possible in their comments and replies.

12. Authority for the adoption of the amendments proposed herein and for the request for comments is contained in sections 4(i), 302, 303(e), and 303(f) of the Communications Act of 1934, as amended.

13. Pursuant to the applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before May 25, 1977, and reply comments on or before June 6, 1977. 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 specific information before it, in addition to the comments invited by this notice.

14. In accordance with the provisions of § 1.419 of the rules, an original and 5 copies of all comments, reply comments, pleadings, briefs, and other documents shall be furnished the Commission. In an effort to obtain the widest possible response in this proceeding, informal comments (without extra copies) will be accepted. These informal comments should specifically reference this proceeding. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room located at its headquarters at 1919 M Street, NW, Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,[1]
VINCENT J. MULLINS,
Secretary.

Section 2.815 of Part 2 is amended by deleting the present text of paragraph (c) and inserting the word (Reserved) and by revising paragraphs (b) and (d) to read as follows:

§ 2.815 External radio frequency power amplifiers.

* * * * *

(b) After (effective date), no person shall sell or lease, or offer for sale or lease (including advertising for sale of lease) or import, ship or distribute for the purpose of selling or leasing or offering for sale or lease, any external radio frequency power amplifier capable of operation on any frequency or frequencies between 24.00 MHz and 35.00 MHz.

(c) (Reserved)

(d) The proscription in paragraph (b) of this Section shall not apply to the marketing to another licensed amateur radio operator of any single-band or multi-band external radio frequency power amplifier fabricated in not more than one unit of the same model by any General or higher class licensed amateur radio operator provided this amplifier is for the amateur operator's personal use at his licensed amateur radio station.

CONCURRING STATEMENT OF CHAIRMAN RICHARD E. WILEY IN RE DOCKET 21116 AND DOCKET 21117

While I concur in the Commission's proposals to ban use of linear amplifiers in the 11 meter citizens radio band and to require type acceptance of amateur equipment, I must admit to doing so with some reservations. The prohibitions on the illegal use of linears by CB operators would also prevent their lawful and legitimate utilization by amateurs in the 10 meter frequencies. Similarly, while the requirement for type acceptance may be desirable relative to the effective regulation of CB radio, it has both advantages and disadvantages for the amateur service. My concern is that, in attempting to deal with the rapidly proliferating and sometimes troublesome CB service, we may appear to be penalizing the amateur community which, in my judgment, is one of the most "professional" and self-regulated services within the Commission's jurisdiction.

Although I have voted with the majority to put these items out for comment, I wish to make it clear that I approach both of them with an open and questioning mind. It may be that the comments we receive will suggest other and better alternatives to the Commission's proposals. If so, however, I am hopeful that such suggestions will pragmatically recognize the tremendous task facing the FCC in regulating CB radio which, in the space of only 2 years, has grown from 50,000 license applications a month to over one million applications in January 1977 alone.

I look forward to a healthy and vigorous discussion on the proceedings which the Commission has opened today. Whatever their ultimate outcome, however, I wish to take this opportunity to express my respect and admiration for the amateur community. I hope and trust that my colleagues will give these dockets, and the comments filed by the amateur community (as well as others), careful attention prior to reaching any final conclusion.

[FR Doc.77-6394 Filed 3-2-77;8:45 am]

[47 CFR Parts 2 and 97]

[Docket No. 21117; FCC 77-117]

AMATEUR RADIO SERVICE

Requirement of Type Acceptance of Equipment Marketed for Use

Adopted: February 10, 1977.
Released: February 28, 1977.

In the matter of amendment of Parts 2 and 97 of the Commission's Rules to require type acceptance of equipment marketed for use in the Amateur Radio Service, Docket No. 21117.

1. Notice of proposed rulemaking in the above captioned matter is hereby given. In our regulation of radio frequency devices capable of causing harmful interference, we have brought almost all of the equipment used in the licensed services under our equipment authorization program. A notable exception to this is equipment used in the Amateur Radio Service (ARS). This proposal is intended to bring amateur radio equipment into this program.

2. Traditionally, much of the equipment used at amateur stations has been constructed by the amateurs themselves. For those amateurs who chose not to construct equipment, numerous makes and models of transmitters, receivers, amplifiers, and accessories have been available from commercial equipment manufacturers. As electronic technology becomes increasingly sophisticated, fewer and fewer amateurs are building their own. The vast majority of amateurs now utilize commercially produced equipment, although the individual amateur operator often modifies this equipment to alter or improve its capabilities. This trend has resulted in a proliferation of equipment makes and models, and among them are now several types not only operable on amateur frequencies, but also, with no or only minor modifications, capable of operation on the 27 MHz CB frequencies. This quasi-CB equipment, as well as all other amateur equipment, does not now fall under the Commission's regulations on type acceptance and marketing, and we believe that the time has now come to amend our rules accordingly.

3. We are further moved toward type acceptance of amateur equipment because of the apparent inability in the amateur community, as a whole, to take responsibility for evaluation of their station transmitter output characteristics. Specifically, in a notice of proposed rule making in Docket 20777, released April 22, 1976 (41 FR 17789), the Commission proposed to replace the present emission table in Part 97 with a table of maximum permissible bandwidths. In comments to this proposal, this concept was rejected by individual amateurs and the American Radio Relay League. The League said that such a requirement was "obviously impractical". Also generally rejected was the Commission's proposal in Docket 20282 which would have changed the method of measuring amateur transmitter power. It was proposed that output power, rather than input power, be measured, and the comments we received indicated that the majority of amateurs would not, or could not, take on this responsibility. Clearly, if the primary responsibility for equipment emission characteristics is to rest with the equipment manufacturers, rather than with individual amateurs, then the Commission has an obligation to require type acceptance in this area, as it does for other services.

4. We visualize the type acceptance requirement as a method to bring to our

[1] Chairman Wiley concurring and issuing a Statement and Commissioner Lee absent.

attention the quasi-CB equipment of the type mentioned above. At that time, we can determine the suitability of permitting the marketing of the equipment. Under our type acceptance requirements, before a grant is made, we must determine not only that the equipment meets the applicable technical standards, but also that a grant of type acceptance would be in the public interest. Conditions which we would look for in deciding if a type acceptance grant should be made include, but are not limited to: Any accessable wiring which, when cut, would allow operation on a frequency where use of the equipment is not permitted; the providing of circuit boards or similar circuitry to facilitate the addition of components, the purpose of which would be to change the equipment's operating characteristics in a manner not permitted under our rules; or, any internal or external adjustments or controls which are provided to facilitate operation in a manner not permitted under our rules. Therefore, if a device met the technical requirements of the ARS (Part 97) but was presumably intended for illegal use in another service, type acceptance could be denied and the manufacturer would be denied the right to market that device. The manufacturer of devices intended for legitimate use would not be affected by this proposal. Comment is requested concerning specific details which should be placed in our rules concerning the conditions under which type acceptance could be denied.

5. Although the rules will continue to place the responsibility for meeting high technical standards upon the individual amateur, and we will continue to encourage experimentation and testing of equipment, we believe that those marketing amateur equipment mush share in the responsibility to provide equipment capable of meeting these standards. Moreover, type acceptance of commercially marketed equipment does offer certain benefits to the amateur community. In addition to closing the amateur "loop-hole" that allows illegal CB "linears" to be openly advertised and sold, these requirements will also assist in preventing the marketing of inferior equipment to amateurs. The amateur band will be protected from "store bought" equipment that does not at least meet minimum technical standards.[1] This should result in fewer occurrences of interference to television receivers, other home electronic equipment, and other radio services including the amateur service itself.

6. In order that we not impede the innovative process and permit equipment manufacturers to supply the amateur licensees with state-of-the-art equipment, we believe that the technical standards for type acceptance should address only matters which will affect operations outside of the amateur frequency bands. Therefore, we propose to limit our technical standards requirements to spurious emissions and radiations. In the notice of proposed rulemaking in Docket 20777 (41 FR 17789), released April 22, 1976, specific authorized bandwidths are proposed, together with limitations for emissions appearing on frequencies removed from the center of the authorized bandwidth by an amount equal to more than 250 percent of the authorized bandwidth. Such emissions would be attenuated at least 40 decibels below the mean power of the emission, as specified by ITU regulations. While this may be adequate for equipment used by the individual amateur, we propose to require a 43+10 log (mean power in watts) decibel suppression for type acceptance purposes, inasmuch as such equipment will be available in large quantities and thus, in the aggregate, will have a greater potential for interference. This degree of attenuation was chosen to correspond to the requirements for the land mobile and broadcast services.

7. Traditionally, the amateur operators have been in the forefront in developing techniques for solving interference problems, both through the use of external filtering and through actual modification of the transmitting equipment. This, in addition to the lesser degree of proliferation of equipment as compared to transmitters in the Citizens Band Radio Service, is our reason for not requiring the attenuation level of these transmitters to be as great as for the CB band. However, it may be necessary in a future rule making proceeding to readdress this matter if frequent problems from interference occur. Of immediate concern is operation in the 10-meter band. A notice of inquiry and proposed rule making in Docket 21000 released November 30, 1976, addressed the matter of requiring 100 decibels of attenuation for spurious and harmonic emissions generated from transmitters in the Citizens Band Radio Service. Any actions taken in Docket 21000 may be reflected in our actions in this proceeding. Therefore, the attenuation level of spurious and harmonic emissions for transmitters operating in the 10-meter band may be made equivalent to any attenuation levels which may be adopted in Docket 21000.

8. We wish to stress that although we propose to require the use of type accepted equipment at stations in the ARS, we have made specific exemptions for equipment constructed or modified by individual amateurs for use at a licensed station in the ARS. While manufacturers would be prohibited from marketing equipment prior to the receipt of a grant of type acceptance, the individual amateur would be permitted to construct his own equipment or to modify his equipment, whether home built or commercially procured: *Provided*, The modified equipment was for use at a licensed amateur station. In addition, the amateur would be permitted to sell his home built or modified equipment to another amateur. However, the amateur operator who decides to build or modify equipment in quantity for sale to other amateurs will be considered a manufacturer and will be subject to the type acceptance requirement. We feel that this will place the minimum burden upon the individual amateur radio licensee and will still encourage the experimentation and testing of equipment which, in the past, has been a major characteristic of the amateur community.

9. With respect to the matter of kits supplied to the amateur operator, the supplier of the kit will be required to obtain a grant of type acceptance as a prerequisite for legal marketing of the kit. We would require that the supplier of these components and instructions assemble three units according to the construction details and using the components normally supplied. Measurements would then be made on the completed units and submitted with the application for type acceptance. We wish to emphasize that our consideration for an authorization of this form of equipment is strictly limited, in this proceeding, to equipment to be used in the Amateur Radio Service. Since the amateur radio operator is considered technically competent, and the amateur normally possesses considerable expertise in ensuring that the equipment is in accordance with the applicable technical requirements, we believe our proposal to be sound. However, due to the unique character of the Amateur Radio Service, extension of this concept to other licensed services cannot be justified in this proceeding. Our actions here should not be construed as addressing the issues raised by the Heath Company in their outstanding petitions for rule making (RM–1093 and RM–1164) which are being addressed in another rulemaking proceeding.

10. The proposed rules shown below are intended to address the marketing problems we have been encountering, while, at the same time, place a minimum burden upon the individual amateur operator. Keeping the above in mind, specific comments upon this proposal should be made. The comments should address the specific rules which are proposed below and should fully discuss the impact of this proposal on the Amateur Radio Service. We also request comments upon the feasibility and economic considerations associated with type acceptance of the ARS equipment. Further, the Commission is concerned with the impact that a type acceptance program may have on newly developing

[1] Recently, a case of commercially marketed amateur radio equipment operating in the 2-meter band caused harmful interference to a radio-navigation system used by aircraft. It was found that the equipment was generating spurious emissions which were disrupting operations of the navigation system. Elimination of this source of interference required investigation by the Commission, in addition to assistance from the amateur operators. The operators involved cooperated by ceasing operation until the equipment problem was corrected. It is anticipated that such situations will be minimized by requiring the equipment suppliers to demonstrate to the Commission the capability of their equipment to comply with the appropriate technical standards before they are permitted to market it to the amateur community.

amateur industries. We therefore are also requesting comments as to any exemptions from these requirements which should be applied to these new companies.

11. This proposal deals specifically with transmitters and external amplifiers manufactured and marketed for operation in the ARS. Receivers in the Citizens Band Radio Service and receivers that tune between 30 and 890 MHz, which includes some amateur receivers, such as 2-meter gear, presently require certification from the Commission pursuant to Subpart C of Part 15 of the FCC Rules.[2] Special provisions for individually constructed receivers that now require certification will be the subject of a soon to be initiated, separate rulemaking proceeding and are not being considered at this time.

12. The proposed amendments of the rules as set forth below are issued pursuant to the authority contained in sections 4(i), 302, 303(e), and 303(f) of the Communications Act of 1934, as amended. Pursuant to the applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before May 25, 1977, and reply comments on or before June 6, 1977. All relevant and timely comments will be considered. The Commission may also take into account other relevant information before it, in addition to the specific comments invited by this Notice.

13. In accordance with the provisions of § 1.419 of the Rules, an original and 5 copies of all comments, reply comments, pleadings, briefs, and other documents shall be furnished the Commission. In an effort to obtain the widest possible response in this proceeding, informal comments (without extra copies) will be accepted, but these should make specific reference to this proceeding. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room located at its headquarters at 1919 M Street, NW., Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,[3]
VINCENT J. MULLINS,
Secretary.

Part 2 is amended as follows:

1. Section 2.983 is amended by adding a new paragraph (i) to read as follows:

§ 2.983 **Application for type acceptance.**

* * * * *

(i) The application for type acceptance of a transmitter or external radio frequency power amplifier under Part 97 of this chapter need not be accompanied by the data required by paragraph (e) of this section. In lieu thereof, measurements shall be submitted to show compliance with the technical specifications in Subpart H of Part 97 of this chapter.

2. Section 2.1001 is amended by revising the text of paragraph (e) and adding a new paragraph (f) to read as follows:

§ 2.1001 **Changes in type accepted equipment.**

* * * * *

(e) Users shall not modify their own equipment except as provided by paragraphs (b) and (f) of this section.

(f) Equipment type accepted for use in the Amateur Radio Service pursuant to the requirements of Part 97 of this chapter may be modified without regard to the conditions specified in paragraph (b) of this section: *Provided*, The following conditions are met:

(1) Any person performing such modifications on equipment used under Part 97 of this chapter must possess a valid amateur radio operator license of the class required for use of the equipment being modified.

(2) Modifications made pursuant to this paragraph are limited to equipment used at individual amateur radio stations.

(3) Modifications specified or performed by equipment manufacturers or suppliers must be in accordance with the requirements set forth in paragraph (b) of this section.

(4) Modifications specified or performed by licensees in the Amateur Radio Service on equipment other than that at specific licensed amateur radio stations must be in accordance with the requirements set forth in paragraph (b) of this section.

(5) The station licensee shall be responsible for insuring that modified equipment used at his station will comply with the applicable technical standards in Part 97 of this chapter.

Part 97 is amended as follows:

1. Subpart H is amended by deleting the word [Reserved] and by adding the following:

Subpart H—Type Acceptance of Equipment Used at Stations in the Amateur Radio Service

Sec.

97.401 Acceptability of transmitters and external radio frequency power amplifiers for use in the Amateur Radio Service.
97.403 Procedure for type acceptance of equipment.
97.405 Measurement data, technical standards requirements and additional information for type acceptance.

AUTHORITY: Secs. 4(i), 302, 303(e), and 303(f), Communications Act of 1934, as amended.

Subpart H—Type Acceptance of Equipment Used at Stations in the Amateur Radio Service

§ 97.401 **Acceptability of transmitters and external radio frequency power amplifiers for use in the Amateur Radio Service.**

(a) Periodically, the Commission publishes a list of equipment entitled "Radio Equipment List, Equipment Acceptable for Licensing". Copies of this list are available for public reference at the Commission's offices in Washington, D.C., and at each of its field offices. This list includes type accepted and type approved equipment and, until such time as it may be removing by Commission action, other equipment which appeared in this list on May 16, 1955.

(b) Each transmitter or external radio frequency power amplifier marketed as specified in § 2.803 of this chapter or utilized by a station authorized for operation under this part shall be of a type which has been type accepted by the Commission for use in the Amateur Radio Service. As an exception to these requirements, type acceptance is not required for the following:

(1) A transmitter or external radio frequency power amplifier constructed by an individual amateur radio operator for use at his licensed station: *Provided*, No more than one unit of a particular model is constructed or modified: *And further provided*, Such equipment was not constructed pursuant to the provisions of paragraph (e) of this section.

(2) A transmitter or external radio frequency power amplifier purchased or obtained prior to (effective date of the rules): *Provided*, Such equipment is for use at a licensed amateur radio station.

(3) A transmitter or external radio frequency power amplifier purchased or obtained after (effective date of the rules) from another licensed amateur radio operator who constructed or modified the equipment: *Provided*, Such equipment was not constructed pursuant to the provisions of paragraph (e) of this section and that such equipment is for use at a licensed amateur radio station.

(c) A transmitter or external radio frequency power amplifier marketed for use in an amateur radio station prior to (effective date of the rules) must meet the applicable technical standards in this part, pursuant to § 2.805 of this chapter.

(d) A transmitter or external radio frequency power amplifier marketed after (effective date of the rules) must comply with the requirements of paragraph (b) of this section.

(e) After (effective date of the rules), persons supplying electronic components which, when assembled in accordance with provided instructions, result in equipment intended for use in the Amateur Radio Service shall comply with paragraph (b) of this section in accordance with the procedure specified in paragraph (c) of § 97.403.

§ 97.403 **Procedure for type acceptance of equipment.**

(a) Any manufacturer or supplier of a transmitter or external radio frequency power amplifier built for use in this service may request type acceptance for such transmitter or amplifier with the type acceptance requirements of this part, following the type acceptance procedure set forth in Subpart J of Part 2 of this chapter.

[2] These requirements are subject to change in a proposal in Docket No. 20746. This is a NPRM adopted March 19, 1976, released March 29, 1976, 41 FR 13375, 58 FCC 2d 5, page 839, which proposes to bring receivers that operate in the range 26 to 30 MHz under our receiver certification program.

[3] Chairman Wiley concurring and issuing a statement.

(b) Additional rules with respect to type acceptance are set forth in Subpart J of Part 2 of this chapter. These rules include information with respect to withdrawal of type acceptance, modification of type accepted equipment, and limitations on the findings upon which type acceptance is based.

(c) Any supplier of equipment described in paragraph (e) of § 97.401 may request type acceptance for such equipment by following the procedure set forth in Subpart J of Part 2 of this chapter. In addition, the applicant for type acceptance shall comply with the requirements of §97.405 and with the following additional requirements:

(1) Assembly of three units of a specific type shall be made in exact accordance with the instructions being supplied with the product being marketed.

(2) The measurement data required for type acceptance shall be obtained for each of the three units and submitted with the type acceptance application.

(3) A copy of the exact instructions which will be provided for assembly of the equipment shall be provided.

(4) The indentification label required by §§ 2.925 and 2.1003 of Part 2 of this chapter shall be permanently affixed to the assembled unit and shall be of sufficient size so as to be easily seen. The following information shall be shown on the label:

(Name of Grantee of Type Acceptance)
FCC Data: (The number assigned to the equipment by the Grantor)
This transmitter can be expected to comply with Part 97 of the FCC Regulations when assembled and aligned in strict accordance with manual instructions using components supplied with the kit or an exact equivalent thereof.

(Title and signature of responsible representative of Grantee)
Statement of Compliance
I state that I have constructed this equipment in accordance with instructions and using the parts furnished by the supplier of this kit.

(Signature) (Date)
(To be signed by the person responsible for proper assembly of kit)

(5) If requested, an unassembled unit shall be provided for assembly and test by the Commission. Shipping charges to and from the Commission's laboratory shall be borne by the applicant for type acceptance.

§ 97.405 Measurement data, technical standards requirements and additional information for type acceptance.

(a) In addition to the technical standards set forth in Subpart C of this part, equipment subject to the type acceptance requirements of § 97.401 shall comply with the provisions of this section.

(b) The mean power of spurious and harmonic emissions from transmitters authorized under this part shall be attenuated below the mean power output of the transmitter by an amount at least 43+10 log (mean power in watts) decibels on any frequency removed from the center of the authorized bandwidth by more than 250 percent of the authorized bandwidth.

NOTE.—Pending a decision as to what the authorized bandwidths shall be, all emissions outside of the amateur band being used shall be attenuated by the amount shown above.

(1) The magniture of spurious or harmonic emission which are attenuated by more than 20 decibels below the permissible value need not be reported.

(2) In the measurements specified in paragraph (b) of this section, the spectrum should be investigated from the lowest radio frequency generated in the equipment up to at least the 10th harmonic of the highest carrier frequency or the highest frequency practicable in the present state of the art of measuring techniques, whichever is lower.

(c) When performing the tests specified in paragraph (b) of this section, the center of the authorized bandwidth shall be within the operating frequency band by an amount equal to 50 percent of the authorized bandwidth. In addition, said tests shall be made on at least one frequency in each of the bands within which the transmitter is capable of operating.

(d) The Commission may consider data which have been measured in accordance with established standards and measurement procedures as published by engineering societies and associations such as the Electronic Industries Association, the Institute of Electrical and Electronic Engineers, Inc. and the American National Standards Institute. Specific reference should be made to the standard(s) used. If a published standard is not used, the applicant shall submit a detailed description of the measurement procedure actually used. In either case, he shall submit a listing of the test equipment used.

(e) Type acceptance of external radio frequency power amplifiers may be subject to such limitations deemed necessary to prevent their use in services where such use is not permitted.

CONCURRING STATEMENT OF CHAIRMAN RICHARD E. WILEY IN RE DOCKET 21115 AND DOCKET 21117

While I concur in the Commission's proposals to ban use of linear amplifiers in the 11 meter citizens radio band and to require type acceptance of amateur equipment, I must admit to doing so with some reservations. The prohibitions on the illegal use of linears by CB operators would also prevent their lawful and legitimate utilization by amateurs in the 10 meter frequencies. Similarly, while the requirement for type acceptance may be desirable relative to the effective regulation of CB radio, it has both advantages and disadvantages for the amateur service. My concern is that, in attempting to deal with the rapidly proliferating and sometimes troublesome CB service, we may appear to be penalizing the amateur community which, in my judgment, is one of the most "professional" and self-regulated services within the Commission's jurisdiction.

Although I have voted with the majority to put these items out for comment, I wish to make it clear that I approach both of them with an open and questioning mind. It may be that the comments we receive will suggest other and better alternatives to the Commission's proposals. If so, however, I am hopeful that such suggestions will pragmatically recognize the tremendous task facing the FCC in regulating CB radio which, in the space of only 2 years, has grown from 50,000 license applications a month to over one million applications in January 1977 alone.

I look forward to a healthy and vigorous discussion on the proceedings which the Commission has opened today. Whatever their ultimate outcome, however, I wish to take this opportunity to express my respect and admiration for the amateur community. I hope and trust that my colleagues will give these dockets, and the comments filed by the amateur community (as well as others), careful attention prior to reaching any final conclusion.

[FR Doc.77-6393 Filed 3-2-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 71-18, Notice 9; Docket No. 25, Notice 23]

FEDERAL MOTOR VEHICLE SAFETY STANDARDS; UNIFORM TIRE QUALITY GRADING

Temperature for Tire Testing

AGENCY: National Highway Traffic Safety Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes amendments of the temperature conditions for certain test requirements of the Uniform Tire Quality Grading Standards regulation and the Federal motor vehicle safety standard for nonpassenger-car tires. The amendments ments would bring those conditions into line with the corresponding temperature conditions of the passenger-car tire safety standard.

COMMENTS MUST BE RECEIVED ON OR BEFORE: April 18, 1977.

PROPOSED EFFECTIVE DATE: Date of Publication of final rule.

FOR FURTHER INFORMATION CONTACT:

Arturo Casanova III, Tire Division, Office of Crash Avoidance, Motor Vehicle Programs, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202 426-1715).

SUPPLEMENTARY INFORMATION: Ambient temperature conditions for tire endurance testing and high speed testing are found in two Federal motor vehicle safety standards: No. 109, *New Pneumatic Tires*—Passenger Cars 49 CFR 571.109), and No. 119, *New pneumatic tires for vehicles other than passenger cars* (49 CFR 571.119). Ambient temperature test conditions are also set out in 49 CFR § 575.104, *Uniform Tire Quality Grading Standards* (UTQGS) for temperature resistance grading of passenger-car tires.

The ambient temperatures are currently specified as follows:

Standard No. 109: "100±5° F."
Standard No. 119: "any temperature * * * up to 100° F."
UTQGS: "at 105° F."

Goodyear Tire and Rubber Company petitioned for amendments that would specify the same conditions in all three regulations. Such uniformity would enable tire manufacturers to avoid some duplication of testing in the quality grading of passenger-car tires and the certification of the same tires' conformity to Standard No. 109. Similarly, it would permit more efficient use of high speed wheel-test facilities in certifying passenger-car and non-passenger-car tires to their respective safety standards. Goodyear requested that the conditions in Standard No. 119 and UTQGS be amended to agree with the "100±5°" condition in Standard No. 109, because the 100-degree "target" temperature in the latter would correspond to the long established temperature used by the tire industry, while the 5-degree tolerance would recognize the difficulties in maintaining a constant temperature in the wheel test environment.

The NHTSA finds merit in Goodyear's suggestion, and has tentatively concluded that uniform ambient temperature conditions for these tests would be in the public interest. Because the experience upon which all three regulations are based derives from tests conducted with the 100-degree target temperature and 5-degree tolerance, there would be no appreciable reduction in safety benefits by the amendment to Standard No. 119. Further, no inequities would be introduced into the A-B-C temperature grading scheme of UTQGS, because the change in conditions is small and that regulation has not yet become effective. Accordingly, this notice proposes the amendments requested by Goodyear. With a view to consistency in the statement of this test temperature condition with test conditions contained in other safety standards, the agency is considering an alternative expression of the test temperature as "any temperature up to 95° F." This alternative expression of the test temperature is substantively identical to that proposed by Goodyear.

Because they would relieve restrictions and create no additional burden, the amendments would be effective immediately on publication of the final rule in the FEDERAL REGISTER.

In consideration of the forgoing, it is proposed that the following amendments be made in Parts 571 and 575 of Title 49, Code of Federal Regulations:

1. Paragraphs S7.1.2 and S7.4(c) of 49 CFR § 571.119 would be amended to read:

§ 571.119 New pneumatic tires for vehicles other than passenger cars.

* * * * *

S7.1.2 The tire must be capable of meeting the requirements of S7.2 and S7.4 when conditioned to 100±5° F. for three hours before the test is conducted, and with an ambient temperature maintained at 100±5° F. during all phases of testing. The tire must be capable of meeting the requirements of S7.3 when conditioned at any ambient temperature up to 70° F. for three hours before the test is conducted.

* * * * *

S7.4 *High Speed Performance* * * *

(c) Remove the load, allow the tire to cool to 100±5° F., and then adjust the pressure to that marked on the tire for single tire use.

* * * * *

2. In 49 CFR § 575.104, paragraphs (g)(2), (g)(5), and (g)(8) would be amended to read:

§ 575.104 Uniform Tire Quality Grading Standards.

* * * * *

(g) * * *

(2) Condition the tire-rim assembly to 100±5° F. for at least 3 hours.

* * * * *

(5) During the test, including the pressure measurements specified in paragraphs (g)(1) and (g)(3) of this section, maintain the temperature of the ambient air, as measured 12 inches from the edge of the rim flange at any point on the circumference on either side of the tire at 100±5° F. Locate the temperature sensor so that its readings are not affected by heat radiation, drafts, variations in the temperature of the surrounding air, or guards or other devices.

* * * * *

(8) Remove the load, allow the tire to cool to 100±5° F. or for about two hours, whichever occurs last, and readjust the inflation pressure to two pounds per square inch less than the tire's maximum permissible inflation pressure.

* * * * *

Interested persons are invited to submit comments on the proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

(Secs. 103, 112, 119, 201, 203, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407, 1421, 1423); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on February 23, 1977.

ROBERT L. CARTER,
Associate Administrator
Motor Vehicle Programs.

[FR Doc.77-6043 Filed 3-2-77;8:45 am]

NATIONAL TRANSPORTATION SAFETY BOARD

[49 CFR Parts 821 and 825]

EX PARTE COMMUNICATIONS

Government in the Sunshine Act

To implement Section 4 of the Government in the Sunshine Act (Act), Pub. L. 94-409, the National Transportation Safety Board (Board) hereby gives notice that it proposes to amend Chapter VIII, Title 49, Code of Federal Regulations, by adding to Part 821 a new Subpart J entitled "Ex Parte Communications," and by adding to Part 825 a new § 825.40 entitled "Ex parte Communications."

The Act amends 5 U.S.C. 557 and 5 U.S.C. 556(d) by prohibiting ex parte communications with respect to formal agency adjudications and by permitting an agency to consider a violation as grounds for ruling against a person on the merits. This proposal would amend the rules governing air safety and marine adjudications (Parts 821 and 825, respectively) to incorporate the provisions of the Act. The proposed amendments are, with one exception, identical: Air safety enforcement hearings are held before Board administrative law judges, whereas in marine proceedings, hearings are conducted by law judges of the United States Coast Guard. Therefore, the proposed amendment to Part 825 contains no reference to law judges or other employees presiding at the hearing.

Interested persons are invited to submit written comments concerning the proposed regulations to the General Counsel, National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594, on or before March 30, 1977.

Accordingly, the Board proposes to amend Parts 821 and 825 of Chapter VIII, Title 49, CFR and to adopt the Tables of Contents to conform thereto, as follows:

1. In the Table of Contents in Part 821, by adding a heading for new Subpart J, and by adding headings for new §§ 821.60, 821.61, 821.62, and 821.63, as follows:

PART 821—RULES OF PRACTICE IN AIR SAFETY PROCEEDINGS

Subpart J—Ex Parte Communications

Sec.
821.60 Definitions.
821.61 Prohibited ex parte communications.
821.62 Procedures for handling ex parte communications.
821.63 Requirement to show cause and imposition of sanction.

AUTHORITY: Sec. 4, Government in the Sunshine Act, Pub. L. 94-409, amending 5 U.S.C. 556(d) and 5 U.S.C. 557; Title VI,

Federal Aviation Act of 1958, as amended, 49 U.S.C. 1421 et seq.; Independent Safety Board Act of 1974, Pub. L. 93-633, 88 Stat. 2166 (49 U.S.C. 1901 et seq.).

2. By adding a new Subpart J to Part 821 to read as follows:

Subpart J—Ex Parte Communications

§ 821.60 Definitions.

As used in this subpart:

"Board decisional employee" means a Board Member, administrative law judge, or other employee who is or who may reasonably be expected to be involved in the decisional process of the proceeding;

"Ex parte communication" means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, but it shall not include requests for status reports on any matter or proceeding covered by this Part.

§ 821.61 Prohibited ex parte communications.

(a) The prohibitions of this section shall apply from the time a proceeding is noticed for hearing, unless the person responsible for the communication has knowledge that it will be noticed, in which case the prohibitions shall apply at the time of the acquisition of such knowledge.

(b) Except to the extent required for the disposition of ex parte matters as authorized by law.

(1) No interested person outside the Board shall make or knowingly cause to be made to any Board employee an ex parte communication relevant to the merits of the proceeding;

(2) No Board employee shall make or knowingly cause to be made to any interested person outside the Board an ex parte communication relevant to the merits of the proceeding.

Ex parte communications regarding solely matters of Board procedure or practice are not prohibited by this section.

§ 821.62 Procedures for handling ex parte communications.

A Board employee who receives or who makes or knowingly causes to be made a communication prohibited by § 821.61 shall place on the public record of the proceeding:

(a) All such written communications;

(b) Memoranda stating the substance of all such oral communications; and

(c) All written responses, and memoranda stating the substance of all oral responses, to the materials described in paragraphs (a) and (b) of this section.

§ 821.63 Requirement to show cause and imposition of sanction.

(a) Upon receipt of a communication knowingly made or knowingly caused to be made by a party in violation of § 821.61, the Board, administrative law judge, or other employee presiding at the hearing may, to the extent consistent with the interests of justice and the policy of the underlying statutes, require the party to show cause why his or her claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation.

(b) The Board may, to the extent consistent with the interests of justice and the policy of the underlying statutes administered by the Board, consider a violation of this subpart sufficient grounds for a decision adverse to a party who has knowingly committed such violation or knowingly caused such violation to occur.

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3. In the Table of Contents in Part 825 by adding a heading for new § 825.40 as follows:

PART 825—RULES OF PROCEDURE FOR MERCHANT MARINE APPEALS FROM DECISIONS OF THE COMMANDANT, U.S. COAST GUARD

Sec.
825.40 Ex parte communications.

4. By adding new § 825.40 to Part 825 to read as follows:

§ 825.40 Ex parte communications.

(a) As used in this section:

"Board decisional employee" means a Board Member or employee who is or who may reasonably be expected to be involved in the decisional process of the proceeding;

"Ex parte communication" means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, but it shall not include requests for status reports on any matter or proceeding covered by this Part.

(b) The prohibition of paragraph (c) of this section shall apply from the time a proceeding is noticed for hearing unless the person responsible for the communication has knowledge that it will be noticed, in which case the prohibition shall apply at the time of the acquisition of such knowledge.

(c) Except to the extent required for the disposition of ex parte matters as authorized by law:

(1) No interested person outside the Board shall make or knowingly cause to be made to any Board employee an ex parte communication relevant to the merits of the proceeding;

(2) No Board employee shall make or knowingly cause to be made to any interested person outside the Board an ex parte communication relevant to the merits of the proceeding.

Ex parte communications regarding solely matters of Board procedure or practice are not prohibited by this paragraph.

(d) A Board employee who receives or who makes or knowingly causes to be made a communication prohibited by paragraph (c) shall place on the public record of the proceeding:

(1) All such written communications;

(2) Memoranda stating the substance of all such oral communication; and

(3) All written responses, and memoranda stating the substance of all oral responses, to materials described in paragraphs (1) and (2).

(e) Upon receipt of a communication knowingly made or caused to be made in violation of paragraph (c) of this section, the Board may, to the extent consistent with the interests of justice and the policy of the underlying statutes, require the party to show cause why his or her interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation.

(f) The Board may, to the extent consistent with the interests of justice and the policy of the underlying statutes administered by the Board, consider a violation of this section sufficient grounds for a decision adverse to a party who has knowingly committed such violation or knowingly caused such violation to occur.

(Sec. 4 of the Government in the Sunshine Act, Pub. L. 94-409, amending 5 U.S.C. 556 (d) and 5 U.S.C. 557; Independent Safety Board Act of 1974, Pub. L. 93-633, 88 Stat. 2166 (49 U.S.C. 1901 et seq.).)

Signed at Washington, D.C., this 25th day of February 1977.

KAY BAILEY,
Vice Chairman.

[FR Doc.77-6466 Filed 3-2-77;8:45 am]

notices

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

DEPARTMENT OF AGRICULTURE

Forest Service

LAND MANAGEMENT PLAN—WARM SPRINGS-MEDICINE TREE PLANNING UNIT

Availability of Final 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 final environmental statement for a Land Management Plan—Warm Springs-Medicine Tree Planning Unit, Forest Service Report USDA–FS–R1(03)–FES–Adm–77–1.

The environmental statement concerns the proposed implementation of a Land Management Plan for the Warm Springs-Medicine Tree Planning Unit, Sula Ranger District, Bitterroot National Forest, Ravalli County, Montana. About 48,985 acres of National Forest land are affected. The planning unit is divided into 6 subunits of similar resource potential and limitations to management. Significant values, management direction, and specific statements to guide land management have been developed for each subunit.

This final environmental statement was submitted to CEQ on February 25, 1976.

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, D.C. 20250.

USDA, Forest Service, Northern Region, Federal Building, Missoula, MT 59801.

USDA, Forest Service, Bitterroot National Forest, 316 North Third Street, Hamilton, MT 59840.

USDA, Forest Service, Sula Ranger Station, Sula, MT 59871.

A limited number of single copies are available upon request to:

Robert S. Morgan, Forest Supervisor, Bitterroot National Forest, 316 North Third Street, Hamilton, MT 59840.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Dated: February 25, 1976.

ROBERT S. MORGAN,
Forest Supervisor,
Bitterroot National Forest.

[FR Doc.77-6402 Filed 3-2-77;8:45 am]

MULTIPLE USE PLAN, PLACID-BLANCHARD 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 the Multiple Use Plan Placid-Blanchard Planning Unit, USDA–FS–R1(16)DES–Adm–77–7.

The environmental statement concerns a proposed action to implement a revised Multiple Use Plan for the Placid-Blanchard Planning Unit, located on the Seeley Lake Ranger District, Lolo National Forest in Missoula County, Montana. The action affects 28,820 acres of National Forest Land. The plan recommends that 25,210 acres be managed in various combinations for recreation, esthetics, fisheries, wildlife, watershed, timber and range. An area of 3,610 acres which will remain unroaded will be managed for recreation, esthetics, wildlife, and watershed.

The primary environmental effects involve the modification of natural conditions on 7,970 acres that are presently essentially roadless. The major changes will be in the vegetative patterns and tree species resulting from management of the vegetative resources; the availability of products, employment, and services provided; and in the natural condition of vegetation, soil, water, and wildlife.

This draft environmental statement was transmitted to CEQ on February 22, 1977. 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., S.W., Washington, D.C. 20250.

USDA, Forest Service, Northern Region, Federal Building, 340 N. Pattee, Missoula, MT 59801.

USDA, Forest Service, Lolo National Forest, Building 24, Fort Missoula, Missoula, MT 59801.

USDA, Forest Service, Seeley Lake Ranger District, Seeley Lake, Montana 59868.

University of Montana, University Library, Documents Division, Missoula, MT 59801.

University of Montana, Forestry School Library, Room 411, Science Complex, Missoula, MT 59801.

Missoula City—County Library, Washington & East Main, Missoula, MT 59801.

A limited number of single copies are available upon request to Orville L. Daniels, Forest Supervisor, Lolo National Forest, Building 24, Fort Missoula, Missoula, Montana 59801.

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 the 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, Orville L. Daniels, Lolo National Forest, Building 24, Fort Missoula, Missoula, Montana 59801.

Comments must be received by April 22, 1977, in order to be considered in the preparation of the final environmental statement.

Dated: February 22, 1977.

FRANK E. SALOMONSEN,
ORVILLE L. DANIELS,
Acting Forest Supervisor.

[FR Doc.77-6400 Filed 3-2-77;8:45 am]

SANTA ROSA PANNING UNIT

Availability of Final Environmental Statment

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for Santa Rosa Planning Unit, Humboldt National Forest, Nevada. The Forest Service report number is USDA–FS–FES (Adm) R4–76–18.

The environmental statement identifies and evaluates the probable effects of the land management plan for the Santa Rosa Planning Unit on the Humboldt National Forest, Nevada. The purpose of the plan is to allocate the land to resource uses and values in a pattern similar to the past. However, changes in management are proposed. Primary purpose of the change is to improve the stewardship of the land and improve resource production. The rangeland will be further developed for livestock and wildlife by constructing water developments and fences and by some vegetative manipulation.

This final environmental statement was transmitted to CEQ on February 24, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. and Independence Ave., SW., Washington, D.C. 20250.

Regional Planning & Budget Office, USDA, Forest Service, Federal Building, Room 4120, 324-25th Street, Ogden, Utah 84401.
Forest Supervisor, Humboldt National Forest, 976 Mountain City Highway, Elko, Nevada 89801.
District Forest Ranger, Santa Rosa Ranger District, 1231 Highway 40 East, Winnemucca, Nevada 89445.

A limited number of single copies are available upon request to Forest Supervisor John A. Hafterson, Humboldt National Forest, 976 Mountain City Highway, Elko, Nevada 89801.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

Dated: February 24, 1977.

P. M. REES,
Director, Regional Planning and Budget.

[FR Doc.77-6401 Filed 3-2-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Order 77-2-110; Docket 29123, Agreement C.A.B. 26425, R-1 through R-11].

INTERNATIONAL AIR TRANSPORT ASSOCIATION

U.S.-Mexico Passenger Fares

Agreement adopted by Traffic Conference 1 of the International Air Transport Association relating to U.S.-Mexico passenger fares.

Issued under delegated authority Feb. 23, 1977.

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 the Traffic Conferences of the International Air Transport Association (IATA). The agreement, establishing U.S.-Mexico fares from May 1, 1977 through April 30, 1978, was adopted at a conference held in Mexico City from January 5-12, 1977.

As set forth in the attached table, it is proposed that U.S.-Mexico fares be increased in varying amounts ranging up to 15 percent. First-class fares would be established at 135 percent of the proposed normal economy fares, with a maximum increase of 12 percent. Normal economy fares would be increased by six percent. Most promotional fares would be increased by the same dollar amount as that proposed in round-trip economy fares. The minimum/maximum-stay provisions of the excursion fare would be reduced from the present 7/30-day limit to 5/21 days and a weekend surcharge, which is currently applicable between a number of points, would be extended to additional points. Increases in the minimum-tour price are proposed for both the individual and group inclusive-tour fares. Finally, a number of routing exceptions applicable to the fare-construction rule are proposed primarily involving routes between Houston and points in Mexico.

The purpose of this order is to establish procedural dates for the submission of carrier justification in support of the agreement and of comments from interested persons. The carriers' justification for the agreement should assign costs attributable to scheduled passenger service under both the "space method," Nonpriority Mail Rates case, Docket 18381 (Orders 70-4-9 and 70-4-10, April 2, 1970) and the "revenue-offset method," adopted April 2, 1971 in Phase 7 of the Domestic Passenger-Fare Investigation, Docket 21866-7 (Orders 71-4-59 and 71-4-60).[1] The data should be set out in a tabular format as suggested in Order 75-7-88, July 17, 1975, starting with historical data as reported to the Board in Form 41 reports by functional account for total Western Hemisphere services for the year ended December 31, 1976. This should be adjusted to show the exclusion of those market areas not covered by the agreement,[2] as well as scheduled all-cargo and charter services in the U.S.-Mexico market. The remainder, pertaining to U.S.-Mexico scheduled combination services, should be adjusted to show the present economic status of scheduled passenger services in the market area covered by the agreement. Similarly, using the above two methods for the treatment of cargo, the carriers are expected to submit forecast results under the agreement for the year ending April 30, 1978, both including and excluding the increased fares for which approval is sought.

In addition, the carriers will be required to submit detailed traffic data showing revenue passenger-miles and revenue by specific fare category, as well as capacity and load-factor information both for the historical period and for the forecast period, including and excluding the proposed fare increases.

Accordingly, it is ordered that:

1. All United States air carrier members of the International Air Transport Association providing service within the area concerned by the agreement shall file prior to March 8, 1977 full documentation and economic justification for the fares and related conditions embodied in the subject agreement;
2. Western Air Lines, Inc. shall file prior to March 8, 1977, data similar to that of the IATA carriers;
3. Comments and objections from interested persons and parties shall be submitted prior to March 8, 1977;
4. Replies to submissions received in response to ordering paragraphs 1, 2, and 3 above shall be submitted no later than March 23, 1977; and
5. Insofar as air transportation as defined by the Act is concerned, tariffs implementing the subject agreement shall not be filed in advance of Board action on the subject agreement.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[1] In furnishing the data requested, each carrier is expected to attach complete explanatory data describing the methods used in allocating the various cost items.

[2] U.S.-Caribbean and U.S.-South/Central America long-haul areas.

PRESENT VERSUS PROPOSED ROUND-TRIP FARES.—*United States to Mexico*[1]

	Chicago to Mexico City			Dallas to Mexico City			Los Angeles to Mexico City			Miami to Mexico City			New York to Mexico City		
	Present	Proposed	Percent increase	Present	Proposed	Percent increase	Present	Proposed	Percent increase	Present	Proposed	Percent increase	Present	Proposed	Percent increase
First class	$368	$412	12	$336	$364	12	$302	$332	10	$278	$312	12	$452	$498	10
Economy	290	308	6	184	196	7	232	246	6	232	246	6	352	380	8
Excursion:															
Midweek	225	243	8	158	170	8	189	[2] 200	6	NA	NA		330	345	5
Weekend	246	264	7	158	180	14	199	[2] 211	6	NA	NA		330	355	8
5 to 21-day individual inclusive tour:															
Midweek	208	226	9	150	162	8	148	157	6	NA	[3] 190		259	280	8
Weekend	230	248	8	168	180	7	166	176	6	NA	[3] 200		270	290	7
Affinity group:															
Midweek	180	163	−9	NA	NA		144	142	−1	NA	NA		219	190	−13
Weekend	180	187	4	NA	NA		144	165	15	NA	NA		219	209	−5
Advance booking group and group inclusive tour:															
Midweek	145	163	12	97	109	12	134	142	6	109	124	14	[4] 190	190	0
Weekend	169	187	11	103	115	12	156	165	6	127	127	0	[4] 209	209	0

[1] Fares may vary depending on routing.
[2] No minimum-stay requirement.
[3] Minimum tour price is $15 per day in contrast to other points where the price is $60 for the minimum stay (5 days) plus $10 per day thereafter.
[4] No advance booking group available under present fares.

[FR Doc.77-6215 Filed 3-2-77;8:45 am]

[Order 76-12-98; Docket 27573; Agreement C.A.B. 26095; R-1 through R-12; Agreement C.A.B. 26176; Agreement C.A.B. 26191]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Relating to North Atlantic Cargo Rates

Correction

In FR Doc. 76-37599 appearing at page 55917 in the issue of Thursday, December 23, 1976, the following changes should be made:

(1) On page 55917, in the second table, the figures for the entry for "Freighter" for "Pan American" now reading "2.6", should read "2.68" and "TWA" now reading "(26.22)" should read "(26.2)".

(2) On page 55919, in the third column, in the first complete paragraph:

(a) Delete the "s" from the word "weightbreak" in the fourth line and in this same line, immediately after the word "weightbreak", insert the following: "SCR's. The Board has long supported the introduction of higher weightbreaks".

(b) The word "reject" in the thirteenth line, should read "reflect".

[Docket No. 30523]

AERONAVES DE MEXICO, S.A.

Assignment of Enforcement Proceeding

This proceeding is hereby assigned to Administrative Law Judge Frank M. Whiting. Future communications should be addressed to Judge Whiting.

Dated at Washington, D.C., February 25, 1977.

HENRY M. SWITKAY,
Acting Chief
Administrative Law Judge.

[FR Doc.77-6424 Filed 3-2-77;8:45 am]

[Docket No. 30527; Order 77-2-136]

IBERIA, LINEAS AEREAS DE ESPANA, S.A.

Proposed North Atlantic Passenger Fares; Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 18th day of February, 1977.

By tariff revisions filed February 2, 1977, Iberia, Lineas Aerea de Espana, S.A. (Iberia) proposes new transatlantic passenger fares for implementation on April 1, 1977 between the United States and Spain. Iberia's proposed package is similar in many respects to the agreement adopted by the members of the International Air Transport Association (IATA) for other U.S.-Europe markets.[1] However, since Iberia was unable to accept the total IATA package, its proposal differs in significant aspects from that agreement. While normal first- and economy-class fares, and certain promotional fares (the 14/21 and 22/45 day excursion fares, and the youth fares) would be increased in varying amounts along the lines of the IATA agreement, Iberia's treatment of other promotional fares is substantially different. The advance-purchase excursion fare (APEX) and the group inclusive-tour fares (GIT) would be held at *status quo* or increased only marginally; the affinity-group fare would be eliminated; and new "Bulk Travel Group Contract Fares" (BTGC) are proposed at a level five percent above Iberia's charter price. (See Appendix B).[14]

In its justification in support of its fares package, Iberia contends that the U.S.-Spain market is significantly different in major respects from other North Atlantic markets, and that the level and structure of fares to Spain must therefore be designed with this in mind; that it has suffered increasing losses under the current fare structure and has already cut its costs to the extent possible;[2] that a reduction in service below one daily frequency in its prime market (New York-Madrid) would result in significantly greater traffic loss than could be balanced by cost reductions; and that the only feasible alternative is to implement a more suitable fare structure that will enable Iberia to compete in the total U.S.-Spain market, which is allegedly now dominated by charters. Iberia alleges that U.S.-Spain traffic is overwhelmingly discretionary vacation travel which is very sensitive to price, and for this reason has used charter services extensively;[3] and that the U.S.-Spain fare structure must be designed to permit Iberia to compete for this traffic if it is to continue scheduled services, already cut as much as possible, since no government subsidies are available to it.

To this end, Iberia proposes to maintain the GIT fares at *status quo*, contending that the U.S.-Spain market requires a "low price group fare designed to attract small group movements"[4] and

[1] This agreement was described in detail in procedural Order 77-1-11, January 4, 1977.

[14] Appendices A & B filed as part of the original document.

[2] Iberia states that it has reduced its frequencies by 40 percent in one year, and now offers direct round-trip service only from New York to Madrid (daily B-747) and from Miami to Madrid via San Juan (twice weekly DC-10); and that it has reduced the number of its employees in the United States.

[3] Iberia states that in 1973, 1974, and 1975, charter traffic was 46, 44; and 35 percent of total U.S.-Spain traffic, respectively, a greater share than in only other European market; and that non-discretionary, business travel represents only some 18 percent of Iberia's total traffic, a smaller proportion than in other major European markets.

[4] Iberia would, however, accept IATA's proposal to reduce the minimum group size from 10 to five.

to eliminate the affinity group fare which it alleges is not an effective means of competing, and is difficult to enforce in any event. The BTGC fares are designed to be sold through intermediaries, which have been held by the Board to be indirect air carriers, who would contract for at least 40 seats (U.S.-originating) or 20 seats (Spain-originating), with full payment required 30 days prior to departure. Three seasons would apply: winter (November–March); should (April 1–June 19 and September 15–October 31); and peak (June 20–September 14). The fares would be based on Iberia's charter rate per-mile in effect 30 days prior to the contract plus five percent, and would be applied via the mileage flown. The group would be required to travel together in both directions, and sales would be limited to one-third of Iberia's economy-class capacity per week. After the contract is signed, the group organizer's sales to the public would be governed by the applicable charter regulations.[5]

Iberia contends that the BTGC fare will enable it to compete in the total market and utilize presently unused capacity. On the other hand, it alleges that, since use of the fare will be limited to one third of the economy-class capacity of Iberia's limited scheduled service, as well as the fact that the price will be five percent above charters, there will be no significant diversion from Iberia's charter competitors.[6]

Complaints requesting suspension pending investigation of Iberia's proposal have been filed by Trans World Airlines, Inc. (TWA) and by the National Air Carrier Association (NACA).

TWA alleges that the proposed group-40 BTGC fare are clearly uneconomic and have not been justified. Although Iberia claims that its special package is required by the unique nature of the U.S.-Spain market, the IATA agreement Iberia declined to join would in fact have recognized special conditions in the U.S.-Spain market by liberalizing APEX-fare conditions and maintaining *status quo* APEX levels to/from Spain. TWA contends that Iberia is now seeking a special advantage for Spain which would, inevitably, be short-lived in the highly competitive North Atlantic market, since the BTGC fares would soon spread to other countries.

NACA alleges that, not only would Iberia follow the general IATA pattern of unreasonably high normal economy fares to cross-subsidize below-cost discount fares, it would aggravate this situation by leaving several discount fares unchanged and adding even lower group-40 BTGC fares at near-charter levels; that the BTGC is actually a part-charter fare which the Board should not permit to become effective, for the same reasons which prompted the Board to disapprove similar proposals by Pan American on the North Atlantic and by Eastern and Pan American domestically prior to completion of pending formal proceedings.[7] NACA also contends that the BTGC fares would be unlawful and violative of numerous Board Regulations since it would involve commingling scheduled and charter traffic on the same flights and would provide for unauthorized indirect air carriage by the "contractor."

The complainant argues further that the yields under the proposed BTGC fares, ranging from 3.2 to 4.1 cents per revenue passenger-mile (RPM), would be far below the average cost of North Atlantic economy-class scheduled service of 7.48 cents per RPM, and would even fall below the average cost per available seat-mile (ASM) of 4.26 cents;[8] and that such a low level combined with the BTGC fare's loose conditions would result in massive diversion of existing higher-rated scheduled passengers as well as passengers now moving on full-fledged charters. Finally, the diversionary effect upon U.S. supplemental carriers would, allegedly, be enormous since tour operators who are the supplementals' main customers would have a great incentive to switch to the BTGC fare with it marketing advantages, such as smaller groups, less risk, and greater value of service.[9]

Upon full consideration of the proposed fares, the complaints, and all other relevant matters, the Board has determined to suspend the proposed normal economy fares, the APEX fares, the 14/21 and 7/8-day GIT fares, and the BTGC fares.

The Board has refused to permit previous proposals similar to Iberia's BTGC to become effective without a most complete examination in the context of formal proceedings.[10] We would add that any fares in scheduled service proposed at such low levels as the BTGC would invite suspension. The yields from the fares, 3.23 to 4.26 cents per-mile, are so far below the costs of scheduled service as to appear *prima facie* uneconomic. IATA's most recent Cost Committee Report, reflecting data submitted by 21 North Atlantic operators, shows average costs on the North Atlantic of 4.44 cents per ASM and 8.02 cents per RPM (at a 55-percent load factor) for the year ending March 1977. Thus, the BTGC fares would produce a yield below the per-seat cost even were every seat filled and, at any reasonable range of load factors in scheduled service, would be even less economic. Considering the liberal conditions for travel at the fare (no minimum or maximum stay; minimal advance purchase; free stopovers within Spain), there would seem little doubt but that substantial diversion would occur from Iberia's current tourist traffic already moving on other, more restrictive promotional fares at much higher levels.[11] The only economy-class passengers who would find it difficult to take advantage of the new BTGC fares would be the normal-fare passenger whose travel is, in Iberia's words, "non-discretionary" and who would thus be forced to carry an even greater burden of cross-subsidy than at present.

As indicated, Iberia proposes to increase normal economy fares while holding the APEX and GIT fares virtually at *status quo*. The Board, in its policy statements and orders, has urged the carriers to reduce the spread between low promotional fares and normal fares, and has recently disapproved increases in normal economy fares due to the carriers' lack of progress in that direction, as well as out of a concern that present normal economy fares appear to be above cost.[12] Iberia's proposal contravenes this objective. While the carrier alleges that the U.S.-Spain market requires a "low price group fare designed to attract small group movements," it does not explain why such traffic could not bear the increases adopted for other markets, which range from approximately three to eight percent. Nor has the carrier shown why passengers in groups of five could not as easily travel on individual fares. Finally, Iberia has provided no reason whatever for holding the APEX at present levels.

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly sections 102, 204(a), 403, 404, 801, and 1002(j) thereof,

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[5] Parts 212, 371, 372, 372a, 378 or 378a of the Board's Regulations. Iberia has filed, simultaneously with its tariff, an application for waiver of these regulations to the extent necessary to permit an organizer to contract for only part of the aircraft with the remaining seats to be sold at regular scheduled fares. Additionally, Iberia has filed a Petition for Rulemaking to amend the various regulations to accomplish this objective.

[6] Iberia also alleges that in the United Kingdom-Spain market, BTGC fares offered on scheduled service have permitted Iberia to obtain an adequate yield and profitable service; despite the fact that 90 percent of the traffic on these routes moves on charters.

[7] See Orders 76-9-128, September 14, 1976 and 75-10-132, October 31, 1975.

[8] IATA Cost Committee Report, forecast for 1977/1978 at a 57-percent load factor. Iberia's 1976 load factor was approximately 50 percent.

[9] NACA further claims that such diversion would not be seriously limited by the capacity control of 33 percent of economy-class seats which Iberia intends to impose, since TWA would be forced to match the fare and it would undoubtedly spread to other countries.

[10] See Order 76-9-128, September 14, 1976; Order 76-12-18, December 3, 1976; and Order 77-1-37, January 7, 1977. As stated in the latter order, CBIT-type proposals in foreign air transportation present significant foreign policy and economic issues distinguishable from the issues in the domestic CBIT rulemaking in Docket 28404. Proposals such as Iberia's BTGC fall logically within the scope of the "part-charters" phase of the *North Atlantic Fares Investigation* (Docket 27918) instituted by Order 76-12-18.

[11] Neither are we unmindful of the potential for serious diversion of U.S.-Spain charter traffic. Even were the BTGC's not matched by other carriers in the Spanish or other U.S.-Europe markets, the 33-percent allocation of economy-class capacity represents about a third of U.S./Spain charter passengers in 1975, as indicated by data published by the Immigration and Naturalization Service.

[12] See Orders 77-1-60, January 11, 1977; 76-7-36, June 29, 1976; 76-6-180, June 18, 1976; and 76-4-175, April 30, 1976.

It is ordered, That:

1. An investigation be instituted to determine whether the fares and provisions set forth in Appendix A [1][a] hereof, and rules, regulations, or practices affecting such fares and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to take appropriate action to prevent the use of such provisions or rules, regulations, or practices;

2. Pending hearing and decision by the Board, the tariff provisions specified in Appendix A hereof are suspended and their use deferred from March 4, 1977, to and including March 4, 1978, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. This order shall be submitted to the President [2] and shall become effective on March 4, 1977;

4. The investigation ordered herein be assigned for hearing before an Administrative Law Judge of the Board at a time and place hereafter to be designated;

5. Except to the extent granted herein the complaint of the National Air Carrier Association in Docket 30445 and the complaint of Trans World Airlines, Inc., in Docket 30446, are dismissed;

6. The petition of Iberia, Lineas Aereas de Espana, S.A. in Docket 30431 be and hereby is denied; and

7. Copies of this order be filed in the aforesaid tariff and be served upon Iberia, Lineas Aereas de Espana, S.A., the National Air Carrier Association, and Trans World Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS F. KAYLOR,
Secretary.

[FR Doc.77-6427 Filed 3-2-77;8:45 am]

[Docket No. 30555; Order 77-2-133]

TEXAS INTERNATIONAL AIRLINES, INC.

Proposed Peanut Fares; Order of Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 25th day of February, 1977.

By tariff revisions [1] marked to become effective February 1, 1977, Texas International Airlines, Inc. (TXI) proposed an off-peak fare labeled the "Peanuts" fare in five selected markets: Albuquerque-Los Angeles, Denver-Salt Lake City, Houston-New Orleans, Dallas-Austin, and Dallas-Midland. The fares are proposed at a 50-percent discount from regular standard-class fare and would be available only on flights operating during specified "off-peak" times. The fares would be blacked out for selected days during the Thanksgiving and Christmas holiday periods.

In support of its proposal, TXI argues that it is "proposing a low off-peak pricing experiment which will provide a useful tool to determine the impact of a revolutionary fare concept upon demand for air transportation." The carrier asserts that this "experiment" can be properly conducted within the framework of the Domestic Passenger-Fare Investigation (DPFI), and alleges in view of the Midway applications and the expressed interest on the part of various public officials for tests of low fares, that its proposed tariff should be approved. The carrier claims to have selected low load-factor flights which it is financially better off to operate than to cancel but which offer an unused capacity that at present goes wasted, and that these flights would provide a good test for steeply discounted fares. The carrier argues that it can carry the additional traffic with minimal incremental costs of handling the newly generated traffic as the investment and capacity costs are already being incurred. The substantial generation the carrier projects is assumed to come from surface travel with attendant savings in fuel associated with ground travel. The carrier argues that it will achieve a generation/diversion ratio of 84/16 percent, significantly greater than the alleged break-even ratio of 51 percent, and estimates a $1,588,000 added profit for the five markets for the one-year experiment. Based upon its traffic projection the flights would operate at an annual load factor of 74 percent. TXI further claims that no other carrier would be harmed by its proposal because of the limited number of markets and the restriction of the proposal to off-peak times.

Braniff Airways, Inc. (Braniff), Continental Air Lines, Inc. (Continental), Delta Air Lines, Inc. (Delta), Frontier Airlines, Inc. (Frontier), National Airlines, Inc. (National), Trans World Airlines, Inc. (TWA), and United Air Lines, Inc. (United) have filed complaints against the proposed fares alleging, inter alia, that they will bear the risks of the experiment since TXI has only nominal participation in the markets it has selected and that, on the whole, their load factors are good on the flights which fall within the time frame selected by TXI and they cannot accommodate substantial new traffic without adding flights, the cost of which would not be covered by the so-called off-peak discount fares. The complainants allege that TXI's generation/diversion estimate is unsupported and, among other things, fails to consider self-diversion of passengers traveling outside the time frame during which the fares are proposed to apply. It is also alleged that TXI erroneously assumes that the fare will not be available to connecting passengers when in fact there is nothing to prevent passengers from using the proposed far to/from Los Angeles, for example, and connecting to another flight to their ultimate destination once they find out that such a combination of fares undercuts the published through fare. The Beaumont Chamber of Commerce has complained against the proposed fare in the Houston-New Orleans market alleging that the failure to offer the same or lower fare in the Beaumont-New Orleans market is unjust and unreasonable and gives Houston an undue and unreasonable perference and advantage over Beaumont, subjecting the area and its citizens to unjust discrimination.

In answer to the complaints,[3] TXI argues that despite allegations to the contrary, it does have a vital interest in the markets where it proposes its new fare, and that it will bear a substantial risk of the proposal. It asserts that the markets were chosen because they are high density, and will provide a test to determine the effect of low fares in a competitive environment. In any event, the carrier contends that even if the maximum diversion potential is assumed, the impact would be extremely limited since the proposed fares will apply to only one TXI round trip in each market. TXI also claims that its 84-percent generation estimate is well within the claimed experience of Southwest Airlines in Texas. Finally, TXI alleges that dominant carriers have the least incentive to change status quo, and that if price competition is to occur it must receive its impetus from a carrier which is not dominant, but which seeks to improve its position.

Upon consideration of the proposal, the complaints, TXI's answer thereto, and all other relevant matters, the Board concludes that the proposal may be unjust, unreasonable, unjustly discriminatory, unduly prejudicial, unduly preferential, or otherwise unlawful, and should be investigated. However, the Board further concludes that the proposal should not be suspended pending investigation.

We have considerable reservations about TXI's "Peanuts" fare proposal. While nominally called a "discount" fare, TXI's proposal is neither fish or fowl; it varies from the discount fares we have heretofore approved in that it is totally unrestricted except for a limited blackout period around Thanksgiving and Christmas; it is not a true "off-peak" fare because many of the affected flights are operated during prime times; and it is certainly not a cost-based regular fare since it is priced well below fully-allocated costs.

We are concerned about the adequacy of TXI's economic justification in light of the many novel characteristics of these fares. First, TXI assumes that 65

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[1][a] Filed as part of the original.

[2] This order was submitted to the President on February 18, 1977.

[1] Airline Tariff Publishing Company, Agent, Tariff C.A.B. Nos. 142 and 259. Tariff C.A.B. No. 259 filed as part of the original, Appendix A.

[3] The United States Department of Justice has filed an answer supporting the proposal alleging that it is an innovative, positive proposal which will benefit the consuming public by making available cheaper air transportation and by stimulating the market place through the introduction of price competition.

percent of the seats not now occupied by through passengers on the affected flights will be filled by "Peanuts" fare passengers. This estimate is, in turn, based upon what we consider to be the dubious estimate of the carrier as to reasonably attainable overall load factors. Second, the carrier assumes that diversion will be limited only to local passengers in the markets who utilize the affected flights. Again, however, it is difficult to fully accept the carrier's estimate since, in our view, the 50-percent discount will have a more widespread attraction in the affected markets and may likely divert passengers traveling at other times of the day from both the services of TXI and other carriers. To the extent that the affected flights are not scheduled at true off-peak times, as is the case in most of the markets, diversion from other flights may be increased.

An additional concern we have with TXI's proposal is the assumption that seats now occupied by through passengers will not be available to "Peanuts" passengers. In certain of the affected markets TXI's off-line connecting traffic is almost double the local traffic, and the carrier also carries considerable on-line through and on-line connecting traffic in these markets. Thus, the proposal may have a significant impact on the availability of capacity for through passengers; however, the immediate significance of this impact may be tempered somewhat by the limitation of the "Peanuts" fares to specified flights which are now operating at relatively low load factors.

For all of the above reasons, and in the light of the discount-fare policies enunciated in Phase 5 of the DPFI to which we have heretofore adhered, we believe that TXI's "Peanuts" proposal should bear the careful scrutiny of an investigation. We have balanced our reservations as expressed above against the potentially useful data which implementation of these fares would provide, and have decided not to suspend the proposal pending investigation. We would like to see what benefits this proposal will produce based upon actual experience in the market place. Because of the experimental value of the proposal, we will allow the fares to become effective so as to enable us to develop a factual basis to determine the impact of this novel low-fare proposal on the traveling public, the scheduled air transport system, and federal subsidy requirements.

Since one of the basic justifications for the proposal is its value as an experiment, we will require that the carriers submit detailed reports in order to assess its impact. At a minimum, carriers offering the fare will be required to submit traffic information monthly, as set forth in Appendix B, and a quarterly traffic and financial report as set forth in Appendix C.[1] Each report will consist of two parts, a report for the 1977 period and another for the corresponding period in 1976. Also, we intend that a prehearing conference be held in the immediate future to promptly lay the groundwork for the investigation, including determination of such additional reports as may be required. The hearing can be delayed until later in the year when experienced data related to the "Peanuts" fare become available.

Finally, the Beaumont Chamber of Commerce has filed a complaint requesting suspension and investigation of the proposed "Peanuts" fare in the Houston-New Orleans market in the absence of a similar fare between Beaumont and New Orleans, alleging that the proposed fare is unjust and unreasonable and that it would give Houston an undue unreasonable preference and advantage over Beaumont. As with other experimental fares involving specific markets, (such as the "No Frills" fare) these fares are limited in application by the proponent carrier. Failure to extend a special fare to a particular market does not, per se, result in an unjust discrimination.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered, That: 1. An investigation be instituted to determine whether the fares and provisions described in Appendix A attached hereto, and rules, regulations, and practices affecting such fares and provisions, including subsequent reissues or revisions thereof, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and, if found to be unlawful, to determine and prescribe the lawful fares and provisions, and rules, regulations, or practices affecting such fares and provisions;

2. Except to the extent granted herein, the complaints in Dockets 30264, 30265, 30266, 30268, 30270, 30340, 30351, and 30360 are hereby dismissed;

3. The proceeding ordered herein be assigned for hearing before an administrative law judge of the Board at a time and place hereafter to be designated; and

4. Copies of this order be filed in the aforesaid tariffs and be served upon Braniff Airways, Inc., Continental Air Lines, Inc., Delta Air Lines, Inc., Frontier Airlines, Inc., National Airlines, Inc., Texas International Airlines, Inc., Trans World Airlines, Inc., United Air Lines, Inc., Western Air Lines, Inc., the United States Department of Justice, and the Beaumont Chamber of Commerce which are hereby made parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-6426 Filed 3-2-77;8:45 am]

[1] Appendix C filed as part of the original document.

[Docket No. 30383; Order 77-2-117]

UNITED STATES-UNITED KINGDOM CARGO RATES

Request To Engage in Discussions; Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 24th day of February 1977.

On January 21, 1977, Trans World Airlines, Inc. (TWA) filed a petition requesting that the Board authorize representatives of TWA, Seaboard World Airlines, Inc., Pan American World Airways, Inc. (Pan American), and British Airways to hold discussions with each other and their governments about British Airways' proposed cargo contract and specific commodity rates which, although approved by the British government, have been suspended by the Board.[1] TWA contends that the divergent government actions have created much confusion, presenting strong possibilities for misapplication and illegal use of the above rates. To forestall such misuse, TWA believes that a meeting of the affected carriers and governments is in order. If meetings are held, TWA believes they will enable the carriers to develop a rate structure acceptable to all, and, as an example of its willingness to compromise, it is prepared to discuss a new "Advance Purchase" rating proposal. In view of British Airways' continuing introduction of rates proposals and the consequent need for response by the Board and other carriers, TWA requests expeditious granting of the Board's authorization.

Both Pan American and British Airways have filed answers in which they state their support of TWA's request and their willingness to participate. In addition to the above and any other cargo rate matters that might result in better service to shippers, British Airways proposes that any authority granted be broadened to include National Airlines, Inc. as a party, and Miami-London passenger fares as an issue.

Upon consideration of the request and the answers thereto, we have concluded to authorize discussions, to be held in the United States, among all interested carrier parties. We are persuaded that the differences of opinion as to the appropriate cargo rates in the U.S.-U.K. market are sufficient that the carriers serving this market should be given an opportunity to attempt a resolution acceptable to all. The currently effective IATA North Atlantic cargo agreement does not apply between the United States and the United Kingdom, and the contract rate proposed by the British carrier has been opposed by U.S. carriers and suspended by the Board with the concurrence of the President. The Board has received reports of increasing tariff violations and diversion of carrier customers in the marketplace. It is patent that, if the reduced-level contract rates are in fact being made available to cus-

[1] See Orders 76-12-162, December 17, 1976, and 77-1-6, December 23, 1976.

tomers abroad, U.S. carriers will suffer a severe loss of customers, the effect of which would last throughout the one-year contract period involved in the special British rate.

While the Board has generally disapproved inter-carrier discussions involving domestic rates, it has long recognized that such discussions are a practical necessity in the case of international rate matters. In the absence of such discussions, all rate disputes would have to be resolved by intergovernmental negotiation, which is a cumbersome, unsatisfactory, and ineffective mechanism. For this reason, the carriers have long been authorized to engage in rate conferences under the IATA traffic machinery, and such discussions have always been regarded as consistent with the concepts of the Local Cartage Agreement Case, 15 CAB 850 (1952). In this instance, however, the IATA machinery has not produced agreement as to the U.S.-U.K. cargo rates. In view of the foregoing, and in the interest of avoiding an escalation of the current conflict which could well lead to a governmental confrontation, we believe that approval of these discussions outside IATA is warranted.[2]

However, we see no need to include the issue of Miami-London passenger fares which are the subject of a new IATA agreement not yet considered by all governments. Accordingly, we will limit the scope of our authorization to U.S.-U.K. cargo rate matters.

Lastly, it should be noted that neither British Airways' proposal, the contract rate, or the specific commodity rates, is on file or pending before the Board at this time. We would further point out that our approval of discussions does not presage approval of any carrier agreement that may result, and, in this connection, carriers are cautioned that our action here does not indicate any change in our views as set forth in Orders 76-12-162 and 77-1-6. Nor does our action insulate the carriers from any appropriate legal action for past, present, or future violations of the Act. In this connection, the Board has directed the Bureau of Enforcement to investigate this matter promptly, and to take such action as the facts warrant.

Accordingly, It is ordered, that:

1. Pan American World Airways, Inc., Trans World Airlines, Inc., and British Airways may engage in discussions, among themselves and with any other interested carriers for a period expiring March 31, 1977, in an effort to satisfactorily resolve the problems relating to contract cargo rates and other matters pertaining to cargo rates available for sale between the United States and the United Kingdom;

2. The authority granted herein will expire March 31, 1977;

3. This order be served upon all U.S.- and foreign-flag carriers holding certificate or permit authority to provide scheduled cargo service between the United States and the United Kingdom;

4. The U.S. carrier participants shall notify the Civil Aeronautics Board in writing, sufficiently in advance of the proposed meetings, to insure the presence of a U.S. Government observer at said meetings;

5. The carriers keep complete and accurate minutes of such discussions and that a true copy of such minutes and all documentation be filed with the Board's Docket Section not later than two weeks after close of each meeting; and

6. Any agreement or agreements reached as a result of such discussions be filed with the Board in accordance with section 412 of the Federal Aviation Act of 1958 and approved by the Board prior to being incorporated in a tariff filing or otherwise placed in effect.

This order will be published in the FEDERAL REGISTER.[3]

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

Minetti and West, members, concurring:[4]

With considerable reluctance, we concur in authorizing the discussions involved here. There are serious dangers to a competitive air transportation system involved in allowing carriers to get together to discuss rates, and we are particularly reluctant to permit such discussions outside the structure of IATA, whose traffic conference procedures embody certain essential safeguards which have been built up over the years. Moreover, we note that the Board has already spoken in Orders 76-12-162 and 77-1-6 on the British Airways tariff proposals which appear to be at the heart of the current difficulties. To the extent that they may stem from carriers failing to comply with the Board's orders of suspension, or transporting cargo in foreign air transportation at rates different from those set forth in their valid and unsuspended tariffs on file with the Board, these difficulties are a matter for prompt investigation and action by our Bureau of Enforcement, not for intercarrier discussions.

Nevertheless, there remains a problem of developing a U.S.-U.K. cargo rate structure for the future which will command general acceptance. It appears that the IATA mechanism has broken down in this instance, and moreover one of the carriers principally concerned (Seaboard World) is not a member of IATA. It also appears that appropriately monitored intercarrier discussions may possibly contribute to a more satisfactory resolution of the future rate-structure issues. We therefore concur, albeit reluctantly, in authorizing such discussions.

G. JOSEPH MINETTI.
LEE R. WEST.

[FR Doc.77-6425 Filed 3-2-77;8:45 am]

[2] At this juncture, since the problem is strictly a commercial one, we believe it is best dealt with by the carriers themselves when considering a compromise rather than by their respective governments.

[3] Minetti and West, members, filed the attached concurrence.

[Docket Nos. 30361 and 23080-2; Order 77-2-121]

AIR MIDWEST, INC.

Priority and Nonpriority Domestic Service Mail Rates—Phase 2; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 24th day of February 1977.

Air Midwest, Inc. (Air Midwest) was recently granted a certificate of public convenience and necessity in the Air Midwest Certification Proceeding (Docket 28262),[1] authorizing the carrier to engage in air transportation with respect to persons, property, and mail. On January 17, 1977, Air Midwest filed a petition requesting to be made a certificated carrier party in Docket 23080-2 and the establishment of the domestic service mail rates for Air Midwest's carriage of mail as a certificated air route carrier.[2] The carrier states that it believes such rates are fair and reasonable and is willing to be bound by the temporary and final determinations of the Board with respect to service mail rates set in Docket 23080-2.

Under Part 302 of the Board's Rules of Practice, a petition to establish service mail rates must specify the rate to be established and a detailed economic justification. Although Air Midwest's petition is not in strict compliance with these requirements, the relief requested is more in the nature of procedure than of substance and under these circumstances we have determined that no useful purpose would be served by holding the carrier to the strict letter of the rule. However, despite our acceptance of Air Midwest's petition, it is technically necessary to determine what the fair and reasonable rates of mail compensation to be paid to the carrier should be. Therefore, we are herein instituting an investigation to determine the fair and reasonable service mail rates to be paid the carrier by the Postmaster General for the carriage of mail in its certificated services. This investigation shall be consolidated into the ongoing proceeding in Docket 23080-2.

Air Midwest is already a party to the Domestic Service Mail Rates Investigation as a Part 298 (commuter air carrier) and received mail compensation at the temporary domestic service mail rates established for the certificated route carriers in Order 74-1-89 (as amended) and made applicable to Part

[1] Orders 76-9-165, September 30, 1976, 76-11-135, November 29, 1976 and 76-12-59, December 10, 1976.

[2] Order 76-12-60, December 10, 1976, fixed the temporary domestic service mail rates currently in effect for certificated carriers. Therefore, we are herein instituting an investigation to determine the fair and reasonable service mail rates to be paid the carrier by the Postmaster General for the carriage of mail in its certificated services. This investigation shall be consolidated into the ongoing proceeding in Docket 23080-2.

298 carriers by Order 74–7–91. However, this temporary rate is limited to Air Midwest's services performed as a commuter carrier and does not embrace its newly certificated system operations. Air Midwest states that it began transporting mail over one of its segments and is presently engaged in negotiations with the U.S. Postal Service (USPS) for mail service on various other segments of its certificated routes. As the Board has found the current temporary domestic service mail rates fair and reasonable for similar short haul service of the other certificated carriers, we see no reason why these same rates should not apply to Air Midwest's certificated operations. In these circumstances, and considering that the U.S.P.S. has no objection, the temporary mail rates for certificated air carriers under the terms of Order 74–1–89 (as amended by Order 76–12–60) shall be payable to Air Midwest over its entire certificated system effective on and after commencement of services pursuant to its certificate of public convenience and necessity, and shall be subject to retroactive adjustments in accordance with the level of final rates established by the Board in this docket.

Based on the foregoing, the Board tentatively finds and concludes that:

1. On and after the date of commencement of certificated air transportation by Air Midwest, Inc., the fair and reasonable temporary rates of compensation to be paid by the Postmaster General for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, to Air Midwest, Inc. for operations between points which it is presently or hereafter may be authorized to carry mail by its certificates of public convenience and necessity are the temporary rates established in Docket 23080–2.

2. The temporary service mail rates established herein shall be paid in their entirety by the Postmaster General and shall be subject to retroactive adjustment, commencing with the date of inauguration of services by Air Midwest, Inc. pursuant to its certificate of public convenience and necessity as may be required by the order establishing final service mail rates in Docket 23080–2.[3]

3. The investigation instituted herein (Docket 30361) is consolidated into Docket 23080–2.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and particularly sections 204(a) and 406 thereof, and the regulations promulgated in 14 CFR, Part 302,

It is ordered, That:

1. The petition filed by Air Midwest, Inc. on January 17, 1977, for the establishment of domestic service mail rates is hereby granted;

2. All interested persons, and particularly Air Midwest and the Postmaster General, are directed to show cause why the Board should not adopt the foregoing findings and conclusions and fix, determine, and publish the temporary rates and charges specified herein pending the fixing of final rates and charges;

3. Further procedures herein shall be in accordance with the Rules of Practice, 14 CFR Part 302, and if there is any objection to the rates and charges or to the other findings and conclusions proposed herein, notice thereof shall be filed within 8 days, and, if notice is filed, written answer and supporting documents shall be filed within 15 days after the date of service of this order;

4. If notice of objection is not filed within 8 days, or if notice is filed and answer is not filed within 15 days after service of this order, or if an answer timely filed raises no material issue of fact, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of an order fixing temporary service mail rates, and the Board may enter an order incorporating the findings and conclusions proposed herein and fixing and determining the temporary rates and charges herein specified;

5. If notice of objection and answer are filed presenting issues for hearing, issues going to the establishment of the fair and reasonable temporary rates and charges herein shall be limited to those specifically raised by such answers except as otherwise provided in 14 CFR 302.207; and

6. This order shall be served upon the Postmaster General and Air Midwest, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-6430 Filed 3-2-77;8:45 am]

[3] This does not affect any retroactive adjustments that the carrier may be entitled to as a Part 298 operator.

[Docket 28958]

CONTINENTAL AIR LINES, INC. AND CONTINENTAL AIRCRAFT SERVICES, INC.

Proposed Approval

In the matter of application of Continental Air Lines, Inc., and Continental Aircraft Services, Inc., for approval of a control relationship pursuant to section 408 of the Federal Aviation Act of 1958, as amended, Docket 28958.

Notice is hereby given, pursuant to statutory requirements of section 408(b) of the Federal Aviation Act of 1958, as amended, the Civil Aeronautics Board intends to issue the attached order. Interested persons are hereby afforded until March 11, 1977, within which to file comments or request a hearing with respect to the action proposed in the order.

Dated at Washington, D.C., February 28, 1977.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-6432 Filed 3-2-77;8:45 am]

ORDER OF APPROVAL

By joint application Continental Air Lines, Inc. (Continental) and Continental Aircraft Services, Inc. (CASI) request that the Board approve the control of CASI by Continental without a hearing, pursuant to the third proviso of section 408(b) of the Federal Aviation Act of 1958, as amended (the Act).

Continental is a certificated route air carrier. CASI is a wholly owned subsidiary of Continental formed to act as an agent for First National City Bank (Citibank) in disposing of various aircraft owned by Citibank and other financial institutions. CASI has entered into an Aircraft Remarketing Agreement (Remarketing Agreement) with Citibank whereby CASI will, in connection with the disposition of aircraft:

> Furnish or contract for technical advice as to the condition and market value of the aircraft, storage facilities, maintenance and modification advice, spares, facilities for repairing, overhauling or modifying such aircraft, qualified personnel to seek out and negotiate with potential purchasers or lessees of such aircraft, crews for demonstration, for ferrying flights or other purposes, flight training facilities for use by prospective buyers or lessees of the aircraft, worldwide communication facilities and other skills and facilities useful in the disposition of such aircraft.

Citibank will also be appointed the owner's agent to act on behalf of the owners in accordance with Citibank's Remarketing Agreement with CASI. CASI in turn will receive from Citibank an Adherence Agreement which serves as authorization to CASI for disposition of the aircraft.

In support of its application, Continental submits that the establishment of CASI is in the public interest; that CASI will be meeting the needs of the airline industry by disposing of used aircraft to smaller air carriers who cannot afford new aircraft, thereby freeing the capital of the major carriers for investment in new, more economical aircraft; and that CASI will not divert the attention of management from the airlines.[1] According to the terms of the Remarketing Agreement, CASI will be funded by a yearly retainer from Citibank which will be recouped by receipt of a percentage of a Service Fee received by CASI from the sale or lease of aircraft. This method of funding is intended to require a minimal outlay of funds by Continental. Continental contends that CASI will provide it with diversification in a related field with minimal financial burden on Continental's performance as an airline. Further, Continental contends that the formation of CASI will not create a monopoly or restrain competition. The applicants state that CASI was one of twenty-five competitors considered by

[1] CASI will be managed by Mr. S. Robert Wyzenbeek who has been directing Continental's own aircraft disposal program. None of the remaining 10 employees of CASI are involved in the operations of the carrier.

Citibank for the remarketing of the aircraft; and that all major aircraft manufacturers, every major airline, and from 12 to 40 independent brokers and companies are at any one time in the business of selling used aircraft.

Continental pledges to provide any necessary support to CASI and generally to insure that it is maintained and controlled to fully perform its obligations for the term of the Remarketing Agreement.

As to any interlocking relationships that will result from the control of CASI by Continental, the applicants submit that such relationships would, if requested 408 approval is granted, fall within the exemption from and approval under section 409 of the Act provided by Part 287 of the Board's Economic Regulations.

No comments or requests for a hearing have been received.

Upon consideration of the foregoing and all relevant facts, the Board concludes that CASI is a person engaged in a phase of aeronautics within the meaning of section 408 of the Act by virtue of its proposed activities of leasing and selling of used aircraft and related equipment; and that the organization and establishment of CASI by Continental constitutes the acquisition of control by an air carrier of a person engaged in a phase of aeronautics within the meaning of section 408 of the Act.

In The Flying Tiger Corporation and Tiger Leasing Corporation, Order 71–6–106, June 21, 1971, the Board held that diversification into aircraft leasing by an air carrier is justifiable as long as it does not "impair the financial strength and management of the carrier." [2] With the commitment of just one corporate officer and the minimal outlay of funds, Continental has made sufficient showing that the staffing and funding of CASI will not result in such impairment. Furthermore, based on the number of competitors in the sale and lease of used aircraft it seems doubtful that this control relationship will tend to restrain competition or create a monopoly.

On the basis of all of the facts of record, the Board finds that this control relationship will not affect the control of an air carrier directly engaged in air transportation nor will it result in creating a monopoly or monopolies and thereby restrain competition. Further, the Board finds that this control relationship will not be inconsistent with the public interest or fail to fulfill the conditions of section 408 of the Act. No person disclosing a substantial interest in this proceeding is presently requesting a hearing.

To the extent that interlocking relationships resulting from control of CASI by Continental may be subject to section 409 of the Act, they appear to fall within the exemption from and approval under section 409 of the Act afforded by Part 287 of the Board's Economic Regulations.[3]

Based on the evidence presented herein, the Board concludes that it should approve, without a hearing under the third proviso of section 408(b) of the Act, the control of CASI by Continental.[4]

Accordingly, it is ordered, That the control of Continental Aircraft Services, Inc., by Continental Air Lines, Inc., be and it hereby is approved pursuant to section 408(b) of the Act.

Jurisdiction in this proceeding be and it hereby is retained for the purpose of amending or revoking the approval granted herein with or without hearing, as the public interest may require.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-6432 Filed 3-2-77;8:45 am]

[Docket No. 29160; Order 77-2-128]

INVESTIGATION OF LOCAL SERVICE CLASS SUBSIDY RATE

Class Rate VIII; Amendment One to Order 76–12–159

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 28th day of February, 1977.

On December 30, 1976, the Board adopted Order 76–12–159, which established Class Rate VIII as the fair and reasonable final subsidy rate for the local service carriers (Locals) on and after July 1, 1976.[1] Sections IV.C. and VII.B. of the Rate Formula set forth in Order 76–12–159 provide for the concurrent review of ineligible and eligible services on a six-month moving basis for annual periods ending in March and September of each year.

The carriers have submitted the data required for the review of both eligible and ineligible services for the year ended September 30, 1976, in the form and detail specified in Sections IV.C.7 and VII.B.10. Such data have been reviewed in detail and adjustments have been made in accordance with established subsidy ratemaking principles.

Adjusted operating results, adjusted investment, calculations of ineligible and charter profits to be shared and net formula provision changes are contained in the attached appendices.

Three of the Locals—Frontier, Ozark, and Texas International—achieved excess profits on their ineligible services. All three carriers showed improvement in the level of their ineligible profit offset; Frontier's offset increased by nearly fifty percent from the base period, while both Ozark and Texas International had sizable ineligible offsets during the review period, whereas they had none during the base period. However, none of the Locals realized a charter profit offset during this review period, althougth two carriers—Hughes Airwest and Texas International—achieved such an offset during the base period.

Four carriers showed an improvement in their eligible fleed during the review period in relation to the base period. These carriers—Frontier, Ozark, Piedmont, and Texas International—had improvements ranging from approximately two percent for Frontier to slightly less than thirty-one percent for Texas International. Conversely, three carriers registered a deficiency for the review period in comparison with the base period, with the deficiencies ranging from just under one percent for Southern to approximately five percent for North Central. For this review period, Frontier was the median carrier in terms of the change in the net formula provision. Therefore, the net formula provision for each of the Locals will be reduced by the percentage of Frontier's improvement, 1.68%.

The level of the computed subsidy for this review period is $68.8 million, a reduction of $4.9 million from the rate established in the base period of Class Rate VIII by Orders 76–11–12 and 76–12–159. This reduction in the subsidy level is primarily the result of much larger profit offsets from ineligible operations, with the 1.68% median reduction in each carrier's net formula provision also a factor.

Based on the attached adjusted operating results and adjusted investment for the year ended September 30, 1976, we find and conclude that the fair and reasonable annual subsidy due and payable to the seven carriers in Class Rate VIII, on and after January 1, 1977, is $68.8 million. In addition, it is necessary to provide that the subsidy due and payable to each carrier on and after January 1, 1977, shall be computed on the basis of the daily subsidy rate set forth for each carrier in amended Appendix K attached to this order.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and particularly sections 204(a) and 406 thereof, and the regulations promulgated in 14 CFR Part 302,

It is ordered, That: [5] (1) Effective on and after January 1, 1977, attached Appendices A, B, C, E, K, and L [6] supersede

[2] Also see Flying Tiger Corporation, *et al.*, Order 71-9-112, September 29, 1971; and Capital International Airways, Inc., *et al.*, Order E-25854, October 19, 1967.

[3] Under the terms of the Covenants of Parent, Continental pledges to insure that a majority of the CASI Board of Directors are also officers of Continental.

[4] Notice of intent to dispose of the application without hearing has been published in the FEDERAL REGISTER, and a copy of such notice has been furnished by the Board to the Attorney General, not later than the day following such publication, both in accordance with the requirements of section 408 (b) of the Act.

[1] In Order 76–11–12, issued November 4, 1976, the Board determined an adjusted subsidy level for each carrier, and proposed a formula for equitable distribution of the subsidy payments among the seven local service carriers in Class Rate VIII. Except as modified therein, Order 76–12–159 reaffirmed and made final all of the findings and conclusions set forth in Order 76–11–12.

[5] This order is not intended to disturb the service mail rates established pursuant to other orders of the Board.

[6] Filed as part of the original.

the corresponding appendices attached to Order 76-11-12, dated November 4, 1976, and affirmed by Order 76-12-159, dated December 30, 1976;

(2) The subsidy due and payable to each carrier on and after January 1, 1977,[4] shall be computed on the basis of the daily subsidy rate set forth for each carrier in amended Appendix K attached to this order;

3. This order shall become effective on the seventh day after service hereof, unless prior to that date exceptions, together with supporting reasons, shall have been filed with the Board by any party to this proceeding. If exceptions and supporting reasons are filed by any party within the prescribed time, the effective date of this order shall be stayed, only for the party or parties filing exceptions, pending further action by the Board; and

4. This order will be served upon all parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[4] The profit offset from ineligible and/or charter services and the change in the net formula provision as determined herein are effective from January 1, 1977 through June 30, 1977.

Local Service Class Subsidy Rate
Computation of Excess Ineligible* Profit, Excess Charter Profit
And Six-Month Subsidy Rate Effective January 1, 1977
$(000)

	Frontier	Hughes Airwest	North Central	Ozark	Piedmont	Southern	Texas International	Industry Total
System								
Adjusted Operating Profit or (Loss) 1/ - Appendix B	9,785	(1,772)	(1,434)	5,283	981	589	(1,533)	11,893
Return - Appendix C	9,687	6,751	12,164	8,806	9,790	6,371	3,469	57,038
Taxes - Federal - Appendix C	7,165	2,962	6,819	4,721	4,118	3,477	-	29,262
Taxes - State - Appendix C	404	343	241	380	77	286	13	1,744
System (Need)	(7,471)	(11,828)	(20,658)	(8,624)	(13,004)	(9,545)	(5,015)	(76,145)
Ineligible[4]								
Adjusted Operating Profit or (Loss) 1/ - Appendix B	22,403	5,593	7,975	12,899	7,962	3,960	3,774	64,566
Return - Appendix C	6,925	5,082	8,533	6,690	7,386	4,821	2,661	42,118
Taxes - Federal - Appendix C	5,121	2,227	4,792	3,642	3,283	2,681	-	21,746
Taxes - State - Appendix C	289	258	169	293	61	221	11	1,302
Adjusted Operating Profit 1/ in Excess of Full Return and Taxes	10,068	(1,974)	(5,539)	2,274	(2,768)	(3,763)	1,102	(600)
Charter								
Adjusted Operating Profit or (Loss) 1/ - Appendix B	(2)	256	(752)	(299)	38	60	4	(695)
Return - Appendix C	2	268	512	371	172	399	90	1,814
Taxes - Federal - Appendix C	2	123	285	202	77	231	-	920
Taxes - State - Appendix C	-	14	10	16	2	19	-	61
Adjusted Operating Profit 1/ in Excess of Full Return and Taxes	(6)	(149)	(1,539)	(888)	(213)	(589)	(86)	(3,490)

Appendix K
Amended
Page 1 of 2
(First Review)

Local Service Class Subsidy Rate
Computation of Excess Ineligible* Profit, Excess Charter Profit
And Six-Month Subsidy Rate Effective January 1, 1977
$(000)

	Frontier	Hughes Airwest	North Central	Ozark	Piedmont	Southern	Texas International	Industry Total
Eligible								
Adjusted Operating Profit or (Loss) 1/ - Appendix B	(12,616)	(7,621)	(8,657)	(7,317)	(7,019)	(3,431)	(5,311)	(51,972)
Return - Appendix C	2,760	1,401	3,099	1,745	2,232	1,151	718	13,106
Taxes - Federal - Appendix C	2,042	612	1,742	877	758	565	-	6,596
Taxes - State - Appendix C	115	71	62	71	14	46	2	381
Adjusted Eligible Need	17,533	9,705	13,560	10,010	10,023	5,193	6,031	72,055
Base Year Adjusted Net Formula Provision	16,201	8,894	11,288	9,843	10,373	4,748	8,541	69,888
Adjusted Eligible Need Less Federal Tax - YE 9/30/76 2/ 5/	15,929	9,069	11,908	8,812	9,151	4,786	5,904	65,561
Improvement/Deficiency	272	(175)	(620)	1,031	1,220	(38)	2,637	4,327
% Change in Adjusted Eligible Need Less Federal Tax 2/ 3/	1.68	(1.97)	(5.49)	10.47	11.76	(0.80)	30.87	6.19
Recognized Improvement/Deficiency Based on Median % Change 2/	272	149	190	165	174	80	143	1,173
Subsidy Calculation								
Base Year Adjusted Net Formula Provision After Federal Tax	18,232	9,509	13,026	10,695	11,236	5,204	8,541	76,443
Plus or Minus Recognized Improvement/ Deficiency Based on Median % Change 2/	(272)	(149)	(190)	(165)	(174)	(80)	(143)	(1,173)
Less 50% of Ineligible* Profits	(5,034)	-	-	(1,137)	-	-	(551)	(6,722)
Less 50% of Charter Profits	-	-	-	-	-	-	-	-
Computed Six-Month Subsidy Rate 4/	12,926	9,360	12,836	9,393	11,062	5,124	7,847	68,548

1/ Reported Operating Profit or (Loss) after subsidy ratemaking adjustments. For detailed adjustments, see Appendix B.
2/ Applies to six-month reviews only.
3/ As compared to base year adjusted net formula provision after the elimination of ad hoc adjustments relating to suspensions or deletions effective on or before the last day of the applicable review period.
4/ The rate for Hughes Airwest is $9,589,000 while this carrier continues to serve Crescent City.
5/ (Adjusted Eligible Need - Federal Taxes) times Net Formula Provision % of Subsidy Need from Appendix J, page 2 of 2.

* Consists of hub-to-hub operations and certificate ineligible operations.

Appendix A
Amended
Page 2 of 2
(First Review)

Local Service Class Subsidy Rate
Computation of System Operating Profit or (Loss)
Year Ended September 30, 1976 1/
$(000)

System Operations	Frontier	Hughes Airwest	North Central	Ozark	Piedmont	Southern	Texas International	Industry Total
Reported Operating Profit or (Loss) 2/	5,855	(3,012)	(1,673)	4,112	(998)	(344)	(3,864)	78
Adjustments:								
Conformance with Form 41 Reports 3/	(1)	-	-	-	-	-	197	196
Mutual Aid Payments 4/	1,212	893	874	658	1,157	-	678	5,472
Excess Salary Expense 5/	469	172	217	94	243	119	107	1,421
Excess Legal Fees 6/	305	234	206	125	64	140	399	1,473
Developmental and Pre-Operating Amort. 7/	-	-	-	-	-	-	-	-
Non-Operating Income Offset 8/	1,285	461	354	594	333	570	759	4,356
Net Strike Revenues 9/	(278)	(140)	(432)	(55)	-	-	(8)	(913)
Other Misc. Ratemaking Adjustments 10/	169	216	205	182	363	127	138	1,200
Depreciation Adjustment 11/	681	(616)	(1,187)	(674)	19	(29)	-	(1,806)
Commuter Support Payments 12/	-	-	-	-	-	6	-	6
Economic Savings Adjustment 13/	68	20	-	267	-	-	61	416
Adjusted Operating Profit or (Loss)	9,785	(3,772)	(3,434)	5,283	981	589	(1,533)	11,899

Appendix B
Revised
Page 1 of 6
(First Review)

LOCAL SERVICE CLASS SUBSIDY RATE COMPUTATION OF OPERATING PROFIT OR (LOSS), YEAR ENDED SEPTEMBER 30, 1976

EXPLANATORY NOTES

[1] Based on special reports to the Board reflecting the results of operations for the year ended September 30, 1976.

[2] Each carrier submitted financial and traffic data allocated to eligible operations, ineligible operations, charter operations, and system operations.

[3] Adjustment has been made to the reported results to reconcile differences between that data and Form 41 data. An adjustment has also been made to the reported data for each type of service after verification of the prescribed allocation procedures.

[4] Six of the seven local service carriers belong to the mutual aid pact. During the reporting period, $5,472,000 of mutual aid payments were made by this group to struck carriers. The amounts were allocated to ineligible and eligible services based on the ratio of each service's revenue (less other revenue) plus each service's expense compared to the total of system revenue (less other revenue) plus system expense, exclusive of charter.

[5] To eliminate officers' salaries in excess of $50,000 for the chief executive officer and $35,000 for all others on an annual basis. Amounts were based on data for the year ended December 31, 1975. The allocation to eligible, ineligible, or charter services is based on the ratio that each carrier's eligible, ineligible, or charter operating cash costs (excluding general and administrative expenses) bear to the system operating cash costs (excluding general and administrative expenses).

[6] Legal expenses charged to account 6840, Legal Fees and Expenses, in excess of the $70,000 maximum limit, have been eliminated. The amounts were allocated to eligible, ineligible, or charter services based on the ratio as discussed in Footnote 5 above.

[7] To reflect the difference between the recognized amortization of developmental and pre-operating expenses in eligible, ineligible, and charter services and the amounts reported by the carriers in their special reports to the Board. Some of these expenses are directly assignable to the various types of service, while others, not directly assignable, are allocated on an applicable unit rate basis. Aircraft pre-operating costs are allocated on the basis of revenue hours, by aircraft type. Amortization of expenses related to reservation systems is allocated on the basis of passenger enplanements, excluding charter. All other allocable expenses are allocated on an appropriate operating statistic as closely related as possible to the type of expense involved.

[8] Unapplied cash discounts, interest income, dividend income, miscellaneous credits, and income from subsidiaries and nontransport ventures in excess of a 12.35 percent return plus applicable taxes have been offset against the break-even need for all carriers. The allocation to eligible, ineligible, or charter services was made on the basis as set forth in Footnote 4 above, but including charter.

[9] This adjustment excludes the net reporting revenues underlying the computations for the "windfall" payments under the Mutual Aid Agreement which are determined to be atypical to the carriers' financial base for determining the prospective needs of the carriers. The allocation to eligible or ineligible services was made on the basis as set forth in Footnote 4 above.

[10] These items include, but are not limited to, contributions, financing expenses, liquor, and entertainment. The total industry disallowance was allocated to each carrier based on the industry expense. The eligible, ineligible, or charter allocation is based on the ratio each carrier's eligible, ineligible, or charter operating expense bears to its system expense. The industry disallowances are based on the same level as in Class Rate VII. The same disallowances will be used pending an audit that is now in progress. As soon as the results of the present audit are available, the updated data will be used to compute the miscellaneous disallowances.

[11] This adjustment eliminates any differences between reported and regulatory depreciation expense for each aircraft type. The amount of depreciation expense reported which is above or below the regulatory amount for each aircraft type is allocated to each type of service in the same proportion as the aircraft types were utilized in each of the services (by revenue aircraft hour). The equity base is adjusted to reflect the change in opertating expense.

[12] This adjustment eliminates payments to a replacement carrier serving Natchez, Mississippi. The allocation was made on the basis as set forth in Footnote 4 above.

[13] The economic savings adjustment reflects the changes in the need in a specific service resulting from a suspension or deletion of a point by a carrier.

Local Service Class Subsidy Rate
Computation of Eligible Operating Profit or (Loss)
Year Ended September 30, 1976 1/
$(000)

Eligible Operations	Frontier	Hughes Airwest	North Central	Ozark	Piedmont	Southern	Texas International	Industry Total
Reported Operating Profit or (Loss) 2/	(13,824)	(7,936)	(8,762)	(8,025)	(7,548)	(3,686)	(6,004)	(55,785)
Adjustments:								
Conformance with Form 41 Reports 3/	-	4	(85)	157	-	(5)	15	86
Mutual Aid Payments 4/	402	203	272	153	324	-	199	1,553
Excess Salary Expense 5/	176	42	71	24	73	33	32	461
Excess Legal Fees 6/	115	57	67	32	19	39	121	450
Developmental and Pre-Operating Amort. 7/	-	30	(1)	13	2	8	7	44
Non-Operating Income Offset 8/	426	104	107	134	92	150	217	1,230
Net Strike Revenues 9/	(92)	(32)	(134)	(13)	-	-	(2)	(273)
Other Misc. Ratemaking Adjustments 10/	71	52	67	42	49	35	43	359
Depreciation Adjustment 11/	42	(145)	(259)	(101)	(35)	(7)	-	(505)
Commuter Support Payments 12/	-	-	-	-	-	2	-	2
Economic Savings Adjustment 13/	68	20	-	267	-	-	61	416
Adjusted Operating Profit or (Loss)	(12,616)	(7,621)	(8,657)	(7,317)	(7,019)	(3,431)	(5,311)	(51,972)

Note: The Footnotes in this Table are identical to those shown in Appendix B, Pages 2 and 3.

Appendix B
Revised
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(Third Review)

Local Service Class Subsidy Rate
Computation of Ineligible* Operating Profit or (Loss)
Year Ended September 30, 1976 1/
$(000)

Ineligible Operations*	Frontier	Hughes Airwest	North Central	Ozark	Piedmont	Southern	Texas International	Industry Total
Reported Operating Profit or (Loss) 2/	19,681	4,676	8,002	12,428	6,523	3,369	2,308	56,987
Adjustments:								
Conformance with Form 41 Reports 3/	(1)	(10)	(99)	(155)	-	-	52	(213)
Mutual Aid Payments 4/	810	690	602	505	833	-	479	3,919
Excess Salary Expense 5/	293	128	140	67	167	78	72	945
Excess Legal Fees 6/	190	174	133	89	44	91	266	987
Developmental and Pre-Operating Amort. 7/	-	(3)	(3)	(13)	(7)	(30)	(8)	(64)
Non-Operating Income Offset 8/	859	351	237	442	237	380	520	3,026
Net Strike Revenues 9/	(186)	(108)	(298)	(42)	-	-	(6)	(640)
Other Misc. Ratemaking Adjustments 10/	118	161	132	115	112	83	91	812
Depreciation Adjustment 11/	639	(466)	(871)	(537)	53	(15)	-	(1,197)
Commuter Support Payments 12/	-	-	-	-	-	4	-	4
Economic Savings Adjustment 13/	-	-	-	-	-	-	-	-
Adjusted Operating Profit or (Loss)	22,403	5,593	7,975	12,899	7,962	3,950	3,774	64,566

Note: The Footnotes in this Table are identical to those shown in Appendix B, Pages 2 and 3.

* Consists of hub-to-hub operations and certificate ineligible operations.

Appendix B
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(First Review)

Local Service Class Subsidy Rate
Computation of Charter Operating Profit or (Loss)
Year Ended September 30, 1976 1/
$(000)

Charter Operations	Frontier	Hughes Airwest	North Central	Ozark	Piedmont	Southern	Texas International	Industry Total
Reported Operating Profit or (Loss) 2/	(2)	248	(911)	(293)	27	(27)	(168)	(1,124)
Adjustments:								
Conformance with Form 41 Reports 3/	-	6	184	(2)	-	5	130	321
Mutual Aid Payments 4/	-	-	-	-	-	-	-	-
Excess Salary Expense 5/	-	2	6	3	3	8	3	25
Excess Legal Fees 6/	-	3	6	4	1	10	12	36
Developmental and Pre-Operating Amort. 7/	-	(7)	4	-	-	22	1	20
Non-Operating Income Offset 8/	-	6	10	18	4	40	22	100
Net Strike Revenues 9/	-	-	-	-	-	-	-	-
Other Misc. Ratemaking Adjustments 10/	-	3	6	5	2	9	4	29
Depreciation Adjustment 11/	-	(5)	(57)	(36)	1	(7)	-	(104)
Commuter Support Payments 12/	-	-	-	-	-	-	-	-
Economic Savings Adjustment 13/	-	-	-	-	-	-	-	-
Adjusted Operating Profit or (Loss)	(2)	256	(752)	(299)	39	60	4	(695)

Note: The Footnotes in this Table are identical to those shown in Appendix B, Pages 2 and 3.

Appendix B
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(First Review)

Local Service Class Subsidy Rate
Computation of System Investment, Return and Tax Provision
Year Ended September 30, 1976
$(000)

System Services	Frontier	Hughes Airwest	North Central	Ozark	Piedmont	Southern	Texas International	Industry Total
Investment as Allocated 1/								
Adjusted Average Investment								
Debt	30,386	17,930	49,878	49,886	64,420	31,186	26,326	270,012
Equity	48,057	36,388	47,390	22,238	18,708	12,914	3,901	189,598
Total 2/	78,443	54,318	97,268	72,124	83,128	44,100	30,229	459,610
Developmental and Pre-Operating Adjustment 3/	-	346	1,224	659	121	740	26	3,116
Adjusted Average Investment								
Debt	30,386	18,044	50,505	50,342	64,514	31,709	26,348	271,848
Equity	48,057	36,620	47,987	22,441	18,735	13,131	3,907	190,878
Total	78,443	54,664	98,492	72,781	83,249	44,840	30,255	462,726
Return on Adjusted Investment								
Return on Adjusted Investment	9,687	6,751	12,164	8,806	9,790	5,411	3,469	56,078
Added Risk Return for Leased Aircraft Adjustment 4/	-	-	-	-	-	960	-	960
Adjusted Return	9,687	6,751	12,164	8,806	9,790	6,371	3,469	57,038
Tax Provision								
Federal Taxes 5/	7,165	2,962	6,819	4,721	4,118	3,477	-	29,262
State Taxes 6/	404	343	241	380	77	286	13	1,744
Total Tax Provision	7,569	3,305	7,060	5,101	4,195	3,763	13	31,006

Appendix C
Amended
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LOCAL SERVICE CLASS SUBSIDY RATE COMPUTATION OF INVESTMENT, RETURN AND TAX PROVISION, YEAR ENDED SEPTEMBER 30, 1976

EXPLANATORY NOTES

[1] Adjusted system average (5 quarter weighted) investment (excluding developmental and pre-operating investment) for each carrier is allocated to individual aircraft types on the ratio of each carrier's net flight equipment, adjusted for regulatory depreciation, and to eligible, ineligible, and charter operations based on the ratio that the revenue aircraft hours flown in eligible, ineligible, or charter services bear to the total system aircraft hours. The eligible, ineligible, and charter investment is then allocated to debt and equity on the same ratio as the system adjusted average investment.

[2] The adjustments to investment are as follows:

(a) Current portion of long-term debt. Increases debt portion of investment.

(b) Unamortized discount and expense on debt. Decreases debt portion of investment.

(c) Unamortized capital stock expense. Decreases equity portion of investment.

(d) Investments in subsidiary companies. Excluded from investment on a pro rata basis. (See (1) below.)

(e) Advances to nontransport divisions. Same as (d).

(f) Special funds—other. Same as (d).

(g) Nonoperating property and equipment—net. Same as (d).

(h) Developmental and pre-operating cost. Same as (d).

(i) Property acquisition adjustment. Same as (d).

(j) Other intangibles. Same as (d).

(k) Depreciation Adjustment. Any depreciation adjustment to operating expense will be applied as a direct adjustment to the equity portion of investment using a cumulative five-quarter weighted average.

(l) All pro rata allocations are based on the percentage relationship that debt and equity bear to the total investment after the direct adjustments have been made.

[3] Developmental and pre-operating investment is recognized on an actual basis, adjusted for subsidy purposes, apportioned to eligible, ineligible, and charter services, and allocated to debt and equity as in footnote 1 above.

[4] To reflect recognition of added risks for levels of leased equipment significantly in excess of the industry average; allocated to charter, ineligible and eligible services based on the percentage of revenue aircraft hours flown in each type of service for each of those aircraft types that are leased.

[5] Represents the amount of system federal taxes applicable to eligible, ineligible, and charter services. To compute federal taxes for each service: subtract interest expense from the computed return; multiply the subtotal by the federal tax rate (0.48); eliminate surtax which is allocable on same basis as federal tax derived at 0.48 rate; and then divide by the complement of the federal tax rate (0.52) to arrive at the applicable federal tax.

[6] Represents the amount of system state taxes submitted by the carrier. Allocation to eligible, ineligible, and charter services is made on the basis of the ratio of each service's federal tax to system federal tax.

Local Service Class Subsidy Rate
Computation of Eligible Investment, Return and Tax Provision
Year Ended September 30, 1976
$(000)

Eligible Services	Frontier	Hughes Airwest	North Central	Ozark	Piedmont	Southern	Texas International	Industry Total
Investment as Allocated 1/								
Adjusted Average Investment								
Debt	8,657	3,738	12,666	10,744	17,071	6,477	6,945	66,298
Equity	13,692	7,586	12,034	4,790	4,958	2,682	1,030	46,772
Total 2/	22,349	11,324	24,700	15,534	22,029	9,159	7,975	113,070
Developmental and Pre-Operating Adjustment 3/	-	18	392	73	27	135	-	645
Adjusted Average Investment								
Debt	8,657	3,744	12,867	10,795	17,092	6,572	6,945	66,672
Equity	13,692	7,598	12,226	4,812	4,964	2,722	1,030	47,044
Total	22,349	11,342	25,093	15,607	22,056	9,294	7,975	113,716
Return on Adjusted Investment								
Differentiated Return								
Debt @ 7.25%	628	271	933	783	1,239	477	504	4,835
Equity @ 20%	2,738	1,520	2,445	962	993	544	206	9,408
Total	3,366	1,791	3,378	1,745	2,232	1,021	710	14,243
Percent Return on Adjusted Investment	15.06	15.79	13.46	11.18	10.12	10.98	8.90	12.53
Allowable Return - Minimum of 9% and Maximum of 12.35%	2,760	1,401	3,099	1,745	2,232	1,021	718	12,976
Added Risk Return for Leased Aircraft Adjustment 4/	-	-	-	-	-	130	-	130
Adjusted Return	2,760	1,401	3,099	1,745	2,232	1,151	718	13,106
Tax Provision								
Federal Taxes 5/	2,042	612	1,742	877	758	565	-	6,596
State Taxes 6/	115	71	62	71	14	46	2	381
Total Tax Provision	2,157	683	1,804	948	772	611	2	6,977

NOTE: The footnotes in this table are identical to those shown in Appendix C, pages 2 and 3.

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Amended
Page 4 of 6
(First Review)

Local Service Class Subsidy Rate
Computation of Ineligible* Investment, Return and Tax Provision
Year Ended September 30, 1976
$(000)

Ineligible Services*	Frontier	Hughes Airwest	North Central	Ozark	Piedmont	Southern	Texas International	Industry Total
Investment as Allocated 1/								
Adjusted Average Investment								
Debt	21,723	13,511	35,106	37,075	46,271	22,931	18,742	195,359
Equity	34,357	27,420	33,355	16,528	13,438	9,496	2,779	137,373
Total 2/	56,080	40,931	68,461	53,603	59,709	32,427	21,521	332,732
Developmental and Pre-Operating Adjustment 3/	-	223	796	566	92	591	26	2,294
Adjusted Average Investment								
Debt	21,723	13,584	35,514	37,467	46,343	23,349	18,765	196,745
Equity	34,357	27,570	33,743	16,702	13,458	9,669	2,782	138,281
Total	56,080	41,154	69,257	54,169	59,801	33,018	21,547	335,026
Return on Adjusted Investment								
Return @ 12.35%	6,925	5,082	8,553	6,690	7,386	4,078	2,661	41,375
Added Risk Return for Leased Aircraft Adjustment 4/	-	-	-	-	-	743	-	743
Adjusted Return	6,925	5,082	8,553	6,690	7,386	4,821	2,661	42,118
Tax Provision								
Federal Taxes 5/	5,121	2,227	4,792	3,642	3,283	2,681	-	21,746
State Taxes 6/	289	258	169	293	61	221	11	1,302
Total Tax Provision	5,410	2,485	4,961	3,935	3,344	2,902	11	23,048

NOTE: The footnotes in this table are identical to those shown in Appendix C, pages 2 and 3.

* Consists of hub-to-hub operations and certificate ineligible operations.

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(First Review)

Local Service Class Subsidy Rate
Computation of Charter Investment, Return and Tax Provision
Year Ended September 30, 1976
$(000)

Charter Services	Frontier	Hughes Airwest	North Central	Ozark	Piedmont	Southern	Texas International	Industry Total
Investment as Allocated 1/								
Adjusted Average Investment								
Debt	6	681	2,106	2,067	1,077	1,778	638	8,353
Equity	9	1,382	2,001	921	313	736	94	5,456
Total 2/	15	2,063	4,107	2,988	1,390	2,514	732	13,809
Developmental and Pre-Operating Adjustment 3/	-	106	35	20	2	14	-	177
Adjusted Average Investment								
Debt	6	716	2,124	2,081	1,079	1,788	638	8,432
Equity	9	1,453	2,018	927	313	740	94	5,554
Total	15	2,169	4,142	3,008	1,392	2,528	732	13,986
Return on Adjusted Investment								
Return @ 12.35%	2	269	512	371	172	312	90	1,727
Added Risk Return for Leased Aircraft Adjustment 4/	-	-	-	-	-	87	-	87
Adjusted Return	2	268	512	371	172	399	90	1,814
Tax Provision								
Federal Taxes 5/	2	123	285	202	77	231	-	920
State Taxes 6/	-	14	10	16	2	19	-	61
Total Tax Provision	2	137	295	218	79	250	-	981

NOTE: The footnotes in this table are identical to those shown in Appendix C, pages 2 and 1.

Appendix C Amended Page 6 of 6 (Final Review)

LOCAL SERVICE CLASS SUBSIDY RATE

HYPOTHETICAL APPLICATION OF CLASS RATE VIII—BY CARRIER [1] FOR AN ANNUAL PERIOD—BASED ON YEAR ENDED MARCH 31, 1976

[1] For subsidy-eligible non-hub operations per rate formula provisions.
[2] Appendix E, page 6 of 6, of Order 76-11-12.
[3] Appendix E, page 4 of 6, of Order 76-11-12.
[4] Appendix E, page 5 of 6, of Order 76-11-12.
[5] Appendix E, page 3 of 6, of Order 76-11-12.
[6] Appendix A, page 2 of 2, the median percentage change in adjusted eligible need less Federal tax.
[7] The adjustment for Hughes Airwest is for operations conducted at Crescent City, California. The formula makes no provision for these operations on the assumption that service at this point will be suspended shortly after the effective date of this subsidy rate. This upward adjustment is necessary to provide subsidy payments for operations at Crescent City, and will remain in effect until operations there have been suspended.

Local Service Class Subsidy Rate
Daily Rates by Carrier 1/
Effective January 1, 1977
Class Rate VIII
Rate per Day $'s

Carrier	Eligible Operations: Base Year Adjusted Net Formula Provision Section II, 2/3/	Eligible Operations: Adjusted Net Formula Provision Sections II, VII 2/ 3/ 4/	Eligible Operations: Federal Taxes Section III 3/	Ineligible* Profit Offset Section IV 3/5/	Charter Profit Offset Section IV 3/5/	Total Subsidy Offset 4/
Frontier	44,366.30	43,640.61	5,564.38	13,791.78	-	13,791.78
Hughes Airwest	24,367.12 6/	23,957.75 7/	1,684.93	-	-	-
North Central	30,926.03	30,406.47	4,761.64	-	-	-
Ozark	26,967.12	26,514.07	2,334.25	3,115.07	-	3,115.07
Piedmont	28,419.18	27,941.74	2,364.58	-	-	-
Southern	13,008.22	12,789.68	1,249.32	-	-	-
Texas International	23,400.00	23,006.88	-	1,509.59	-	1,509.59

1/Pursuant to Sections II, III, IV, and VII of the class rate formula.
2/The maximum cumulative subsidy payable under Section II shall be the product of the applicable daily rate times the number of days in the period to date.
3/The number of days shall be determined in accordance with the third and fourth provisos of Section II D 2, of the class rate formula.
4/This daily rate is the base year adjusted net formula provision in column 1 adjusted by the median percentage change computed pursuant to Section VII.
5/For ineligible services, the rates are effective from January 1, 1977 through June 30, 1977.
6/This amount shall be increased by $638.33 per day until Hughes Airwest suspends service at Crescent City.
7/This amount shall be increased by $627.61 per day until Hughes Airwest suspends service at Crescent City.

* Consists of hub-to-hub operations and certificate ineligible operations.

Appendix K Revised (Final Review)

Local Service Class Subsidy Rate
Determination of Profit Offset and Federal Tax Allowance Under CR VIII
Ineligible * and Charter Services
$(000)

Carrier	Adjusted Operating Profit (Loss) 1/	Return and State Tax 2/	Interest Expense 3/	Maximum Federal Tax Provision 4/	Excess Earnings Before Federal Tax	Excess Earnings After Federal Tax	Ineligible* Profit Offset
Ineligible* Services							
Frontier	22,403	7,214	1,356	5,121(A)	15,189	10,068	5,034
Hughes Airwest	5,593	5,340	2,649	2,227(A)	253	(1,974)	-
North Central	7,975	8,722	3,341	4,792(A)	(747)	(5,539)	-
Ozark	12,899	6,983	2,722	3,642(A)	5,916	2,274	1,137
Piedmont	7,962	7,447	3,806	3,283(A)	515	(2,768)	-
Southern	3,960	5,042	1,893	2,681(A)	(1,082)	(3,763)	-
Texas International	3,774	2,672	1,521	1,029(B)	1,102	1,102	551
Charter Services							Charter Profit Offset
Frontier	(2)	2	-	2(A)	(4)	(6)	
Hughes Airwest	256	282	133	123(A)	(26)	(149)	
North Central	(752)	522	201	285(A)	(1,274)	(1,559)	
Ozark	(299)	387	152	202(A)	(686)	(888)	
Piedmont	38	174	89	77(A)	(136)	(213)	
Southern	60	418	147	231(A)	(358)	(589)	
Texas International	4	90	52	35(B)	(86)	(86)	

Appendix C
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1/Reported Operating profit or (loss) after subsidy ratemaking adjustments. For detailed adjustments, see Appendix B.
2/Appendix C.
3/As reported by carrier on Form 41 Reports for the year ended September 30, 1976 and allocated to Ineligible* and charter operations.
4/Indicates maximum Federal Taxes to be provided for Ineligible* and charter services under the rate when a carrier has excess profits subject to offset - after taxes. Amounts suffixed by (A) represent carriers in a current tax status and (B) represent carriers with current tax loss carryforward credits.
* Consists of hub-to-hub operations and certificate ineligible operations.

[FR Doc.77-6428 Filed 3-2-77;8:45 am]

[Docket No. 25218, etc. Order 77-2-123]

PAN AMERICAN WORLD AIRWAYS, INC., ET AL.

Order To Show Cause and Denying Petition

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 24th day of February, 1977.

In the matter of applications of Pan American World Airways, Inc. for amendment of its certificate of public convenience and necessity for Route 136 to name Dallas/Fort Worth, Texas, as an additional coterminal point (Docket 25218); Braniff Airways, Inc. for amendment of its certificate of public convenience and necessity for Route 153 to name Dallas/Fort Worth, Texas, as an additional coterminal point (Docket 29074); Braniff Airways, Inc. for amendment of its certificate of public convenience and necessity for Route 153 to change condition (7) (Docket 26966); Pan American World Airways, Inc. pursuant to section 401(g) of the Federal Aviation Act of 1958, as amended, for suspension of authority of Braniff Airways, Inc., to serve Rio de Janeiro and Sao Paulo, Brazil (Docket 29717).

Braniff Airways has on file two applications to amend its certificate for Route 153. Docket 20974 is an application by Braniff to add Dallas/Fort Worth, Texas, as a coterminal point on segment 1 of Route 153, and Docket 26966 is an application for modification of condition (7) of Route 153 to allow Braniff a choice of intermediate points rather than restricting it to Lima, Peru, on its U.S.-Brazil service.[1] On August 9, 1976, Braniff filed a petition requesting the Board to issue an order to show cause why its certificate for Route 153 should not be amended as requested in its two applications and concurrently filed a motion to consolidate its applications in Docket 29074 and 26966 for the purpose of granting relief by an order to show cause.

In support of its request to add Dallas/Fort Worth as a coterminal point on Route 153, Braniff states, inter alia, that: it now provides single-plane service between Dallas/Fort Worth and Panama City and on-line connections at Miami between Dallas/Fort Worth and South America; even though the individual Dallas/Fort Worth-South American markets are of modest size, Braniff's identity and route support at Dallas/Fort Worth will make it possible to develop further those markets; no other carrier would be significantly harmed;[2] and addition of Dallas/Fort Worth (Braniff's home base and major domestic point) as a coterminal on Route 153 would be consistent with the Board's recent proposed grant of additional domestic coterminals to Trans World Airlines on its transatlantic routes.[3]

The Dallas/Fort Worth Parties[4] filed an answer in support of Braniff's petition to add Dallas/Fort Worth as a coterminal on Route 153. Answers in opposition to Braniff's Dallas/Fort Worth petition were filed by the City of Houston, Texas, and the Houston Chamber of Commerce (Houston) and Pan American World Airways. Houston urges denial of Braniff's request on the grounds that (1) Braniff seeks authority to overfly Houston on its South American services and to concentrate such service through the Dallas/Fort Worth gateway; (2) Braniff has over the long term failed to meet

[1] Braniff is authorized to serve Rio de Janeiro and Sao Paulo, Brazil, as intermediate points on its Route 153 between points in the U.S. (New York, Washington, Miami, New Orleans, Houston, Los Angeles, and San Francisco) and points in Central and South America. Condition (7) of Route 153 requires that all flights serving Rio de Janeiro or Sao Paulo also serve Lima, Peru. By Order 76-6-184, June 29, 1976, the Board granted Braniff an exemption to operate 5 round-trip flights per week between the U.S. and Brazil via a point in Colombia, Ecuador, or Bolivia in lieu of Lima. This exemption authority expires June 29, 1977.

[2] Braniff has proposed to operate two weekly flights between Dallas/Fort Worth and South America in the forecast year 1978 in the *Seattle/Portland-Japan Service Investigation*, Docket 28655, and estimates diversion from Pan American of $93,000 on a projected participation basis.

[3] See Board's decision in the *Transatlantic Route Proceeding*, Docket 25908, Order 77-1-98, p. 50.

[4] The Cities of Dallas and Fort Worth, Texas, the Chambers of Commerce of Dallas and Fort Worth, and the North Texas Commission.

its certificate responsibilities at Houston; and (3) Braniff should be required to provide Houston with adequate South American service pursuant to its existing certificate responsibilities before being granted new and improved Dallas/Fort Worth-South American authority.

In opposing Braniff's petition, Pan American states that the request raises complex and controversial issues which make the utilization of show-cause procedures inappropriate; that both Braniff and Pan American have applications on file with the Board seeking the addition of Dallas/Fort Worth as a coterminal point on their routes between the United States and Central/South America; that the overlapping markets are incapable of supporting two U.S.-flag carriers; and that Braniff's real objective is to resolve a fatal flaw in its case in the *Seattle/Portland-Japan Service Investigation*, wherein Braniff proposed service between Dallas/Fort Worth and South America which it has no authority to operate.

In support of its request for amendment of condition (7) so as to substitute another intermediate point in lieu of Lima on its U.S.-Brazil service, Braniff states, inter alia, that: it does not seek better access to Brazil than that authorized in its certificate, namely, service via an intermediate point; the strength of Lima as a traffic generating point gives Braniff every incentive to continue to operate U.S.-Brazil services via Lima to the extent possible; but for the exemption granted by the Board (see n. 1, supra), Braniff would be unable to serve the U.S.-Brazil market in the manner it believes necessary because the Government of Peru has regularly acted to limit Braniff's access to Lima; and continuing this situation unduly burdens the regulatory process, harms both Braniff and the passengers it serves, and advances no legitimate objective of U.S. air transportation policy.

Pan American filed an answer in opposition to Braniff's request for modification of condition (7) stating that any change in condition (7) would be a fundamental change in the U.S.-Brazil route structure, would cause massive diversion from Pan American,[6] and would permit Braniff to unleash a capacity war in the U.S.-Brazil market; that complex and controversial issues are raised by the request making utilization of show-cause procedures inappropriate; and that service via any of the intermediate points available to Braniff would be considerably less circuitous than service via Lima and, therefore, more likely to divert traffic from Pan American's U.S.-Brazil service.

On August 30, 1976, Pan American petitioned the Board to suspend Braniff's operations to Brazil pursuant to section 401(g) of the Act for a period of five years (Docket 29717).

In support of its petition, Pan American states, inter alia, that: recently there have been severe traffic declines in the U.S.-Brazil market which have resulted from the Brazilian Government's regulation requiring a $1,200 bond for all travel to the United States by Brazilian citizens; continuation of Braniff's service is duplicative and wasteful; suspension of Braniff's services would encourage Braniff to develop the Midwest-South American markets it was certificated to serve and alleviate difficulties the United States and Braniff are experiencing with Peru; and grant of its petition would benefit Pan American's financial position without seriously affecting Braniff, since Braniff's operations to Brazil are small and account for a very minor portion of Braniff's revenues.

Braniff filed an answer to Pan American's petition for suspension, requesting that the Board dismiss the petition and initiate a proceeding to effect a transfer of Pan American's Latin American Division to Braniff. In support of its position, Braniff asserts that the Board had previously stated in a denial of a similar petition by Pan American with respect to Braniff's South American authority that the Board would only consider suspending a carrier's authority when the clearest reasons exist for such an action, and that the reasons cited by Pan American—declining traffic affecting extrasection operations and foreign competition—do not satisfy this criterion; that Braniff's limited traffic and operations are not the cause of Pan American's problems and suspension of its authority would not have the beneficial effect on Pan American which the petitioner expects; that Pan American's Latin American operations are wasteful, sustaining huge losses, and could be more efficiently operated by Braniff; and that for this reason the Board should initiate proceedings aimed at transferring Pan American's Latin American Division to Braniff.

Pan American moved for leave to file an otherwise unauthorized document in reply to Braniff's answer.[8] Pan American asserts that Braniff's request is a frivolous retaliation to Pan American's conscientious petition and that the data presented by Braniff to support its position regarding the comparative operating expenses of Pan American and Braniff are misleading. For these reasons, Pan American requests that the Board dismiss or deny Braniff's request regarding Pan American's Latin American Division.

In addition, on August 31, 1976, Pan American filed a motion to consolidate its petition in Docket 29717 to suspend all of Braniff's authority to Brazil with Braniff's application in Docket 26966 for amendment of its certificate for Route 153 to substitute another intermediate point in lieu of Lima, Peru, on Braniff's United States-Brazil service. Pan American's motion also sought to consolidate Pan American's certificate amendment application in Docket 25218 to add Dallas/Fort Worth to its Route 136 with Braniff's application in Docket 29074 to add Dallas/Fort Worth to Braniff's Route 153. Braniff filed an answer in opposition to Pan American's motions to consolidate.

Upon consideration of the pleadings and all the relevant facts, we have decided to issue an order to show cause why (1) Braniff's certificate for Route 153 should not be amended to add Dallas/Fort Worth as a coterminal on segment 1 and to permit Braniff to provide one-stop United States-Brazil service via any intermediate point south of Panama including Lima, and (2) Pan American's certificate for Route 136 should not be amended to add Dallas/Fort Worth as a coterminal on segment 1(B)(3)(c)(ii). Moreover, we have decided to deny Pan American's petition for suspension of Braniff's authority at Rio de Janeiro and Sao Paulo and Braniff's request for the Board to direct Pan American to enter into negotiations for the transfer of Pan American's Latin American Division to Braniff. Since we have decided for administrative purposes, to handle all four cases in the same order, we will grant Pan American's and Braniff's motions for consolidation.

We tentatively find and conclude that the public convenience and necessity require the amendment of Braniff's and Pan American's certificates so as to add the new coterminal point Dallas/Fort Worth.[7] The facts and circumstances which we have tentatively found to support our proposed ultimate conclusion appear below.

We tentatively find that Dallas/Fort Worth should be designated as a coterminal point for Central/South American service. At the present time, Pan American has no access to Dallas/Fort Worth on its Central/South American route; while Braniff must serve another United States point as a gateway to its Central/South American route on flights from Dallas/Fort Worth. In light of the fact that both carriers presently have stations and identities at Dallas/Fort Worth, addition of that point as a new coterminal will add scheduling flexibility and opportunities to develop the South American markets, adding service incrementally as traffic develops. Dallas/Fort Worth will be served as part of the route system of both carriers and not in isolation, so than its independent traffic characteristics do not alone determine its potential for supporting nonstop services or other necessary single-plane operations. Service would be provided by integrating traffic flows in several markets on the same flight, making use of intermediate traffic support. In the final

[6] Pan American maintains that grant would give Braniff improved authority in ten markets directly competitive with Pan American—Panama-Rio de Janerio/Sao Paulo, Miami-Rio de Janerio/Sao Paulo, New York-Rio de Janerio/Sao Paulo, Los Angeles-Rio de Janerio/Soa Paulo, and San Francisco-Rio de Janerio/Sao Paulo.

[8] We will grant the motion.

[7] We also tentatively find that Braniff and Pan American are fit, willing, and able properly to perform the air transportation authorized by the certificates proposed to be issued herein and to conform to the provisions of the Act and the Board's rules, regulations, and requirements thereunder.

analysis, the local traffic generated at Dallas/Fort Worth and its surrounding area represents only a fraction of the South American traffic that can be expected to feed into Dallas/Fort Worth if an appropriate level of direct service is maintained. The impressive development of the Miami gateway after the introduction of direct London service in 1969 lends strong historical support to such a proposal.[8]

Our tentative decision herein would in no way lessen Braniff's certificate obligations with respect to Houston. Service to Houston is mandatory in Braniff's certificate, and only a suspension or deletion of Braniff's authority to serve Houston can relieve that carrier of its certificate responsibilities at that city. Consequently, grant of coterminal status to Dallas/Fort Worth would not relieve Braniff of its certificate obligations at Houston. To the extent that Houston believes that Braniff's services are not satisfactory, there are other, more appropriate forums available to the city to bring this matter to the Board's attention. In any event, we will not deprive Dallas/Fort Worth of an opportunity to be considered for improved authority simply on the basis of contentions that Houston is not receiving an amount of service it considers itself entitled to.

In addition, we tentatively find and conclude that the public convenience and necessity require the amendment of Braniff's certificate so as to modify condition (7) to permit Braniff to provide one-stop United States-Brazil service via any intermediate point south of Panama.[9] The facts and circumstances which we have tentatively found to support our proposed ultimate conclusion appear below.

Braniff's certificate condition regarding service to Brazil was not imposed to limit either capacity or frequency. Indeed, for the first twenty years of operations, Braniff held unrestricted authority at Rio de Janeiro via Havana.[10] It was not until 1966 that the condition was imposed requiring Lima to be served on all Braniff flights between the United States and Brazil. The condition was approved as part of an agreement between Braniff and Pan American for the acquisition by Braniff of Pan American-Grace Airways. The purpose of condition (7) was to protect Pan American over its United States-Brazil nonstop routes. Lima was chosen as a required intermediate point mainly because of its traffic-generating potential. At that time the Board found that the public interest would not be harmed by the limitation since Braniff had always operated its Brazil services via Lima and therefore the action by the Board would be a formalization of a practice Braniff had followed for years. In the *Panagra Acquisition Case*, 45 CAB 495 (1966), Pan American agreed to and supported an initial schedule plan whereby Braniff would operate five round trips weekly between the eastern United States and Brazil. There was no indication that condition (7) would result in any frequency limitations. Had there been such an indication, the Board would not have so readily accepted the proposed restriction.

Against this background, we tentatively decide to authorize Braniff to provide one-stop United States-Brazil service via any intermediate point south of Panama on Route 153 including Lima. The Peruvian Government's limitation on Braniff's Lima operations is tantamount to a certificate restriction on frequency of Brazilian service. For almost thirty years Braniff has had no restrictions on the number of flights it may operate to Brazil. However, factors outside the control of the U.S.-flag carrier have eliminated Lima as a possible intermediate on more than two weekly flights. Braniff is thus deprived of the support of Lima traffic for its Latin American operations and is unable to provide that effective competition to the Pan American system which was a major purpose in authorizing Braniff to operate in Latin America. The long-term objectives of the route, in our opinion, should not be sacrificed because of temporary inability to operate the service in its entirety. Consequently, we find that Braniff should be authorized by show-cause procedures to provide one-stop United States-Brazil service via Lima or an intermediate point south of Panama. By allowing Braniff to substitute only a point south of Panama, Braniff's one-stop restriction in the United States-Brazil market will be retained and there will be no meaningful change in the competitive relationship between Pan American and Braniff in the United States-Brazil market. Moreover, Braniff's commercial incentive would be to operate all permissible flights into Lima since that point generates substantially more traffic than other possible intermediate points in South America, but the carrier is unable to do so by reason of the restrictions imposed by the Government of Peru.

Further, we have carefully considered the possible impact of the recently enacted Brazilian decree which requires its citizens to post a $1,200 bond before leaving the country. We do not doubt that the decree has in fact depressed traffic in the United States-Brazil market. In contrast to the Peruvian situation, the Brazilian travel decree has absolutely no effect on the operational authority of any air carrier. It is a government policy which has clearly reduced air traffic but whose impact is felt by all carriers serving Brazil. Sharp downturns in demand are not unknown to the airline industry. In such situations, the remedy is in the carrier's own hands, i.e., a reduction of capacity. That, in fact, is currently the solution being pursued by both carriers. Braniff states that it has reduced its services to two round trips per week via Lima, and Pan American indicates that most of its extra sections have been canceled. The Board is confident of both carriers' ability to adjust capacity downward in light of substantially decreased demand. We believe that it is in the public interest to give both carriers equal flexibility to increase capacities if market conditions so warrant in the future.

In view of the foregoing, we have decided to deny the petition of Pan American for suspension of Braniff's services at Rio de Janeiro and Sao Paulo. Furthermore, we will deny the request of Braniff for the Board to direct Pan American to enter into negotiations for the transfer of Pan American's Latin American Division to Braniff.

When the Board considered similar petitions for suspension of Braniff's Latin American certificate in 1948 it stated its view that ". . . proceedings for suspension or amendment of such certificate so as to withdraw substantially the rights conferred thereby should be undertaken only when the clearest reasons exist for such proceedings." [11] We continue to hold to this conclusion and find that Pan American has not presented evidence warranting institution of any such proceeding with respect to Braniff's Latin American authority. In this regard, we note that Pan American has itself indicated that Braniff's operations to Brazil are limited in terms of both flights and traffic and we believe that the logical conclusion to be drawn is that suspension of Braniff's operating authority would only minimally better Pan American's position. In short, Pan American has presented no facts that would warrant the extreme action it requests.

With respect to Braniff's request for Board action to initiate the transfer of Pan American's Latin American Division to Braniff, we find that such a request cannot be granted on the basis of the evidence presented, and must be denied.

In view of our tentative findings and conclusions herein, we will require Pan American and Braniff to file the information set forth in Part 312 within 30 days of the date of adoption of this order. This will enable us to decide what, if any, environmental effects will result from grant of the authority proposed herein. Moreover, we will expect Braniff

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[8] Neither Braniff nor Pan American proposes immediate additional service in the Dallas/Fort Worth-South American markets.

[9] In support of its application, Braniff included in Appendix C thereto information from the Board's International Origin-Destination Survey of Airline Passenger Traffic, general public disclosure of which is prohibited by section 399.100 of the Board's Regulations. Braniff filed a motion to withhold Appendix C from public disclosure. The motion is unopposed. We will grant the motion. In our judgment, a disclosure of the information would adversely affect both Braniff and Pan American and the interest of the United States and is not required in the interest of the public.

[10] Additional Service to Latin America, 6 CAB 857 (1946); Braniff Airways, Inc., Exemption, 14 CAB 327 (1951); Panagra Acquisition Case, 45 CAB 495 (1966); United States-Caribbean-South America Route Investigation, Order 68-11-122 (November 27, 1968).

[11] See Petitions of Pan American-Grace Airways, Inc., et al., 9 CAB 325 (1948).

and Pan American to file with the Board, within 30 days after the adoption of this order, an estimate, with supporting data, of the annual gross transport revenue increase for the first full year of operations to result from the award of Dallas/Fort Worth and other authority proposed herein. This data is necessary for the purpose of computing a license fee pursuant to § 389.25(a)(2) of the Board's regulations.

Interested persons will be given 30 days following the date of this order to show cause why the tentative findings and conclusions set forth herein should not be made final. We expect such persons to support their objections, if any, with detailed answers, specifically setting forth the tentative findings and conclusions to which objection is taken. Such objections should be accompanied by arguments of fact or law and should be supported by legal precedent or detailed economic analysis. If any evidentiary hearing is requested, the objector should state in detail what he would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.

Accordingly, *it is ordered*, that:

1. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein and amending the certificates of public convenience and necessity of Pan American World Airways, Inc., for Route 136 segment 1(B)(3)(c)(ii) and Braniff Airways, Inc., for Route 153 segment 1 so as to add Dallas/Fort Worth, Texas, as a coterminal point;

2. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein and amending the certificate of public convenience and necessity of Braniff Airways, Inc., for Route 153 so as to modify condition (7) to read as follows:

7. Flights serving Rio de Janeiro or Sao Paulo, Brazil, shall also serve an intermediate point south of Panama;

3. Any interested persons having objections to the issuance of an order making final any of the proposed findings, conclusions, or certificate amendments set forth herein shall, within 30 days after the date of this order, file with the Board and serve upon all persons listed in paragraph 12 below, a statement of objections together with a summary of testimony, statistical data, and other evidence expected to be relied upon to support the stated objections; and answers to such objections may be filed 10 days thereafter; [1]

4. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board;

5. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein;

6. The motion to withhold from disclosure and the petition for an order to show cause filed by Braniff Airways, Inc., in Dockets 26966 and 29074, be and they hereby are granted;

7. The petition of Pan American World Airways, Inc., in Docket 29717, for suspension of service by Braniff Airways, Inc., to Rio de Janeiro and Sao Paulo, Brazil, be and it hereby is denied;

8. The request of Braniff Airways, Inc., in Docket 29717, for initiation of proceedings to transfer the Latin American Division of Pan American World Airways, Inc., to Braniff Airways, Inc., be and it hereby is denied;

9. The motion of Pan American World Airways, Inc., in Docket 29717, for leave to file an otherwise unauthorized document be and it hereby is granted;

10. The motion of Braniff Airways, Inc., for consolidation of Dockets 26966 and 29074, and the motion of Pan American World Airways, Inc., for consolidation of Docket 29074 with Docket 25218 and of Docket 26966 with Docket 29717, be and they hereby are granted;

11. Pan American World Airways, Inc., and Braniff Airways, Inc., shall file an environmental evaluation pursuant to section 312.12 of the Board's Procedural Regulations within 30 days of this order; and

12. A copy of this order shall be served upon all air carriers certificated to serve Dallas/Fort Worth; Airlift International; all parties to the Seattle/Portland-Japan Service Investigation; the Governor of Texas; the Texas Aeronautics Commission; Mayor, City of Houston; and the Houston Chamber of Commerce.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-6429 Filed 3-2-77;8:45 am]

[Docket No. 25709; Order 77-2-135]

PHILIPPINE AIR LINES, INC.

Order Disapproving Schedules

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 17th day of February, 1977.

Philippine Air Lines, Inc. (PAL) holds a foreign air carrier permit issued pursuant to Order E-17953, effective January 22, 1962, authorizing the foreign air transportation of persons, property, and mail between the Philippines and San Francisco, California, via Honolulu, Hawaii. There is no Air Transport Services Agreement between the Government of the United States and the Government of the Philippines, inasmuch as notice of termination of the Agreement by the Government of the Philippines was given in March 1959. Following termination of the bilateral, services were continued by the respective carriers pursuant to the principles of comity and reciprocity. However, in August 1974 an Interim Arrangement was entered into between the Government of the United States and the Government of the Philippines providing for frequencies of combination services and certain additional provisions as to all-cargo services.

The Government of the Philippines has issued various licenses to Northwest Airlines, Inc., Pan American World Airways, Inc., and The Flying Tiger Line Inc., authorizing scheduled air services between points in the United States and Manila via specific intermediate points. These authorizations specify the number of frequencies which may be operated. Such frequencies are restricted to the levels of service provided for under the August 1974 Interim Arrangement.

In addition to the specified level of combination frequencies (for Philippine Air Lines, daily DC-10 combination services), the interim arrangement provides an option for PAL to apply to the CAB to operate three weekly all-cargo services with DC-8 series aircraft. It also requires that the Republic of the Philippines "give sympathetic consideration to applications from United States airlines for all-cargo services on authorized routes."

Notwithstanding this provision, and despite objections of the United States Government in December 1974 and March of 1975, and at the consultations held in Manila in October 1976, the Government of the Philippines has failed to act on several requests filed by U.S. carriers to substitute equipment on all-cargo services, to continue the operation of certain all-cargo services which were in operation pursuant to an authorization which had been granted by the Philippine Government prior to the negotiation of the August 1974 Interim Arrangement, and to reinstitute schedules which previously had been terminated by the Philippine Government. Specifically, in November 1974 the Philippine Government denied an application of Pan American World Airways to renew its authority to conduct certain all-cargo flights subject to a restriction on the amount of commercial traffic carried. Objections were made by the United States Government in Notes of December 1974 and March 1975, noting the mutual understanding of the two governments at the August 1974 negotiations, which resulted in the Interim Arrangement, that existing all-cargo rights enjoyed by United States carriers would not be altered. The Philippine Government, nevertheless, refused to renew Pan American's authority with the effect that Pan American's previously existing rights to conduct this service were terminated as of November 15, 1974. A subsequent application of Pan American in May 1975 seeking to reinstate all-cargo service was not acted upon by the Philippine Govern-

[1] All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objectfons, and no further such motions, requests, or petitions for reconsideration of this order will be entertained.

ment, in that it was "deferred for further study." Thus, Pan American has been denied since November 15, 1974, the right to continue its all-cargo service in operation at the time of the August 1974 Interim Arrangement, despite the intent of the 1974 Interim Arrangement that all existing operations of U.S. carriers would be permitted to continue unimpaired, and specifically, that "sympathetic consideration" would be given to other all-cargo applications of U.S. carriers.

Similarly, the Government of the Philippines has refused to permit Flying Tiger to substitute B–747 flight equipment in the operation of its three weekly DC–8 all-cargo frequencies at Manila, despite formal and informal assurances to the Government of the Philippines that the substitution of equipment would not result in an increase in the amount of cargo traffic carried to and from the Philippines over that which could have been accommodated on the then-utilized DC–8 aircraft. An application was filed by Flying Tiger in January 1975 seeking such substitution of B–747 aircraft, and, following a hearing, was "deferred for further study." A further more extensive application was filed in July 1976 and received the same treatment. At consultations held with the Philippines in Manila in October 1976, the United States Government made further representations with respect to the failure of the Philippine Government to grant both the Pan American and Flying Tiger applications in accordance with the provisions of the 1974 Interim Arrangement. Nevertheless, despite a further subsequent application filed by Flying Tiger in October 1976, formally proposing to limit cargo carried to and from the Philippines on its proposed B–747 service to that which could be accommodated on its DC–8 aircraft, and despite the absence of any economic effect whatsoever on the Philippines from this proposed equipment substitution, the Philippine Government to date has taken no action on the application.

The Board by Order 73–7–138, issued pursuant to Part 213 of its Regulations, directed that PAL file with the Civil Aeronautics Board existing schedules of service between the Philippines and the United States and proposed schedules at least 30 days prior to the inauguration of such schedules. PAL, by letter application dated January 25, 1977, seeks Board approval to inaugurate three weekly all-cargo frequencies between the Philippines and the United States, pursuant to the option provided for in the 1974 Interim Arrangement. The new service is proposed for March 1 effectiveness.

In view of the repeated and long-standing instances of denial, inaction, and deferral, as detailed above, it is clear that the Government of the Philippines has failed to give "sympathetic consideration" to U.S. carriers' all-cargo applications in accordance with the terms of the August 1974 Interim Arrangement. By such inaction, as well as the denial to Pan American of the right to continue all-cargo services which were being conducted at the time of the negotiation of the August 1974 Interim Arrangement, the Philippine Government has breached the provisions of the 1974 Interim Arrangement insofar as it relates to all-cargo service. By such violations, the Government of the Philippines has, over the objections of the United States Government, impaired the operating rights of U.S. carriers provided for in the Interim Arrangement, and denied U.S. air carriers a fair and equal opportunity to exercise such operating rights. Accordingly, the Board finds that inauguration of PAL's proposed all-cargo service, at a time when the Government of the Philippines continues to withhold approval of schedules proposed by United States carriers, may adversely affect the public interest, and that such proposed schedules should be disapproved. Should the pending all-cargo applications of the U.S. carriers be favorably acted upon subsequent to the issuance of this order, we would, of course, reconsider this action.

Accordingly, it is ordered, That: 1. The schedules filed by PAL dated January 25, 1977, be, and they hereby are disapproved, and shall not be inaugurated, insofar as they provide for three weekly all-cargo frequencies with DC–8 aircraft between the Philippines and the United States;

2. This order shall be submitted to the President [1] and shall become effective on February 27, 1977;

3. This order shall remain in effect until further order of the Board; and

4. This order shall be served on Philippine Air Lines, Inc., and the Ambassador of the Philippines in Washington, D.C.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77–6431 Filed 3–2–77;8:45 am]

COMMISSION ON CIVIL RIGHTS

ARIZONA ADVISORY COMMITTEE

Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the Commission on Civil Rights, that a press conference of the Arizona Advisory Committee (SAC) of the Commission will convene at 9:30 a.m. and end at 10:30 am. on March 17, 1977, at the Northern Arizona University, Flagstaff, Arizona 86001, and will reconvene at 1:30 pm. and end at 2:30 pm. the same date but the press conference will reconvene on the 8th Floor Conference Room, Arizona Capitol Towers, 1800 W. 18th Ave., Phoenix, Arizona 85007.

Persons wishing to attend this open press conference should contact the Committee Chairperson, or the Mountain States Regional Office of the Commission, Executive Tower Inn, Suite 1700, 1405 Curtis Street, Denver, Colorado 80202.

The purpose of this press conference is to release Justice in Flagstaff report.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., February 28, 1977.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.77–6355 Filed 3–2–77;8:45 am]

MASSACHUSETTS ADVISORY COMMITTEE

Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the Commission on Civil Rights, that a planning meeting of the Massachusetts Advisory Committee (SAC) of the Commission will convene at 12:00 noon and end at 2:00 pm. on March 22, 1977, at the Jewish Labor Committee, 27 School Street, Boston, Massachusetts.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this meeting is to receive reports from subcommittees on Affirmative Action and state and local human rights agencies.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 28, 1977.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.77–6356 Filed 3–3–77;8:45 am]

MICHIGAN ADVISORY COMMITTEE

Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Michigan Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and end at 5:00 p.m. on March 25, 1977, at the Oakland Center Faculty and Meadowbrook Room, Oakland University, Rochester, Michigan 48063.

Persons wishing to attend this open meeting should contact the Committee Chairperson or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is to review progress on public works bill revisions; consider possible further action on Native American rights and other old and new business.

[1] This order was submitted to the President on February 17, 1977.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., February 28, 1977.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.77-6357 Filed 3-2-77;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

UNIVERSITY OF CALIFORNIA—LAWRENCE LIVERMORE LABORATORY ET AL.

Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles

The following is a consolidated decision on applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Decision: Applications denied. Applicants have failed to establish that instruments of apparatus of equivalent scientific value to the foreign articles, for such purposes as the foreign articles are intended to be used, are not being manufactured in the United States.

Reasons: Section 301.8 of the Regulations provides in pertinent part:

> The applicant shall on or before the 20th day following the date of such notice, inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article for the same intended purposes to which the denied application relates. The applicant shall then resubmit the new application on or before the 90th day following the date of the notice of denial without prejudice to resubmission, unless an extension of time is granted by the Deputy Assistant Secretary in writing prior to the expiration of the 90 days period * * *. If the applicant fails, within the period applicable time periods specified above, to either (a) inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article to which the denial without prejudice to resubmission relates, or (b) resubmit the new application, the prior denial without prejudice to resubmission shall have the effect of a final decision by the Deputy Assistant Secretary on the application within the context of § 301.11.

The meaning of the subsection is that should an applicant either fail to notify the Deputy Assistant Secretary of its intent to resubmit another application for the same article to which the denial without prejudice relates within the 20 day period, or fails to resubmit a new application within the 90 day period, the prior denial without prejudice to resubmission will have the effect of a final denial of the application.

None of the applicants to which this consolidated decision relates has satisfied the requirements set forth above, therefore, the prior denial without prejudice have the effect of a final decision denying their respective applications.

Subsection 301.8 further provides:

> * * * the Deputy Assistant Secretary shall transmit a summary of the prior denial without prejudice to resubmission, to the FEDERAL REGISTER for publication, to the Commissioner of Customs, and to the applicant.

Each of the prior denials without prejudice to resubmission to which this consolidated decision relates was based on the failure of the respective applicants to submit the required documentation, including a completely executed application form, in sufficient detail to allow the issue of "scientific equivalency" to be determined by the Deputy Assistant Secretary.

Docket Number: 76-00429. Applicant: University of California—Lawrence Livermore Laboratory, P.O. Box 808, Livermore, California 94550. Article: Electron Microscope, Model EM 201C. Date of denial without prejudice to resubmission: October 13, 1976.

Docket Number: 76-00455. Applicant: Oklahoma State University, Department of Geology, 151 Physical Science II Building, Stillwater, OK 74074. Article: Broadband Scintillation Counter, Model BGS-1S. Date of denial without prejudice to resubmission: October 18, 1976.

Docket Number: 76-00551. Applicant: Geophysical Institute, Univ. of Alaska, Fairbanks, Alaska 99701. Article: (1 each) Windmill Generator, Model WVG 50G. Date of denial without prejudice to resubmission: October 28, 1976.

Docket Number: 77-00001. Applicant: World Plan Executive Council—U.S., MIU Press, Box 186, Livingston Manor, New York 12758. Article: Videotape Cassette Player. Date of denial without prejudice to resubmission: October 28, 1976.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-6304 Filed 3-2-77;8:45 am]

Economic Development Administration

COATERIE, INC.

Petition for Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Coaterie, Inc., 512 Seventh Avenue, New York, New York 10018, a producer of women's apparel, was accepted for filing on February 23, 1977, pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of March 14, 1977.

JACK W. OSBURN, Jr.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-6350 Filed 3-2-77;8:45 am]

MINNESOTA WOOLEN CO.

Petition for Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Minnesota Woolen Company, 131 West First Street, Duluth, Minnesota 55802, a producer of apparel, was accepted for filing on February 22, 1977, pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of March 14, 1977.

JACK W. OSBURN, Jr.
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-6351 Filed 3-2-77;8:45 am]

FEDERAL RESERVE SYSTEM

[H.2, 1977 No. 7]

ACTIONS OF THE BOARD

Applications and Reports Received During the Week Ending February 12, 1977

ACTIONS OF THE BOARD

Statement by Governor Philip C. Jackson, Jr., before the Consumer Affairs Subcommittee of the House Committee on Banking, Finance and Urban Affairs on the current status of consumer credit laws.

Regulation Y, notice of proposed rulemaking relating to presumption of continued control of transferred assets and activities; the Board requested comment on its proposal by March 15, 1977.

Implementation of the amendment to the Freedom of Information Act required by the Government in the Sunshine Act.

Request for financial information concerning bank holding companies and their subsidiaries; response sent to Chairman Proxmire, Senate Committee on Banking, Housing and Urban Affairs.

"Wildcard" time deposits, response to request for permission to renew outstanding wildcard time deposits for an additional period of from one to six years.

City National Corporation, Beverly Hills, California, extension of time to March 14, 1978, within which to effect divestiture of shares of Zenith National Insurance Company.[1]

National Central Financial Corporation, Lancaster, Pennsylvania, extension of time to March 8, 1977, within which to consummate acquisition of the mortgage portfolio of Land Mortgages, Inc., Dayton, Ohio.[1]

Central Bank of Montgomery, Montgomery, Alabama, to make an investment in bank premises.[1]

English State Bank, English, Indiana, to make an additional investment in bank premises.[1]

Peoples State Bank of Bloomer, Bloomer, Wisconsin, to make an investment in bank premises.[1]

Capital City State Bank, Wes Moines, Iowa, extension of time to May 6, 1977, within which to establish a branch at 1237 Grand Avenue, West Des Moines, Iowa.[1]

Deregistration pursuant to Regulation G for Browning-Ferris Industries, Inc., Houston, Texas.[1]

Morgan Guaranty International Finance Corporation, New York, New York, extension of time within which to acquire and hold, directly or indirectly, additional shares of Icon Limited, Lagos, Nigeria.[1]

Independent Bankers Trust Company, San Rafael, California, extension of time to April 24, 1977, within which to accomplish admission to membership in Federal Reserve System.[1]

First National Bank of Lapeer, Lapeer, Michigan, proopsed merger with Lapeer Bank, N.A., Lapeer, Michigan, report to the Comptroller of the currency on competitive factors.[1]

Mid Michigan Bank, Gladwin, Michigan, proposed merger with State Bank of Harrison and Gladwin, Gladwin, Michigan, report to the Federal Deposit Insurance Corporation on competitive factors.[1]

Peninsula National Bank, Burlingame, California, proposed acquisition by Central Bank, National Association, Oakland, California, report to the Comptroller of the Currency on competitive factors.[1]

State Bank of Manville, Manville, New Jersey, proposed merger with Somerset Trust Company, Bridgewater Township, New Jersey, report to the Federal Deposit Insurance Corporation on competitive factors.[1]

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

APPROVED

The Community Bank and Trust Company, Verona, Virginia. Branch to be established at 1157 West Main St., Waynesboro.[2]

Liberty State Savings Bank, Liberty Center, Ohio. Branch to be established at 123 West Washington, Napolean, Henry County.[2]

Footnotes at end of document.

Central Trust Company of Canal Winchester, Canal Winchester, Ohio. Branch to be established at 8 South High Street, Canal Winchester, Franklin County.[2]

* * * * *

International Investments and Other Actions Pursuant to Sections 25 and 25 (a) of the Federal Reserve Act and Sections 4(c)(9) and 4(c)(13) of the Bank Holding Company Act of 1956, as amended.

APPROVED

Chase Manhattan Bank N.A.: re—Investment—Amend Application of 03-26-76 re: Shares of Corretora De Seguros Lar Brasileiro, S.A., Brazil.

* * * * *

To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956.

APPROVED

Peoples Bancshares of Schuyler County, Inc., Lancaster, Missouri, for approval to acquire 90.6 per cent of the voting shares of Bank of Lancaster, Lancaster, Missouri.

Quivira Banc Shares, Inc., Hutchinson, Kansas, for approval to acquire 80 per cent or more of the voting shares of The First National Bank of Sterling, Sterling, Kansas.

DENIED

The Berlin City Bank, Berlin, New Hampshire, for approval to retain 50.3 per cent of the voting shares of The White Mountain Trust Company, Gorham, New Hampshire.

Inland Beloit Corporation, Milwaukee, Wisconsin, for approval to acquire 100 per cent of the voting shares of Financial Network Corporation, Beloit, Wisconsin, and Community Holding Corporation, Beloit, Wisconsin, and indirectly acquire 95.4 per cent of the voting shares of The Beloit State Bank, Beloit, Wisconsin, and 75.3 per cent of the voting shares of Community Bank of Beloit, Beloit, Wisconsin.

* * * * *

To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956.

First National Boston Corporation, Boston, Massachusetts, for approval to acquire 100 per cent of the voting shares of the successor by merger to The First National Bank of Yarmouth, Yarmouth, Massachusetts.

The Royal Trust Company, Montreal, Quebec, Canada and Royal Trust Bank Corp., Miami, Florida, for approval to acquire 51 per cent or more of the voting shares of First Bank of Pembroke Pines, Pembroke Pines, Florida.

Westland Banks, Inc., Lakewood, Colorado, for approval to acquire 100 per cent of the voting shares less directors' qualifying shares) of Westland Bank of Lakewood, Lakewood, Colorado, a proposed new bank.

Westland Banks, Inc., Lakewood, Colorado, for approval to acquire 100 per cent of the voting shares less directors' qualifying shares) of Westland National Bank South, Longmont, Colorado, a proposed new bank.

DENIED

Inland Heritage Corporation, Wauwatosa, Wisconsin, for approval of successor by merger to Community Holding Corporation, Beloit, Wisconsin, and indirectly acquire Community Bank of Beloit, Beloit, Wisconsin.

Inland Heritage Corporation, Wauwatosa, Wisconsin, for approval of successor by merger to Financial Network Corporation, Beloit, Wisconsin, and indirectly acquire The Beloit State Bank, Beloit, Wisconsin.

The Jacobus Company, Milwaukee, Wisconsin, for approval of successor by merger to Community Holding Corporation, Beloit, Wisconsin, and indirectly acquire Community Bank of Beloit, Beloit, Wisconsin.

The Jacobus Company, Milwaukee, Wisconsin, for approval of successor by merger to Financial Network Corporation, Beloit, Wisconsin, and indirectly acquired The Beloit State Bank, Beloit, Wisconsin.

* * * * *

To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956.

DELAYED

Citicorp, New York, New York, notification of intent to relocate de novo activities (making of consumer installment personal loans, purchasing consumer installment sales finance contracts; and acting as broker for the sale of credit related life/accident and health insurance and consumer credit related property and casualty insurance; if this proposal is effected, Nationwide Financial Corporation of Nevada will offer to sell insurance as follows: Group credit life/accident and health insurance to cover the outstanding balances of loans to borrowers in the event of their death, or, to make the contractual monthly payments on the loans in the event of the borrowers' disability; individual physical damage insurance on personal property subject to security agreements including liability only when such insurance is sold as part of an insured package on such property; further, in regard to the sale of credit related insurance, Nationwide Financial Corporation of Nevada will not act as a general insurance agency) from 390 N. Virginia Street, Reno, Nevada to 1151 North Rock Boulevard, Sparks, Nevada, through its subsidiary, Nationwide Financial Services Corporation and its subsidiary, Nationwide Financial Corporation of Nevada (2/11/77).[2]

Union Trust Bancorp, Baltimore, Maryland, notification of intent to engage in de novo activities (acting as agent in the sale of insurance protecting collateral held against the extensions of credit) at 135 Caldwell Street, Rock Hill, South Carolina, through a subsidiary, Landmark Finance Corporation of South Carolina (2/7/77).[2]

REACTIVATED

Citicorp, New York, New York, notification of intent to engage in de novo activities (purchasing and servicing for its own account consumer installment sales finance contracts; and will act as broker for the sale of consumer credit related life/accident and health insurance on purchased consumer installment sales finance contracts, said insurance will only be offered when such transactions are the equivalent of direct extensions of consumer credit by the subsidiary; if the proposal is effected, the subsidiary will offer to sell insurance as follows: group credit life/accident and health insurance to cover the outstanding balances on consumer installment sales finance contracts to obligators, singly or jointly, with their spouses or co-signers in the case of life coverage in the event of death, or, make the contractual monthly payments on consumer installment sales finance transactions in the event of the obligators' disability to the extent permissible under applicable State insurance laws

and regulations; further, in regard to the sale of credit related insurance, the subsidiary will not act as a general insurance agency) at 3000 Lynch Extension, Jackson, Mississippi, through its subsidiary, Nationwide Financial Corporation (2/9/77).[3]

Northern States Bancorporation, Inc., Detroit, Michigan, notification of intent to relocate de novo activities (mortgage banking activities by originating residential, commercial and industrial mortgage loans for its own account but principally for sale to others, servicing such loans for others, and acting as an investment or a financial adviser to the extent of serving as the advisory company for a mortgage or real estate investment trust) from 717 S. Grand Traverse Street, Flint, Michigan to G 3306 W. Corunna Road, Flint, Michigan, through its subsidiary, Kelly Mortgage and Investment Company (2/9/77).[3]

PERMITTED

Citicorp, New York, New York, notification of intent to engage in de novo activities (purchasing and servicing for its own account consumer installment sales finance contracts; and will act as broker for the sale of consumer credit related life/accident and health insurance on purchased consumer installment sales finance contracts, said insurance will only be offered when such transactions are the equivalent of direct extensions of consumer credit by the subsidiary; if the proposal is effected, the subsidiary will offer to sell insurance as follows: Group credit life/accident and health insurance to cover the outstanding balances on consumer installment sales finance contracts to obligators, singly or jointly, with their spouses or co-signers in the case of life coverage in the event of death, or, to make the contractual monthly payments on consumer installment sales finance transactions in the event of the obligators' disability to the extent permissible under applicable State insurance laws and regulations; further, in regard to the sale of credit related insurance, the subsidiary will not act as a general insurance agency) at 3000 Lynch Extension, Jackson, Mississippi, through its subsidiary, Nationwide Financial Corporation (2/9/77).[3]

Citicorp, New York, New York, notification of intent to relocate de novo activities (the purchasing and servicing for its own account consumer installment sales finance contracts; and will act as broker for the sale of consumer credit related life/accident and health insurance and consumer credit related property and casualty insurance on purchased consumer installment sales finance contracts, said insurance will only be offered when such transactions are the equivalent of direct extensions of consumer credit by the subsidiary; if this proposal is effected, the subsidiary will offer to sell insurance as follows: Group credit life/accident and health insurance to cover the outstanding balances on consumer installment sales finance contracts to obligators, singly or jointly, with their spouses or co-signers in the case of life coverage in the event of death, or, to make the contractual monthly payments on consumer installment sales finance transactions in the event of the obligators' disability to the extent permissible under applicable State insurance laws and regulations; individual casualty insurance on personal property subject to security agreements) from 11950 Airline Drive, Houston, Texas to 12400 I-45 at Greens Road, Houston, Texas, through its subsidiary, Nationwide Financial Corporation (2/10/77).[3]

See footnotes at end of document.

Fidelity Union Bancorporation, Newark, New Jersey, notification of intent to engage in de novo activities (the business of making loans in the present maximum amount of $5,000.00 or less under the provisions of the Pennsylvania Consumer Discount Company Act; and making available to customers, credit life insurance and disability insurance covering the unpaid balance of loans outstanding) at Valmont Shopping Center, Route 93, West Hazelton, Luzerne County, Pennsylvania, through its subsidiary, Suburban Finance Company and its subsidiary, Sentry Consumer Discount Company (2/11/77).[3]

Pittsburgh National Corporation, Pittsburgh, Pennsylvania, notification of intent to engae in de novo activities (mortgage banking including the making, acquiring, and servicing for its own account or the account or the account of others, loans and other extensions of credit) at Suite 256, Park Elm Office Center, 1451 Elm Hill Pike, Nashville, Tennessee, through its wholly-owned subsidiary, The Kissell Company, Springfield, Ohio (2/6/77).[3]

Financial Services Corporation of the Midwest, Rock Island, Illinois, notification of intent to engage in de novo activities (making or acquiring, for its own account secured and unsecured installment loans and other extensions of credit primarily to individuals and selling participations in but not acting as underwriter, agent, or broker with respect thereto group credit life and credit health and accident insurance coverage directly related to such loans and other extensions of credit) at 821 15th Avenue, East Moline, Illinois, through its subsidiary, F.S.C. Money Shops, Inc. (2/12/77).[3]

To Expand a Bank Holding Company Pursuant to Section 4(c)(12) of the Bank Holding Company Act of 1956.

PERMITTED

Heights Finance Corporation, Peoria, Illinois, notification of intent to acquire all of the outstanding shares of capital stock of Mid America Credit, Inc., a consumer finance corporation with offices in Canton, Havana, Beardstown and Macombe, all in Illinois (2/6/77).[3]

Applications Received

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

The Community Bank, Petersburg, Virginia. Branch to be established at 2618 South Crater Road, Petersburg.

American Bank of Lake Wales, Lake Wales, Florida. Branch to be established at Babson Park, Polk County, Florida, on East side of U.S. Highway 27A at S.E. Corner of Libby Road Intersection.

Genesse Merchants Bank & Trust Company, Flint, Michigan. Branch to be established between 14176 and 14250 Fenton Road, Fenton Township.

Union Bank & Trust Company, Montgomery, Alabama. Branch to be established at 5510 Atlanta Highway, Montgomery.

Seabrook Bank and Trust Company, Seabrook, New Hampshire. Branch to be established on route 1-A, Seabrook Beach.

* * * * *

To Establish an Overseas Branch of a Member Bank Pursuant to Section 25 of the Federal Reserve Act.

Manufacturers Hanover Trust Company: re—Branch—Manila, Philippines.

First National Bank of Maryland: re—Branch—London, England.

* * * * *

To form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956.

Financial Diversified Investment Corporation, Topeka, Kansas, for approval to acquire 98 per cent of the voting shares of The First National Bank of Wetmore, Wetmore, Kansas.

The Horizon Financial Corporation, Burdett, Kansas, for approval to acquire 80.4 per cent of the voting shares of The Burdett State Bank, Burdett, Kansas.

To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956.

CleveTrust Corporation, Cleveland, Ohio, for approval to acquire 100 per cent of the voting shares of Columbus Trust Company, Columbus, Ohio, a proposed new bank.

American Bankcorp, Inc., Lansing, Michigan, for approval to acquire 80 per cent or more of the voting shares of The Muskegon Bank & Trust Company, Muskegon, Michigan.

* * * * *

To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956.

First Bancorp of N.H., Inc., Manchester, New Hampshire, notification of intent to engage in *de novo* activities (real estate lending activities including: Originating, selling, and servicing both residential and commercial mortgages; originating and servicing construction loans; providing placement services for long term real estate financing; and as an incident to the real estate lending and placement activities, providing advice and appraisal services for self and others) at 1000 Elm Street, 20th Floor, Manchester, New Hampshire, through a subsidiary, FirstBank Mortgage Corp. (2/9/77).[3]

Chemical New York Corporation, New York, New York, notification of intent to relocate *de novo* activities (leasing real and personal property and equipment on a non-operating, full payout basis and acting as agent, broker, and adviser with respect to such leases; financing real and personal property and equipment such as would be done by commercial finance company; and servicing such extensions of credit) from 1111 West Mockingbird Lane, Suite 910, Dallas, Texas, to 2775 Villa Creek Drive, Dallas, Texas, through its subsidiary, ChemLease, Inc. (2/8/77).[3]

Union Trust Bancorp, Baltimore, Maryland, notification of intent to engage in de novo activities (making installment loans to individuals for personal, family, or household purposes; purchasing sales finance contracts executed in connection with the sale of personal, family, or household goods or services; acting as agent in the sale of credit life and credit accident and health insurance directly related to its extensions of credit; and acting as agent in the sale of insurance protecting collateral held against the extensions of credit) at 135 Caldwell Street, Rock Hill, South Carolina, through a subsidiary, Landmark Finance Corporation of South Carolina (2/7/77).[3]

Union Trust Bancorp, Baltimore, Maryland, notification of intent to engage in de novo activities (make secondary mortgage loans secured in whole or in part by mortgage, deed of trust, security agreement, or other lien on real estate situated in the State of

South Carolina which property is subject to the lien of one or more prior encumbrances or other leasehold interests; and acting as agent in the sale of credit life insurance in connection with its extensions of credit) at 3710 Landmark Drive, Columbia, South Carolina, through its subsidiary, Union Home Loan Corporation (2/8/77).[3]

Alabama Bancorporation, Birmingham, Alabama, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit including issuing letters of credit and accepting drafts such as would be made by a factoring company, a commercial finance company, a consumer finance company, or a mortgage company; servicing loans and other extensions of credit for any person; and leasing personal property and equipment or acting as agent, broker, or adviser in leasing of such property where at the inception of the initial lease the expectation is that the effect of the transaction and reasonably anticipated future transactions with the same lessee as to the same property will be to compensate the lessor for not less than the lessor's full investment in the property; additionally, as an incident to its lending activities and if requested by its customers, such subsidiary will make provision with an insurance carrier for credit life/accident and health insurance that is directly related to loans to such customers) at 3125 Montgomery Highway, Homewood, Alabama and 1700 Sunset Boulevard, West Columbia, South Carolina, through a subsidiary, Alabanc Financial Corporation (2/8/77).[3]

Sun Banks of Florida, Inc., Orlando, Florida, notification of intent to engage in de novo activities (the business of acting as agent or broker for the sale of credit life/accident and health insurance directly related to extensions of credit by the bank holding company and/or its banking and nonbanking subsidiaries) at 15 West Church Street, Orlando, Florida, through a subsidiary, Sunbank Agency, Inc. (2/7/77).[3]

Michigan National Corporation, Bloomfield Hills, Michigan, notification of intent to engage in de novo activities (leasing personal property and equipment or acting as agent, broker, or adviser in leasing of such property where at the inception of the initial lease the expectation is that the effect of the transaction and reasonably anticipated future transactions with the same lessee as to the same property will be to compensate the lessor for not less than the lessor's full investment in the property plus the estimated total cost of financing the property over the term of the lease; leasing real property or acting as agent, broker, or adviser in leasing of such property where at the inception of the initial lease the expectation is that the effect of the transaction will be to compensate the lessor for not less than the lessor's full investment in the property over the term of the lease; financing personal property and equipment by making or acquiring, for its own account or for the account of others, loans and other extensions of credit including accepting drafts such as would be made by a finance company) at 38200 W. Ten Mile Road, Farmington Hills, Michigan and 77 Monroe Street, N.W., Grand Rapids, Michigan, through its subsidiary, MNC Leasing Co. (2/11/77).[3]

BankAmerica Corporation, San Francisco, California, notification of intent to engage in de novo activities (making or acquiring, for their own account loans and other extensions of credit such as would be made or acquired by a finance company and servicing loans and other extensions of credit; such activities will include, but not be limited to, making consumer installment loans, purchasing installment sales finance contracts, making loans and other extensions of credit to small businesses, and making loans secured by real and personal property; acting as agent or broker for the sale of credit related life and credit related accident and disability insurance and credit related property insurance in connection with extensions of credit made or acquired by FinanceAmerica Corporation) at 5198 South Broadway, Englewood, Colorado, through its indirect subsidiary, FinanceAmerica Corporation (a Colorado Corporation) (2/2/77).[3]

Wells Fargo & Company, San Francisco, California, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit; servicing loans and other extensions of credit for other persons; acting as an insurance agent or broker with respect to the following types of insurance that are directly related to the extensions of credit by Wells Fargo & Company or its subsidiaries; credit life and credit accident and health insurance and mortgage redemption life insurance and group mortgages disability insurance) in First National Bank Building, One East First Street, Suite 900, Reno, Nevada, through its subsidiaries, Wells Fargo Mortgage Company and WFMC Corporation (1/31/77).[3]

Wells Fargo & Company, San Francisco, California, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit; leasing personal or real property or acting as agent, broker, or adviser in leasing such property where the lease is to serve as the functional equivalent of an extension of credit to the lessee of the property and where at the inception of the initial lease the effect of the transaction (and, with respect to governmental entities only, reasonably anticipated future transactions) will yield a return that will compensate the lessor for not less than the lessor's full investment in the property plus the estimated total cost of financing the property over the term of the lease, from rentals; estimated tax benefits, investment tax credit, net economic gain from tax deferral from accelerated depreciation, and other tax benefits with a substantially similar effect and the estimated residual value of the property at the expiration of the initial term of the lease which in no case shall exceed 20 per cent of the acquisition cost of the property to the lessor) at 1206 Van Ness Avenue, Fresno, California, through its subsidiaries, Wells Fargo Leasing Corporation, Wells Fargo Transport Leasing Corporation, and Wells Fargo Equipment Leasing Corporation (2/4/77).[3]

For Certification Pursuant to the Bank Holding Company Tax Act of 1976.

Evans Insurance Agency, Billings, Oklahoma, to divest shares of First State Bank of Billings, Billings, Oklahoma. (Legal Division Docket TCR 76-133).

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REPORTS RECEIVED

Ownership Statement Filed Pursuant to Section 13(d) of the Securities Exchange Act.

Bank of the Commonwealth, Detroit, Michigan. (Filed by the First Arabian Corporation).

Metropolitan Bank, Tampa, Florida. (Filed by the Summit Organization, Inc.—Amendment #1).

* * * * *

PETITIONS FOR RULEMAKING

None.

Board of Governors of the Federal Reserve System, February 25, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-6349 Filed 3-2-77;8:45 am]

BANKS OF IOWA, INC.

Order Approving Acquisition of Bank

Banks of Iowa, Inc., Cedar Rapids, Iowa, 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 percent or more of the voting shares of First Trust & Savings Bank, Davenport, Iowa ("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 Federal Reserve Bank of Chicago 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 (deposits $625.8 million[1]) has seven bank subsidiaries plus two nonbank subsidiaries and is the second largest bank holding company in Iowa, controlling approximately 5.3 percent of the commercial bank deposits in the State. Upon acquisition of Bank, Applicant's share of total State deposits would increase by 0.3 percent, and its rank in Iowa would not change. The proposed acquisition would not increase significantly the concentration of banking resources in Iowa.

Bank (deposits of $42.0 million) holds 3.6 percent of the total commercial bank deposits in the relevant banking market[2] and is the eighth largest of 32 banks operating therein. Applicant's two closest banking subsidiaries are located in Dubuque, Iowa, approximately 65 miles north of Davenport. In view of the distances between Bank and Applicant's banking subsidiaries, the restrictions in Iowa's branching laws that prohibit Applicant's banking subsidiaries from branching into the Davenport, Iowa/Rock Island, Illinois, market, and other facts of record, no significant competition exists or is likely to develop in the future between Bank and Applicant's banking subsidiaries. Although Applicant has the financial capability to

[1] All banking and deposit data as of December 31, 1975.

[2] The relevant banking market is the Davenport, Iowa/Rock Island, Illinois, market which is approximated by the Davenport, Iowa/Rock Island, Illinois, RMA plus the remainder of Scott County, Iowa, and Durant, Iowa, located in the southeastern corner of Cedar County.

Footnotes at end of document.

enter the market de novo, it does not appear that this acquisition will eliminate any significant amount of potential competition. Accordingly, based on the above and other facts of record, this Reserve Bank has determined that competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant, its subsidiary banks, and Bank are considered to be generally satisfactory and consistent with approval of this application. Affiliation with Applicant will enable Bank to use Applicant's financial and managerial resources to strengthen and expand the services provided by Bank, including improved trust services, data processing services, credit card services, and extended banking hours. Accordingly, this Reserve Bank regards considerations relating to the convenience and needs of the community to be served as lending some weight toward approval of the application. It is the judgment of this Reserve Bank that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record as summarized above, the Federal Reserve Bank of Chicago approves the application provided the transaction shall not be consummated (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 Chicago pursuant to delegated authority.

By order of the Federal Reserve Bank of Chicago, acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System, effective February 18, 1977.

ROBERT P. MAYO,
President.

[FR Doc.77-6343 Filed 3-2-77;8:45 am]

BANKSTOCK ONE, INC.

Order Denying Formation of Bank Holding Company

Bankstock One, Inc., Ozark, Arkansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 80 per cent or more of the voting shares of Bank of Ozark, Ozark, Arkansas ("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 is a nonoperating corporation organized under the laws of Arkansas for the purpose of becoming a bank holding company through the acquisition of Bank. Upon acquisition of Bank, Applicant would hold less than 1 percent of the total deposits in commercial banks in the State.[1] Bank (deposits of approximately $20.1 million) is the larger of two commercial banks in the relevant banking market[2] and holds 63.8 per cent of total deposits in commercial banks in the market. Inasmuch as this proposal represents essentially a reorganization of existing ownership interests, the acquisition of Bank by Applicant would not have any significant adverse effect upon either existing or potential competition within the relevant banking market.

The Board has indicated on previous occasions that it believes that a holding company should constitute a source of financial and managerial strength to its subsidiary bank(s) and that the Board will closely examine the condition of an applicant in each case with this consideration in mind. As part of the subject proposal, Applicant would assume a substantial portion of the debt incurred by Applicant's principal in acquiring his shares of Bank. Applicant proposes to service this debt over a 12-year period, through dividends to be declared by Bank and tax benefits to be derived from filing consolidated tax returns. In the Board's view, Applicant's financial projections over the debt-retirement period appear to be unduly optimistic and it does not appear that Applicant will possess the financial flexibility necessary to meet its annual debt service requirements while maintaining adequate capital at Bank. If Bank's growth continues at or near its historical rate,[3] total capital funds of Bank as related to its total assets would become insufficient because Applicant's substantial debt servicing requirements would not permit Bank to increase its capital by earnings retention in amounts sufficient to keep pace with Bank's asset growth. The Board is of the view that it would not be in the public interest to approve the formation of a bank holding company with an initial debt structure that could result in the weakening of Bank's overall financial condition. Accordingly, the Board concludes that the considerations relating to Applicant's and Bank's financial resources and future prospects weigh against approval of the application. Moreover, in light of Bank's recent operating history, the Board concludes that financial and managerial resources of Applicant and Bank lend little weight toward approval of the instant application.

As stated previously, consummation of this proposal would merely result in a restructuring of Bank's present ownership. No significant changes in Bank's operations or in the services to be offered to Bank's customers are contemplated. Consequently, considerations relating to the convenience and needs of the community to be served are consistent with, but lend no weight toward, approval.

On the basis of all of the circumstances concerning this application, the Board concludes that the financial considerations involved in this proposal present adverse circumstances bearing upon the financial resources and future prospects of both Applicant and Bank. Such adverse factors are not outweighed by any procompetitive effects or by benefits that would result in serving the convenience and needs of the community. Accordingly, it is the Board's judgment that approval of the application would not be in the public interest and that the application should be denied.

On the basis of the record, the application is denied for the reasons summarized above.

By order of the Board of Governors,[4] effective February 25, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-6344 Filed 3-2-77;8:45 am]

CITIZENS AND SOUTHERN NATIONAL BANK AND CITIZENS AND SOUTHERN HOLDING CO.

Order Amending Time Requirement for Divestiture by Applicant of Macon, Georgia, and Atlanta, Georgia, Offices of Citizens and Southern Finance Company

By Order of April 22, 1974,[1] the Board approved an application of Citizens and Southern National Bank and Citizens and Southern Holding Company, both of Atlanta, Georgia ("Applicants"), to acquire shares of Ison Finance Corporation, Atlanta, Georgia ("Ison"), pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4 (a)(1) and (9)(ii) of the Board's Regulation Y (12 CFR 225.4 (a)(1) and (9)(ii)). The Board's Order was conditioned upon Applicants' divestiture of two offices of Ison in Atlanta and Macon, Georgia, now branch offices of Citizens and Southern Finance Company. The condition derived from a voluntary undertaking made by Applicants prior to the issuance of the April 22, 1974, order to sell those offices as soon as practicable, but in any event within two years after the date of consummation and provided that "the operating offices of (Ison) that are located in Atlanta and Macon will be sold as going concerns and holding substantially the same quality and type of assets as those offices respectively held on January 2, 1974, and in an amount lot less than the amount of such assets held by those offices respectively on that date." Applicants' acquisition of shares of Ison occurred May 17, 1974, and thus, sale of the two offices was to occur by May 17, 1976.

By letter of April 22, 1976, Applicants requested an extension of time until May 16, 1977, in which to satisfy the divestiture condition. However, by letter dated June 25, 1976, Applicants requested modification of the Board's order of April 22, 1974,[2] asserting that, due to the depressed state of the consumer finance industry in the State of Georgia and the

undesirable location of the two offices in question, they would be unable to sell either of the offices or the receivables attributable to those offices without a substantial financial loss. Thus, Applicants propose modification of the Board's order of April 22, 1974, to allow for the establishment, at a given point in time, of two separate ledgers at each of the two branch offices in question, one recording "old business", and the other "new business", "old business" to be liquidated under guidelines furnished by Applicants and periodically reviewed by the Board. Applicants believe that the proposal would allow them to comply with the Board's Order of April 22, 1974, by allowing them to enter the consumer finance markets served by the Atlanta and Macon offices de novo and not through the acquisition of a going concern.

The Board has carefully considered Applicant's request for modification of its Order of April 22, 1974. Based upon all facts of record, the Board believes that a modification of that order pursuant to Applicants' proposal would not be consistent with the spirit or intent of that Order, which stated that:

> In order to eliminate any possible adverse effect upon competition in markets presently served, both by operating offices of Applicant and of Company (Ison), Applicants have now modified the proposal by undertaking to sell Company's operating offices located in Atlanta and Macon as soon as is practicable after consummation of the proposed acquisition, but in no event, later than two years after the date of such consummation.

It was the Board's intent to preserve the Atlanta and Macon offices as competitive alternatives in the Atlanta and Macon consumer finance markets independent of Applicants. Applicants' proposal runs counter to that intent by allowing Applicants to retain both offices permanently.

Accordingly, Applicants' request for a modification of the Board's Order of April 22, 1974, in the manner proposed by Applicants is denied. However, the Board remains mindful of the difficulty Applicants have encountered in divesting the two offices and the possible losses to be incurred. The Board therefore extends the time for Applicants to effect a final divestiture of the two consumer finance offices until no later than August 24, 1977.

If, by August 24, 1977, no divestiture has been accomplished, Applicants shall, on August 25, 1977, irrevocably transfer shares representing the two offices to a third party trustee, whose independence of Applicants shall previously have been demonstrated by Applicants to the satisfaction of the Federal Reserve Bank of Atlanta. Such trustee shall be designated in a trust agreement that imposes on such trustee the duty of divesting the trusteed shares to any person or persons independent of Applicants that will purchase the offices as going concerns as provided in the Board's order of April 22, 1974. The trust agreement shall provide that such shares will be divested by the trustee by February 25, 1978, or such later date as may be necessary to secure any requisite regulatory approvals and shall occur by such date without regard to the amount or terms of consideration therefor. The terms of such trust agreement are to be presented to the Board's General Counsel no later than May 24, 1977, and shall not become effective without his prior approval. Accordingly, the Board's order of April 22, 1974, is hereby so amended for the reasons summarized above.

By order of the Board of Governors,[1] effective February 24, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-6345 Filed 3-2-77;8:45 am]

COMMERCIAL NATIONAL CORP.

Order Approving Acquisition of Commercial National Management Consulting Company

Commercial National Corporation, Peoria, Illinois, 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 (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2) (1976)), to acquire Commercial National Management Consulting Company, Peoria, Illinois ("Company"), a proposed new company that would engage in the activity of providing management consulting advice on an explicit fee and noncontinuing basis to nonaffiliated banks. Such activity has been determined by the Board to be closely related to banking (12 CFR 225.4(a)(12)(1976)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (41 FR 55940 (1976)). The time for filing comments and views has expired, and the Board has considered the application and 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 one banking subsidiary, Commercial National Bank of Peoria, Peoria, Illinois ("Bank"), which is the 17th largest bank in Illinois and holds deposits of $238 million, representing approximately four-tenths of 1 percent of the total deposits in commercial banks in that State.[1] In addition, Applicant engages through its sole nonbanking subsidiary in underwriting, as reinsurer, credit life, accident and health insurance in connection with extensions of credit by Bank.

Company proposes to provide management consulting advice on an explicit fee and noncontinuing basis to nonaffiliated banks. This advice will be offered with respect to activities including, but not limited to, the following: auditing, marketing, mergers and acquisitions, site planning, financial planning, computer applications, capital adequacy, security measures and procedures, and personal evaluation and compensation. In addition, Company will make recommendations and suggestions, including alternative policies or courses of action, where appropriate, concerning the policies and actions of its client banks.

It appears that no adverse effects upon competition would result from Company providing management consulting advice as proposed. Bank offers similar advice and services through its correspondent banking division;[2] such advice and services are limited in scope and are not offered on an explicit fee basis. No actual or potential competition would be eliminated upon approval of this application. Moreover, Applicant's *de novo* entry into this industry should have a procompetitive effect by increasing the number of firms offering this specialized financial and consulting advice. Furthermore, Applicant's making this advice available on an explicit fee basis, rather than as a correspondent banking service, will enable client banks to more accurately analyze the cost of such service and to more efficiently allocate their funds.

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 upon 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 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.

The transaction shall be made 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 Chicago, pursuant to authority hereby delegated.

By order of the Board of Governors,[1] effective February 24, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-6346 Filed 3-2-77;8:45 am]

FIRST NATIONAL HOLDING CORP.

Acquisition of Bank

First National Holding Corp., Atlanta, Georgia, by amendment of its application for the Board's approval to acquire approximately 39 percent of the voting shares of The First National Bank of Dalton, Dalton, Georgia, has applied for the Board's approval under section 3(a)

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(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire approximately 78 percent of the voting shares of that bank. Notice of the original application was published October 18, 1976. 41 FR 46650. 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, as amended, may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the amended application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than March 18, 1977.

Board of Governors of the Federal Reserve System, February 25, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-6347 Filed 3-2-77;8:45 am]

PATAGONIA CORP.

Determination Regarding "Grandfather" Privileges Under Bank Holding Company Act

Section 4 of the Bank Holding Company Act (12 U.S.C. 1843) provides certain privileges ("grandfather" privileges) with respect to nonbanking activities of a company that, by virtue of the 1970 Amendments of the Bank Holding Company Act, became subject to the Bank Holding Company Act ("Act"). Pursuant to section 4(a)(2) of the Act, a "company covered in 1970" may continue to engage, either directly or through a subsidiary, in those nonbanking activities that such a company was lawfully engaged in on June 30, 1968 (or on a date subsequent to June 30, 1968, in the case of activities carried on as a result of the acquisition by such company or subsidiary, pursuant to a binding written contract entered into on or before June 30, 1968, of another company engaged in such activities at the time of the acquisition), and has been continuously engaged in since June 30, 1968 (or such subsequent date).

Section 4(a)(2) of the Act provides, inter alia, that the Board of Governors of the Federal Reserve System may terminate such grandfather privileges if, having due regard to the purpose of the Act, the Board determines that such action is necessary to prevent an undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices. With respect to a company that controls a bank with assets in excess of $60 million on or after December 31, 1970, the Board is required to make such a determination within a two-year period.

By petition, dated June 28, 1972, Patagonia Corporation ("Patagonia"), Tucson, Arizona, requested a determination by the Board, pursuant to section 2(d)(3) of the Act (12 U.S.C. 1841(d)(3)), that on or before June 30, 1968, Patagonia had the power to exercise a controlling influence over Pima Savings and Loan Association ("Pima"), Tucson, Arizona, and, therefore, that Pima was an indefinitely grandfathered "subsidiary" of Patagonia pursuant to section 4(a)(2) of the Act (12 U.S.C. 1843(a)(2)). By Order dated June 29, 1973 (38 FR 18411), the Board determined the grandfather privileges of Patagonia, finding that it was entitled to retain indefinitely on the basis of 4(a)(2) of the Act only the 20.005 per cent of the outstanding voting stock of Pima that it acquired before June 30, 1968 and that it was required to divest itself of, or obtain the Board's approval to retain by December 31, 1980, the almost 80 per cent interest in Pima that it acquired after June 30, 1968. By letter of July 6, 1973, the Board informed Patagonia that its request for a controlling influence determination had ben denied on the ground that any such determination could not grant Patagonia grandfather privileges. However, the Board went on to state that, after examining the material Patagonia had submitted with its request, it was of the opinion that Patagonia did not have the power to exercise a controlling influence over the management or affairs of Pima on June 30, 1968.

Upon judicial review, the United States Court of Appeals for the Ninth Circuit vacated those portions of the Board's Order dealing with grandfather rights to the 80 per cent interest in Pima acquired after June 30, 1968; and, in a decision rendered May 19, 1975, the Court remanded the matter to the Board with instructions to hold a formal hearing on the issue of whether Patagonia did, in fact, have the power to exercise a controlling influence over Pima Savings and Loan Association on or before June 30, 1968.[1] The required formal hearing was held in Tuscon, Arizona, from September 30, 1975 through October 3, 1975, before Philip J. LaMacchia, former Administrative Law Judge, now retired, in accordance with the Board's Rules of Practice for Formal Hearings (12 CFR Part 263). A substantial record on the issue was developed through extensive testimony by witnesses on behalf of Patagonia, through cross examination of witnesses by Board counsel, and through numerous exhibits submitted by both parties to the proceeding.

In a Recommended Decision dated March 31, 1976, the Administrative Law Judge concluded on the basis of the evidence of record that Patagonia did not have the power directly or indirectly to exercise a controlling influence with respect to the management or policies of Pima on or before June 30, 1968, and, therefore, Pima was not a subsidiary of Patagonia within the meaning of section 2(d)(3) of the Act (12 U.S.C. 1841(d)(3)). Therefore, Patagonia was not engaged within the meaning of section 4(a)(2) of the Act, in the savings and loan business on June 30, 1968, directly or through a subsidiary.

With respect to Patagonia's claim that Pima was its subsidiary on June 30, 1968 by reason of Patagonia's power to exercise a controlling influence over the management or policies of Pima, the Board, having considered the entire record of the hearing, including the transcript, exhibits, and briefs filed in connection with the hearing, and the Recommended Decision filed by the Administrative Law Judge, together with Patagonia's exceptions and Board counsel's response thereto, has determined that the Administrative Law Judge's findings of fact, conclusions and recommendations are substantially correct in all respects material to the Board's decision herein, and, as modified and supplemented herein, are supported by the evidence of record and should be, and are, adopted as the findings and conclusions of the Board.

BACKGROUND: Pima Savings and Loan Association was organized in 1953 by Messrs. Irving Hall, Elmer Present, Frank O'Rielly, B. G. Beck, and B. G. Thompson, who composed its first board of directors.[2] At that time, Mr. Hall owned 50.5 per cent of Pima's outstanding shares.[3] In 1956, at Mr. Hall's request, Mr. John Sakrison joined Pima as its president, chief executive officer, and a member of the board of directors.[4] In November 1956, Mr. Hall agreed to allow Mr. Sakrison to purchase up to 50 per cent of the shares that he held, and further agreed that Mr. Sakrison could vote all of Mr. Hall's stock in Pima so long as Mr. Sakrison remained in the employ of Pima.[5] Mr. Hall and Mr. Sakrison agreed in 1957 that neither could sell or otherwise dispose of his stock in Pima without the written consent of the other. These agreements also bound Mrs. Hall in the event of Mr. Hall's death.[6] As a result of these agreements, in 1957 and 1958 Mr. Sakrison purchased slightly in excess of 25 per cent of Pima's voting stock.[7]

In 1958 Mr. Kenneth Herman joined Pima at Mr. Sakrison's request as vice president and became a member of Pima's board of directors.[8] Mr. and Mrs. Hall sold Mr. Herman some of their Pima shares; however, Mr. Sakrison retained the right to vote those shares and to veto their sale.[9] Further, in the event Mr. Hall and Mr. Sakrison sold their interests in Pima, Mr. Herman was obligated to sell his stock to their purchaser.[10] Mr. Hall died in 1959 and Mrs. Hall inherited his shares.[11]

As a result of other transactions, by 1967 Mr. Sakrison's control was reduced to approximately 40+ percent of Pima's guarantee stock.[12] However, Mr. Sakrison also held the voting proxies of Pima's borrowers and depositors which, when combined with his own guarantee stock and the stock he voted pursuant to the agreements, gave him control of substantially in excess of 50 percent of Pima's voting power.[13]

In June of 1967, Mrs. Hall determined to sell her stock directly and indirectly to Patagonia Corporation.[14] At the time of the sale Mr. Sakrison, as required by the agreement, gave his consent and the agreements with Mrs. Hall and Mr. Herman were terminated.[15] At the same time Patagonia purchased a few additional

Footnotes at end of document.

shares from another party, with the result that Patagonia controlled slightly in excess of 20 percent of Pima's guarantee stock.[19]

As a result of these transactions, Mr. Sakrison lost control of a majority of Pima's voting stock for the first time in his association with it.[20] However, less than two weeks after Patagonia's purchase of Mrs. Hall's stock, Mr. Sakrison and the other Pima directors and substantial stockholders consolidated approximately 56 percent of Pima's outstanding guarantee stock in a voting trust.[21] By virtue of this trust, Mr. Sakrison retained control since the voting trustees were Mr. Sakrison and his two-long-time friends and business associates Mr. Present and Mr. O'Rielly.[22] Under the terms of the trust, the trustees had to unanimously agree before the stock held in the voting trust could be sold.[23] In addition, they agreed not to sell until a prospective purchaser guaranteed to purchase all of the stock in the trust at a price and terms decided on by the trustees.[24]

In July 1967, Mr. Williams and Mr. Money were elected to Pima's board of directors as Patagonia's representatives.[25] Mr. Williams was the largest shareholder and a founder of Patagonia and Mr. Money the third-largest shareholder and also a founder of Patagonia.[26] In February 1968, Mr. Raymond Rich was elected to Pima's board of directors. Mr. Rich was also one of the founders of Patagonia and was a major driving force behind it.[27] As a result of these occurences, Patagonia was represented by three of the 15 Pima directors.[28] This situation obtained through October 1968, when, at a meeting between Mr. Rich and Mr. Sakrison, an agreement on the sale of Pima was reached.[29] In June of 1969 Patagonia purchased control of Pima.

Patagonia claims that, notwithstanding the fact that it did not acquire 25 percent or more of the voting shares of Pima until June 1969, Pima was a subsidiary on June 30, 1968 by virtue of the fact that Patagonia had the power to exercise a controlling influence over its management or policies. Patagonia raises various arguments concernnig the existence of this power. Among other arguments, it contends that, because of its slightly more than 20 percent interest, Patagonia had the potential for exercising a restraint on various types of corporate action or a sale by stockholders and therefore exercised a controlling influence. Further, Patagonia argues it had a controlling influence by virtue of the desire of Mr. Sakrison and his associates to sell Patagonia and by virtue of Mr. Sakrison's desire that his associates continue in employment in the event Patagonia was the purchaser. Additionally, Patagonia argues that the judgment and experience of its representatives on the board of directors gave them a controlling influence in the formulation of Pima's actions and long-range policies.

"Statutory Framework for the Board's Decision": The relevant part of 4(a)(2) of the Bank Holding Company Act provides:

> That a company covered in 1970 may also engage in those activities in which directly or through a subsidiary (1) it was lawfully engaged on June 30, 1968 (or on a date subsequent to June 30, 1968 in the case of activities carried on as a result of the acquisition by such company or subsidiary, pursuant to a binding written contract entered into on or before June 30, 1968, of another company engaged in such activities at the time of the acquisition) * * *.

Therefore, the question for the Board is whether Patagonia can be considered to have been engaged through Pima in the savings and loan business on June 30, 1968. To have been so engaged, Pima must qualify as a subsidiary as of that date. Subsidiary is defined by section 2(d)(3) of the Act as meaning with respect to a specified bank holding company:

> * * * any company with respect to the management or policies of which such bank holding company has the power, directly or indirectly, to exercise a controlling influence, as determined by the Board after notice and opportunity for hearing.

There are no judicial decisions interpreting the concept of controlling influence in the Bank Holding Company Act. However, this concept appears in both section 2(a)(9) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(9)) and in § 2(a)(8) of the Public Utility Holding Company Act (15 U.S.C. 79b(a)(8)). With respect to those acts there have been a number of judicial and administrative interpretations defining the scope of the term.[31] Among others, the following statements have been made about the power to exercise a controlling influence:

> The existence of "controlling influence" is a factual determination to be ascertained in the Commission's expert judgment by the weighing of circumstantial evidence and the drawing of reasonable inferences therefrom. The principal factors in determining this from the special circumstances of each case for the statutory exemption are the size and extent of the companies involved, the extent of the intercompany relationships, the ownership and distribution of securities, and the parent company's part in the organization and development of the subsidiary company together with the past relationships * * *. (Footnotes omitted.) "American Gas and Electric Co. v. S.E.C.", 134 F.2d 633, 642 (D.C. Cir. 1943)

> Considered in the light of the legislative history and the over-all purposes of the statute, it is clear that the statutory concept of control embraces within it those pressures and influences, at times admittedly delicate, by which an investment company can exercise a dominating persuasiveness in the affairs of the portfolio company. And this "does not necessarily mean that those exercising a controlling influence must be able to carry their point. A controlling influence may be effective without accomplishing its purpose fully." Nor is it necessary that there be an actual exercise of the "controlling influence." It is sufficient if the power exists in a latent form. In determining the existence of this latent power, consideration may of course be given to events which have not occurred but may occur and which would result in the invocation of the latent power. (Footnotes omitted.) The Chicago Corporation, 28 S.E.C. 463, 468 (1948)

An analysis of the administrative and judicial cases in this area convinces the Board that there is, and can be, no standard definition of the term "power to exercise a controlling influence" which might be applied by the Board. Rather, as the Securities and Exchange Commission has noted:

> Control determinations involve issues of fact which cannot be resolved by the use of a mathematical formula. Each requires a careful appraisal of the whole effect of the various relations and other circumstances present in the particular case, some of which may point to one inference while others to an opposite one. Investors Mutual, CCH Fed. Sec. Law Rep. § 77,348 at § 82,635

The Board believes that in determining the nature of the facts to look for in order to decide whether a controlling influence exists, great weight should be given to the purposes of the statute in which the term appears and the context within the statute in which it appears. This point has previously been recognized by both the SEC and the courts. The context and purposes of the term "power to exercise a controlling influence" are somewhat different in the Bank Holding Company Act than in the Public Utility Holding Company Act or the Investment Company Act.

First, there are structural differences in the statutes. For instance, the latter two statutes create a presumption of control by virtue of a certain level of stock ownership. Thus, the proceedings in which the above statements about controlling influence were made were ones in which a company was attempting to establish that it did not exercise a controlling influence despite the presumption to the contrary. As the court stated in "Koppers United Co. v. S.E.C.":

> The theory of the Act is that ownership of more than ten per cent of a corporation's stock is sufficient to show control or a controlling influence, unless in a particular case other facts rebut that inference. [138 F.2d, 577, 580 (1943)]

Secondly, the latter two statutes have different purposes. As an example, the Public Utility Holding Company Act requires that the determination as to whether the management or policies of a company are subject to a controlling influence be guided by the purpose of the inquiry. That is, is a company's influence such "as to make it necessary or appropriate in the public interest or for the protection of investors or consumers that the applicant be subject to the obligations, duties, and liabilities imposed in this chapter"?

There are clearly different standards to be employed in making a judgment as to whether the influence of a company in another company's operations is significant enough that investors or consumers should be entitled to appropriate information and other protections than in determining whether a company may be considered to have been so involved with another company that it might be considered to have been engaged in that company's business.[32]

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The purpose of the inquiry under section 4(a) of the Bank Holding Company Act is to determine in this case whether Patagonia can be considered to have been engaged in the savings and loan business through Pima, a subsidiary, on the June 30, 1958 date. The definition of subsidiary in section 2(d)(3) speaks in terms of the "power to exercise" a controlling influence. This section, however, was added by Congress to conform to section 2(a)(2)(C) of the Act,[26] which provides that a company has control over another company if it "exercises" a controlling influence. The original amendment was offered by Congressman Ashley, and from statements by him and Congressman Patman it was clear that they intended to reach situations of actual control.[26a] This difference is of very little importance however, and may be primarily semantic. Congress intended to allow bank holding companies which were engaged in a particular business on the grandfather date to continue to engage in that business since the primary purpose of the legislation was to prevent future abuses rather than to remedy existing ones. The Board believes that the test is, therefore, whether a company may be considered to have been so influential in the affairs of a particular company as to be considered to have been engaged in that business on June 30, 1968.

Obviously, there may be no evidence which bears directly on happenings on that date. In the Board's view, the proper approach to the question is to examine relatively contemporaneous evidence both before and after the June 30 date to determine whether it is likely that a power to exercise a controlling influence existed on that date such that a company should be considered to have been engaged in the business of another company. In this regard, the Board, while adopting the hearing officer's findings of fact and conclusions of law to the extent not inconsistent herewith, has, among other things, considered the following: whether there are facts in the reocrd which demonstrate an actual exercise of a controlling influence; or whether the record discloses that the structure of the situation was such that the power to exercise a controlling influence is likely to have existed even though actual evidence of its exercise may not have been obvious; or, finally, whether there are sufficient events in the record from which one can infer that a controlling influence must have been exercised. The Board now turns to a discussion of whether the facts of record lead one to the conclusion that Patagonia was engaged, through Pima, in the savings and loan business.

Analysis of Whether the Power to Exercise a Controlling Influence Existed on June 30, 1968

1. *Are there events evidencing an actual exercise of a controlling influence over the management or policies of Pima?* Patagonia, through the testimony of its witnesses at the hearing, cited various examples which it claimed showed its actual exercise of a controlling influence over the management or policies of Pima.

Mr. Kenneth H. Herman, formerly Executive Vice President of Pima, subsequently President, and a member of the Board of Directors of Pima, cited two examples of Patagonia's influence over the management or policies of Pima through Mr. Raymond A. Rich, who was a member of the Board of Directors of Pima in 1968 and subsequently the Chairman of the Board of Patagonia. Mr. Herman cited Mr. Rich's influence in changing Pima's longstanding policy against leveraging (using borrowed funds to expand Pima's lending capability).[27] However, the record shows, and the Administrative Law Judge found, that Pima's policy on leveraging did not change until 1969, after Mr. Sakrison had sold his share and Patagonia had acquired majority control of Pima's voting stock.[27a] The second example Mr. Herman cited was Mr. Rich's success in getting the Board of Pima to defer making a decision on whether to make a loan to a certain publicly held corporation. Based on information subsequently supplied by Mr. Rich, the loan was denied. However, the record supports the finding that both the deferral decision and the loan denial occurred after June 30,1968.[27b]

Patagonia also cited its influence through Mr. William C. Money, third largest stockholder of Patagonia, and a director of Pima. Mr. Herman credited Mr. Money with persuading Pima to move back more heavily into the VA and FHA mortgage market in 1968, aiding in the discussion of whether or not Pima should make a large commitment in the mobile home industry, assisting in dissuading Pima from entering the consumer lending business and establishing a salary committee.[28] The Administrative Law Judge found, and Mr. Sakrison testified, that the movement by Pima back into the FHA and VA market did not occur until after Patagonia purchased majority control of Pima in 1969.[28a] Although the discussion of whether or not Pima should make a large commitment in the mobile home industry occurred during 1967–1968 according to Mr. Herman, the record shows and the Administrative Law Judge noted in his Recommended Decision, that both Arizona chartered and Federally chartered savings and loan associations were not authorized to make mobile home loans until July 1969.[28b]

Mr. Herman also noted Mr. Money's influence in dissuading Pima from entering the consumer lending business in 1968, "when the vehicle was provided to savings and loans, by regulations * * *."[29] The record shows that Pima did not in fact enter into the consumer lending business in 1968. Mr. Herman described the consumer lending business as "making loans, like a property improvement loan, a trailer loan, non-first real estate mortgage lending."[27] However, it appears that there was no change in the regulations prohibiting or permitting savings and loans to make consumer loans during 1967 or 1968.[29a] Thus, Pima's refraining from making consumer loans of the type Mr. Herman described appears to have been the result of its abiding by the regulations restricting the types of loans savings and loans could make and not the result of Patagonia's exercising a controlling influence through Mr. Money to restrain Pima from entering the consumer lending business.

Finally, Mr. Herman pointed to Mr. Money's suggestion that Pima's Board establish a salary committee as an example of the controlling influence Patagonia exercised over the management and policies of Pima. At Pima's Board of Directors' meeting of January 9, 1968, Mr. Sakrison appointed a salary committee (Mr. Sakrison appointed all members of all committees) that included Mr. Money.[30] The minutes of the Board meeting do not indicate that the salary committee was formed at the suggestion of Mr. Money but, in any event, the formation of the committee was well received and supported by the entire Board. The salary committee did not have final authority over salaries; it merely made recommendations to Pima's Board, which retained ultimate authority in this area.[31]

The Board finds that the record simply does not contain direct evidence that Patagonia actually exercised a controlling influence over Pima. Rather, the record supports a finding that, up until Patagonia acquired a majority of the shares of Pima in 1969, Mr. Sakrison controlled a majority of the voting stock of Pima either through direct ownership or indirectly through a voting trust.[32] The record clearly indicates that Mr. Sakrison, as President of Pima, was in complete control of the management and policies of Pima. The few specific examples of influence by the three Patagonia directors on Pima's 15-member Board that Patagonia claimed represented the exercise of a controlling influence either occurred after June 30, 1968 or were not supported by the record. Mr. Sakrison himself could name no incident and no policy in which he differed with Patagonia's directors other than his policy against leveraging, which he refused to change until after he had sold his stock to Patagonia in 1969.[33]

2. *Does an inference of either the power to exercise or the exercise of a controlling influence arise from the structure of the situation prior to or on June 30, 1968?* Patagonia's basic contentions in this regard are that the power generated by its ownership of slightly more than 20 percent of the stock as well as its announced intention to buy a substantial additional block of stock in the future for cash gave it a controlling influence over the management or policies of Pima. They argue that this is due in part to Mr. Sakrison's desire to have his associates retained by Patagonia. Patagonia further claims that the qualitative aspects of Patagonia's representative directors on the Pima board gave it a controlling influence.

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The Board finds that, as of June 1967, Mr. Sakrison held 20.7 per cent of Pima's stock, Mrs. Hall (the widow of Pima's founder, Irving Hall) together with Dr. Elmer Yeoman (her advisor) owned 20.6 per cent of Pima's stock, and Elmer Present together with his family owned 15.3 per cent of Pima's stock. Neither Mr. Sakrison nor Mrs. Hall could sell their stock without the other's consent.[42] On June 29, 1967, Mr. Sakrison and Mrs. Hall terminated the agreement which restricted the sale of their Pima stock and Mrs. Hall disposed of all but 3,500 of her shares of Pima to Patagonia and Mr. David R. Williams, Jr. (a founder of Patagonia) for a combination of Patagonia stock and cash.[43]

On July 11, 1967, Mr. Sakrison and the other directors and substantial stockholders of Pima consolidated approximately 56 per cent of Pima's outstanding stock in a Voting Trust controlled by Messrs. Sakrison, Present and Frank C. O'Reilly (a founder of Pima and owner of 7 per cent of its stocks).[44] The terms of the trust provided that the trustees had to unanimously agree to sell the stock held in trust and, only if the purchaser agreed to buy all the stock at a price agreed to unanimously by the Trustees, could the stock be sold at all.[45] At all times relevant to the issue of whether Patagonia had the power to exercise a controlling influence over the management or policies of Pima, the structure of the situation remained unchanged with respect to the quantitative ownership of the outstanding stock of Pima; Patagonia controlled 20.005 per cent and Mr. Sakrison controlled in excess of 56 per cent. In addition, Mr. Sakrison had the power of proxy over the votes of the people entitled to vote at the annual meeting by reason of their deposits or outstanding loans with Pima.[46]

In terms of common directors, two Patagonia directors, Messrs. Williams and Money, were appointed to the Board of Directors of Pima in July 1967. Mr. Sakrison controlled the appointment of directors to Pima's Board and initially offered Patagonia three seats on the 15-man Board; however, on the advice of counsel, Mr. Rich waited until February 1968 to be elected to the Board since he was filling a vacancy caused by the death of a director rather than replacing a director who had sold his shares, as were Messrs. Williams and Money. The minutes of the relevant Board meetings show that after joining Pima's Board, Mr. Money attended 11 out of 12 of the meetings; Mr. Williams attended 3 out of 12 of the meetings; and Mr. Rich, who joined the Board in February 1968, attended 1 out of 5 of the meetings held prior to June 30, 1968.[47]

The record shows that there was no historical or traditional relationship between Pima and Patagonia from which a power to exercise a controlling influence could be inferred. Messrs. Williams and Rich first became aware of the possibility of acquiring Pima in February 1967, during the period when they were still forming Patagonia.[48] Through Mr. Ben Storek, a Tucson broker and business advisor to Mrs. Hall, the principals of the still-to-be-formed Patagonia were brought into contact with the principals of Pima (Mrs. Hall, Mr. Sakrison, and Mr. Present) in February 1967.[49] Although Mrs. Hall finally decided to exchange her shares of Pima for a combination of cash and Patagonia stock in June 1967, Messrs. Sakrison, Present and O'Reilly were adamant in their refusal to sell their shares for anything but cash.[51] Thus, the record shows that the relationship between Patagonia's and Pima's principals was not historically or traditionally close, but rather an arms-length relationship among businessmen from the very start. Furthermore, that relationship commenced in February 1967, only 16 months prior to June 30, 1968.

The record shows that there was no formal written contractual agreement between the principals of Pima and Patagonia. Messrs. Rich and Sakrison testified that there was an understanding between them that before Sakrison sold Pima to anyone else he would provide Patagonia with an opportunity to meet the price.[52] However, a letter from Mr. Storek to Mrs. Hall dated June 12, 1967 indicates that, at that time, Sakrison would not grant a right of first refusal to Patagonia.[53] In any case, whether there was an informal contractual right of first refusal or not, Mr. Sakrison's testimony shows that he was not influenced in his management of Pima by the prospect of a future sale to Patagonia.[54]

There may well be situations in which a 20 per cent shareholder may have the power to exercise a controlling influence over a corporation because of his ability to veto extraordinary corporate actions. These factors are relied on in some of the case law under other statutes. However, those cases did not involve situations where there were other shareholders who had absolute control.[55] Such a finding of influence cannot be made here where absolute control rested in the voting trust controlled by Mr. Sakrison. In fact, Sakrison testified, and contemporaneous evidence supports the conclusion, that the purpose of the voting trust was to keep Patagonia from gaining control.[56]

Likewise, the argument that Patagonia's representative Directors had qualitative aspects because of their wide business experience that led to a controlling influence does not appear to have merit. Mr. Sakrison could not name any actions that were taken by Pima at the request of Patagonia directors.[57] Nor could he recall any instances, prior to January 1969, in which he sought the counsel and advice of Messrs. Rich or Williams, although he felt he had but was not certain.[58] Furthermore, the minutes of the Board meetings held by Pima during this period do not indicate any events or actions that might give rise to an inference that Patagonia had the power to exercise a controlling influence over the management or policies of Pima.[58a] (See also Mr. Sakrison's testimony on this matter in the next section, which is equivocal on the question whether Patagonia's directors' views had greater weight.)

With respect to the question whether influence existed because of Sakrison's desire that his associates be retained, the hearing officer rejected this contention, stating, "There is no evidence that the career aspirations of Pima's management influenced any action which could be said to favor Patagonia. In the absence of any evidence to the contrary, the unflattering notion implicit in the point to be made here is rejected."[58b] The Board agrees that the record is devoid of any evidence indicating that the power to exercise a controlling influence arose from these considerations. In fact, in a related aspect, Mr. Sakrison testified that the prospect of an impending sale to Patagonia did not influence his conduct.[59]

(3) Can a controlling influence be inferred from the events? The Board believes that the record does not contain any events from which one can infer that the existence or exercise of a controlling influence on June 30, 1968 is more likely than not. Indeed, the events surrounding Patagonia's initial investment in Pima and the events surrounding Patagonia's acquisition of the majority of Pima's stock in 1969, weigh against an inference of a controlling influence over the management or policies of Pima.

The record shows that at the time Mrs. Hall sold her stock to Patagonia, Mr. Sakrison took steps to assure his continued complete control over Pima by forming a voting trust with the directors and large shareholders of Pima.[60] By its terms, the Voting Trust would not have been effective unless joined in by the holders of in excess of 50 per cent of Pima's stock.[61] Mr. Sakrison testified that the Voting Trust served several purposes, not the least of which was preventing Patagonia from gaining control of Pima.[62] Other testimony and written documentation in the record supports this version.[63] The formation of the Voting Trust was an tvent eviddencing Patagonia's lack of control of Pima.

The record provides no evidence of any events that occurred during 1967 or 1968 that would give rise to an inference that Patagonia had the power to exercise a controlling influence over the management or policies of Pima. As has already been noted, no significant changes occurred in the way Pima conducted its business during this period. Mr. Sakrison could not name any specific examples of changes or actions that were taken by Pima at the request of the Patagonia directors.[64] Nor could he recall any instance, prior to January 1969, in which he sought the counsel and advice of Messrs. Rich or Williams, although he felt he had but was not certain.[65] Furthermore, Mr. Sakrison could not recall that Messrs. Rich or Williams set any of Pima's policies before January 1969.[66] Finally, Mr. Sakrison testified that there was no instance in which a strong con-

Footnotes at end of document.

viction he held concerning a practice of Pima was opposed or changed during this period.[67] The minutes of the board meetings of Pima which were held during this period do not indicate any events or actions that might give rise to an inference that Patagonia had the power to exercise a controlling influence over the management or policies of Pima.[68]

Furthermore, the events surrounding Patagonia's acquisition of the shares of Pima controlled by the Sakrison group give rise to an inference that Patagonia had no power to exercise a controlling influence over the management (Mr. Sakrison) or policies of Pima. Mr. Sakrison, still seeking to sell his shares and those of the other shareholders who had joined the Voting Trust for cash, approached a savings and loan broker in the summer of 1968 to assist him in finding a cash purchaser. Mr. Sakrison did not inform Patagonia of his intentions and specifically instructed the broker not to contact Patagonia as a potential purchaser.[69] It was not until October 1968, after Mr. Sakrison had already turned down two potential purchasers and was considering a third, that Patagonia learned of Mr. Sakrison's efforts to sell the stock he controlled.[70] The Administrative Law Judge summarized the events leading to Patagonia's purchase of the remaining shares of Pima as follows: [71]

> Prior to leaving for Florida, Mr. Sakrison advised Mr. Rich of his scheduled meetings with the two prospective purchasers. Within an hour and a half Mr. Rich arrived at Mr. Sakrison's office to discuss a purchase of Pima. (Sakrison, Tr. 200). An Agreement of Sale was reached in less than an hour. (Sakrison, Tr. 200; Rich, Tr. 54). There was no negotiation with respect to the price per share, which had been previously set by the Voting Trustees at $9.50 per share, nor with respect to their demand for cash. (Sakrison, Tr. 200; Rich, Tr. 54-55, 120).

The $9.50 price per share was $2 per share higher than the amount Patagonia had paid for Mrs. Hall's stock 16 months earlier, and $3.58 over the book value per share as of December 31, 1968.[72] Following execution of an Agreement of Sale on October 28, 1968, it became apparent that the closing date of January 16, 1969 could not be met because of the need for approval of the Federal Home Loan Bank Board.[73] On January 9, 1969, a Modification Agreement was negotiated between Patagonia and Mr. Sakrison postponing the closing date and providing that if the transaction was not consummated by June 2, 1969, all parties would be released from any liability or obligation arising from the original Agreement of Sale of October 28, 1968.[74] Patagonia also consented to the payment of a cash dividend of 9.5¢ per share on all of the issued and outstanding stock of Pima, including the recently declared and paid stock dividend of 20 per cent.[75] This dividend was originally to have been paid solely to Patagonia.[76] Patagonia also agreed to pay an additional 10¢ per share for the Pima stock "to equitably compensate" the sellers "for the unforeseen delay".[77]

On January 14, 1969, the Voting Trustees (including Mr. Sakrison) gave Patagonia a written assurance that they, as Directors, and Mr. Sakrison, as President, would continue to operate Pima in accordance with the policies evolved and established over the years and, secondly, that they would "neither initiate, recommend nor vote for any action which would cause Pima to waive any rights of substantial value, nor * * * initiate, recommend or vote for any action which would cause Pima to enter into any material transactions other than in the ordinary course of business." [78] The need for such written assurances contradicts any inference that Patagonia had the power to exercise a controlling influence over the management or policies of Pima.

Finally, in its application to the FSLIC for prior approval to acquire control of Pima filed on February 5, 1969, Patagonia did not claim Pima already was its subsidiary within the meaning of 12 U.S.C. 1730a(a)(2).[79] On June 11, 1969, Mr. Sakrison reported to the FHLBB pursuant to 12 U.S.C.(*l*)(1) that a change of control of Pima had occurred. 12 U.S.C. 1730(*l*)(1) requires the president or chief executive of any insured institution to report to the FSLIC "whenever a change occurs in the outstanding voting stock of any insured institution which will result in control or a change in the control of such institution." Control is defined as "the power to directly or indirectly direct or cause the direction of the management or policies of the insured institution." 12 U.S.C. 1730(*l*)(1) was enacted October 16, 1966, and was in effect during the time Patagonia claims to have had the power to exercise a controlling influence over the management or policies of Pima.[80]

The record thus shows that at the time Patagonia acquired its 20+ per cent interest in Pima from Mrs. Hall, Mr. Sakrison acted to ensure his continued absolute control of Pima by forming a voting trust that enabled him to control 56 per cent of the outstanding voting stock of Pima. During the period when Patagonia held 20+ per cent of Pima's stock, no significant events occurred that represented a change in the manner in which Pima conducted its business. The relevant minutes of the Board of Directors' meetings of Pima disclose no instances, and Mr. Sakrison could recall no specific instances, from which a power to exercise a controlling influence over the management or policies of Pima can be inferred. Finally, the events surrounding Patagonia's acquisition in 1969 of the shares of Pima controlled by Mr. Sakrison suggest that Patagonia had so little control over the situation that Mr. Sakrison was able to dictate not only the time of the sale, but also the premium price and the terms of sale, and it was necessary for Patagonia to get written assurances from the controlling stockholders and directors that they would not engage in or undertake any action that would materially affect the value of Pima's stock.

Furthermore, the testimony of the witnesses and the contemporaneous documents in the record do not provide a basis for inferring a power to exercise a controlling influence. The most important testimony in the record is that of Mr. Sakrison, whom all agree *was* the management of Pima and the person who established the policies of Pima that took it from an institution with $5.3 million of assets in 1956 to an institution with $83.8 million of assets in 1969.[81]

Mr. Sakrison stated that he did not express any hostility to the Patagonia people when they made their initial 20 percent investment.[82] Yet in a letter dated May 7, 1968, to Pima's Federal Home Loan Bank Board Supervisory Agent, Mr. Sakrison explained the reason for the formation of the Voting Trust: "This agreement was entered into strictly to preclude a holding company from gaining control of Pima Savings and Loan Association." [83] Mr. Sakrison also testified that the Voting Trust prevented Patagonia from:

> Gaining control by going around to individual stockholders and getting their stock, buying their stock and leaving me out, could have been accomplished. I would have been sitting there with my stock and they would have had the majority of the stock.[84]

On the question of influence over the management or policies of Pima, Mr. Sakrison testified that the Patagonia Directors were a valuable addition to Pima's board because they were businessmen who readily understood what the problems were.[85] However, he also testified that none of the three Patagonia directors added to the Pima Board had any savings and loan experience and that Pima had done quite well without them.[86] Pressed to explain his statement in an earlier affidavit that the addition of the Patagonia directors increased the functional capability of Pima's board, Mr. Sakrison stated that Messrs. Rich and Williams kept abreast of the money market, but could not provide any other specific examples.[87] Mr. Sakrison initially avoided answering the question whether he gave the Patagonia directors' views more weight than the views of other substantial stockholders of Pima.[88] He could not recollect whether Messrs. Rich and Williams set any policies before January 1969.[89] Mr. Sakrison couldn't be sure whether he ever affirmatively sought the counsel or advice of either Mr. Rich or Mr. Williams.[90] Mr. Sakrison testified that by June 30, 1968, "* * * it was all fixed in my mind that no doubt Patagonia would become the purchaser."[91] Furthermore, that knowledge did influence his conduct toward Messrs. Rich, Williams, and Money and Patagonia in the management of the affairs of Pima Savings and Loan, "* * * but I had a great respect for their ability and didn't want to just put it on that basis."[92]

Footnotes at end of document.

At one point late in his testimony, Mr. Sakrison indicated that the Patagonia directors had an extraordinary influence beyond that of other directors because of their prestige and status, and that he had wooed them to a certain extent because he viewed Patagonia as the likely purchaser of his Pima stock. [37] When asked how this desire to sell affected Pima as an institution, Mr. Sakrison stated that "* * * we would certainly consult with the directors, Mr. Rich, Mr. Williams, and Mr. Money, prior to going ahead with the procedures and policies, as to their viewpoint on it." [38] Mr. Sakrison could not recall whether the Patagonia directors had asked him to consult with them, but did testify that "possibly I consulted with them more as to policy than I did with the other directors." [39] Mr. Sakrison could not provide an example of a strong conviction he had about a practice of Pima that was ever "battled" by any member of Pima's Board. [40] Finally, near the end of his testimony, Mr. Sakrison answered the following questions asked by the Administrative Law Judge. [41]

Judge LAMACCHIA. Did you feel at any time prior to June 30, 1968, subordinate to Rich and Williams in connection with your administration of the affairs of Pima?

Mr. SAKRISON. No, I wouldn't say that I did. I did, though, value their opinion.

Judge LAMACCHIA. Did the prospect of sale to Patagonia, following the sale of the Hall block, per se, influence your judgment as president of Pima?

Mr. SAKRISON. No, I don't believe it did.

Although other witnesses, including Messrs. Rich, Williams, Money, and Herman testified, their statements are inconclusive. In any event, if Mr. Sakrison, who was the management of Pima, could not provide an example of Patagonia's power to exercise a controlling influence over him and his policies, the statements of the other witnesses do not carry much weight.

Summary and conclusion. As previously noted, determining whether or not the power to exercise a controlling influence existed on a particular date requires a careful appraisal of the whole effect of the various relationships and other circumstances presented in a particular case. The controlling influence provisions were added to the Bank Holding Company Act in 1970 at the Board's request. Shortly thereafter, the Board gave extensive consideration to the types of facts which could be considered to bear on the issue of control.

On July 9, 1971, the Board published for comment a proposed regulation establishing certain presumptions of control when certain factual circumstances were present (36 FR 12915). After consideration of very extensive public comment, the Board adopted a final regulation, effective September 21, 1971, which is found in § 225.2 of Regulation Y (12 CFR 225.2). On September 17, 1971 the Board instructed the Reserve Banks that:

See footnotes at end of article.

The Board regards the circumstances described in the rebuttable presumptions as constituting sufficient legal bases (unless evidence rebutting the presumptions is offered) upon which to make determinations of control and impose the sanctions of the Act upon the companies involved. There are a number of other circumstances that, standing alone, might not support valid presumptions of control but nevertheless are indicia of control and may call for further investigation to uncover facts that may support a determination of control.

Among the facts set forth by the Board as calling for a further investigation were:

A company owning five per cent or more of a bank or bank holding company has been instrumental in: hiring or firing a person or persons; establishing policies or places for branches; establishing hours of business; deciding on rates, terms or acceptance of loans or deposits; following uniform advertising practices or using a common telephone system; or in any other respects directing the activities of management or establishing the policies of a bank or company.

While these factors were aimed primarily at a consideration of whether control existed over a bank, they are equally applicable to the exercise of controlling influence over other organizations. An examination of the facts found by the hearing officer and the Board in this case indicates that none of the presumptions of controlling influence apply to the relationship between Patagonia and Pima. Nor do facts similar to those cited by the Board as calling for a further investigation exist. As previously noted, it does not appear that the record establishes instances of actual control, or events or structural situations from which a controlling influence might readily be inferred.

Patagonia places great weight in establishing a controlling influence on the fact that it was viewed by Mr. Sakrison and the others as a probable purchaser of Pima for cash. We might note at this point that Congress may well have considered whether the prospect of a sale to a third party would necessarily give that party, through the seller, a controlling influence over the company sold. Congress adopted a provision allowing companies covered in 1970 to continue to engage in activities of a subsidiary acquired after the grandfather date pursuant to binding written contracts entered into before that date. It was stated:

This latter provision was adopted in order to prevent inequities from arising with regard to a company which may have, in good faith, entered into a binding written contract to acquire a new subsidiary * * * and which otherwise would have been required under the provisions of this legislation to divest such subsidiary, even though it was legally committed to make the acquisition before the "grandfather" date adopted by the committee. [42]

Here, Patagonia did not even have the influence over Pima's affairs that would arise from a binding written contract to purchase, yet Congress apparently felt that the influence arising from a binding written contract to purchase would not be sufficient to provide grandfather rights without special statutory language. Furthermore, as noted above, the evidence of record does not provide substantial evidence that sale considerations provided Patagonia with substantial influence over Pima's affairs.

Throughout this proceeding, Patagonia has repeatedly argued that the Board and Board counsel have misconstrued the definition of the power to exercise a controlling influence. In this regard, Patagonia has placed great weight upon the "Chicago Corporation" case and other cases which speak in terms of a latent power being sufficient to establish a controlling influence.

While there should be a difference in the definitions of the term because of the differing purposes of the statutes and the fact that the Investment Company Act and the Public Utility Company Act start from the position of a presumption of control, any such difference would not affect the Board's determination in this case. Those cases, particularly those such as the "Chicago Corporation" case referred to above, which speak in terms of a latent power to exercise a controlling influence as being sufficient, have been carefully examined. In those cases there was either no other party clearly in control or there was evidence of an actual exercise of control on certain occasions. This is to be expected, since it is difficult to determine, absent a presumption, that a power exists without demonstrating its exercise. For instance, in the "Chicago Corporation" case, while speaking in terms of a latent power, the Securities and Exchange Commission pointed out that majority control in a third party had not been clearly established. It went on to say, however, that even assuming a united group, "Chicago has, in actuality been able to exercise a material and dominant influence in the corporation." [43] An analysis of these cases shows that in all of them there were facts from which an inference of controlling influence could be drown which were stronger than the facts established by the record in this case.

The context of this case is one in which actual majority control was cemented in a voting trust for the very purpose of preventing a third party from gaining control. Under such circumstances, the evidence of the power to exercise a controlling influence must be clear to establish its existence and overcome the contrary inference. However, even viewing the evidence as a whole, with respect to the question whether Patagonia can be considered to have been engaged in the savings and loan business through Pima on June 30, 1968 in a light most favorable to Patagonia Corporation, the Board believes that the most that can be stated is that the record provides support for inconsistent inferences. Patagonia had the burden in this proceeding of providing substantial evidence upon which a Board finding of a controlling influence could be based. [44] Patagonia has failed to carry that burden. As stated by the Court of Appeals:

The most that could be said in petitioner's favor would be that two equally probable, but inconsistent inferences could be drawn from the entire evidence. In such circumstances a finding against the party upon whom rests the necessity of sustaining one of these inferences is clearly correct. "Koppers United Co. v. S.E.C.," 138 F. 2d 577, 581 (1943).

On the basis of the record in this matter, the Board concludes that:

(1) Patagonia Corporation ("Patagonia"), Tucson, Arizona, a registered one-bank holding company and a "company covered in 1970" did not, directly or indirectly, exercise, or have the power to exercise, a controlling influence over Pima Savings and Loan Association ("Pima"), Tucson, Arizona, on June 30, 1968; and therefore,

(2) Pima was not a "subsidiary" of Patagonia on June 30, 1968, as that term is defined in the Bank Holding Company Act (12 U.S.C. 1841(d)); and consequently,

(3) Patagonia was not engaged, either directly or through a subsidiary, in the activities of a savings and loan association on June 30, 1968 and is not entitled to indefinite grandfather privileges with respect to the additional shares of Pima Savings and Loan Association that it acquired after June 30, 1968.

Patagonia has also requested, pursuant to § 263.14 of the Board's Rules of Practice for Formal Hearings, that it be granted an opportunity for oral argument before the Board. That section provides that at the request of any party the Board "in its discretion may order the matter to be set down for oral argument before the Board or one or more members thereof." The matter has been exhaustively argued and briefed before the hearing officer. Additionally, Patagonia has had an opportunity to submit exceptions to the hearing officer's decision and the Board has taken these exceptions into account. In view of the numerous opportunities Patagonia has had to state and argue its position in this case, the Board believes that oral argument in this matter is not necessary or appropriate.

By order of the Board of Governors,[1] effective February 24, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

FOOTNOTES

[1] Application processed on behalf of the Board of Governors under delegated authority.

[2] Application processed by the Reserve Bank on behalf of the Board of Governors under delegated authority.

[3] 4(c) (8) and 4(c) (12) notification processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

[4] As of September 30, 1976.

[5] The relevant banking market is approximated by Franklin County, Arkansas. Market data is as of December 31, 1975.

[6] Applicant has projected that Bank's assets will grow at an annual rate of 8 percent. However, Bank has experienced average annual asset growth of 20.7 percent over the past five years. Even if, as Applicant has suggested, Bank's asset growth over the past five years has been the result of nonrecurring circumstances, Applicant's asset growth projections appear unrealistic. In 1976, Bank assets grew at an annual rate of approximately 16 percent. Over the past five years, the average annual growth rate of all Arkansas banks has been approximately 15 percent.

[7] Voting for this action: Chairman Burns and Governors Gardner, Wallich, Coldwell, Jackson, Partee and Lilly.

[1] 60 Federal Reserve Bulletin 379 (1974).

[2] The Board has construed Applicants' June 25, 1976, letter as superseding Applicants' April 22, 1976, request for an extension of time.

[3] Voting for this action: Chairman Burns and Governors Gardner, Wallich, Coldwell, Jackson, Partee and Lilly.

[4] All banking data are as of June 30, 1975, unless otherwise indicated.

[5] Company will be operated independently of Bank's correspondent division.

[6] Voting for this action: Chairman Burns and Governors Wallich, Coldwell, Jackson, Pratee and Lilly. Absent and not voting: Governor Gardner.

Citations are abbreviated as follows:

A. Citations to the hearing transcript indicate the name of the witness and the appropriate transcript pages, e.g. Sakrison, Tr. 208.

B. Citations to Exhibits introduced at the hearing by the Board and by Patagonia are "BX" and "PX," respectively.

C. Citations to the Recommepded Decision, Findings of Fact are cited "RD, FF" and the appropriate numbered paragraph, e.g. "RD, FF 19."

CITATIONS

[1] The Ninth Circuit Court of Appeals in its decision remanding the case to the Board for further proceedings specifically reserved for the Board's consideration the meaning of the phrase "controlling influence."

[2] PX 1, p. 23; BX 2A, pp. R41, R43, R48; BX 2B, p. R252.

[3] BX 12.

[4] BX 2A, p. 41; Sakrison, Tr. 173–174, 212; Rich, Tr. 42.

[5] Sakrison, Tr. 212; BX 12.

[6] BX 12, 13.

[7] BX 12, 13, 14.

[8] BX 2A, p. R54; Herman, Tr. 371–372.

[9] BX 16; BX 35; Herman, Tr. 398; Sakrison, Tr. 398.

[10] BX 35, Sakrison, Tr. 398.

[11] BX 2A, p. R42.

[12] Sakrison, Tr. 213.

[13] Sakrison, Tr. 224–225.

[14] RD FF 66–71.

[15] RD FF 72; BX 10.

[16] BX 39; PX 1, p. 41; Williams, Tr. 136.

[17] Sakrison, Tr. 247.

[18] BX 28D; BX 53, p. 19.1a.

[19] RD FF 80; Sakrison, Tr. 190; BX 53, p. 191; BX 28D.

[20] BX 28D.

[21] BX 28D.

[22] BX 73A, pp. 1023–1024.

[23] RD FF 4 and 5.

[24] RD FF 3; Rich Tr. 28.

[25] BX 2B, p. 252.

[26] RD FF 114, 140–146.

[27] "Investors Mutual, Inc., et al." CCH Fed. Sec. Law Rep. ¶ 77,348 (1966); "The Chicago Corporation" 28 SEC 463 (1948); "M.A. Hanna Company" 10 SEC 581 (1941); "Bessemer Securities Company" 13 SEC 281 (1943); "American Gas & Electric Co. v. S.E.C." 134 F.2d 633; "Detroit Edison Co. v. S.E.C." 119 F.2d 730.

[28] As more fully set forth in the summary and conclusion, any such difference in tests would not affect the result reached by the Board in this case.

[29] Senate Report 91–1084, p. 24.

[29a] 115 Cong. Rec. 33141, 91st Cong. (1st Sess.).

[30] BX 2A, p. R57; RD FF 155(a).

[31] Sakrison, Tr. 208, 217, 308.

[32] RD FF 155(b); BX 73B, pp. 114, 1151. It appears that Mr. Rich's suggestion was accepted by Pima's Board of Directors because of its individual merit, not because of the exercise of a controlling influence over the management or policies of Pima.

[33] RD FF 157, Herman Tr. 382–384; BX 2A, pp. R57–R58.

[34] RD FF 158; Sakrison Tr. 219, 311.

[35] RD Attachments A and B, FF 166, 167.

[36] Herman, Tr. 383, 389.

[37] Herman, Tr. 383.

[38] RD FF 169–171.

[39] BX 73 B p. 1073.

[40] BX 73 B p. 1089–1091. As with Mr. Rich's suggestions concerning the deferral of action on a loan, the record supports a finding that the salary committee was formed because of the merit of the suggestion, not because of the exercise of a controlling influence.

[41] Sakrison, Tr. 180–181, 223–226, 228, 275, 284, 306; Rich. Tr. 42, 66, 73, 89, 93; Herman, Tr. 385–386, 393.

[42] Sakrison, Tr. 306, 307.

[43] Storek, Tr. 456; Sakrison, Tr. 188; BX 12, 13, 14.

[44] BX 36, 39; PX 1, p. R1; Williams, Tr. 136.

[45] Sakrison, Tr. 190; BX 53, p. 19.1; BX 28D.

[46] BX 28D.

[47] Sakrison, Tr. 224–225, 282. Voting power in an Arizona stock S&L is shared by all members of the association, consisting of (a) each person with a savings account having one vote for each $100 in the account, (b) each person with an outstanding loan having one vote, and (c) each stockholder having one vote for each share owned.

[48] BX 73A, 73B, 73C.

[49] Storek, Tr. 443–444; Williams, Tr. 152.

[50] BX 2A pp. R44, R69.

[51] RD FF 59.

[52] Sakrison, Tr. 198, 256–257; Rich, Tr. 47, 62–63.

[53] BX 41.

[54] Judge LA MACCHIA. Did the prospect of sale to Patagonia following the sale of the Hall block, per se, influence your judgment as president of Pima?

Mr. SAKRISON. No, I don't believe it did. (Sakrison, Tr. 309.)

[55] "The Chicago Corporation; M. A. Hanna; American Gas & Electric; Detroit Edison Co." (footnote 27 supra).

[56] "Gaining control by going around to individual stockholders and getting their stock, buying their stock and leaving me out, could have been accomplished. I would have been sitting with my stock and they would have had the majority of the stock." (Sakrison, Tr. 302.)

[57] Sakrison, Tr. 276.

[58] Sakrison, Tr. 227.

[58a] The Board rejects Patagonia's qualitative argument. A director's duty is, after all, to make meritorious suggestions. To establish a controlling influence, something more must be shown than the limited number of instances in this record in which suggestions with merit were accepted. As the Recommended Decision finds at page 79, the record supports the conclusion that the information and advice given depended on merit to persuade. If accepted by Pima's Board they were accepted because they were good ideas, not because of the source of the suggestion.

[59] RD, Discussion p. 79.

[60] Sakrison, Tr. 309.

[61] BX 28C, BX 28D.

[62] BX 28D.

[63] Sakrison, Tr. 302.

[64] BX 28C, BX 28D.

[65] Sakrison, Tr. 276, 306, 307.

[66] Sakrison, Tr. 276, 277.

[67] Sakrison, Tr. 276, 277.

[68] Sakrison, Tr. 307, 308.

[69] BX 73A, 73B, 73C.

[69] Sakrison, Tr. 196, 292.
[70] Rich, Tr. 125; Sakrison, Tr. 196–197.
[71] RD FF 106.
[72] BX 70.
[73] BX 8, p. 3; Rich, Tr. 56.
[74] PX 5.
[75] PX 5.
[76] PX 5.
[77] BX 55 p. 7, 8.
[78] BX 33.
[79] BX 55.
[80] BX 28P; RD FF 129.
[81] Herman, Tr. 385–386, 393; Rich, Tr. 42, 66, 73, 89, 93; Sakrison, Tr. 180, 275, 306; PX 3.
[82] Sakrison, Tr. 208, 209.
[83] BX 28C.
[84] Sakrison, Tr. 302.
[85] Sakrison, Tr. 193.
[86] Sakrison, Tr. 244, 245.
[87] Sakrison, Tr. 274.
[88] Sakrison, Tr. 274.
[89] Sakrison, Tr. 276.
[90] Sakrison, Tr. 277.
[91] Sakrison, Tr. 298.
[92] Sakrison, Tr. 298.
[93] Sakrison, Tr. 299.
[94] Sakrison, Tr. 306.
[95] Sakrison, Tr. 306.
[96] Sakrison, Tr. 307.
[97] Sakrison, Tr. 309.
[98] Senate Report 91-1084, p. 4.
[99] The Chicago Corporation, 28 S.E.C. 463, 468.
[100] This is in accord with section 556(d) of the Administrative Procedure Act, which provides that in formal hearings the proponent of an order has the burden of proof.
[101] Voting for this action: Chairman Burns and Governors Gardner, Wallich, Coldwell, Jackson, Partee, and Lilly.

[FR Doc.77-6348 Filed 3-2-77;8:45 am]

COMMUNITY SERVICES ADMINISTRATION

RESEARCH AND DEMONSTRATION PROGRAM

Invitation for Proposals for Rural Home Repair Action Program for the Poor

The Community Services Administration is hereby announcing the allocation of $2,250,000 of FY 1977 Research and Demonstration funds under Title II, Section 232 of the Economic Opportunity Act of 1964 as amended for a nationwide Rural Home Repair Action Program for the Poor. The Program will be conducted by selected non-profit organizations within each of the regions of the Nation over the next three year period.

The purpose of the new Rural Home Repair Action Program for the Poor is to demonstrate new approaches which can be replicated by rural community organizations across the nation in future years. The programs will be subject to intensive evaluation in the effort to validate these new approaches to the problems of rural low-income housing.

The applicants will be selected on a competitive basis against the following criteria:

1. Corporate Purpose and Structure: Priority will be accorded applicants that are private, non-profit corporations, organized under CSA regulitions with a minimum of ⅓ low-income board representation. These corporations shall have demonstrated capability in the area of low-income housing and in providing meaningful low-income involvement in the management of the program.

2. Geographic Range and Coverage: Priority will be accorded to at least one, and no more than three, applicants per Region. For the purposes of the program, "rural" shall be defined as including all areas with a population of 20,000 or less, or in exceptional cases, where a community otherwise exhibits rural characteristics.

3. Project Scope and Magnitude: Priority will be accorded applicants proposing a total Rural Home Repair Program effort of at least $80,000 to $200,000 per annum. Consideration will be given to existing housing programs as an addition to their on-going activities, or to newly created housing programs where no such capability now exists.

4. Mobilization of Resources: Priority will be accorded applicants on the basis of the nature and extent of Federal and non-Federal resources mobilized in support of the Rural Home Repair Program. Commitments from HUD, FmHA, DOL, EDA, SBA, HEW and State Agencies and energy conservation programs will be reviewed by the Community Services Administration in the selection process.

5. Participant Income and Eligibility Guidelines: Program funds will be available for homeowners whose incomes fall within the poverty thresholds as indicated in CSA Instruction 6004-1a, CSA Income Poverty Guidelines.[1] Priority will be accorded those programs proposing to serve the lowest income homeowners, and demonstrating an outreach capability to enlist them in the program. Applicants will submit proposed procedures for serving the lower 50 percent of the CSA poverty guideline families in the areas served.

6. Eligible Program Activities: Priority will be accorded comprehensive programs demonstrating the most effective cost-benefits to the participating homeowners. Suggested services the programs should consider providing to low-income homeowners include:

A. Outreach to low-income homeowners, and verification of income and homeownership status of program participants.

B. Development of Home Repair specifications for (a) removal of major structural deficiencies, (b) provision of basic sanitary facilities, (c) provision of adequate heat and insulation and lighting, (d) provision of additional space, where required, and (e) addition of special requirements for disabled and handicapped persons.

C. Packaging of home repair loan and grant documents for (a) transmittal to other Federal, state or private funding agencies, (b) for grant/loan payment to the participating homeowners, or (c) for bidding and/or contracting with public or private repair firms.

D. Implementation of home repair construction activities, including (a) crew recruitment, training, supervision support, (b) materials purchasing, inventory and quality control, and (c) follow-up job inspection, certification, (homes must meet minimum FmHA standards) and homeowner counselling and referral.

Applicants will be required to limit CSA share of home repair grants/loans to $3,500 per homeowner. Applicants will submit proposed procedures for administering home repair grant and loan programs.

7. Application Procedures:

A. Date and Duration: Applications will be submitted to the appropriate Regional Offices of the Community Services Administration no later than April 4, 1977. Applications should propose a program of three years duration, however, grants shall be awarded for a 12-month operating period. Subsequent funding shall be dependent on (a) the availability of funds appropriated for rural housing purposes and (b) the grantees' performance as determined by CSA's evaluation and assessment of the projects accomplishment.

B. Content: Applications will include the following submissions: (a) Narrative statements of the Rural Home Repair Problem and the proposed new approach to a problem of poverty to be tested by the program.

(b) CAP Form 11—Assurance of Compliance with Civil Rights Act.

(c) OEO Form 393—Certificate of Applicant's Attorney

(d) SF-424, Federal Assistance (Complete Sections I and II.[2]

(e) Description of management capability of applicant organization with organizational charts and senior staff resumés/board structure as appropriate.

(f) CSA Form 419, Summary of Work Programs and Budget.

(g) CSA Form 325, Budget Summary and CSA Form 325a, Budget Support sheet, to include: (i) Administrative costs, (any excess over 15 percent of total program costs must be justified) (ii) Grants-in-aid or home repair costs, (iii) equipment and supplies costs, (iv) consulting or other fees and costs, and (v) other costs.

C. Support Documents: Applications will show the availability of the following: (a) Formal commitments of cooperation, or of financial set-asides from Federal, state or local or private agencies such as FmHA, HUD, DOL, HEW, EDA, SBA and/or their State or local counterparts and (b) self-evaluation plan per OEO Instruction 7031-1.

Organizations interested in applying for the Rural Home Repair Action Program for the Poor should submit applications to the appropriate CSA Regional Office and contact them for additional information:

REGION I

E-400 John F. Kennedy Federal Building, Boston, Massachusetts 02203. Phone: (617) 223-4080.

[1] NOTE.—For this program it is Not 125 percent of these guidelines.

[2] NOTE.—Clearinghouse review not required.

REGION II

26 Federal Plaza, 32nd Floor, New York, New York 10007. Phone: (212) 264-1900.

REGION III

Gateway Building, 3535 Market Street, Philadelphia, Pennsylvania 19104. Phone: (215) 597-6001.

REGION IV

730 Peachtree Street NE., Atlanta, Georgia 30308. Phone: (404) 285-3173.

REGION V

300 South Wacker Drive, 24th Floor, Chicago, Illinois 60606. Phone: (312) 353-5562.

REGION VI

1200 Main Street, Dallas, Texas 75202. Phone: (214) 749-1301.

REGION VII

911 Walnut Street, Kansas City, Missouri 64106. Phone: (816) 758-3761.

REGION VIII

1961 Stout Street, Federal Building, Denver, Colorado 80202. Phone: (303) 327-4767.

REGION IX

450 Golden Gate Avenue, Box 36008, San Francisco, California 94102. Phone: (415) 556-5400.

REGION X

1321 Second Avenue, Seattle, Washington 98101. Phone: (206) 399-4910.

ROBERT C. CHASE,
Acting Director.

[FR Doc.77-6434 Filed 3-2-77;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 76-10]

CRAFTMASTER PRODUCTS, INC., A CORPORATION, AND JOHN L. STAVINOHA, INDIVIDUALLY AND AS AN OFFICER OF THE CORPORATION

Prehearing Conference

On December 7, 1976, the Commission issued a Notice of Enforcement with attached supporting exhibits charging respondents in the above entitled proceeding with having violated the Flammable Fabrics Act (15 U.S.C. 1191 et seq.), the Standard of the Flammability of Mattresses (FF 4-72), (16 CFR, Part 1632, Subparts A and B) and the implementing regulations thereunder (16 CFR 1632.31) and the Federal Trade Commission Act (15 U.S.C. 41 et seq.,). More particularly, respondents were charged with failing to conduct required flammability tests on mattresses manufactured since December 23, 1973, and failing to maintain all the records pertaining to the manufacture, flammability testing and sale of such mattresses. By way of sanction, it is proposed that Respondents be ordered to cease and desist from said violations in the future and, in addition, to notify all customers who have purchased or received mattresses since December 23, 1973 that such mattresses do not comply with the Mattress Standard and implementing regulations, and that all such customers may return their mattresses for complete refund or replacement at respondents' option, plus an allowance for reasonable transportation costs.

On January 19, 1976, respondents filed an answer denying all charges in the Notice of Enforcement.

Issue having been joined, a prehearing conference by conference telephone will be held at 11:00 A.M., (EST) (10:00 A.M., CST) on March 23, 1977. The appropriate telephone numbers are: Administrative Law Judge Paul N. Pfeiffer, 202-634-7171; Stuart Haynsworth, Esquire, Counsel for Respondents, 713-224-3355; Mana Jennings, Esquire, Enforcement Counsel, 202-492-6626.

The conference will include a discussion of the following subjects:

(1) The scope of the issues to be heard and the positions of the parties thereon.

(2) Whether, and to what extent, the parties may enter into a stipulation of facts.

(3) The need for discovery, by interrogatories, depositions, requests for admissions of fact, if any.

(4) The possibility of entering into a consent agreement and order disposing of the issues in the proceeding without the necessity of a hearing.

(5) The scheduling of future procedural steps including the establishment of a date, time, and place for hearing.

Any person desiring to participate in the forthcoming hearing should file a petition for leave to intervene in accordance with Part 1025.33 of the Commission's Interim Rules of Practice for Adjudicative Proceedings.

Dated: February 28, 1977.

PAUL N. PFEIFFER,
Administrative Law Judge.

[FR Doc.77-6340 Filed 3-2-77;8:45 am]

[CPSC Docket No. 76-8]

McENTIRE BROTHERS, INC. AND DON E. McENTIRE

Prehearing Conference

On December 8, 1976, the Commission issued a Notice of Enforcement with attached supporting exhibits charging respondents in the above entitled proceeding with having violated the Flammable Fabrics Act (15 U.S.C. 1191 et seq.), the Standard of the Flammability of Mattresses (FF 4-72), (16 CFR, Part 1632, Subparts A and B) and the implementing regulations thereunder (16 CFR 1632.31) and the Fedral Trade Commission Act (15 U.S.C. 41 et seq.). More particularly, respondents were charged with failing to conduct required flammability tests on mattresses manufactured since December 23, 1973, and failing to maintain all the records pertaining to the manufacture, flammability testing and sale of such mattresses. By way of sanction, it is proposed that Respondents be ordered to cease and desist from said violations in the future and, in addition, to notify all customers who have purchased or received mattresses since December 23, 1973 that such mattresses do not comply with the Mattress Standard and implementing regulations, and that all such customers may return their mattresses for complete refund or replacement at respondents' option, plus an allowance for reasonable transportation costs.

On December 24, 1976, respondents filed an answer denying all charges in the Notice of Enforcement and further denying that the Notice was in proper form and contained evidence establishing a prima facie case. On January 17, 1977, respondents filed a motion for a more definite statement of charges and a further motion to dismiss the Notice of Enforcement for failure to set a hearing date. On February 23, 1977, the motion for a more definite statement of charges was granted and the motion to dismiss was denied.

Issue having been joined, a prehearing conference by conference telephone will be held at 11:00 a.m., e.s.t., 10:00 a.m., C.s.t., on March 21, 1977. The appropriate telephone numbers are: Administrative Law Judge Paul N. Pfeiffer, 202-634-7749; Louis F. Eisenbarth, Esquire, Counsel for Respondents, 913-357-6311; Charles Wagner, Gwen Crockett, Enforcement Counsel, 202-492-6626.

The conference will include a discussion of the following subjects:

(1) The scope of the issues to be heard and the positions of the parties thereon.

(2) Whether, and to what extent, the parties may enter into a stipulation of facts.

(3) The need for discovery, by interrogatories, depositions, requests for admissions of fact, if any.

(4) The possibility of entering into a consent agreement and order disposing of the issues in the proceeding without the necessity of a hearing.

(5) The scheduling of future procedural steps including the establishment of a date, time, and place for hearing.

Any person desiring to participate in the forthcoming hearing should file a petition for leave to intervene in accordance with § 1025.33 of the Commission's interim rules of practice for Adjudicative Proceedings.

Dated: February 28, 1977.

PAUL N. PFEIFFER,
Administrative Law Judge.

[FR Doc.77-6306 Filed 3-2-77;8:45 am]

MEETING

This notice announces a meeting of the Consumer Product Safety Commission under requirements of the Government in the Sunshine Act. As specified in the Commission's Proposed and Interim Rules for Meetings [16 CFR Part 1012], this notice sets forth the agenda of that meeting, including date, time and place of the meeting, the subject matter, and whether all or part of the meeting is open or closed.

For additional information on the meeting, interested persons can contact Sheldon D. Butts, Assistant Secretary, Consumer Product Safety Commission, Suite 300, 1111 18th Street, N.W., Wash-

ington, D.C. 20207, telephone 202–634–7700.

Dated: February 28, 1977.

SADYE E. DUNN,
Secretary.

MEETING

Commission Meeting, March 10, 1977, 3rd Floor Hearing Room, 1111 18th Street, N.W., Washington, D.C.

All matters will be conducted in open session unless otherwise noted.

AGENDA

9:30 A.M. CONVENE MEETING

1. *Non-adjudicative rules of procedure under the Flammable Fabrics Act.* The Commission will consider a draft regulation which would establish rules of procedure for investigations, inspections and inquiries pursuant to the Flammable Fabrics Act. The Commission proposed a version of these Rules in July, 1976.

2. *Certification standards for architectural glazing.* In January, 1977, the Commission promulgated mandatory safety standards for architectural glazing materials (16 CFR Part 1201), which becomes effective July 6, 1977. At that time, the Commission stated that regulations for certifying compliance with the safety standard would also become effective July 6. The Commission will consider three alternatives for establishing certification standards: 1) to reply on the language of section 14 of the Consumer Product Safety Act, which requires manufacturers to issue a certificate based on a reasonable testing program: 2) to set limits for the testing programs which manufacturers must establish: and 3) to establish a detailed testing program which manufacturers must follow.

Break for lunch.

2:00 P.M. RECONVENE MEETING—CLOSED TO THE PUBLIC

3. *Timeliness cases under section 15 of the Consumer Product Safety Act.* (Closed). Section 15 of the Consumer Product Safety Act requires manufacturers (and others) to report immediately to the Commission any product which might pose a substantial product hazard because it does not meet an applicable safety standard or contains a defect which might pose a substantial hazard. The Commission will consider possible civil penalty action against two manufacturers which the staff believes did not make timely reports on possibly hazardous products.

Adjournment.

[FR Doc. 77-6336 Filed 3-2-77;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE INTELLIGENCE AGENCY SCIENTIFIC ADVISORY COMMITTEE

Closed Meetings

Pursuant to the provisions of subsection (d) of section 10 of Pub. L. 92–463, as amended by Pub. L. 94–409, notice is hereby given that closed meetings of two separate Panels of the DIA Scientific Advisory Committee will be held on the same day as follows:

Wednesday, April 6, 1977—Pomponio Plaza, Rosslyn, Va.

Both meetings, one commencing at 0830 hours and the other at 0845 hours are devoted to the discussion of classified information as defined in section 552(b)(1), Title 5 of the U.S. Code and therefore will be closed to the public. One Panel will receive briefings and participate in discussions relative to the Defense Intelligence Agency's assessments of foreign military equipment, operations, and capabilities. The other Panel will work on a study of specialized intelligence data requirements and data distribution procedures.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

FEBRUARY 25, 1977.

[FR Doc.77-6307 Filed 3-2-77;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

LIQUID METAL FAST BREEDER REACTOR (LMFBR) STEERING COMMITTEE

Meetings

MARCH 2, 1977.

The LMFBR Steering Committee will hold its first meeting on March 3, 1977, from 9:30 a.m. to approximately 2:00 p.m., at ERDA Headquarters, 20 Massachusetts Avenue, Washington, D.C., Room 8222. The meeting will be open to the public. The purpose of this meeting is to discuss the organization of the committee and scope of the study to be undertaken. Background and study material also will be distributed and discussed with the members.

A second meeting of the advisory committee will be on March 9, 1977, from 9:30 a.m. to approximately 5:00 p.m. at the Hyatt Regency Hotel, 400 N.J. Avenue, N.W., Washington, D.C., Room Columbia A. The purpose of this meeting will be to discuss the status of the study, issues identified, and to further discuss the scope and conduct of the study. This meeting also will be open to the public.

The Chairman is empowered to conduct the meetings in a manner that in his judgment will facilitate the orderly conduct of business. With respect to public participation in agenda items scheduled above, the following requirements shall apply:

(a) Questions at the meeting may be propounded only by members of the steering committee and ERDA officials assigned to participate with the committee in its deliberations.

(b) Seating to the public will be made available on a first-come, first-served basis.

(c) The use of still, movie, and television cameras, the physical installation and presence of which will not interfere with the course of the meetings will be permitted both before and after the meetings and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(d) Copies of minutes will be made available for copying, following their certification by the Chairman, in accordance with the Federal Advisory Committee Act, at the Energy Research and Development Administration's Public Document Room, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545, upon payment of all charges required by law.

Due to the exigencies of public business necessitating earliest possible establishment and operation of this committee, I have determined that the normal 15-day notice period for these meetings is not feasible.

Practical considerations may dictate alterations in the above agenda.

ROBERT W. FRI,
Acting Administrator.

[FR Doc.77-6619 Filed 3-2-77;12:15 pm]

LMFBR STEERING COMMITTEE

Determination To Establish

MARCH 2, 1977.

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), I hereby certify that the establishment of a Liquid Metal Fast Breeder Reactor (LMFBR) Steering Committee as hereinafter identified, is in the public interest in connection with the performance of duties imposed upon the Energy Research and Development Administration by the Energy Reorganization Act of 1974 and other applicable law. This determination follows consultation with the Office of Management and Budget (OMB), pursuant to section 9(a)(2) of the Federal Advisory Committee Act and OMB Circular No. A–63 (Revised).

Name of Advisory Committee: LMFBR Steering Committee.

Purpose: The committee will assess and advise the Assistant Administrator for Nuclear Energy on matters pertaining to the following:

a. The role of LMFBRs in the Nation's energy future.

b. The makeup and direction of the overall LMFBR program.

Effective date of establishment and duration: The advisory committee is established effective immediately. The advisory committee's termination date will be February 1, 1978.

Membership: The membership of the advisory committee shall be balanced fairly in terms of the points of view represented and the functions to be performed by the advisory committee. Approximately 15 members from the fields of science, academia, utilities, and other sectors of the general public will serve on the committee. There will be no discrimination based on race, color, creed, national origin, religion, or sex.

Operation: The LMFBR Steering Committee will operate in accordance with the provisions of the Federal Advisory Commitee Act (Pub. L. 92–463), ERDA policy and procedures (10 CFR Part 707), OMB Circular A–63 (Revised), and other directives and instructions issued in accordance with the implementation of the Act. The LMFBR Steering Committee will meet approximately five times during the year. An agenda for each meeting will be developed. The Assistant Administrator for Nuclear Energy will

provide on a continuous basis all information on nuclear energy programs, issues, and policies reasonably required by the committee to perform its functions. Staff support will be provided to the committee by the Assistant Administrator for Nuclear Energy.

ROBERT W. FRI,
Acting Administrator.

[FR Doc.77-6618 Filed 3-2-77;12:15 pm]

ENVIRONMENTAL PROTECTION AGENCY

[OPP 42016B; FRL-7]

MICHIGAN

State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides; Approval Status

Correction

In FR Doc. 77-4643, appearing at page 9203 in the issue for Tuesday, February 15, 1977, the headings should appear as set forth above.

[FRL 694-4; OPP-180112]

OREGON DEPARTMENT OF AGRICULTURE

Issuance of a Specific Exemption To Use Benomyl To Control Foot Rot of Winter Wheat

Pursuant to the provisions of section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.), notice is given that the Environmental Protection Agency (EPA) has granted a specific exemption to the Oregon Department of Agriculture (hereafter referred to as the "Applicant") to use benomyl for the control of foot rot in eight counties in eastern Oregon. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, issued December 3, 1973 (38 FR 33303), which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., S.W., Room E-315, Washington, D.C. 20460.

According to the Applicant, approximately 200,000 acres of winter wheat in eastern Oregon are seriously affected by foot rot disease caused by the fungal pathogen *Cercosporella herpotrichoides*. The counties involved are Baker, Gilliam, Morrow, Sherman, Umatilla, Union, Wallowa, and Wasco. The Applicant stated that *Cercosporella* foot rot infects much of the wheat in eastern Oregon when wheat is seeded early and the winters are mild; the environmental conditions during the fall and winter of 1976-1977 appear to be highly favorable for the development of this disease. In 1976, the Oregon Department of Agriculture applied for and was granted similar specific exemption for the use of benomyl to control Cercosporella foot rot of wheat in six counties in eastern Oregon.

No registered pesticide or alternative methods of control are available to suppress this pathogen. Resistant varieties of wheat are not available for the area involved, and later seeding, which reduces losses, is not economically practical.

The Applicant proposed to use Benlate (benomyl) fungicide (Methyl 1-(butylcarbamoyl) - 2-benzimidazolecarbamate), EPA Reg. No. 352-354. The rates of application will be one (1) pound Benlate (0.5 pound active ingredient benomyl) in 5-10 gallons of water per acre and one (1) pound Benlate in 20-30 gallons of water per acre by air and ground, respectively. One application will be made between the first of February and April 30, 1977. Applications will be made either by growers on their own property or by State-licensed commercial applicators. The Applicant stated that qualified Oregon University extension agents will recommend application rates and procedures; however, the dosage rate will not exceed 0.5 pound active ingredient benomyl.

The Fish and Wildlife Service, U.S. Department of the Interior, has advised EPA that no serious adverse effects on fish and wildlife resources are anticipated from the application as described. Without the application of benomyl, the average wheat yield loss estimated from Cercosporella foot rot is ten (10) percent valued at $6,000,000.

Formal tolerances for benomyl residues on wheat grain and green forage have not been established. However, the EPA has determined that the application of this fungicide to winter wheat at these application rates will result in residue levels of less than 0.2 ppm (parts per million), which do not constitute a hazard to the public health. Based on evaluation of existing data, EPA has determined that a residue level on wheat straw not exceeding 15 ppm would be adequate to protect the public health. Green forage will not be used as a feed item. Meat, milk, poultry, and egg tolerances are already established for residues of benomyl resulting from the feed use of various raw agricultural commodities and processed feed commodities. It has been concluded that secondary benomyl residues transferring to meat, milk, poultry, or eggs as a result of feed use of the treated wheat grain and straw would be adequately covered by the existing tolerances.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of Cercosporella foot rot disease has occurred; (b) there is no pesticide presently registered and available for use to control this pest in eastern Oregon; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic, environmental or health problems may result if the pest is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until April 30, 1977, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. Benlate (benomyl), EPA Reg. No. 352-354, will be used;

2. Wheat acreage to be treated is limited to the eight counties listed at the beginning of this notice;

3. One (1) pound of Benlate (0.5 pound active ingredient benomyl) per acre will be applied by ground (in 20-30 gallons of water) or air (in 5-10 gallons of water);

4. A single application will be made;

5. Applications will be made either by growers on their own property or by State-licensed commercial applicators;

6. Application rates and procedures will be recommended by qualified Oregon State University extension agents. The dosage rate will not exceed 0.5 pound active ingredient benomyl;

7. If benomyl is applied by aircraft, all precautions will be taken to avoid or minimize drift;

8. A residue level not to exceed 0.2 ppm in or on harvested wheat grain and 15 ppm in or on wheat straw has been determined to be adequate to protect the public health. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

9. Green forage will not be used as a feed item; and

10. A final report will be submitted listing the counties and acreage for all applications, benefits realized from this use of benomyl, and any losses due to phytotoxicity.

Dated: February 24, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.77-6467 Filed 3-2-77;8:45 am]

[FRL 694-5; OPP-180113]

WASHINGTON DEPARTMENT OF AGRICULTURE

Issuance of a Specific Exemption To Use Benomyl To Control Foot Rot of Winter Wheat

Pursuant to the provisions of section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.), notice is given that the Environmental Protection Agency (EPA) has granted a specific exemption to the Washington Department of Agriculture (hereafter referred to as the "Applicant") to use benomyl for the control of foot rot on 250,000 acres of wheat in eastern Washington. This exemption was granted in accordance with, and is sub-

ject to, the provisions of 40 CFR Part 166, issued December 3, 1973 (38 FR 33303), which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., S.W., Room E-315, Washington, D.C. 20460.

According to the Applicant, approximately 250,000 acres of winter wheat in eastern Washington are seriously affected by foot rot disease caused by the fungal pathogen *Cercosporella herpotrichoides*. All counties east of the crest of the Cascade Mountains are involved. The Applicant stated that Cercosporella foot rot infects much of the wheat in eastern Washington; favorable climate conditions could cause the pathogen to reach epiphytotic proportions in some areas. The environmental conditions during the fall and winter of 1976–1977 appear to be highly favorable for the development of this disease. In 1976, the Washington Department of Agriculture applied for and was granted a similar specific exemption for the use of benomyl to control cercosporella foot rot of wheat in six counties in eastern Washington.

No registered pesticide or alternative methods of control are available to suppress this pathogen. Resistant varieties of wheat are not available for the area involved, and later seeding, which reduces losses, is not economically practical.

The Applicant proposed to use Benlate (benomyl) fungicide (Methyl 1-(butylcarbamoyl) - 2 - benzimidazolecarbamate), EPA Reg. No. 352-354. The rates of application will be one (1) pound Benlate (0.5 pound active ingredient benomyl) in 5–10 gallons of water per acre and one (1) pound Benlate in 20–30 gallons of water per acre by air and ground, respectively. One application will be made between the first of February and April 30, 1977. Applications will be made either by State-licensed commercial applicators or by growers on their own property, following a determination by Washington State University extension agents that the disease is present in their area; however, the dosage rate will not exceed 0.5 pound active ingredient benomyl.

The Fish and Wildlife Service, U.S. Department of the Interior, has advised EPA that no serious adverse effects on fish and wildlife resources are anticipated from the application as described. Without the application of benomyl, the average wheat yield loss estimated from Cercosporella foot rot is fifteen (15) percent valued at $5,437,500. Potential losses due to this disease may even reach thirty (30) percent, valued at over 10,500,000, the Applicant stated.

Formal tolerances for benomyl residues on wheat grain and green forage have not been established. However, the EPA has determined that the application of this fungicide to winter wheat at these application rates will result in residue levels of less than 0.2 ppm (parts per million), which do not constitute a hazard to the public health. Based on evaluation of existing data, EPA has determined that a residue level on wheat straw not exceeding 15 ppm would be adequate to protect the public health. Green forage will not be used as a feed item. Meat, milk, poultry, and egg tolerances are already established for residues of benomyl resulting from the feed use of various raw agricultural commodities and processed feed commodities. It has been concluded that secondary benomyl residues transferring to meat, milk, poultry, or eggs as a result of feed use of the treated wheat grain and straw would be adequately covered by the existing tolerances.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of Cercosporella foot rot disease has occurred; (b) there is no pesticide presently registered and available for use to control this pest in eastern Washington; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic, environmental or health problems may result if the pest is not controlled; and (e) the time available for action to mitigate the problems posed in insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until April 30, 1977, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. Benlate (benomyl), EPA Reg. No. 352-354, will be used;

2. Wheat acreage to be treated is limited to the counties east of the Cascade Mountains;

3. One (1) pound of Benlate (0.5 pound active ingredient benomyl) per acre will be applied by ground (in 20–30 gallons of water) or air (in 5–10 gallons of water);

4. A single application will be made;

5. Applications will be made either by State-licensed commercial applicators or by growers on their own property, following a determination by Washington State University extension agents that the disease is present in their area;

6. The dosage rate will not exceed 0.5 pound active ingredient benomyl;

7. If benomyl is applied by aircraft, all precautions will be taken to avoid or minimize drift;

8. A residue level of benomyl not to exceed 0.2 ppm in or on harvested wheat grain and 15 ppm in or on wheat straw has been determined to be adequate to protect the public health. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

9. Green forage will not be used as a feed item; and

10. A final report will be submitted listing the counties and acreage for all applications, benefits realized from this use of benomyl, and any losses due to phytotoxicity.

Dated: February 24, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.77-6468 Filed 3-2-77;8:45 am]

FEDERAL MARITIME COMMISSION

[General Order 29]

MILITARY SEALIFT PROCUREMENT SYSTEM

RFP-1200, First Cycle Uniform Capacity Utilization Factor

General Order 29, § 549.5(b)(1), states that "at least 30 days prior to the bidding date for any RFP Cycle * * * the Commission will establish a uniform capacity utilization factor for each MSC trade route. Carriers will determine cargo unit cost on the basis of such factor or of the actual number of cargo units carried, whichever is greater." The RFP-1200, First Cycle bids will be effective from July 1, 1977, through December 31, 1977.

The UCUFs for RFP-1200, First Cycle were computed from cargo statistics obtained from the carriers involved in the Military Sealift Procurement System. The data for each MSC route index[1] was based on voyages terminating between January 1, 1976, and December 31, 1976.

Separate utilization factors were computed for containerized and breakbulk cargo and have been rounded to the nearest five (5) percent. Container data was reported in 20-foot equivalent units (1,280 cu. ft.). Breakbulk utilization was requested in stowed measurement tons.

Where only one RFP carrier had an active U.S. flag service on a particular trade route, the Commission believes that it is improper to issue a UCUF on that trade route as it would specifically reveal significant operating data to possible competitors. For these routes, the notation "Use actual utilization" will replace a UCUF number. These were also a number of trade routes where no RFP carriers offered active U.S. flag service and where no RFP cargo was carried. These trade routes are indicated as such in the Appendixes.

Because data for twelve months were available, UCUFs for each of the five (5) subzones within Breakbulk Route Indexes 01-A, 08-A, and 14-A have been computed for the first time. This change became necessary as bids were initially accepted for each subzone instead of Zone A in total for RFP-1100, First Cycle (July 1 to December 31, 1976).

Also, for RFP-1100, First Cycle, initial bids were accepted for Container Route Indexes 07-A and 13-A, and Container and Breakbulk Route Index 33. Since statistics for only six months are available for these Route Indexes, no UCUF has been computed. However, these Route Indexes are listed in the current

[1] Exclusive of interport routes (e.g., Hawaii to Japan).

UCUF report with the notation "Use actual utilization." Once statistics for twelve months are available, factors will be computed for these additional RFP Route Indexes.

Zone B, Vietnam, on Container and Breakbulk Route Indexes 01, 08, and 14 has been eliminated from the MSC Rate Guides and, accordingly, this zone is not included in the current UCUF listing.

Notice is hereby given that pursuant to 46 CFR 549.5(b)(1), the Commission has adopted for RFP–1200, First Cycle the UCUFs contained in Appendixes A and B of this notice.

By the Commission, February 18, 1977.

JOSEPH C. POLKING,
Acting Secretary.

APPENDIX A—*Uniform capacity utilization factors RFP–1200, first cycle by MSC route index and zone container carriers*

Trade route Index	Zone	Geographical description	UCUF percentage
01	A1	U.S. West Coast to Kwajalein.	(1)
01	A2	U.S. West Coast to Korea.	90
01	A3	U.S. West Coast to Okinawa.	90
01	A4	U.S. West Coast to Hong Kong and Taiwan.	85
01	A5	U.S. West Coast to Philippines.	90
01	C	U.S. West Coast to Thailand.	90
01	D	U.S. West Coast to Pacific Straits and Indonesia.	90
01	E	U.S. West Coast to Japan.	85
04		U.S. East Coast to United Kingdom and Eire.	80
05		U.S. East Coast to Continental Europe	75
06	A	U.S. East Coast to Western Mediterranean.	80
06	B	U.S. East Coast to Eastern Mediterranean.	80
07	A	U.S. East Coast to Aqaba, Red Sea, Arabian Gulf Range.	(1)
08	A1	U.S. East Coast to Kwajalein	(2)
08	A2	U.S. East Coast to Korea.	90
08	A3	U.S. East Coast to Okinawa.	90
08	A4	U.S. East Coast to Hong Kong and Taiwan.	90
08	A5	U.S. East Coast to Philippines.	90
08	C	U.S. East Coast to Thailand.	90
08	D	U.S. East Coast to Pacific Straits and Indonesia.	90
08	E	U.S. East Coast to Japan.	90
10	A	U.S. Gulf Coast to United Kingdom and Eire.	85
11	A	U.S. Gulf Coast to Continental Europe.	85
12	A	U.S. Gulf Coast to Western Mediterranean.	90
12	B	U.S. Gulf Coast to Eastern Mediterranean.	90
13	A	U.S. Gulf Coast to Aqaba, Red Sea, Arabian Gulf Range.	(1)
14	A1	U.S. Gulf Coast to Kwajalein.	(2)
14	A2	U.S. Gulf Coast to Korea.	90
14	A3	U.S. Gulf Coast to Okinawa.	90
14	A4	U.S. Gulf Coast to Hong Kong and Taiwan.	90
14	A5	U.S. Gulf Coast to Philippines.	90
14	C	U.S. Gulf Coast to Thailand.	90
14	D	U.S. Gulf Coast to Pacific Straits and Indonesia.	90
14	E	U.S. Gulf Coast to Japan.	90
23	.....	U.S. West Coast to Continental Europe.	80
24	.....	U.S. West Coast to United Kingdom and Eire.	85
25	A	U.S. West Coast to Western Mediterranean.	(2)
25	B	U.S. West Coast to Eastern Mediterranean.	(2)
28	A	U.S. West Coast to Canal Zone.	85
33	.....	U.S. East Coast to Azore Islands.	(2)
37	.....	U.S. East Coast to Dominican Republic.	(2)
39	A	U.S. East Coast to Balboa, Canal Zone.	85
39	B	U.S. East Coast to Cristobal, Canal Zone.	(2)
42	.....	U.S. Gulf Coast to Dominican Republic.	(2)
43	A	U.S. Gulf Coast to Balboa, Canal Zone.	90

[1] Use actual utilization.
[2] No active RFP service.

APPENDIX B—*Uniform capacity utilization factors RFP–1200, first cycle by MSC route index and zone breakbulk carriers*

Trade route Index	Zone	Geographical description	UCUF percentage
01	A1	U.S. West Coast to Kwajalein.	(2)
01	A2	U.S. West Coast to Korea	65
01	A3	U.S. West Coast to Okinawa.	70
01	A4	U.S. West Coast to Hong Kong and Taiwan.	65
01	A5	U.S. West Coast to Philippines.	60
01	C	U.S. West Coast to Thailand.	(1)
01	D	U.S. West Coast to Pacific Straits and Indonesia.	(1)
01	E	U.S. West Coast to Japan.	65
04	.....	U.S. East Coast to United Kingdom and Eire.	(2)
05	.....	U.S. East Coast to Continental Europe.	(1)
06	A	U.S. East Coast to Western Mediterranean.	55
06	B	U.S. East Coast to Eastern Mediterranean.	55
07	A	U.S. East Coast to Aqaba, Red Sea, Arabian Gulf Range.	55
07	B	U.S. East Coast to Pakistan, India, Burma Range.	65
08	A1	U.S. East Coast to Kwajalein.	(1)
08	A2	U.S. East Coast to Korea.	75
08	A3	U.S. East Coast to Okinawa.	(1)
08	A4	U.S. East Coast to Hong Kong and Taiwan.	(1)
08	A5	U.S. East Coast to Philippines.	(1)
08	C	U.S. East Coast to Thailand.	(1)
08	D	U.S. East Coast to Pacific Straits and Indonesia.	(1)
08	E	U.S. East Coast to Japan.	75
10	A	U.S. Gulf Coast to United Kingdom and Eire.	(1)
11	A	U.S. Gulf Coast to Continental Europe.	75
12	A	U.S. Gulf Coast to Western Mediterranean.	(1)
12	B	U.S. Gulf Coast to Eastern Mediterranean.	65
13	A	U.S. Gulf Coast to Aqaba, Red Sea, Arabian Gulf Range.	55
13	B	U.S. Gulf Coast to Pakistan, India, Burma Range.	65
14	A1	U.S. Gulf Coast to Kwajalein.	(2)
14	A2	U.S. Gulf Coast to Korea.	65
14	A3	U.S. Gulf Coast to Okinawa.	60
14	A4	U.S. Gulf Coast to Hong Kong and Taiwan.	60
14	A5	U.S. Gulf Coast to Philippines.	55
14	C	U.S. Gulf Coast to Thailand.	(1)
14	D	U.S. Gulf Coast to Pacific Straits and Indonesia.	75
14	E	U.S. Gulf Coast to Japan.	75
25	A	U.S. West Coast to Balboa, Canal Zone.	(1)
33	.....	U.S. East Coast to Azore Islands.	(1)
37	.....	U.S. East Coast to Dominican Republic.	(1)
39	A	U.S. East Coast to Balboa, Canal Zone.	(1)
39	B	U.S. East Coast to Cristobal, Canal Zone.	(1)
42	.....	U.S. Gulf Coast to Dominican Republic.	(1)
43	A	U.S. Gulf Coast to Balboa, Canal Zone.	(1)
43	B	U.S. Gulf Coast to Cristobal, Canal Zone.	(1)
46	A	U.S. Great Lakes to Western Mediterranean.	(1)
46	B	U.S. Great Lakes to Eastern Mediterranean.	(1)
47	A	U.S. West Coast to Aqaba, Red Sea, Arabian Gulf Range.	(1)
47	B	U.S. West Coast to Pakistan, India, Burma Range.	(1)

[1] Use actual utilization.
[2] No active RFP service.

[FR Doc.77-6244 Filed 3-2-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. CP77-222]

ARKANSAS LOUISIANA GAS CO.

Application

FEBRUARY 23, 1977.

Take notice that on February 14, 1977, Arkansas Louisiana Gas Company (Applicant), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No.

CP77-222 an application pursuant to Section 7(c) of the Natural Gas Act as implemented by § 157.7(d) of the Regulations thereunder (18 CFR 157.7(d)) for a certificate of public convenience and necessity authorizing the construction over a three-year period commencing from the date of this order, and operation of certain natural gas facilities for the testing and development of underground storage reservoirs, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of this budget-type application is to augment Applicant's ability to engage in a continuing program of testing and developing reservoirs for the underground storage of natural gas for the benefit of Applicant's system operations and service to its customers.

Applicant proposes to investigate the more promising structures through the acquisition of surface and subsurface rights that may be necessary or convenient for testing operations, drill structure test holes and wells and run pump tests to determine relevant reservoir characteristics.

Applicant further proposes to make gas injections and withdrawals in additional underground storage reservoirs as they are located in order to test and develop only those reservoirs anticipated to respond favorably to development as usable storage facilities. Applicant states that in this regard it would drill injection and withdrawal wells and construct and operate compressor, pipeline and appurtenant facilities as may be required to effectuate the proposed injections and withdrawals of gas to test properly and develop such potential storage reservoirs.

Applicant states that the total volume of natural gas to be injected into the prospective storage fields would not exceed 10,000,000 Mcf, with no more than 2,000,000 Mcf being injected into any single field and with injections being made only during off-peak periods. Total expenditures for the proposed three-year project would not exceed $3,000,000 and would not exceed $1,000,000 in any one year. Applicant proposes to finance these costs from cash on hand and from cash generated from normal internal sources and from short-term bank loans and other short-term borrowings utilized in the normal operation of the total business.

Applicant states that upon successful completion of the testing and development of any underground storage reservoir, Applicant would file an application for authorization to utilize said storage reservoir as an integral part of its transmission system.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 14, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6288 Filed 3-2-77;8:45 am]

[Docket No. CP77-235]

COLORADO INTERSTATE GAS CO.

Application

FEBRUARY 24, 1977.

Take notice that on February 17, 1977, Colorado Interstate Gas Company (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP77-235 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of up to 2,000 Mcf of natural gas for a primary term of two years with Natural Gas Pipeline Company of America (NGPL), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that NGPL controls a newly developed gas supply located in Beaver County, Oklahoma, which is relatively distant from its pipeline system but proximate to a 4-inch gathering line on Applicant's Mocane-Laverne Field gathering system. Pursuant to a gas exchange agreement dated December 21, 1976, NGPL would deliver volumes of gas from a supply (the Jessie S. Adams F-6 Well) it controls in Sec. 10, T.6N, R.24ECM, Beaver County, Oklahoma, to a mutually agreeable point on Applicant's proximate 4-inch field gathering line, it is stated. Applicant proposes to redelivery equivalent volumes of gas to NGPL from its Forgan Sales Meter Station located in Sec. 29, T.5N., R.23ECM, Beaver County, Oklahoma.

Applicant states that it would install a line tap and side valve on its 4-inch gathering line at an estimated cost of $2,200, which cost would be reimbursed by NGPL. It is further stated that NGPL would install, operate and maintain the required measurement facilities and connecting pipeline required to deliver gas to Applicant.

It is asserted that the gas exchange agreement provides for a straight gas-for-gas exchange with no monetary compensation, and Applicant's participation would be on a best-efforts basis.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 18, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearings therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commissions' Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6297 Filed 3-2-77;8:45 am]

[Docket No. CI77-244]

CLARK OIL PRODUCING CO., ET AL

Application for Optional Procedure Certification

FEBRUARY 24, 1977.

Take notice that on January 28, 1977, Clark Oil Producing Company, Aminoil, Inc., H. W. Bass & Sons, Inc., and Home Petroleum Corporation (Applicants) filed an application for a certificate of

public convenience and necessity pursuant to § 2.75 of the Commission's General Policy and Interpretations, for natural gas from the north one-third of Block 595, West Cameron Area, offshore Louisiana, to Columbia Gas Transmission Corporation, at a rate of $3.7501 per Mcf.

Any person desiring to be heard or to make any protest with reference to said petition should on or before March 18, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6299 Filed 3-2-77;8:45 am]

[Docket No. RI76-65]

DEVON CORP., ET AL.

Certification of Propcsed Settlement Agreement

FEBRUARY 24, 1977.

Take notice that on January 25, 1977, Presiding Administrative Law Judge Isaac D. Benkin certified to the Commission for its consideration a Settlement Proposal along with the hearing record in the above-entitled proceeding. The certification results from a motion filed by Devon Corporation (Operator), et al. (Devon), on January 24, 1977, and granted by the Presiding Administrative Law Judge.

On November 18, 1975, Devon filed in Docket No. RI76-65 a petition for special relief from the applicable nationwide or area ceiling rate for sales of natural gas from 50 wells located in West Virginia. Devon filed an amendment to its petition for special relief on February 23, 1976. By its petition, as amended, Devon requested authorization to collect a rate of $1.08 per Mcf plus annual escalations of one cent per Mcf.

Pursuant to the Commission's order of August 17, 1976, a prehearing conference was held on September 30, 1976. A second conference was held on January 4, 1977. After the parties were unable to arrive at a settlement, a hearing was held on January 5-6, 1977. On January 24, 1977, Devon filed the instant settlement proposal.

The settlement proposal reduces from 50 to 47 the number of wells for which special relief is sought. Under the proposal, Devon would be authorized to collect an initial rate of 71 cents per Mcf for production from all the wells, effective as of the date of Commission approval of the settlement proposal, plus annual escalations of one cent per Mcf commencing on November 1, 1977.

All comments on the proposed settlement agreement shall be filed on or before March 15, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6296 Filed 3-2-77;8:45 am]

[Doc. Nos. CP77-216; CP77-217 and CP77-218]

DISTRIGAS OF MASSACHUSETTS CORP. AND DISTRIGAS CORP.

Applications and Consolidation

FEBRUARY 24, 1977.

Take notice that on February 11, 1977, Distrigas of Massachusetts Corporation (DOMAC), 125 High Street, Boston, Massachusetts 02110, filed an application in Docket No. CP77-216 and Distrigas Incorporated (Distrigas), 125 High Street, Boston, Massachusetts 02110, filed applications in Docket Nos. CP77-217 and CP77-218 requesting appropriate Commission authorizations for a proposal where Distrigas would purchase natural gas from production in Algeria, import it into the United States and sell it to DOMAC which in turn would sell the imported volumes to its gas distribution customers. In Docket No. CP77-218, Distrigas requests authorization pursuant to Section 3 of the Natural Gas Act to import each year up to 1,995,000 cubic meters of liquefied natural gas (LNG) (equivalent to about 45.6 trillion Btu's) for 20 years from Algeria; in Docket No. CP77-217, Distrigas seeks a certificate of public convenience and necessity pursuant to Section 7(c) of the Natural Gas Act to sell the subject imported LNG to DOMAC; and, in Docket No. CP77-218 DOMAC seeks a certificate of public convenience and necessity pursuant to Section 7(c) of the Natural Gas Act authorizing DOMAC (1) to construct and operate facilities for the transportation and storage of natural gas (2) to sell the subject gas volumes to 10 of it resale customers, and (3) to provide storage service on behalf of 2 customers, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

In the application filed in Docket No. CP77-218, it is stated that Distrigas and SONATRACH, the national oil company of Algeria, have entered into a sales and purchase contract (Long Term Contract), dated April 13, 1976, whereunder Distrigas would purchase up to 45.6 trillion Btu's of natural gas per year (equivalent to approximately 1,995,000 cubic meters of LNG) for 20 years from the date of first delivery. First delivery is defined as being the first of at least 13 deliveries in a 12-month period totaling at least 1,400,000 cubic meters of LNG. It is stated that the natural gas would be produced from wells in Algeria, liquefied by SONATRACH at its plant in Skikda, Algeria, and shipped by SONATRACH by cryogenic tankers to the point of delivery, DOMAC's existing terminal at Everett, Massachusetts. The price of gas under the Long Term Contract would be the higher of the minimum price (defined to be the base price of $1.30 U.S. dollars per million Btu's subject to adjustment to reflect the value of the U.S. dollar in relation to certain European currencies) and the invoicing price (defined to be the base price of $1.30 per million Btu's subject to adjustment to reflect the price of No. 2 and No. 6 fuel oil). The base cost of transportation is 81.89 cents per million Btu's which price is also subject to similar adjustments. Distrigas states that the combined price of the gas and transportation to Everett, Massachusetts, would have been $2.102 per million Btu's if calculated as of December 31, 1976, in accordance with the terms of the Long Term Contract.

Distrigas indicates that the volumes proposed to be imported in the application in Docket No. CP77-218 incorporate volumes authorized by the Commission in Opinion No. 613 and order, issued March 9, 1972, in Docket No. CP70-196 (47 FPC 752), and volumes proposed to be imported by Distrigas in its pending application filed July 8, 1975, in Docket No. CP76-9. In Opinion No. 613, it is stated, Distrigas was authorized to import up to 15.4 trillion Btu's of LNG per year from Algeria and in its application in Docket No. 76-9, Distrigas proposed to import an additional 21 trillion Btu's per year. The gas supply in both instances was to be purchased by Distrigas from Alocean Ltd. (Alocean), a Bermudian corporation, under three gas purchase and sales contracts: two "Descartes" contracts dated December 3, 1969, and September 10, 1970, underlying the authorized importation and an "Interim" contract, dated October 4, 1975, which underlies the application in Docket No. CP76-9. The Long Term Contract, it is indicated, represents an assumption by SONATRACH of Alocean's obligations under the three previous agreements and a replacement of those contracts. Therefore, Distrigas states, upon Commission approval in the instant dockets, the Descartes contract volumes would be included in the Long Term Contract and the Descartes contracts would be cancelled. It is further stated that the Interim contract would expire by its own terms on December 31, 1977, and that the volumes of natural gas which would have been purchased under the Interim contract have been included in the Long Term Contract volumes.

It is indicated that delivery under the Long Term Contract would be made by cryogenic tankers with a design capacity of 125,000 cubic meters of LNG. Distrigas, it is indicated, has agreed to receive and pay for 1,900,000 cubic meters of LNG per year, plus or minus five percent at SONATRACH's option, corresponding to 17 full cargo ships per year. It is indicated further that Distrigas expects deliveries of 12 cargo ships in 1978, 14 in 1979 and deliveries of the total contract quantity in 1980 when 15 cargoes are expected.

In its application in Docket No. CP77-217, Distrigas seeks authorization to sell for resale all of the LNG it would import

under the Long Term Contract. It is stated that the sale would be made pursuant to an LNG requirements agreement between Distrigas and DOMAC, a Distrigas affiliate, dated October 11, 1973, as amended on February 4, 1977. Distrigas states that the subject LNG would be sold to DOMAC immediately upon Distrigas' receipt of title from SONATRACH. Transfer of title occurs upon delivery to the Everett, Massachusetts, LNG facility. It is further stated that Distrigas would charge DOMAC the total price paid SONATRACH under the Long Term Contract plus an additional 5 cents per million Btu's for a portion of the gas which would be covered by an insurance agreement between the insurer, Cabot Corporation, and Distrigas. It is estimated that 63 percent of the LNG sold to DOMAC would be subject to the insurance charge. It is indicated that the insurance is proposed to cover liabilities of DOMAC and Distrigas potentially resulting from the fact that Distrigas is under a contractual obligation to pay for all contracted volumes tendered during the 20-year term of the Long Term Contract whether taken or not whereas certain of DOMAC's customers have elected to purchase the subject LNG under DOMAC's Rate Schedule GS–1A whereunder they retain a right to reduce their respective volumes unilaterally should deliveries from DOMAC be interrupted for any period of time. Therefore, it is indicated, the proposed insurance would protect Distrigas and DOMAC from the contingency that a serious curtailment of LNG imports would be followed by a resumption of deliveries combined with an inability to market the total contract quantity to DOMAC's GS–1A customers.

DOMAC in its Docket No. CP77–216 application requests authorization to (1) construct and operate additional facilities at its Everett, Massachusetts, LNG facility and (2) sell natural gas to and store natural gas for certain of its distribution customers. DOMAC states that the proposed facilities are required to handle efficaciously the imported LNG volumes and would include additions and modifications to docking and unloading facilities and metering, vaporization and vapor-handling equipment. It is said that the total cost of the facilities, estimated to be $11,000,000 would be financed from cash on hand and funds generated from operations.

DOMAC proposes to sell natural gas to 10 of its customers and to store LNG for two in the following quantities:

Customer (Sales):	*Annual sales terminalling and delivery quantity (trillion Btu's)*
Bay State Gas Company	2.610
Boston Gas Company	13.746
The Brooklyn Union Gas Company	13.630
The Connecticut Gas Company	1.450
Fall River Gas Company	0.435
Haverhill Gas Company	0.290
New Jersey Natural Gas Company	0.290
Providence Gas Company	2.610
South Jersey Gas Company	1.740
Valley Gas Company	0.348
Total	37.149

Customer (Storage):	*Monthly storage service quantity (trillion Btu's)*
Boston Gas Company	0.643
Valley Gas Company	0.031
Total	0.674

It is indicated that the sales proposed would be rendered in accordance with DOMAC's Rate Schedules GS–1A, GS–1B and TS–1; that sales of boil-off gas would be made to Boston Gas Company alone under DOMAC's Rate Schedule BO–1 (the sale quantity listed above includes these boil-off volumes); and, storage service would be rendered under Rate Schedule SS–1. Deliveries to three of DOMAC's customers would be made in liquid form by cryogenic truck, to one customer by delivery of vaporous gas and to six customers by a combination of delivery methods. All vapor transportation would be made first through the facilities of Boston Gas Company and then through other pipeline systems, including, if necessary, one or more of the following systems: Tennessee Gas Pipeline Company, a Division of Tenneco Inc., Algonquin Gas Transmission Company, Texas Eastern Transmission Corporation and Transcontinental Gas Pipe Line Corporation. It is indicated that the storage and sales levels proposed in Docket No. CP77–216 represent the disposition of all volumes of LNG imported by Distrigas and sold to DOMAC including volumes imported by Distrigas under authorization granted in Opinion No. 613. Current interstate sales by DOMAC are made pursuant to temporary authorization in Docket No. CP73–135 and current sales within the state of Massachusetts are made pending final resolution of the question of Commission jurisdiction over such sales in Docket No. CP70–196, presently on remand to the Commission from the United States Court of Appeals, District of Columbia Circuit.

DOMAC and Distrigas state that the project proposed in their respective filings would materially help to relieve acute domestic supply shortages; that DOMAC's customers, distribution companies serving Middle Atlantic and Northeastern areas of the United States, are experiencing continuing and deepening curtailments of natural gas; and, consequently, that the sales proposed are in the public interest.

Since the applications in Docket Nos. CP77–216, CP77–217 and CP77–218 may involve common questions of law or fact the proceedings on all the applications are consolidated for hearing.

Any person desiring to be heard or to make any protest with reference to said applications should on or before March 15, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 3, 7, and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on these applications if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificates and authorization to import natural gas are required by the public convenience and necessity and are not inconsistent with the public interest. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–6286 Filed 3–2–77;8:45 am]

[Docket No. CP73–76]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Petition To Amend

FEBRUARY 23, 1977.

Take notice that on February 10, 1977, Michigan Wisconsin Pipe Line Company (Petitioner), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP73–76 a petition to amend the Commission's order of December 13, 1972, in Docket No. CP73–29, et al., (48 FPC 1356), pursuant to Section 7(c) of the Natural Gas Act so as to authorize Petitioner to exchange natural gas on a best efforts basis during the summer months in accordance with an amendment to an exchange agreement among Petitioner, Northern Natural Gas Company (Northern) and Great Lakes Gas Transmission Company (Great Lakes), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that Petitioner is authorized, by the Commission's order issued December 13, 1972, in Docket No. CP73–29, et al. (48 FPC 1356), to exchange natural gas pursuant to a gas exchange agreement, dated July 15, 1972, among Petitioner, Northern and Great Lakes. The terms of the exchange agreement, it is stated, require that Great Lakes deliver a minimum of 25,000 Mcf of natural gas per day to Northern at existing points of interconnection with Northern at Carlton and Grand Rapids, Minnesota, and that Northern redeliver equivalent volumes, as directed by Great Lakes or Petitioner, to Great Lakes at point of interconnection at Wakefield, Michigan, or to Petitioner, for the account of Great Lakes, at a point of interconnection at Janesville, Wisconsin.

Petitioner proposes that it be authorized to exchange natural gas pursuant to an amendment, dated February 27, 1976, to the July 15, 1972, exchange agreement. Pursuant to the amendment, it is stated, gas would be exchanged on a best efforts basis during the summer months, April through October, rather than in a minimum quantity of 25,000 Mcf per day as is currently authorized. Petitioner states that the obligation to exchange a minimum quantity of 25,000 Mcf per day during the winter period, November through March of each year, would not be affected by the proposal. It is said that the proposal would require no new facilities; that no charge would be made by any party to the exchange; and, further, that the proposal would provide greater operational flexibility to the parties during the summer period.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 14, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6292 Filed 3-2-77;8:45 am]

[Docket No. ER77-170]

PUBLIC SERVICE COMPANY OF OKLAHOMA

Filing of Rate Agreement

FEBRUARY 24, 1977.

Take notice that the Public Service Company of Oklahoma (Public Service) on January 28, 1977, tendered for filing its request for a change in the rates of the Markham Ferry Coordinating Agreement identified as Rate Schedule FPC 162, for calendar year 1977. The agreement coordinates the operations through the interchange and sale of electric power and energy between Public Service and the Grand River Dam Authority of Oklahoma (Authority).

The filing contends that the agreement provides for annual review of the energy rates charged by the parties to reflect changes in production costs. The filing revises the energy charge rates to reflect those costs as of December 31, 1976.

Public Service requested that the Commission waive its rules on notice requirement in order that the proposed rate schedule can become effective on January 1, 1977.

According to Public Service, the Oklahoma Cooperation Commission and the Authority have been served a copy of the filing.

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 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 March 7, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6290 Filed 3-2-77;8:45 am]

[Docket No. CP76-104 (PGA77-2)]

PACIFIC INTERSTATE TRANSMISSION CO.

Proposed Changes in FPC Gas Tariff Pursuant to Purchased Gas Cost Adjustment Provision

FEBRUARY 24, 1977.

Take notice that Pacific Interstate Transmission Company ("Pacific Interstate") on February 15, 1977 tendered for filing as part of its FPC Gas Tariff, Original Volume No. 2, the following sheets:

Fourth Revised Sheet No. 4
Third Revised Sheet No. 5

The proposed effective date of both of these tendered tariff sheets and the rates reflected thereon is April 1, 1977.

Pacific Interstate states that the tariff sheets listed above are issued pursuant to the Purchased Gas Cost Adjustment (PGCA) Provision as set forth in Section 16 of the General Terms and Conditions of its FPC Gas Tariff, Original Volume No. 2. Pacific Interstate states that the change in its rates reflects a Cost of Gas Adjustment, so that Pacific Interstate's rates may reflect its current cost of purchased gas, and a change in its Surcharge Adjustment, so that the December 31, 1976 balance in Pacific Interstate's Unrecovered Purchased Gas Cost Account unrelated to amounts reflecting Opinion No. 770-A producer increases during the period July 27, 1976-November 30, 1976 may be amortized over a six-month period beginning April 1, 1977.

Pacific Interstate states that the Gas Cost Adjustment is based on an annualized gas cost increase of $358,451 and that the Surcharge Adjustment is designed to amortize the December 31, 1976 balance in its Unrecovered Purchased Gas Cost Account of ($9,985), which is exclusive of amounts reflecting Opinion No. 770-A producer increases during the July 27-November 30, 1976 period.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 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 March 18, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6294 Filed 3-2-77;8:45 am]

[Docket No. CP76-222]

TENNESSEE GAS PIPELINE COMPANY, A DIVISION OF TENNECO INC.

Application

FEBRUARY 24, 1977.

Take notice that on February 15, 1977, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed pursuant to Section 7(c) of the Natural Gas Act an application in Docket No. CP76-222 to amend the prior Order of the Commission issued April 20, 1976, in said docket.

Tennessee states that by the Commission's April 20, 1976 Order, Tennessee was authorized to transport up to 25,000 Mcfd of natural gas for Texas Gas Transmission Corporation (Texas Gas) from various points in the Louisiana Offshore Area through the Project 349 pipeline (jointly owned by Tennessee, Texas Gas and Texas Eastern Transmission Corporation) located in the Eugene Island Offshore Area and through the Blue Water Project (BWP) (jointly owned by Tennessee and Columbia Gulf Transmission Company) for delivery onshore for Texas Gas' account at an interconnection between the systems of Tennessee and Transcontinental Gas Pipe Line Corporation (Transco) located near Crowley, Acadia Parish, Louisiana (Crowley delivery point). Such service was to be rendered for a two year period from January 1, 1976 to January 1, 1978.

Tennessee states that Texas Gas now has additional gas supplies available for transportation and, accordingly, Tennessee requests that the presently authorized transportation volume of 25,000 Mcfd be increased to a maximum of 65,000 Mcfd and that Tennessee be authorized to transport such increased volume for Texas Gas until January 1, 1980.

Any person desiring to be heard or to make any protest with reference to said application, on or before March 17, 1977, should file with the Federal Power Commission, Washington, D.C., 20426, a peti-

tion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6289 Filed 3-2-77;8:45 am]

[Docket No. RP74-52 (PGA77-2)]

TRANSWESTERN PIPELINE CO.

Proposed Changes in FPC Gas Tariff

FEBRUARY 24, 1977.

Take notice that Transwestern Pipeline Company (Transwestern) on February 15, 1977, tendered for filing as part of its FPC Gas Tariff, Second Revised Volume No. 1, the following sheets:

Sixth Revised Sheet No. 5
Sixth Revised Sheet No. 6

These sheets are issued pursuant to Transwestern's Purchased Gas Cost Adjustment provision as set forth in Section 19 of the General Terms and Conditions of its FPC Gas Tariff, Second Revised Volume No. 1. This net reduction in Transwestern's rates reflects a Cost of Gas Adjustment to track increased purchased gas costs and a decreased Surcharge Adjustment to clear the balance of the Gas Cost Adjustment Account.

The proposed effective date of the above tariff sheets is April 1, 1977.

Copies of the filing were served upon the company's jurisdictional customers and the interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 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 March 18, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6293 Filed 3-2-77;8:45 am]

[Docket No. CP77-251]

TRANSWESTERN PIPELINE CO.

Application for Temporary Certificate

(FEBRUARY 24, 1977.)

Take notice that on February 22, 1977, Transwestern Pipeline Company (Applicant), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP77-251 an application [1] pursuant to Section 7(c) of the Natural Gas Act for a temporary certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of Lukens Steel Company (Lukens), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport up to 4,000 Dth of gas per day on an interruptible basis for the account of Lukens from the point of receipt at the tailgate of the Bas Haley Plant in Winkler County, Texas, to the point of delivery to Natural Gas Pipeline Company of America (Natural) at the tailgate of the Bluitt Plant located in Roosevelt County, New Mexico. It is stated that Natural would deliver such gas to Columbia Gulf Transmission Company (Columbia Gulf) which would transport and deliver it to Columbia Gas Transmission Corporation (Columbia Gas) for redelivery to Columbia Gas of Pennsylvania, Inc.

Applicant proposes to make a transportation charge of 19.86 cents for each Dth delivered to it and would retain 4.0 percent of the total volume delivered into its system for company-use and unaccounted-for gas.

Appliant states that it has been advised that such gas is to be used by Lukens in Lukens' Coatesville, Pennsylvania, steel plant for high priority uses presently being curtailed by its supplier.

It is stated in a related application filed by Columbia Gas and Columbia Gulf in Docket No. CP77-247 that such gas would be purchased by Lukens from Sun Gas Company, a Division of Sun Oil Company, from the Haley Field, Winkler County, Texas, for $2.00 per million Btu's for a term of two years.

[1] The instant application is a telegraphic request. Applicant indicates that it will file a formal application for a permanent certificate under Section 7(c) of the Natural Gas Act and § 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79).

Any person desiring to be heard or to make any protest with reference to said application should on or before March 9, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6295 Filed 3-2-77;8:45 am]

[Docket No. CP77-234]

UNITED GAS PIPE LINE CO.

Application

FEBRUARY 24, 1977.

Take notice that on February 17, 1977, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP77-234 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 500 Mcf of natural gas per day for the Town of Elizabeth, Louisiana (Elizabeth), and the construction and operation of facilities to effectuate such transportation, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Applicant and Elizabeth have entered into a gas transportation agreement dated December 29, 1976, whereby Applicant would transport, for ultimate redelivery to Elizabeth, natural gas from the outlet side of Shell Oil Company's Gibson Field Meter Station located in Sec. 74, T.16S., R.15E., Terrebonne Parish, Louisiana, to the outlet side of a metering and regulating station to be constructed by Applicant at a point on Applicant's 6-inch Iowa-Marksville Line in Allen Parish, Louisiana.

Applicant asserts that Elizabeth has purchased a supply of gas in the Gibson Field, Terrebonne Parish, Louisiana, and proposes to deliver or cause to be delivered to Applicant up to 500 Mcf per day for transport in Applicant's system. Applicant proposes to redeliver to Elizabeth no less than 98.5 percent of such gas, the 1.5 percent reduction being an agreed upon allowance for gas consumed in the operation of Applicant's pipeline system during the normal course of transportation. It is stated that Elizabeth would pay an amount based on a rate equal to Applicant's average jurisdictional transmission cost of service in effect in Applicant's Southern Rate Zone,

which amount is presently 18.18 cents per Mcf, for such transportation service.

Applicant proposes to construct and operate a 2-inch metering and regulating facility on its 6-inch Iowa Marksville Line at an estimated cost of $11,600 in order to implement the transportation service.

It is stated that the agreement between Applicant and Elizabeth is for a term of one year, to continue thereafter on a year-to-year basis.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 17, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6298 Filed 3-2-77;8:45 am]

[Docket No. CP77-228]

UNITED GAS PIPELINE CO. AND ARKANSAS LOUISIANA GAS CO.

Application

FEBRUARY 24, 1977.

Take notice that on February 16, 1977, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, and Arkansas Louisiana Gas Company (Arkla), P.O. Box 1734, Shreveport, Louisiana 71151, filed in Docket No. CP77-228 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of up to 50 Mcf of gas per day, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

United states that it purchases gas produced from the Continental Can Company No. 1-T Well in Bear Creek Field located in Bienville Parish, Louisiana, and that the pressure on this well has gradually declined to a point where the well no longer has sufficient pressure to enable gas produced from it to enter the system of United. It is stated that as an alternative to the installation of costly compression required to continue this purchase, United proposes to deliver or cause to be delivered such volumes as may be available to it from the above mentioned well, up to 50 Mcf per day, into the nearby line of Arkla which is operated at a pressure which would permit the entry of United's gas.

United and Arkla, therefore, propose to exchange up to 50 Mcf of gas per day, United delivering to Arkla at a point on Arkla's line in Sec. 8, T. 16 N., R. 5 W., Bienville Parish, Louisiana, and Arkla redelivering to United at the Bistineau Storage Field in Bienville Parish, Louisiana. It is stated that the exchange would be on an Mcf for Mcf basis and would continue as long as United has gas available to deliver to Arkla from the Continental Can Company No. 1-T Well. It is further stated that no new or additional facilities would be required to effectuate the proposed exchange.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 17, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6291 Filed 3-2-77;8:45 am]

[Docket Nos. ER76-799 and ER76-800]

APPALACHIAN POWER CO.

Order Denying Application for Rehearing

FEBRUARY 25, 1977.

On July 21, 1976, Appalachian Power Company, (APCO) tendered for filing a Supplement to its FPC Rate Schedule No. 24 applicable to service to Carolina Power and Light Company (CP&L). On August 9, 1976 CP&L filed a petition to Intervene and Protest, Motion to Reject and Dismiss and in the Alternative Motion to Stay. By Order issued August 19, 1976, the Commission accepted for filing and suspended the proposed rate schedule provisions tendered by APCO and deferred action on CP&L's pleading until responses to it could be received. A response was filed by APCO on September 3, 1976. On November 8, 1976, the Commission issued an order which concluded that the contract between APCO and CP&L did not permit the effectuation of a rate change upon unilateral filing by APCO under Section 205 of the Federal Power Act, but contemplated a rate change only upon final Commission determination after a section 206 hearing. By its November 8, 1976 order, the Commission reversed its August 19, 1976 order to the extent that the latter order allowed APCO's proposed rate increase to become effective, subject to refund. Refunds of all amounts collected were ordered and a Section 206 hearing instituted.

On December 7, 1976, APCO filed application for rehearing and Stay of the November 8, 1976 order. By order issued January 6, 1977, the Commission granted rehearing and stay for the purpose of further consideration only. For the reasons discussed below, the Commission shall by this order deny the application for rehearing.

The contract language that is the subject of dispute between APCO and CP&L reads as follows: [1]

> The 1975 Agreement as hereinabove modified is made subject to the jurisdiction of any governmental authority or authorities having jurisdiction in the premises, and any party may at any time or from time to time, unilaterally take any action before or with such authorities with respect to any term, or conditions of this Agreement that it deems desirable and in such event the terms and conditions under which service shall be rendered hereunder shall be the terms and conditions authorized by such authority.

In finding that the above language authorized a change in rates following a hearing under Section 206, the Commission relied upon the wording: "* * * and

[1] Section 5, Modification No. 3, dated as of March 1, 1972, to the February 7, 1957 Interconnection Agreement between APCO and CP&L.

in such event the terms and conditions under which service shall be rendered hereunder shall be the terms and conditions authorized by such authority." This language clearly appears to contemplate a Section 206 procedure.[2]

APCO in its argument for rehearing concentrates on the language in the above clause which states: "* * * any party may at any time or from time to time, unilaterally take any action before or with such authorities with respect to any term, or conditions of this agreement that it deems desirable * * *" It is true that this language, taken alone, would indicate that the parties intended a Section 205 unilateral filing. Since in our November 8 order we did not directly address the apparent ambiguity in the quoted clause, we shall do so herein.

APCO claims that the "unilateral" language was included to change Section 12 of the Agreement.[3] APCO suggest without so stating that the language of section 12 above shows that the parties formerly had a contract which contemplated change after Commission action under Section 206 of the Federal Power Act and that the purpose of the "unilateral" language in Section 5 of Modification 3 was to change the agreement to one governed by Section 205. The Commission cannot agree with this interpretation. Article 12 does not attempt to set out the mechanism for effecting anticipated changes in the Interconnection Agreement terms, but merely provides for termination of the entire agreement in the event of extraordinary regulatory modification of the contract having unforseen adverse effects on either party.

Our review of the 1957 Interconnection Agreement reveals that—prior to section 5 of Modification 3—it appears to be a fixed rate contract in that the contract specifies a designated rate to be charged for a fixed period of time without language indicating when or how that rate can be changed.

When a Mobile-Sierra contract provision has been changed and the altered provision is arguably ambiguous, as is section 5 herein, the courts have held that a comparison of the rights and liabilities of the parties before and after the agreed-upon change may be enlightening in construing the intent of the parties. *Sam Rayburn Dam Electric Cooperative* v. *FPC.*, 515 F. 2nd 998, 1003–4.

Viewed in this light, the language of section 5 providing for unilateral action before regulatory authorities does have a purpose consistent with an intention to establish Section 206 procedures for rate changes. Previously, under the fixed rate contract, no unilateral action was contractually permissible; after section 5, any party could institute a proceeding under a Section 206 by unilaterally taking "any action before or with such authorities with respect to any term or conditions of the Agreement that it deems desirabe" without assuming the heavy Sierra burden.

In looking at the "authorized by such authority" wording, on the other hand, we find no answer which would show such language to be equally consistent with an intent to establish a Section 205 proceeding.[4]

In considering the changes in the positions of the parties, we find that while APCO might have demanded some procedure for permitting change of Interconnection Agreement terms, CP&L had no apparent reason to change from a fixed-rate contract to a section 205 procedure. The absence of any evidence of adequate consideration to CP&L for total surrender of its fixed-rate contract rights reinforces the obvious grammatical interpretation of Section 5, i.e., that the "authorized" provision was intended to qualify and limit the "unilateral action" provision preceeding it and to establish a 206 rather than a 205 procedure for effecting rate changes. (cf. Sam Rayburn Dam, supra, at 1004–5.)

For the reasons set out above, the application for rehearing of our order of November 8, 1976 is denied.

The Commission finds: Good cause exists to deny APCO's application for rehearing.

The Commission orders: (A) APCO's application for rehearing is hereby denied.

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

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6414 Filed 3-2-77;8:45 am]

[Docket No. RP72-122 (PGA 77-2)]

COLORADO INTERSTATE GAS CO.

Proposed Change in Rates Under Purchased Gas Adjustment Clause Provision

FEBRUARY 24, 1977.

Take notice that Colorado Interstate Gas Company (CIG) on February 15, 1977, tendered for filing proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1. The proposed changes would decrease the commodity rate under each of CIG's jurisdictional rate schedules by 1.31 cents per Mcf.

The filing was made (1) to allow CIG to reflect in its rates pursuant to Section 21 of CIG's FPC Gas Tariff, Second Revised Volume No. 1, a rate reduction made by one of its pipeline suppliers, Northwest Pipeline Corporation, and (2) to eliminate the liquid refund credit presently included in CIG's rates pursuant to Article VI of the Stipulation and Agreement of Settlement in Docket No. RP74–77 as approved by the Commission on September 5, 1975. The refund reflected that portion of the jurisdictional liquid revenues received for the period January 1, 1975 through September 30, 1975, that were in excess of the jurisdictional estimated liquid credit reflected in the settlement cost of service in Docket No. RP74–77.

CIG respectfully requested that the instand filing be made effective on April 1, 1977.

Copies of the filing have been served upon the Company's jurisdictional customers and other interested persons, including public bodies.

Any persons 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 March 18, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6417 Filed 3-2-77;8:45 am]

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[2] APCO's argument that the word "authorized" is somehow different from words such as "ordered", "approved", or "prescribed", which have figured in past decisions holding that a contract contemplated a 206 rather than a 205 procedure, is without merit. It is not the use of a particular word on which Mobile-Sierra determinations turn but on the way words are used to express the intention of the parties to a contract. Similarly, there is no merit to APCO's argument that the use of the word "Authorized" in Section 5 by itself indicates that the parties meant merely the "authorization" of a suspension and effective date of a filing under Section 205. Such suspension and effective date are "authorized" by means of a Commission order, so APCO's argument would apply equally had the words "ordered", "approved" or "prescribed" been used. The Commission's decision must be based on more than semantics.

[3] Article 12, Regulatory Authorities, Section 12.01. This Agreement is made subject to the jurisdiction of any governmental authority or authorities having jurisdiction in the premises. If any such authority takes final action which has the effect of modifying any of the terms and conditions of this Agreement and such modifications would have a substantial adverse effect on either party, i.e., would impose a substantial economic burden on either party not contemplated by the terms and conditions of this Agreement, the party so affected by such action shall have the option to terminate this Agreement by giving at least three years' prior written notice to the other party.

[4] The Commission is unpersuaded by APCO's suggestion that the "authorized" langauge was simply meant to show the parties' understanding that any rate ever collected under Sections 205 or 206 must in some manner be "authorized" by the Commission. In light of the history of Mobile-Sierra determinations as cited by APCO, we do not believe that language which so strongly suggests a 206-type procedure would be used, in a qualifying phrase in a contract provision, merely to indicate the obvious.

[Docket No. RP77-37]

EAST TENNESSEE NATURAL GAS CO.

Filing of Proposed Tariff Changes

FEBRUARY 24, 1977.

Take notice that on February 11, 1977, East Tennessee Natural Gas Company (East Tennessee) tendered for filing First Revised Sheet Nos. 74C and 74D of Sixth Revised Volume No. 1 of its FPC Gas Tariff proposed to become effective March 15, 1977.

East Tennessee states that the sole purpose of filing the proposed revised tariff sheets is to amend paragraph 24.8 of Section 24 of the General Terms and Conditions of its FPC Gas Tariff to enable East Tennessee to recoup curtailment credits on a current basis rather than for a past determination period. East Tennessee further states that no changes in its rates and charges are proposed in this filing.

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 March 7, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6412 Filed 3-2-77;8:45 am]

[Docket No. E77-30]

EMERGENCY NATURAL GAS ACT OF 1977

Emergency Order Pursuant to Section 6 of Pub. L. 95-2

On February 25, 1977, Columbia Gas of Kentucky, Inc., Columbia Gas of Maryland, Inc., Columbia Gas of New York, Inc., Columbia Gas of Ohio, Inc., Columbia Gas of Pennsylvania, Inc., Columbia Gas of Virginia, Inc. and Columbia Gas of West Virginia, Inc. (Columbia Distribution), filed, pursuant to section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95-2 (91 Stat. 4 (1977)), an application for authorization to purchase up to 30,000 Mcfd of natural gas from Pacific Lighting Service Company (Pacific Lighting).

Columbia Distribution will pay Pacific Lighting 37.5 cents per MMBtu for general storage charges and will make repayment in thermally equivalent volumes of gas. I find these provisions to be fair and equitable in accordance with Order No. 2 and hereby authorize the proposed purchase.

The gas will be made available by Pacific Lighting to El Paso Natural Gas Company (El Paso). El Paso will deliver equivalent volumes to Oasis Pipe Line Company (Oasis) in Pecos County, Texas. Oasis will transport and deliver equivalent Btu's to Bronco Pipeline Company and Tenngasco, Inc. (Bronco-Tenngasco) near Katy, Waller County, Texas, and Bronco-Tenngasco will transport and deliver equivalent Btu's at a mutually agreeable point to Tennessee Gas Pipeline Company (Tennessee). Tennessee will transport the gas and deliver equivalent volumes in Mcf to Columbia Gulf Transmission Company (Columbia Gulf) in Southern Louisiana. Columbia Distribution advises that the existing interconnection between Tennessee and Columbia Gulf may be fully utilized to transport other emergency supplies and that an additional interconnection may be installed between Tennessee and Columbia Gulf.[1] Until that interconnection is operational, all or a portion of these volumes may be transported by Tennessee and delivered to Columbia Gas Transmission Corporation (Columbia Gas) at existing interconnections in Ohio and Pennsylvania for the account of Columbia Distribution.[2]

Columbia Gas has agreed to act as agent for Columbia Distribution and to pay the following transportation charges: Oasis—13 cents per Mcf transported and 4 percent of the Btu's transported for fuel; Bronco-Tenngasco—2 cents per Mcf transported; Tennessee—7.6 cents per Mcf plus 1.3 percent of the volumes transported for fuel. Columbia Distribution will pay Columbia Gulf and/or Columbia Gas in accordance with tariffs filed with the Federal Power Commission (FPC). In the event Tennessee delivers to Columbia Gas in Ohio, Columbia Gas will pay Tennessee's system-wide average transportation and fuel charges.

Pursuant to Section 6(c)(1) of the Act (91 Stat. 4, 8), I hereby authorize and order (i) El Paso, Oasis, Bronco-Tenngasco, Tennessee, Columbia Gulf, and Columbia Gas to transport up to 30,000 Mcfd of gas for Columbia Distribution on the terms and at the charges set forth, and (ii) Columbia Gas pay the agreed upon transportation charges.

In the course of such transportation by Oasis and Bronco-Tenngasco from point or origin to destination, there may be a commingling of interstate natural gas with Oasis' or Bronco-Tenngasco's normal system gas supplies or with volumes of gas owned by third parties. This order shall be considered as applying to all such commingled gas and, under the provisions of Pub. L. 95-2, the producers, of such gas which is so commingled, may not terminate existing contracts with such other parties, nor shall such other parties thereby become subject to the Natural Gas Act or to regulation as common carriers under any provision of State law. Contractual termination or prohibition provisions in any such contracts as referred to above are not enforceable by reason of Section 9 of Public Law 95-2 since Oasis and Bronco-Tenngasco are transporting gas for Columbia Distribution pursuant to Section 6(a) of that Act. Oasis, Bronco-Tenngasco and any third person whose gas is commingled with Columbia Distribution's gas shall refer all relevant information concerning any attempt to terminate existing contracts to the Administrator for appropriate action.

According to the official files of the Federal Power Commission, Oasis and Bronco-Tenngasco are not classified as Natural Gas Companies within the meaning of the Natural Gas Act. Section 6(c)(2) of Pub. L. 95-2 provides:

> Compliance by any pipeline with any order under this subsection shall not subject such pipeline to regulation under the Natural Gas Act or to regulation as a common carrier under any provision of state law.

Thus, the transportation of this gas will not subject Oasis and Bronco-Tenngasco to the provisions of the Natural Gas Act. See also § 6(b)(1)(A), 91 Stat. at 8.

Columbia Distribution shall submit weekly reports as required by Order No. 4 and shall certify that the proposed purchase complies with Order No. 6.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Columbia Distribution, Pacific Lighting, El Paso, Oasis, Bronco-Tenngasco, Tennessee, Columbia Gulf, and Columbia Gas. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

[FR Doc.77-6406 Filed 3-2-77;8:45 am]

[Docket No. E77-34]

EMERGENCY NATURAL GAS ACT OF 1977

Emergency Order Pursuant to Section 6 of Pub. L. 95-2

On February 25, 1977, Transcontinental Gas Pipe Line Corporation (Transco), as agent for certain of its customers, filed, pursuant to Section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95-2 (91 Stat. 4 (1977)), an application for authorization to purchase up to 50,000 Mcfd of natural gas from Good Hope Refineries, Inc. (Good Hope).[1] For the reasons set forth Below, I hereby authorize and approve the proposed sale and any transportation required to deliver the proposed volumes to Transco.

Transco will purchase the gas at a price of $2.25 per MMBtu, inclusive of all

[1] Columbia Gulf is an affiliate of Columbia Distribution.

[2] This transportation will be accomplished through facilities authorized in Docket No. E77-21.

[1] Average daily volumes are estimated to be 40,000 Mcfd.

adjustments, on a best efforts basis for the remaining term of the Act, i.e., through July 31, 1977. I find that the proposed price complies with Order No. 2 and therefore authorize the proposed purchase.

The subject volumes will be transported by Southern Gas Transmission Corporation (Southern Gas) and Southern Pipeline Corporation (Southern Pipeline), which are intrastate pipelines, at no charge to Transco. Southern Gas will deliver the gas to Transco at a point in Duval County, Texas, where its 20-inch pipeline crosses Transco's Conoco Driscoll lateral. Transco will install a 4-inch connecting line, a tap, and a meter to receive the gas. Transco will be able to receive only 15,000 Mcfd through this connection due to capacity limitations in its Conoco Driscoll lateral and advises that supplement authorizations may be requested to permit delivery of the remaining volumes.

Transco advises and I find that contractual provisions between Southern Gas and Southern Pipeline and their producers, transporters and other suppliers of gas prohibit the sale of natural gas in interstate commerce and the commingling of their intrastate pipeline system gas supplies with gas moving in interstate commerce. The transportation and delivery of gas for which Transco seeks approval may result in some commingling of interstate natural gas with Southern Gas' and Southern Pipeline's normal intrastate pipeline system gas supplies and with gas owned by other third parties. This order shall be considered as applying to all such commingled gas and, under the provisions of P.L. 95-2, the suppliers of such gas, which is so commingled, may not terminate existing contracts with such other parties, nor shall such other parties thereby become subject to the Natural Gas Act or to regulation as common carriers under any provision of State law. Contractual termination or prohibition provisions in any such contracts as referred to above are not enforceable by reason of Section 9 of Public Law 95-2 since Southern Gas and Southern Pipeline are transporting gas for Transco pursuant to Section 6(a) of that Act. Southern Gas and Southern Pipeline and any third person whose gas is commingled with Transco's gas shall refer all relevant information concerning any attempt to terminate existing contracts to the Administrator for appropriate action.

According to the official files of the Federal Power Commission, Southern Gas and Southern Pipeline are not classified as natural gas companies within the meaning of the Natural Gas Act. Section 6(c)(2) of P.L. 95-2 provides:

> Compliance by any pipeline with any order under this subsection shall not subject such pipeline to regulation under the Natural Gas Act or to regulation as a common carrier under any provision of state law.

Thus, the transportation of this gas will not subject Southern Gas and Southern Pipeline to the provisions of the Natural Gas Act. See also § 6(b)(1)(A), 91 Stat. 8.

Therefore, I authorize Good Hope to sell gas to Transco pursuant to the pricing provisions set forth above, and authorize and order Southern Gas and Southern Pipeline to transport and deliver gas to Transco on the above-stated terms and conditions.

Transco shall submit weekly reports as required by Order No. 4 and shall certify that the proposed purchase complies with Order No. 6.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Transco, Southern Gas, and Southern Pipeline. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

FEBRUARY 26, 1977.

[FR Doc.77-6407 Filed 3-2-77;8:45 am]

[Docket No. E77-28]

EMERGENCY NATURAL GAS ACT OF 1977

Emergency Order Pursuant to Section 6 of Pub. L. 95-2

On February 24, 1977, United Gas Pipe Line Company (United) filed, pursuant to Section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95-2 (91 Stat. 4 (1977)), an application for authorization to purchase up to 150,000 Mcfd of natural gas from United Texas Transmission Company (United Texas). For the reasons set forth below, I hereby authorize and approve the proposed sale and any transportation required to deliver the proposed volumes to United.

United Texas proposes to sell up to 150,000 Mcfd to United with the exact quantity delivered daily dependent on the requirements of United Texas' customers and the availability of gas from its suppliers. United Texas proposes to sell the subject volumes at a price equal to (i) the price United Texas pays its major supplier for gas during the billing month plus (ii) United Texas' cost of service to its city gate customers which is approximately 15.78 cents per Mcf.[1] United states that United Texas' cost of gas from its major supplier, and United Texas' own city gate rates are subject to regulation by and approval of the Railroad Commission of Texas. The price to United represents United Texas' cost of replacement gas supplies plus operating costs.

United states that the price paid to United Texas may exceed $2.25 per MMBtu during the effective term of the agreement and requests authorization to make such purchase. Order No. 2, as amended by Order No. 2-A, provides in Paragraph (3) that an intrastate pipeline company may receive for an emergency sale "without prior notification to or authorization of the Administrator" a price "equal to or less than its overall replacement cost plus applicable transportation and storage costs, if any." Based upon United's filing, I find that United Texas' proposed rate is based on its cost of replacement gas plus applicable transportation costs and that such price is fair and equitable in accordance with Order No. 2, as amended by Order No. 2-A.[2]

United states that deliveries will be made by United Texas at existing interconnections in Texas: Edna, Jackson County, Needville, Ft. Bend County, Goodrich, Polk County, and other agreed upon points; and that no facilities need be constructed. Therefore, no reason exists to require the construction and operation of facilities as permitted under Section 6(c)(1) of Pub. L. 95-2.

United Texas advises and I find that contractual provisions between the company and its producers, transporters and other suppliers of gas prohibit the sale of natural gas in interstate commerce and the commingling of its intrastate pipeline system gas supply with gas moving in interstate commerce. The transportation and delivery of gas for which United seeks approval may result in some commingling of interstate natural gas with United Texas' normal intrastate pipeline system gas supplies and with gas owned by other third parties. This order shall be considered as applying to all such commingled gas and, under the provisions of P.L. 95-2, the producers, of such gas which is so commingled, may not terminate existing contracts with such other parties, nor shall such other parties thereby become subject to the Natural Gas Act or to regulation as common carriers under any provision of State law. Contractual termination or prohibition provisions in any such contracts as referred to above are not enforceable by reason of Section 9 of Public Law 95-2 since United Texas is transporting gas for United pursuant to Section 6(a) of that Act. United Texas and any third person whose gas is commingled with United's gas shall refer all relevant information concerning any attempt to terminate existing contracts to the Administrator for appropriate action.

According to the official files of the Federal Power Commission, United Texas is not classified as a natural gas company within the meaning of the Natural Gas Act. Section 6(c)(2) of P.L. 95-2 provides:

> Compliance by any pipeline with any order under this subsection shall not subject such pipeline to regulation under the Natural Gas Act or to regulation as a common carrier under any provision of state law.

Thus, the transportation of this gas will not subject United Texas to the pro-

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[1] United states that if deliveries had been made in January 1977 the price paid to United Texas would have been $2.1898 per Mcf.

[2] The contract between United and United Texas was executed February 14, 1977, and is therefore not subject to Order No. 6 (February 22, 1977).

visions of the Natural Gas Act. See also section 6(b)(1)(A), 91 Stat. 8.

Therefore, I authorize United Texas to sell gas to United pursuant to the pricing provisions set forth above, and authorize and order United Texas to transport and deliver gas to United on the above-stated terms and conditions.

United shall submit weekly reports as required by Order No. 4.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon United and United Texas. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under P.L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

FEBRUARY 26, 1977.

[FR Doc.77-6408 Filed 3-2-77;8:45 am]

[Docket No. E77-20]

EMERGENCY NATURAL GAS ACT OF 1977

Supplemental Emergency Order Pursuant to Section 6 of Pub. L. 95-2

On February 21, 1977, an Administrator's Order was issued in this proceeding authorizing the purchase of gas by Eastern Shore Natural Gas Company from Clajon Gas Company. Eastern Shore has advised, by its counsel's letter of February 26, 1977, that Transcontinental Gas Pipe Line Corporation has refused to provide delivery of the subject gas absent an order authorizing such service by Transco. Accordingly, it is hereby ordered, pursuant to Section 6 of Public Law 95-2, that Transco is authorized to deliver gas purchased by Eastern Shore from Clajon pursuant to the Administrative Order of February 21, 1977 in this proceeding.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Eastern Shore, Clajon, United and Transco. This order shall also be published in the FEDERAL REGISTER.

This order and authorization are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

FEBRUARY 26, 1977.

[FR Doc.77-6409 Filed 3-2-77;8:45 am]

EMERGENCY NATURAL GAS ACT OF 1977

[Docket No. E77-36]

Emergency Order Pursuant to Section 6 of Pub. L. 95-2

On February 25, 1977, Columbia Gas Transmission Corporation (Columbia) filed, pursuant to section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95-2 (91 Stat. 4 (1977)), an application for authorization to purchase up to 30,000 Mcfd of natural gas from Monterey Pipeline Company (Monterey).[1]

Columbia will purchase the gas at a price of $2.25 per MMBtu, inclusive of all adjustments. Accordingly, I find the proposed price to be fair and equitable within the meaning of Order No. 2 and authorize the proposed purchase.

Monterey will deliver this gas to Columbia Gulf Transmission Company (Columbia Gulf) at the tailgate of Exxon Company, U.S.A.'s gas processing plant near Garden City, St. Mary Parish, Louisiana. Columbia Gulf will deliver the gas to Columbia at existing interconnections.

Columbia states that to the best of its "knowledge and belief" that its purchase complies with Order No. 6. I find that Columbia has complied with Order No. 6.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Columbia, Monterey and Columbia Gulf. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

FEBRUARY 26, 1977.

[FR Doc.77-6410 Filed 3-2-77;8:45 am]

EMERGENCY NATURAL GAS ACT OF 1977

Emergency Order Pursuant to Section 6 of Pub. L. 95-2

On February 25, 1977, Texas Gas Transmission Corporation (Texas Gas) filed, pursuant to section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95-2 (91 Stat. 4 (1977)), an application for authorization to transport natural gas, which it purchases as agent for certain of its customers[1] pursuant to § 6(a) of the Act.

Texas Gas, as agent, has executed a contract with Enserch Exploration Inc. (Enserch) to purchase natural gas produced from the Oaks Field, Claiborne Parish, Louisiana. Initial deliveries are estimated to be 2,000 Mcfd, with additional volumes to be made available. The total price to be paid by Texas Gas, as agent, is $2.25 per MMBtu. Thus, the proposed price is fair and equitable in accordance with Order No. 2.

Texas Gas wil receive the subject gas in the Oaks Field and transport such gas in its existing facilities. Texas Gas' proposed transportation rates are based upon the cost data supporting the settlement rates in Texas Gas' most recent Federal Power Commission rate case in Docket No. RP76-17 and the retention of a percent of the transported volumes for compressor fuel and company use and loss. I find such rates to be fair and equitable.

Based upon the foregoing, Texas Gas is authorized to purchase gas, as agent, from Enserch and transport such gas for certain of its customers. This authorization is conditioned on (i) Texas Gas' submission of the names of the customers for which it is acting as agent, (ii) those customers agreeing to submit reports as required by Order No. 4, and (iii) such customers certifying that they are entitled to purchase gas under the provisions of Order No. 6.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Texas Gas and Enserch. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

FEBRUARY 26, 1977.

[FR Doc.77-6411 Filed 3-1-77;8:45 am]

[Docket No. RP76-64 (PGA77-1)]

MOUNTAIN FUEL SUPPLY CO.

Tariff Sheet Filing Effective April 1, 1977

FEBRUARY 24, 1977.

Take notice that on February 15, 1977, Mountain Fuel Supply Company, pursuant to Section 154.62 of the Commission's Regulations under the Natural Gas Act, filed Third Revised Sheet No. 3-A to its FPC Gas Tariff Original Volume No. 1. Mountain Fuel states that the filed tariff sheet relates to the Unrecovered Purchased Gas Cost Account of the Purchased Gas Adjustment provision authorized by the Commission's order issued February 27, 1976 in Docket No. No. RP76-64. More specifically the tariff sheet reflects a net rate increase over that currently being collected of 25.8¢/MCF (X-4) and 16.9¢/MCF (X-5) and are to be effective April 1, 1977.

Any person desiring to be heard and to make any protest with reference to said filing should on or before March 18, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 of 1.10). All protests filed with the Commission will be considered by it but will not serve to make the protestants parties to the proceeding.

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[1] Columbia is currently purchasing these volumes pursuant to section 157.29 of the rules and regulations of the Federal Power Commission (18 CFR 157.29). The term of this purchase ends at 7:00 A.M., Monday, February 28, 1977.

[1] These customers are local distribution companies interstate pipelines as defined in sections 2 (1), (5) of the Act (91 Stat. 4).

Persons wishing to become parties to a proceeding or to participate as a party in any hearing must file petitions to intervene in accordance with the Commission's Rules. Mountain Fuel Supply Company's tariff filing is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6418 Filed 3-2-77;8:45 am]

[Docket No. RP74-96]

NATURAL GAS PIPELINE CO. OF AMERICA

Order Approving Settlement Agreement

FEBRUARY 25, 1977.

On September 22, 1976, Natural Gas Pipeline Company of America (Natural) filed a proposed Settlement Agreement. For the reasons stated herein, the Commission shall approve the Settlement Agreement.

On July 14, 1976, Natural tendered for filing revised tariff sheets in the captioned docket to reflect an $18 million rate reduction in compliance with Opinion No. 762.[1] The proposed revised tariff sheets reflected a rate base in which Natural had included two new advance payments as of September 1, 1975. One advance payment amounted to $1,000,000 and was made to Mesa Petroleum Company (Mesa) pursuant to an agreement dated December 19, 1973. The second advance payment, made to Mobil Oil Corporation (Mobil) under an agreement dated April 25, 1975, amounted to $13,600,000.

In an order issued on August 13, 1976, the Commission determined that the two new advance payments had not been shown to be just and reasonable. Accordingly, the Commission found that the proposed rate increase associated with the advances should be accepted for filing as of September 1, 1975, and collected subject to refund. The Commission approved the remaining adjustments reflected in the July 14, 1976, filing as being in compliance with the provisions of Opinion No. 762.

On September 22, 1976, Natural filed a proposed Settlement Agreement resolving all issues regarding the two new advance payments. The Agreement provides that the $1 million advance to Mesa be accorded rate base treatment and be subject to the refund condition set forth in Article VIII of the Stipulation and Agreement approved by the Commission in Opinion No. 762, except that interest shall be paid at a rate of 9% per annum on any refund attributable to the advance. Article VIII provides that, "Natural shall refund to its jurisdictional customers the carrying charges attributable to any amount of 465 advances (on an agreement-by-agreement basis) which are not actually spent by the recipient-producers on exploration, development and production."

[1] Natural Gas Pipe Line Company of America, Docket No. RP74-96, Op. No. 762, issued May 21, 1976.

The agreement further provides that $8,045,000 out of the proposed $13,600,000 advanced to Mobil be allowed in rate base. This represents the amount actually spent by Mobil on developing the acreage as of August 31, 1975, which date was immediately prior to inclusion of the advance in rates. Natural will refund to its jurisdictional customers the carrying charges collected during the 3-month period covered by the Settlement on the difference between the total advance of $13,600,000 and the $8,045,000 provided in the Agreement. The amount to be refunded is $206,980 or .02¢ per Mcf.

The term of the proposed Agreement is September 1, 1975, through November 30, 1975. A condition precedent to the effectiveness of the Agreement is that the Commission shall have granted waiver of its Rules and Regulations to the extent necessary to effectuate the provisions of the Agreement.

Public notice of the filing of the Settlement Agreement was issued on September 30, 1976, with comments to be submitted on or before October 29, 1976. No comments have been received.

Upon review of the proposed Settlement Agreement and the record in this proceeding, the Commission finds that the Agreement represents a reasonable resolution of the issues covered by the Agreement. Accordingly, the proposed Settlement Agreement shall be approved and adopted.

The Commission orders: (A) The proposed Settlement Agreement filed by Natural on September 22, 1976, is incorporated herein by reference and is hereby approved and adopted to be effective for the period of September 1, 1975, through November 30, 1975

(B) Waiver of the Commission's Rules and Regulations is hereby granted to the extent necessary to effectuate the provisions of the proposed Settlement Agreement.

(C) With respect to the Mesa advance payment, Natural shall file appropriate calculations and make appropriate refunds as prescribed by the Settlement Agreement approved by the Commission in Opinion No. 762, except that interest on any amounts refunded shall be calculated at the rate of 9% per annum.

(D) Within thirty (30) days of the issuance of this order, Natural shall file revised tariff sheets to be effective September 1, 1975, through November 30, 1975, which shall reduce rates by the amount of the refund credit to be made in accordance with Paragraph (E) of this order.

(E) Natural shall make a refund relating to the Mobil advance by crediting customers' bills as prescribed in the proposed Settlement Agreement.

(F) Natural shall file a refund report within thirty (30) days of the making of the refund credit ordered in Paragraph (E) of this order.

(G) This order is without prejudice to any findings or orders which have been made or which may hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its Staff or any party or person affected by this order in any proceeding now pending or hereafter instituted by or against Natural or any person or party.

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

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6413 Filed 3-2-77;8:45 am]

[Docket No. RP72-154; PGA77-3]

NORTHWEST PIPELINE CORP.

Change in Rates Pursuant to Purchased Gas Cost Adjustment

FEBRUARY 24, 1977.

Take notice that Northwest Pipeline Corporation, on February 15, 1977, tendered for filing a proposed change in rates applicable to service rendered under rate schedules affected by and subject to Article 16, Purchased Gas Cost Adjustment Provision ("PGAC"), contained in its FPC Gas Tariff, Original Volume No. 1. Such change in rates is for the purpose of (1) reflecting changes in Northwest's cost of purchased gas which will become effective on or before April 1, 1977, applied to volumes purchased for the twelve (12) month period ending December 31, 1976 and its change in unrecovered purchased gas costs since Northwest's prior semi-annual PGAC filing dated August 13, 1976 and (2) elimination of the special surcharge credit adjustment given storage gas purchasers under Rate Schedule SGS-1 for the period October 2, 1976 through March 31, 1977.

The change in rates, for which notice is given herein, aggregates a decrease of 1.425¢ per therm in all rate schedules affected by and subject to the PGAC. The annualized change in Northwest's purchased gas cost aggregates a decrease of $23,331,386. Northwest proposes to adjust its surcharge to include (1) the negative balance of $4,552,130 in its FPC Account No. 191, as of December 31, 1976 and (2) the unrecovered jurisdictional portion of $227,371 as of December 31, 1976 applicable to Northwest's Rate Schedule X-29 Deferred Exchange. Northwest has also included in the instant filing producer refunds received through February 10, 1977 which resulted from Opinion Nos. 749 and 749-C by crediting such amounts to FPC Account No. 191 as proposed in its purchaser refund plan filed with the Commission on February 4, 1977. The proposed change in rates would decrease Northwest's revenues from jurisdictional sales and service by $27,331,076.

Northwest is concurrently filing notices of changes in rates applicable to Article 13.4, Change in Rates to Reflect Curtailment Credits ("Demand Charge Credits"), contained in its Original Volume No. 1 Tariff. In accordance with the Commission's order issued March 29, 1974 at Docket No. RP74-72, the rate adjustment under the Demand Charge Credit Adjustment provisions becomes

effective on Northwest's PGAC adjustment date after 45 days' notice. Accordingly, both rate adjustments are reflected on the tendered Fifteenth Revised Sheet No. 10, which is proposed to become effective on April 1, 1977.

Copies of this filing have been served upon Northwest's jurisdictional customers and affected 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, 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 March 18, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6415 Filed 3-2-77;8:45 am]

[Docket No. RP74-72; DCA77-1]

NORTHWEST PIPELINE CORP.

Change in Rates Pursuant to Demand Charge Credit Adjustment

FEBRUARY 24, 1977.

Take notice that Northwest Pipeline Corporation, on February 15, 1977, tendered for filing proposed changes in its FPC Gas Tariff, Original Volume No. 1 to compensate Northwest for demand charge credits given to certain of its customers as a result of Northwest being unable to deliver its firm contract obligations because of a gas supply deficiency on its system. As of December 31, 1976, Northwest has a debit balance of $962,177 in FPC Account No. 142, representing its unrecovered Demand Charge Credits.

The notice of change in rates is being filed pursuant to the Commission's order issued March 29, 1974 at Docket No. RP74-72 and Article 13.4 of Northwest's FPC Gas Tariff, Original Volume No. 1. The change in rates will result in a net decrease of .139¢ per therm for Rate Schedules ODL-1, DS-1 and PL-1.

Northwest is concurrently filing notice of change in rates applicable to Article 16, Purchased Gas Cost Adjustment Provision ("PGAC"), contained in its Original Volume No. 1 Tariff. Both rate adjustments are reflected on the tendered Fifteenth Revised Sheet No. 10, which is proposed to become effective on April 1, 1977.

Copies of this filing have been served upon Northwest's jurisdictional customers and affected 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, 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 March 18, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6416 Filed 3-2-77;8:45 am]

[Docket No. E77-31]

EMERGENCY NATURAL GAS ACT OF 1977

Emergency Order

On February 25, 1977, Colorado Interstate Gas Company (CIG) filed, pursuant to section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95-2 (91 Stat. 4 (1977)), an application for authorization to purchase approximately 3,000 Mcfd from Chandler & Associates, Inc. (Chandler), produced from the Airport Area, Sweetwater County, Wyoming. CIG requests that the subject gas be determined to have been contracted for on February 17, 1977, and therefore not precluded by Order No. 6 (February 22, 1977), or, in the alternative, that the provisions of Order No. 6 be waived to permit the proposed purchase. For the reasons set forth below, I find that the proposed purchase is not precluded by Order No. 6 and therefore authorize the proposed purchase subject to the condition that such volumes be delivered to any interstate pipeline and local distribution company which would be entitled to an emergency delivery of gas from an interstate pipeline pursuant to section 4(a) (91 Stat. 4, 5).

On February 17, 1977, CIG and Chandler entered into a firm oral contract for the purchase and sale of gas produced from the Champlin No. 4-11 well. This agreement provides that CIG will purchase the gas at a price of $2.25 per MMBtu through July 31, 1977, thereafter CIG will purchase the remaining volumes at the applicable national rate for new gas. CIG states that the sale pursuant to the provisions of § 6 of the Act was explicitly made a part of the consideration for the long-term dedication and that approval of the agreement will add approximately 1.5 Bcf to CIG's reserves. CIG further states that Chandler has an outstanding offer from an intrastate purchaser to buy the subject gas at 25 cents per Mcf above the applicable national rate established by the Federal Power Commission (FPC). CIG was, on execution of the contract, and is making deliveries for those uses specified in FPC Priorities 4 through 9 (18 CFR 2.78(a)(1)(iv)-(ix)). In addition, prior to February 22, 1977, CIG constructed approximately 1500 feet of pipeline with the necessary metering and dehydration facilities to connect this gas supply to its pipeline system at a cost of $20,000. Finally, CIG advises that the parties are unwilling to commence deliveries without prior authorization from the Administrator.

Order No. 6 prohibits any interstate pipeline and local distribution company from purchasing gas pursuant to § 6 of the Act if that company is delivering gas to uses specified in Categories 4 through 9. Order No. 6 did not preclude the purchase of gas by such a company if the gas sought to be purchased was firmly contracted for prior to the effective date of that order. The information supplied by CIG indicates that, prior to February 22, 1977, CIG and Chandler had entered into a firm oral contract for the purchase of such gas and that CIG had installed the facilities necessary to receive the subject gas into its pipeline system. These circumstances indicate that CIG had contracted for the purchase of the Chandler gas prior to February 22, 1977. Thus, Order No. 6 does not preclude the purchase of this gas by CIG.

I find that CIG should be authorized to purchase the Chandler gas subject to the conditions that within seventy-two hours of the date of this order, (i) CIG and Chandler submit to the Administrator and the FPC a binding contract for the sale of gas by Chandler to CIG subsequent to July 31, 1977, at a price not to exceed the FPC's applicable national rate and (ii) CIG submit an agreement to deliver volumes equivalent to those received from Chandler to any interstate pipeline or local distribution company, which would be entitled to an emergency delivery of gas pursuant to § 4(a) of the Act which requests delivery of such volumes. CIG shall purchase the subject gas at a price not to exceed $2.25 per MMBtu. Subject to satisfaction of the above conditions, CIG is authorized to purchase the subject gas from Chandler and such purchase is not precluded by Order No. 6.

CIG shall submit weekly reports as required by Order No. 4.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon CIG and Chandler. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

Dated: February 28, 1977.

RICHARD L. DUNHAM,
Administrator.

[FR Doc.77-6448 Filed 3-2-77;8:45 am]

[Docket No. E77-29]

EASTERN SHORE NATURAL GAS CO., ET AL.

Emergency Order Pursuant to Emergency Natural Gas Act of 1977

On February 24, 1977, Eastern Shore Natural Gas Company (Eastern Shore) filed, pursuant to Section 6 of the Emer-

gency Natural Gas Act of 1977 (Act), Pub. L. 95-2 (91 Stat. 4 (1977)), a request for an order authorizing an emergency purchase of approximately 1700 Mcf per day of natural gas at $2.25 per Mcf inclusive of severance taxes from Jack O. McCall and Midland National Bank, Midland, Texas, Trustee (McCall). This contract is effective for a period of thirty-one days following the commencement of deliveries but in no event later than July 31, 1977.

Eastern Shore advises that McCall will deliver these gas supplies to Mississippi River Transmission Company (Mississippi) which will deliver the gas to Natural Gas Pipeline Company of America (Natural). Natural will deliver the gas to Transcontinental Gas Pipe Line Corporation (Transco) for delivery to Eastern Shore.

Mississippi will charge 5 cents per Mcf for transportation of the gas from near the wellhead to a point of interconnection with Natural. Natural will charge 15 percent of the gas transported through its facilities to Transco. Transco will charge its standard rate for transporting the natural gas to Eastern Shore.

I have determined that the fee of 15 percent of the volumes transported proposed to Natural for its transportation service may not be fair and equitable. Natural shall therefore submit information which supports its proposed transportation charge of 15 percent of the volumes transported or such percentage which represents the volumes consumed as compressor fuel to render the proposed transportation.

Mississippi, Natural, and Transco have agreed to transport this gas and advised that the deliveries can be accomplished through existing intrastate pipeline facilities. Thus, there is no reason to require the construction and operation of facilities as permitted under section 6 (c) (1) of the Act.

Therefore, I authorize Eastern Shore to purchase emergency natural gas from McCall at a price not to exceed $2.25 per MMBtu inclusive of all adjustments. I authorize and order Mississippi, Natural, and Transco to transport gas for Eastern Shore on the above specified terms and conditions.

Eastern Shore shall submit weekly reports as required by Order No. 4, and shall certify that the proposed purchase qualifies pursuant to the terms of Order No. 6.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Eastern Shore, McCall, Mississippi, Natural and Transco. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

FEBRUARY 28, 1977.

[FR Doc.77-6503 Filed 3-2-77;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following request for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on February 24, 1977 (FEA, FTC) and February 25, 1977 (EEOC). See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the Federal Register is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed EEOC, FEA and FTC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before March 21, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5033, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

EEOC requests an extension no change clearance of the EEO-6, Higher Education Staff Information Report, Form 221. The filing of this report is required of all institutions of higher education with 15 or more employees which are subject to Section 709(c) of Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972. Frequency of reporting is every other year and EEOC estimates that the average reporting burden is 5 hours per response.

FEDERAL ENERGY ADMINISTRATION

FEA requests clearance of a new single-time form FEA-U534-S-0, Airline Personnel Questionnaire. This voluntary questionnaire conducted under the authority contained in Section 381(b)(1)(A) of the Energy Policy and Conservation Act (P.L. 94-163), will assist in gathering information for an on-going FEA contract examining "Fuel Efficient Activities of Aircraft and Air Carriers." The purpose of this study is to determine the nature and extent of the fuel conservation measures currently being implemented by a representative number of airlines within each of four air carrier categories. These categories include U.S. trunk carriers, local service carriers, charter airlines, and all-cargo carriers. This questionnaire will supplement information obtained from other sources concerning the extent to which an air carrier's official fuel conservation policies actually are being implemented by its line employees. Those line employees whose job responsibilities directly involve fuel conservation efforts include flight crew members, flight managers, flight maintenance personnel and dispatchers. In addition, the results of the questionnaire will expand existing knowledge of the procedures of each air carrier category which contribute to or detract from effective fuel conservation programs. The universe from which respondents to form FEA-U534-S-0 will be selected consists of all the line personnel who are directly involved in implementing fuel conservation measures and procedures in each of the 31 U.S. certificated air carriers. The scope of the survey will include 22 air carriers which are considered representative of each of the four air carrier categories and which have agreed to participate in this study. A sample of 10 line personnel at each airline, for a total of 220 respondents will receive the FEA-U534-S-0 questionnaire. FEA estimates burden for completing form FEA-U534-S-0 to average one hour per respondent.

FEDERAL TRADE COMMISSION

FTC's Bureau of Competition pursuant to Sections 6, 9 and 10 of the Federal Trade Commission Act, requests clearance of a new, voluntary, single-time letter of inquiry which will be sent to each health maintenance organization in the country. The purpose of the letter of inquiry is to assist FTC in its investigation into the nature of competition in the health care industry. The letter inquires about possible anticompetitive restraints hampering the development of expansion of health maintenance organizations. FTC estimates potential respondents to be 200 and reporting burden to average 7 hours per response.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77-6367 Filed 3-2-77;8:45 am]

REGULATORY REPORTS REVIEW

Receipt and Approval of a Proposed Report

A request for clearance of a proposed report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on February 18, 1977. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice is to inform the public of such receipt and the action taken by GAO.

FEDERAL ENERGY ADMINISTRATION

The Federal Energy Administration requested emergency clearance of form FEA-P328-M-O, Foreign Crude Oil Cost Report. This is a modification of an existing quarterly report (FEA-P328-Q-O) to a monthly report. The report collects detailed information on crude oil acquisition costs for the foreign trading affiliates of United States' companies. There are 15 to 20 potential respondents. Reports are authorized under the Federal Energy Administration Act of 1974 (P.L. 93-275) and the Energy Policy and Conservation Act of 1975 (P.L. 94-163).

An emergency clearance was required because of the extraordinary circumstances of the OPEC price increases. In view of the recent two-tiered price increases by the Organization of Petroleum Exporting Countries and the uncertainty of how these costs will change, the Standing Group on Oil Markets of the International Energy Agency has made a special, temporary request for monthly rather than quarterly crude cost submissions by the member governments. These submissions are requested as soon as it is possible to collect the data. It is anticipated that monthly data will be required for three to six months beginning with January 1977 data. After that time, the reporting will revert to a quarterly basis. Because of the economic significance of these costs changes, it is imperative that the United States be able to start providing monthly data to the International Energy Agency as soon as possible and have the capability of closely monitoring these data for national policy purposes. It must be noted that the failure to monitor these data and ensuring that the lower costs of the Saudi Arabian and United Arab Emirate crude oils are passed on to the consumer can only further damage the American consumer and the American economy with a further spiral in energy costs.

GAO granted clearance of the reporting frequency on February 25, 1977, under number B-181254 (RO371). This clearance will expire on June 30, 1977.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77-6368 Filed 3-2-77;8:45 am]

REGULATORY REPORTS REVIEW

Receipt and Approval of a Proposed Report

A request for clearance of a proposed report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on February 18, 1977. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice is to inform the public of such receipt and the action taken by GAO.

FEDERAL ENERGY ADMINISTRATION

The Federal Energy Administration requested emergency clearance of the proposed form FEA-P329-M-0, Distillate Import Monitoring Report.

On Friday, February 11, 1977, FEA adopted Special Rule No. 8 for Subpart C of 10 CFR 211 which provides for the extension of entitlement benefits to imports of No. 1 and No. 2 heating oil during the months of February and March 1977. This action was prompted by the extremely high level of demand for heating oil in the North Central and Northeast regions of the United States caused by the continually unusually severe weather.

The mandatory monthly form FEA-P329-M-O has been designed to be filed by any importers of heating oil for the months designated for the Distillate Entitlements Program and January which will establish a base period. Due to the timeliness required to monitor the entitlements program during the crisis situation that has developed this heating season, the FEA needs information as soon as possible in order to take any remedial action necessary if a company is shown as not passing through the entitlements benefits. Therefore, if emergency clearance processing was denied, and the normal 45-day process was implemented, FEA would receive the needed information too late to take any remedial action.

The form FEA-P329-M-O will be mailed out to approximately 300 firms, most of which are large sellers of heating oil. The FEA estimates that approximately 40 of these firms will be actual importers of the heating oil and therefore will be required to file the form. The FEA estimates a monthly burden of 30 hours per report. Upon approval by GAO the form will be mailed out to the 300 companies mentioned above and will be required to be filed by importers of heating oil for the months of January and February 1977 by March 10, 1977, and for the month of March 1977 by April 10, 1977.

GAO granted clearance on February 23, 1977, under number B-181254 (RO439). This clearance will expire April 30, 1977.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77-6369 Filed 3-2-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

WORKSHOP ON SAFER HOSTS AND PLASMID VECTORS

Rescheduled Meeting

Notice is hereby given of an amendment to the Workshop on Safer Hosts and Plasmid Vectors Sponsored by the Recombinant DNA Molecule Program Advisory Committee at the National Institutes of Health, Bethesda, Maryland 20014, published in the FEDERAL REGISTER February 25, 1977 (42 FR 11051). This meeting was scheduled to be held in Building 31C, Conference Room 7. The date and location of this meeting has been changed to March 21, 1977, Building 31C, Conference Room 9. The entire meeting will be open to the public from 9:00 a.m. to adjournment. Attendance by the public will be limited to space available.

Dated: February 25, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-6315 Filed 3-2-77;8:45 am]

INFECTIOUS DISEASE COMMITTEE

Amended Notice of Meeting

Notice is hereby given of changes in the times of the "closed" and "open" portions of the meeting of the Infectious Diseases Committee, National Institute of Allergy and Infectious Diseases, which was published in the FEDERAL REGISTER on February 2, 1977 (42 FR 6414).

This meeting will be open to the public on March 17 from 8:30 a.m. until recess, and on March 18 from 8:30 a.m. until 11:00 a.m., and will be closed to the public on March 18 from 11:00 a.m. until adjournment.

(Catalog of Federal Domestic Assistance Program No. 13.856, National Institutes of Health.)

Dated: February 24, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-6316 Filed 3-2-77;8:45 am]

COMMISSION FOR THE CONTROL OF HUNTINGTON'S DISEASE AND ITS CONSEQUENCES

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Commission for the Control of Huntington's Disease and Its Consequences, National Institute of Neurological and Communicative Disorders and Stroke, National Institutes of Health, on April 14, 1977, in the Federal Office Building, South Auditorium (4th Floor, use 2nd Ave. entrance), 915 2nd Ave., Seattle, Washington 98174.

The entire meeting will be open to the public from 9:00 a.m. to 5:00 p.m. subject to space available. The purpose of the meeting is to hear testimony from interested members of the public. Persons who wish to appear shall file a written statement or detailed summary of remarks with the Commission before 5:00 p.m. on April 7, 1977. The time allotted to each participant will be determined by the Commission based upon the number of individuals who request an opportunity to make presentations.

Requests to appear should be sent to:

Commission for the Control of Huntington's Disease and Its Consequences, National Institutes of Health, Building 31, Room 8A11, Bethesda, MD 20014.

Dr. Nancy S. Wexler, Executive Director, Commission for the Control of Huntington's Disease and Its Consequences, NIH, Building 31, Room 8A11, Bethesda, MD 20014 (301) 496-9275, will provide substantive program information.

Mrs. Ruth Dudley, Chief, Office of Scientific and Health Reports, NINCDS, Building 31, Room 8A02, Bethesda, MD 20014 (301) 496-5751, will provide summaries of the meeting and rosters of Commission members.

(Catalog of Federal Domestic Assistance Program No. 13.852, National Institutes of Health.)

Dated: February 24, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-6317 Filed 3-2-77;8:45 am]

NATIONAL CANCER INSTITUTE ADVISORY COMMITTEES

Open Meetings

Pursuant to Public Law 92-463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be entirely open to the public to discuss issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available. Meetings will be held at the National Institutes of Health, 900 Rockville Pike, Bethesda, Maryland 20014, unless otherwise stated.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20014 (301/496-5708) will furnish summaries of the meetings and rosters of committee members upon request.

Other information pertaining to the meeting can be obtained from the Executive Secretary indicated.

Name of committee: President's Cancer Panel.
Dates: April 15, 1977; 9:30 a.m.-adjournment.
Place: Building 31C, Conference Room 7, National Institutes of Health.
Times: Open for the entire meeting.
Agenda: To hear reports of the President's Cancer Panel and the Director, National Cancer Program, NCI.
Executive secretary: Dr. Richard A. Tjalma; address: Building 31A, Room 11A46, National Institutes of Health; phone: 301/496-5854.

Name of committee: Chemical Selection Subgroup of the Clearinghouse on Environmental Carcinogens.
Dates: April 18, 1977; 9:00 a.m.-adjournment.
Place: Building 31C, Conference Room 6, National Institutes of Health.
Times: Open for the entire meeting.
Agenda: To consider chemicals for bioassay.
Executive secretary: Dr. James M. Sontag; address: Building 31, Room 3A16, National Institutes of Health; phone: 301/496-5108.

Name of committee: Cancer Control Intervention Programs B Review Committee.
Dates: April 18-19, 1977; 8:30 a.m.-adjournment.
Place: Building 31C, Conference Room 7, National Institutes of Health.
Times: Open for the entire meeting.
Agenda: Merit review of ongoing projects in cancer control intervention programs.
Executive secretary: Dr. Dorothy Brodie; address: Blair Building, Room 7A07, National Institutes of Health; phone: 301/427-7945.

Name of committee: Experimental Design Subgroup of the Clearinghouse on Environmental Carcinogens.
Dates: April 19, 1977; 9:00 a.m.-adjournment.
Place: Building 31C, Conference Room 6, National Institutes of Health.
Times: Open for the entire meeting.
Agenda: To consider experimental designs for carcinogenicity studies.
Executive secretary: Dr. James M. Sontag; address: Building 31, Room 3A16, National Institutes of Health; phone: 301/496-5108.

Dated: February 24, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-6318 Filed 3-2-77;8:45 am]

PERIODONTAL DISEASES ADVISORY COMMITTEE

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Periodontal Diseases Advisory Committee, National Institute of Dental Research, National Institutes of Health, Bethesda, MD, on April 25-26, 1977, in Building 31-C, Conference Room 7.

The entire meeting will be open to the public from 9:00 a.m. to 5:00 p.m. on April 25, and from 9:00 a.m. to adjournment on April 26, for discussions of ongoing and future research programs related to periodontal disease, to plan for the development of clinical research programs and to discuss the feasibility of establishing socio-behavioral research related to periodontal disease. Attendance by the public will be limited to space available.

Dr. Paul F. Parakkal, Executive Secretary of the Periodontal Diseases Advisory Committee, National Institute of Dental Research, National Institutes of Health, Westwood Building, Room 519, Bethesda, MD 20014 (phone number 301-496-7784), will furnish rosters of committee members, a summary of the meeting, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.302, National Institutes of Health.)

Dated: February 24, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-6319 Filed 3-2-77;8:45 am]

WORKSHOP ON GRADUATE EDUCATION IN ORAL ONCOLOGY

Meeting

Notice is hereby given of the workshop on Graduate Education in Oral Oncology sponsored by the National Institutes of Health, National Cancer Institute, Division of Cancer Research Resources and Centers and the National Institute of Dental Research, Extramural Programs, June 13 and 14, 1977, at the Holiday Inn—Bethesda, 8120 Wisconsin Avenue, Bethesda, Maryland 20014, in the Maryland Room.

This meeting will be open to the public on June 13 and 14 at 8:30 a.m. until adjournment, to discuss graduate education in oral oncology, particularly the roles of the dental specialists in oncology, education of dental specialists in oncology, the roles and functions of the oral oncologist and the needs and resources for education in oncology for dental specialists and oral oncologists. Atendance by the public will be limited to space available.

Dr. Margaret H. Edwards, Chief, Clinical Manpower Branch, Division of Cancer Research Resources and Center, National Cancer Institute, Westwood Building, Room 10A18, Bethesda, Maryland 20014 (301-496-7761), will provide additional information.

Dated: February 24, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-6320 Filed 3-2-77;8:45 am]

Office of the Assistant Secretary for Health

PREPARING FOR IMMUNIZATION AGAINST INFLUENZA

Meeting

The Secretary, DHEW announces his intent to hold a public meeting to discuss issues relevant to preparing for immunization against influenza during the winter of 1977-78. Policy questions concerning the nature, supply and administration of the vaccine(s) and the relative responsibilities of the federal, state, and local governments, volunteer health organizations, and federal advisory councils and committees in these decisions will be examined. Using all available epidemiologic evidence and best scientific judgment, concensus will be sought on appropriate virus strain(s) to be used in preparation of vaccines for the coming year. Options for additional federal actions in these matters will be under review. An expert panel with competence to address these issues has been convened by the Secretary.

The meeting will be open to the public, limited only by the space available.

Date and time: March 11, 1977, 8:00 a.m.
Place: Conference Room 800, South Portal Building, 200 Independence Avenue, S.W., Washington, D.C. 20201.

Additional information can be obtained from:

Mr. John Blamphin, Director, Office of Public Affairs, Room 731G-2, South Portal Building, 200 Independence Avenue, S.W., Washington, D.C. 20201, (202) 245-6867.

CHARLES U. LOWE,
Special Assistant for Child Health Affairs.

FEBRUARY 25, 1977.

[FR Doc.77-6332 Filed 3-2-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[M 36390]

MONTANA

Proposed Withdrawal and Reservation of Lands

FEBRUARY 25, 1977.

The Department of Agriculture on behalf of the Soil Conservation Service on February 9, 1977, filed application, Serial No. M 36390, for withdrawal of the national resource lands described below from settlement, sale, location, or entry under all the general land laws.

The Soil Conservation Service desires the withdrawal in connection with the Boulder River Watershed Project.

On or before April 8, 1977, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present

their views in writing to the undersigned officer of the Burau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, at the address shown below, by April 8, 1977. Upon determination by the State Director that a public hearing will be held, the time and place will be announced.

The Department of the Interior's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency. The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

For a period of two years from the date of publication of this notice in the FEDERAL REGISTER (March 3, 1977), the lands will be segregated from entry as specified above unless the application is rejected or the withdrawal is approved prior to that date. If the withdrawal is approved by the Secretary, the lands will remain segregated for the term of the withdrawal which shall not exceed 20 years.

The lands involved in the application are:

PRINCIPAL MERIDIAN, MONTANA

T. 5 N., R. 4 W.,
Sec. 8, SE¼NE¼SW¼NW¼, E½SE¼SW¼NW¼, S½N½SE¼NW¼, S½SE¼NW¼, E½NE¼SW¼, W½NW¼SW¼SW¼, S½S½SW¼, NE¼SE¼SW¼, S½NW¼SE¼, and NW diagonal ½ of SW¼SE¼; and
Sec. 13, S½SW¼SW¼.
T. 5 N., R. 3 W.,
Sec. 32, NW¼NE¼, S½NE¼, and NW¼.
T. 4 N., R. 2 W.,
Sec. 6, Lots 3, 4, 5, 6, and 7, and SE¼NW¼; and
Sec. 18, SE¼SW¼.

The areas described aggregate 679.89 acres in Jefferson County, Montana.

All communications in connection with this withdrawal should be addressed to the Bureau of Land Management, Department of the Interior, Montana State Office, P.O. Box 30157, Billings, Montana 59107.

ROLAND F. LEE,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-6403 Filed 3-2-77;8:45 am]

[NM 29683]

NEW MEXICO

Application

FEBRUARY 22, 1977.

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), Roger C. Hanks has applied for a 6-inch salt water disposal pipeline and plant site right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 20 S., R. 25 E.,
Sec. 5, lot 4, SW¼NE¼, SE¼NW¼, and SE¼SE¼;
Sec. 9, N½NW¼.

The pipeline and plant site will be used in connection with salt water disposal operations and will occupy 9.08 acres of national resource land in Eddy County, New Mexico.

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 name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-6404 Filed 3-2-77;8:45 am]

[OR 10887]

OREGON

Opportunity for Public Hearing and Republication of Proposed Withdrawal and Reservation of Lands

FEBRUARY 23, 1977.

The Department of Agriculture on behalf of the Forest Service, on May 17, 1973, filed application, Serial No. OR 10887, for the withdrawal of 540 acres of national forest lands from location and entry under the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, subject to valid existing rights. The Department of Agriculture has requested that the withdrawal be granted for permanent duration.

The Forest Service desires these lands for use as a public recreation area.

A notice of proposed withdrawal and reservation of lands was published on November 8, 1973 in the FEDERAL REGISTER (38 FR 30894).

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, at the address shown below, by March 31, 1977. Upon determination by the State Director that a public hearing will be held, the time and place will be announced.

All previous comments submitted in connection with the withdrawal proposal have been included in the case file record and will be considered in making a final determination on the proposal.

The Department of the Interior's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency. The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

WILLAMETTE MERIDIAN

ROGUE RIVER NATIONAL FOREST

Squaw Lakes Recreation Area

T. 40 S., R. 3 W.,
sec. 35, SE¼SW¼ and SE¼;
T. 41 S., R. 3 W.,
sec. 1, W½SW¼NW¼;
sec. 2, NE¼, E½NW¼, N½SE¼.

The areas described aggregate 540 acres in Jackson County, Oregon.

All communications in connection with this withdrawal should be addressed to the undersigned officer, Bureau of Land Management, Department of the Interior, P.O. Box 2965, Portland, Oregon 97208.

CHAMP C. VAUGHAN, JR.,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-6421 Filed 3-2-77;8:45 am]

[OR 16124]

OREGON

Proposed Withdrawal and Reservation of Lands

The Department of Agriculture on behalf of the Forest Service, on June 28,

1976, filed application, Serial No. OR 16124, for the withdrawal of approximately 3,275 acres of national forest lands from location and entry under the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, subject to valid existing rights. The Department of Agriculture has requested that the withdrawal be granted for a permanent duration.

The Forest Service desires these lands for the purpose of protecting and preserving the anadromous fish habitat of the streams on the lands to be withdrawn and for preserving the value of the lands for public recreational purposes.

On or before April 4, 1977, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, at the address shown below, by March 28, 1977. Upon determination by the State Director that a public hearing will be held, the time and place will be announced.

The Department of the Interior's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency. The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

WILLAMETTE MERIDIAN

UMPQUA NATIONAL FOREST

Steamboat Creek Tributaries Streamside Zone

A strip of land 330 feet wide on each side of the centerline of Cedar Creek, South Fork and North Fork Cedar Creeks; Little Rock Creek, Fugowee Creek, Tributary B and Tributary B–1; through the following subdivisions:

T. 24 S., R. 1 E.,
Sec. 2, lots 3 and 4, S½NW¼, SW¼, and S½SE¼;
Sec. 3, lots 3 and 4, S½N½, NE¼SW¼, and N½SE¼;
Sec. 11, N½NE¼;
Sec. 12, NW¼NE¼, S½NE¼, W½, and N½SE¼;
Sec. 22, SE¼;
Sec. 23, SW¼SW¼;
Sec. 25, SW¼NE¼, S½NW¼, N½S½, and S½SE¼;
Sec. 26, N½ and S½SE¼;
Sec. 27, NE¼NE¼;
Sec. 35, N½NE¼; and
Sec. 36, N½N½ and S½NE¼.

A strip of land 330 feet wide on each side of the centerline of Canton Creek; Steelhead Creek, North Fork and South Fork Steelhead Creek; Deep Creek; and Singe Creek; through the following subdivisions:

T. 25 S., R. 1 E.,
Sec. 11, S½NW¼, N½SW¼, SE¼SW¼, and W½SE¼;
Sec. 14, W½E½, E½W½, and W½SW¼;
Sec. 15, NE¼SW¼, N½SE¼, and SE¼SE¼;
Sec. 23, W½E½ and E½W½;
Sec. 25, NW¼NE¼, S½NE¼, NW¼SW¼, and NE¼SE¼;
Sec. 26, N½NW¼NE¼, S½SE¼NE¼, N½NE¼NW¼, and NE¼SE¼;
Sec. 31, lots 1, 2, 3, 4, and E½SW¼.

A strip of land 300 feet wide on each side of the centerline of Canton Creek through the following subdivisions:

T. 25½ S., R. 1 E.,
Sec. 32, lots 3 and 4.

A strip of land 330 feet wide on each side of the centerline of Horseheaven Creek, Tributary B and Windy Creek, through the following subdivisions:

T. 23 S., R. 2 E.,
Sec. 29, E½;
Sec. 32, NE¼, SE¼NW¼, E½SW¼, and W½SE¼.

A strip of land 330 feet wide on each side of the centerline of Cedar Creek; Buster Creek; Longa Creek; Little Rock Creek; City Creek; and Horseheaven Creek, through the following subdivisions:

T. 24 S., R. 2 E.,
Sec. 4, W½SW¼, and SE¼SW¼;
Sec. 5, lots 1 and 2, S½NE¼, E½SW¼, and SE¼;
Sec. 7, lots 3 and 4, and SE¼;
Sec. 8, NW¼NE¼, E½NW¼, NE¼SW¼, and W½SW¼;
Sec. 9, N½NW¼;
Sec. 19, E½NE¼;
Sec. 20, W½SW¼NW¼, NW¼SW¼, E½SW¼SE¼, and SE¼SE¼;
Sec. 21, S½SW¼, and W½SE¼;
Sec. 31, lots 1 and 2, S½NE¼, and NE¼SE¼;
Sec. 32, S½NW¼, N½SW¼, and NW¼SE¼.

A strip of land 330 feet wide on each side of the centerline of Singe Creek; Reynolds Creek; Johnson Creek; and Big Bend Creek through the following subdivisions:

T. 25 S., R. 2 E.,
Sec. 3, lots 1, 2, 5, 6, 7 and 8, S½NW¼, and NW¼SW¼;
Sec. 4, S½NE¼, SW¼, N½SE¼, and SW¼SE¼;
Sec. 5, S½SE¼;
Sec. 7, W½NE¼ and SE¼NE¼;
Sec. 8, N½NE¼, E½NE¼NW¼, and S½SW¼;
Sec. 16, S½NW¼ and N½SW¼;
Sec. 17, NE¼ and N½NW¼;
Sec. 30, lots 2 and 3 and NW¼SE¼.

The areas described aggregate approximately 2840 acres, of which 1045 acres are in Douglas County and 1795 acres are in Lane County, Oregon.

Steamboat Creek Roadside and Streamside Zones (Combined Area)

A strip of land 200 feet wide north and west of the centerline of Steamboat Creek Road No. 232, a strip of land 330 feet wide on the south and east of the centerline of Steamboat Creek, and the area in between the two strips, through the following subdivisions:

T. 25 S., R. 1 E.,
Sec. 24, NW¼SE¼;
Sec. 25, NW¼NE¼ and SE¼NW¼;
Sec. 26, S½SE¼NE¼ and S½S½NW¼;
Sec. 27, S½SW¼SW¼ and S½SE¼;
Sec. 28, SW¼SE¼SW¼ and NE¼SE¼;
Sec. 32, SW¼SW¼;
Sec. 33, SW¼NE¼ and S½N½SW¼.
T. 25½ S., R. 1 E.,
Sec. 32, lots 2 and 3 and S½SW¼, excepting strip withdrawn in North Umpqua Road Zone by PLO–2750 dated 8/13/62.

A strip of land 200 feet wide north and west or south and west of the centerline of Steamboat Creek Road No. 232, a strip of land 330 feet wide north and east or south and east of the centerline of Steamboat Creek and East Fork Steamboat Creek, and the area in between the two strips, through the following subdivisions:

T. 24 S., R. 2 E.,
Sec. 2, SW¼SW¼;
Sec. 3, N½SW¼ and S½S½;
Sec. 4, S½SE¼;
Sec. 8, SE¼SE¼;
Sec. 9, N½NE¼, NW¼, and NW¼SW¼;
Sec. 10, NW¼NW¼;
Sec. 17, NW¼NE¼ and E½SE¼SW¼;
Sec. 20, E½E½NW¼, NW¼SE¼, and E½SW¼SE¼;
Sec. 29, E½W½E½;
Sec. 32, NE¼NE¼ and NE¼NW¼;
Sec. 33, NW¼SW¼ and S½SW¼.

A strip of land 200 feet wide north and west or south and east of the centerline of Steamboat Creek Road No. 232, a strip of land 300 feet wide on the south and east or north and west of the centerline of Steamboat Creek, and the area in between the two strips, through the following subdivisions:

T. 25 S., R. 2 E.,
Sec. 4, lots 3, 4 and 5;
Sec. 5, lot 1, W½ lot 8, N½SW¼NE¼, SE¼NW¼, SW¼SW¼, and NE¼SE¼;
Sec. 7, SE¼NE¼;
Sec. 19, S½ lot 2, lot 3, NE¼NE¼, and SW¼NE¼.

The areas described aggregate approximately 435 acres of which 110 acres are in Douglas County and 325 acres are in Lane County, Oregon.

All communications in connection with this withdrawal should be addressed to the undersigned officer, Bureau of Land Management, Department of the Interior, P.O. Box 2965, Portland, Oregon 97208.

HAROLD A. BERENDS,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-6310 Filed 3-2-77;8:45 am]

U-36493

UTAH

Application

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Crest Oil Company, Incorporated has applied for a 3-inch welded joint natural gas pipeline right-of-way across the following lands.

SALT LAKE MERIDIAN, UTAH

T. 21 S., R. 23 E.
Sec. 1.

The pipeline will convey gas from Crest Oil No. 2-8 to existing gas gathering piplines. The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved, and if so, under what terms and conditions. Interested persons should express their interest and views to the Moab District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532.

Dated: February 24, 1977.

PAUL L. HOWARD,
State Director.

[FR Doc.77-6405 Filed 3-2-77;8:45 am]

National Park Service

[Order No . 3]

ADMINISTRATIVE OFFICER AND GENERAL SUPPLY ASSISTANT, OZARK NATIONAL SCENIC RIVERWAYS

Delegation of Authority Regarding Purchasing Authority

SECTION 1. *Administrative Officer.* The Administrative Officer may issue purchase orders and enter into contracts not in excess of $25,000 for supplies or equipment and services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

SEC. 2. *General Supply Assistant.* The General Supply Assistant may issue purchase orders not in excess of $2,000 for supplies, materials, equipment and services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

SEC. 3. *Revocation.* This order supersedes Order No. 2, Ozark National Scenic Riverways, dated June 23, 1972, and published at 30 FR 14822, July 25, 1972.

(National Park Service Order No. 77 (38 FR 7478) as amended; Midwest Region Order No. 5 (37 FR 6324) as amended.)

Dated: February 17, 1977.

ARTHUR L. SULLIVAN,
Superintendent,
Ozark National Scenic Riverways.

[FR Doc.77-6437 Filed 3-2-77;8:45 am]

[Order No. 3]

ADMINISTRATIVE OFFICER, ET AL., ARCHES AND CANYONLANDS NATIONAL PARKS, NATURAL BRIDGES NATIONAL MONUMENT, UTAH

Delegation of Authority

SEC. 1. *Administrative Officer.* The Administrative Officer may execute and approve contracts and/or purchase orders not in excess of $25,000 for construction, supplies, equipment or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

SEC. 2. *General Supply Assistant.* The General Supply Assistant may execute and approve purchase orders not in excess of $1,000 for equipment, supplies and services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds.

SEC. 3. *Revocation.* This order supersedes Order No. 2, dated May 17, 1972, and published in the FR on June 28, 1972 (37 FR 12732).

(National Park Service Order No. 77 (38 FR 7478) as amended; Rocky Mountain Region Order No. 1 (39 FR 12369) as amended.)

Dated: September 16, 1976.

PETER L. PARRY,
Superintendent, Arches and Canyonlands National Parks, Natural Bridges National Monument.

[FR Doc.77-6438 Filed 3-2-77;8:45 am]

[Order No. 1, Amdt. 3]

SUPERINTENDENTS, ET AL., MID-ATLANTIC REGION

Delegation of Authority

Order No. 1, approved January 6, 1974, and published in the FEDERAL REGISTER of January 29, 1974 (39 FR 3694), and Amendment No. 1, approved November 4, 1974, and published in FEDERAL REGISTER of February 13, 1975 (40 FR 6694), and Amendment No. 2, approved June 9, 1975 and published in FEDERAL REGISTER of July 18, 1975 (40 FR 30295) set forth in Section 1 certain authority to officers and employees. This amendment changes paragraph (h) to read as follows:

SECTION 1. *Superintendents.* * * *

Authority to execute, approve, and administer contracts and to issue purchase orders for equipment, supplies and services, including construction, as follows:

1. Superintendents of Allegheny Portage Railroad National Historic Cite, Appomattox Court House National Historical Park, Booker T. Washington National Monument, Fort Necessity National Battlefield, George Washington Birthplace National Monument, Hopewell Village National Historic Site, Fort McHenry National Monument and Historic Shrine, Petersburg National Battlefield, and Richmond National Battlefield Park—in excess of $50,000.

2. Superintendents of Assateague Island National Seashore, Delaware Water Gap National Recreation Area, Fredericksburg and Spotsylvania County Battlefields, Gettysburg National Military Park, and Valley Forge National Historic Site—in excess of $200,000.

3. Superintendents of Independence National Historical Park, Colonial National Historical Park, and Shenandoah National Park—in excess of $500,000.

The limitations in this paragraph (h) apply only to open market or non-mandatory sources of supply.

CHESTER L. BROOKS,
Regional Director,
Mid-Atlantic Region.

[FR Doc.77-6439 Filed 3-2-77;8:45 am]

[Order No. 1, Amdt. 4]

SUPERINTENDENTS, ET AL., MID-ATLANTIC REGION

Delegation of Authority

Order No. 1, approved January 6, 1974, and published in FEDERAL REGISTER of January 29, 1974 (39 FR 3694), set forth in Section 2 certain authority to Associate Regional Director, Administration. This amendment changes paragraph (a) of section 2 to read as follows:

SEC. 2. *Delegation.*

(a) The Associate Regional Director, Administration, is authorized to exercise all the procurement and contracting authority now or hereafter vested in the Regional Director, Mid-Atlantic Region, except authority to contract for acquisition of land and related property, and options and offers to sell related thereto. The Associate Regional Director, Administration, is also authorized to approve the use of government-owned or leased motor vehicles between domicile and place of employment. This authority may not be redelegated.

BENJAMIN J. ZERBEY,
Acting Regional Director,
Mid-Atlantic Region.

[FR Doc.77-6440 Filed 3-2-77;8:45 am]

Bureau of Reclamation

ESQUATZEL COULEE WASTEWAY, COLUMBIA BASIN PROJECT, WASHINGTON

Public Hearing on Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for the Esquatzel Coulee Wasteway, Columbia Basin Project, Washington, INT DES 77-8, filed with the Council on Environmental Quality on February 23, 1977.

The draft environmental statement describes the nature and extent of the environmental impact of the proposed project. Principal features in the Esquat-

zel Coulee Wasteway would be the enlargement of approximately three miles of temporary channel and the extension of the already constructed reach of the Coulee, an additional nine-tenths of a mile downstream. Approximately one mile of unstabilized banks in the natural reaches of the wasteway would be stabilized. A little over 4,000 acres of land will be acquired for inclusion in recreation, fish, and wildlife management units.

Public hearing sessions will be held in Mesa, Washington, at the Mesa Elementary School on Wednesday, April 6, at 8:00 p.m., and in Pasco, Washington, at the Red Lion Inn on Thursday, April 7, at 8:00 p.m. These hearing sessions are provided to receive views and comments from interested organizations and individuals relating to the environmental impacts of the proposed action. Oral statements at the hearing will be limited to a 10-minute period for each individual. Speakers will be encouraged not to trade their time to obtain a longer oral presentation; however, the person authorized to conduct the hearing may allow any speaker to provide additional oral comments after all persons desiring to comment have been heard. The speaking order at the hearing will be determined by the order in which the letter requests are received by Reclamation. Requests for scheduled presentation will be accepted up until 5:00 p.m. on April 5, 1977. Requests to make oral statements will also be accepted during each session of the hearing, and persons making those requests will be permitted to speak for 10 minutes on a first-come-first-served basis after each person who submitted a letter request has been permitted to make an initial presentation.

Organizations or individuals desiring to present their statements at the hearing should write to the Regional Director, Attention Code 160, Pacific Northwest Region, Bureau of Reclamation, Department of the Interior, Box 043, 550 West Fort Street, Boise, Idaho 83724, or telephone (208) 384-1208 and announce their intention to participate.

Written comments from those unable to attend and from those wishing to supplement their oral presentation at the hearing should be received at the address above by April 12, 1977.

Dated: February 28, 1977.

DONALD D. ANDERSON,
Acting Commissioner.

[FR Doc.77-6399 Filed 3-2-77;8:45 am]

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

ADVISORY COMMITTEE ON JOINT BOARD ACTUARIAL EXAMINATIONS

Meeting

Notice is hereby given that the Advisory Committee on Joint Board Actuarial Examinations will meet in the Ambassador West Hotel, Georges II and III, 1300 North State Parkway, Chicago, Illinois on March 21, 1977 at 9:15 a.m.

The purposes of the meeting are: 1) To discuss topics and questions which may be recommended for inclusion in the Joint Board's examinations in actuarial mathematics and methodology referred to in Title 29 U.S. Code, Sections 1242(a)(1)(B) and (C), and 2) To review other actuarial examinations in order to make recommendations regarding such examinations' adequacy to demonstrate the education and training in actuarial mathematics and methodology required for enrollment by Title 29 U.S. Code, Section 1242(a)(1).

A determination as required by section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) has been made that the portion of the meeting dealing with the first of the above-listed purposes concerns matters falling within the exceptions to the open meeting requirement set forth in Title 5 U.S. Code, section 552b(c)(9)(B), and that the public interest requires that such portion be closed to public participation.

The portion of the meeting dealing with the second of the above-listed purposes will commence at approximately 9:15 a.m. and will be open to the public as space is available. Time permitting, after discussion of agenda subjects by Committee Members, interested persons may make statements germane to these subjects. Persons wishing to make oral statements should advise the Committee Management Officer in writing prior to the meeting to aid in scheduling the time available and should submit the written text, or, at a minimum, an outline of comments they propose to make orally. Such comments will be restricted to ten minutes in length. Any interested persons may file a written statement for consideration by the Committee by sending it to Mr. Leslie S. Shapiro, Joint Board for the Enrollment of Actuaries, c/o U.S. Department of the Treasury, Washington, D.C. 20220.

LESLIE S. SHAPIRO,
Advisory Committee, Management Officer, Joint Board for the Enrollment of Actuaries.

[FR Doc.77-6339 Filed 3-2-77;8:45 am]

LEGAL SERVICES CORPORATION

WESTERN KENTUCKY LEGAL SERVICES, INC. AND NORTHWEST ARKANSAS LEGAL SERVICES, INC.

Notice of Grants and Contracts

FEBRUARY 25, 1977.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996l. Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the imitation of any other project, the Corporation shall announce publicly, and shall notify the Governor and the State Bar Association of any State where legal assistance will thereby initiated, of such grant, contract, or project . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

1. Western Kentucky Legal Services, Inc., Bowling Green, Kentucky to serve the counties of Warren, Allen, Barren, Butler, Edmonson, Logan and Simpson.

2. Northwest Arkansas Legal Services, Inc., Fayetteville, Arkansas to serve the Counties of Benton, Boone, Carroll, Madison, Newton and Washington.

Interested persons are hereby invited to submit written comments or recommendations concerning the above applications to the Regional Office of the Legal Services Corporation at:

Atlanta Regional Office, 615 Peachtree Street, St., N.E., Room 503, Atlanta, Georgia 30308.

THOMAS EHRLICH,
President.

[FR Doc.77-6311 Filed 3-2-77;8:45 am]

LEGAL AID SOCIETY OF LINCOLN

Notice of Grants and Contracts

FEBRUARY 25, 1977.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996*l*. Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly, and shall notify the Governor and the State Bar Association of any State where legal assistance will thereby be initiated, of such grant, contract, or project. . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Legal Aid Society of Lincoln, Nebraska to serve the counties of Gage, Saunders, Seward, Otoe, Butler, Saline and Johnson.

Interested persons are hereby invited to submit written comments or recommendations concerning the above applications to the Regional Office of the Legal Services Corporation at:

Chicago Regional Office, 310 South Michigan Avenue, 24th Floor, Chicago, Illinois 60604.

THOMAS EHRLICH,
President.

[FR Doc.77-6312 Filed 3-2-77;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (77-13)]

APPLICATIONS STEERING COMMITTEE, EARTH DYNAMICS ADVISORY SUBCOMMITTEE

Meeting

The Applications Steering Committee, Earth Dynamics Advisory Subcommittee will meet on March 23 and 24, 1977, at the Goddard Space Flight Center, Greenbelt, Maryland, in Building 26, Room 200. Members of the public will be admitted to the meeting beginning at 8:30 a.m.

each day on a first-come, first-served basis, up to the seating capacity of the room.

The Applications Steering Committee, Earth Dynamics Advisory Subcommittee will assist NASA in the definition and conduct of Earth Dynamics flight programs as well as other Earth Dynamics related activities associated with the Earth and Ocean Dynamics Applications Program (EODAP). Mr. James P. Murphy can be contacted for further information at 202–755–6038, NASA Headquarters, Washington, D.C. 20546.

The following is the agenda and schedule for the March 23–24, 1977, meeting.

MARCH 23, 1977

9 a.m.	Discussion of amendments to the minutes of the last meeting. Adoption of the minutes.
9:15 a.m.	Remarks of the Chairman relating to organizational matters.
9:30 a.m.	Review of discipline program objectives. Review of Earth Dynamics Research and Technology Objectives and Plans.
10 a.m.	Geodetic Systems Development.
11 a.m.	Topographic Mapping Technique Development.
1 p.m.	Modeling and Forecasting of Crustal Hazards.
2 p.m.	Modeling of Crustal Inhomogenities for Resource Assessment.
3 p.m.	Solid Earth Dynamics Modeling.
4 p.m.	Gravity Field and Geoid Model Development.
5 p.m.	Adjourn.

MARCH 24, 1977

Continuation of Research and Technology Objectives and Plans

9 a.m.	Advanced Sensor Development for Earth Dynamics.
10 a.m.	Advanced Earth Dynamics Missions.
11 a.m.	Discussion of Research and Technology Objectives and Plans.
1 p.m.	Panel Assignments.
2 p.m.	Plans for Summer Conference and Program Update.
3 p.m.	Adjourn.

JOHN M. COULTER,
Acting Assistant Administrator for DoD and Interagency Affairs.

FEBRUARY 25, 1977.

[FR Doc.77-6352 Filed 3-2-77;8:45 am]

[Notice (77-14)]

APPLICATIONS STEERING COMMITTEE, ATMOSPHERIC CLOUD PHYSICS LABORATORY ADVISORY SUBCOMMITTEE

Meeting

The Applications Steering Committee, Atmospheric Cloud Physics Laboratory Advisory Subcommittee will meet on March 22 and 23, 1977, at the Marshall Space Flight Center, Marshall Space Flight Center, Alabama 35812, in Room 409, Bldg. 4200. Members of the public will be admitted to the meeting beginning at 9 a.m. on a first-come, first-served basis, up to the seating capacity of the room which is 40.

The Applications Steering Committee, Atmospheric Cloud Physics Laboratory Advisory Subcommittee will assist NASA in the definition and planning of scientific experiments to be conducted on the planned ACPL missions and serve in an advisory capacity concerning these experiments and the application of their results. Mr. Robert E. Smith can be contacted for further information at (205) 453–3183, Marshall Space Flight Center, Ala. 35812.

The following is the agenda and schedule for the March 22–23, 1977, meeting:

MARCH 22

9 a.m.	Welcome, introduction of members.
9:15 a.m.	Project status and schedule.
10:30 a.m.	Preliminary design concepts.
1 p.m.	Functional capabilities.
3:15 p.m.	Spacelab payload integration.
4:30 p.m.	Adjourn.

MARCH 23

9 a.m.	Status report on announcement of opportunity.
9:30 a.m.	Phased development schedule.
10:30 a.m.	Tour. Spacelab integration ACPL mock-up, expansion chamber test.
12 m.	Adjourn.

JOHN M. COULTER,
Acting Assistant Administrator for Department of Defense and Interagency Affairs.

FEBRUARY 25, 1977.

[FR Doc.77-6353 Filed 3-2-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-313]

ARKANSAS POWER & LIGHT CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 19 to Facility Operating License No. DPR–51, issued to Arkansas Power & Light Company (the licensee), which revised the Technical Specifications for operation of Arkansas Nuclear One—Unit No. 1 (the facility) located in Pope County, Arkansas. The amendment is effective as of its date of issuance.

This amendment deleted Technical Specification surveillance requirements for Boric Acid Mix Tank level and temperature channels.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further detail with respect to this action, see (1) the application for amendment dated October 6, 1976, (2) Amendment No. 19 to Facility Operating License No. DPR–51, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Arkansas Polytechnic College, Russellville, Arkansas 72801. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 18th day of February, 1977.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77-6029 Filed 3-2-77;8:45 am]

[Docket Nos. 50-3, 50-247, 50-286]

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC. (INDIAN POINT, UNITS 1, 2 AND 3)

Hearing

Notice is hereby given that, in accordance with the Appeal Board's order of February 10, 1977, the evidentiary hearing relating to the seismic monitoring requirement will commence at 9:30 a.m., Tuesday, March 15, 1977 in the NRC Public Hearing Room, 5th floor, East-West Towers, 4350 East West Highway, Bethesda, Maryland, and continue in session each weekday until concluded.

Dated: February 22, 1977.

For the Atomic Safety and Licensing Appeal Board.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc.77-6030 Filed 3-2-77;8:45 am]

[Docket No. 50-423]

NORTHEAST NUCLEAR ENERGY COMPANY, ET AL.[1]

[1] The following are the holders of Construction Permit No. CPPR-113: Ashburnham Municipal Light Plant, Boylston Municipal Lighting Plant, Central Vermont Public Service Corporation, Chicopee Municipal Lighting Plant, City of Burlington, Vermont, City of Holyoke, Massachusetts Gas and Electric De-

partment, the Connecticut Light and Power Company, Fitchburg Gas and Electric Light Company, Green Mountain Power Corporation, The Hartford Electric Light Company, Marblehead Municipal Light Department, Massachusetts Municipal Wholesale Electric Company, Middleton Municipal Light Department, Montaup Electric Company, New England Power Company, North Attleborough Electric Department, Northeast Nuclear Energy Company, Paxton Municipal Light Department, Peabody Municipal Light Plant, Public Service Company of New Hampshire, Shrewsbury Light Plant, Templeton Municipal Lighting Plant, Town of South Hadley Electric Light Department, The United Illuminating Company, Vermont Electric Cooperative, Inc., Vermont Electric Power Company, Inc., Wakefield Municipal Light Department, West Boylston Municipal Lighting Plant, Western Massachusetts Electric Company, Westfield Gas and Electric Light Department.

Issuance of Amendment to Construction Permit

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 4 to Construction Permit No. CPPR–113 issued to the Northeast Nuclear Energy Company, et al. The amendment reflects a change in ownership of Millstone Nuclear Power Station, Unit No. 3 (the facility), located in New London County, Connecticut. The amendment is effective as of its date of issuance.

The amendment provides for the addition of Massachusetts Municipal Wholesale Electric Company and Vermont Electric Cooperative, Inc. as applicants for all licenses previously requested and the transfer to Municipal Wholesale Electric Company and Vermont Electric Cooperative, Inc. the proposed 1.603% and 10% ownership interest, respectively, by the lead participants in the project, The Connecticut Light and Power Company, The Hartford Electric Light Company, and Western Massachusetts Electric Company.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the amendment.

For further details with respect to this action, see (1) the application for amendment contained in a letter, dated October 14, 1976, and amended letters, dated December 15, 1976 and January 18, 1977, respectively, (2) Amendment No. 4 to Construction Permit No. CPPR–113, and (3) the Commission's related Safety Evaluation contained in the Commission's letter to Northeast Nuclear Energy Company. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut 06385.

A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Managment.

Dated at Bethesda, Maryland this 23rd day of February 1977.

For the nuclear regulatory commission.

ALEXANDER W. DROMERICK,
Acting Chief, Light Water Reactors Branch No. 3, Division of Project Management.

[FR Doc. 77-6031 Filed 3-2-77;8:45 am]

[Docket Nos. 50-277 and 50-278]

PHILADELPHIA ELECTRIC COMPANY, ET AL. (PEACH BOTTOM ATOMIC POWER STATION, UNITS 2 AND 3)

Establishment of Atomic Safety and Licensing Board

By a designation made March 2, 1976, the Licensing Board named below was appointed to conduct the proceedings on remand made necessary by *York Committee for a Safe Environment* v. *NRC*, 527 F. 2d 812 (D. C. Cir. 1975). The facility involved in that decision is the Peach Bottom Atomic Power Station, Unit 2, and the matter remanded involves one aspect of the facility's compliance with Appendix I of 10 CFR Part 50. The Initial Decision authorizing issuance of the operating license for the Peach Bottom Atomic Power Station, Unit 3, is presently undergoing review by the Appeal Board.

On or about August 25, 1976, the Environmental Coalition on Nuclear Power ("ECNP") submitted a "Petition for Intervention" directed to both Peach Bottom Units 2 and 3.

The Licensing Board designated in the Panel Chairman's Memorandum of March 2, 1976 is hereby authorized to rule upon the August 25, 1976 ECNP petition to intervene in both cases (Peach Bottom Atomic Power Station, Units 2 and 3, Docket Nos. 50–277 and 50–278), and to conduct any proceedings which might result from the attempted interventions.

The members of the Licensing Board are as follows:

Edward Luton, Esq., Chairman.
Dr. Kenneth A. McCollom, Member.
Dr. Ernest O. Salo, Member.

Their addresses are as follows:

Edward Luton, Esq., Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dr. Kenneth A. McCollom, College of Engineering, Oklahoma State University, Stillwater, Oklahoma 74074.

Dr. Ernest O. Salo, Professor, Fisheries Research Institute, WH–10, College of Fisheries, University of Washington, Seattle, Washington 98195.

Dated at Bethesda, Maryland this 18th day of February 1977.

JAMES R. YORE,
Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc.77-6032 Filed 3-2-77;8:45 am]

[Docket Nos. 50-514, 50-515]

PORTLAND GENERAL ELECTRIC COMPANY, ET AL. (PEBBLE SPRINGS NUCLEAR PLANT, UNITS 1 AND 2)

Order Changing Location of Hearing

On December 20, 1976, an Order Convening Hearing was issued in this proceeding and published in the FEDERAL REGISTER (41 FR 56893, December 30, 1976), setting an evidentiary hearing at 9:00 a.m. on Tuesday, March 1, 1977 in Room 514 of the New Federal Building, 915 Second Avenue, Seattle, Washington 98174.

Due to the limitation of space arrangements, the evidentiary hearing must resume at a different location and the hearing will now convene at Conference Room H at the Seattle Center in Seattle.

Wherefore, it is ordered, that the evidentiary hearing scheduled to convene at 9:00 a.m. on Tuesday, March 1, 1977, shall convene at the same scheduled time in Conference Room H, at the Seattle Center, 305 Harrison Streeet, Seattle, Washington 98109.

Dated at Bethesda, Maryland this 23rd day of February 1977.

For the Atomic Safety and Licensing Board.

ROBERT M. LAZO,
Acting Chairman.

[FR Doc.77-6033 Filed 3-2-77;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 licences.

Regulatory Guide 1.107, Revision 1, "Qualifications for Cement Grouting for prestressing Tendons in Containment Structures," describes quality standards acceptable to the NRC staff for the use of portland cement grout as the corrosion inhibitor for prestressing tendons in prestressed concrete containment structures. In specific areas, this guide endorses portions of existing national standards. This guide was revised following consideration of public comment and additional staff review.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed 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 Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street N.W., 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.

(5 U.S.C. 552(a).)

Dated at Rockville, Maryland this 22nd day of February 1977.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc.77-6036 Filed 3-2-77;8:45 am]

TRANSPORTATION OF RADIONUCLIDES IN URBAN ENVIRONS

Intent To Prepare a Generic EIS

The Nuclear Regulatory Commission (NRC) has commenced preparation of a generic environmental impact statement on the transportation of radionuclides in urban environs. This environmental impact statement on the transportation of radioactive material near, in, and through a large densely populated area is being prepared in connection with a re-evaluation of present regulations as indicated in the advance notice of rulemaking proceedings published June 2, 1975 (40 FR 23768) and pursuant to the National Environmental Policy Act of 1969 (83 Stat. 852).

Pursuant to the stated intention to review those regulations in place when NRC was formed in January 1975, the rulemaking proceeding was initiated with a view to the possible amendment of regulations in 10 CFR Parts 71 and 73 regarding transportation of radioactive material, including packaging. The considerations published previously apply to this environmental impact statement; however, this statement will focus on the special features of urban areas, and various transport modes will be given emphasis in accord with their environmental significance in an urban setting.

The generic environmental impact statement will consider such unique facets of the urban setting as:

(1) High population densities;

(2) Shielding effects of buildings under normal and accident conditions;

(3) The effect of local meteorology on accident consequences;

(4) The convergence of transportation routes in cities; and

(5) Diurnal variations in population.

Emphasis will be placed on radiological health effects, but all environmental impacts, both radiological and nonradiological, will be assessed. The NRC staff has selected Sandia Laboratories, Albuquerque, New Mexico, to perform an environmental assessment, upon which the generic environmental impact statement will be largely based.

To help its environmental analysis, Sandia Laboratories has formed an Ad Hoc Task Group to provide a forum for the exchange of ideas and information between experts. The broadly based membership of the AHTG includes persons associated with government (local, state and federal), industry, academia, and environmental activist groups. Meetings of the AHTG are open to the public. The first meeting was held in New York City on September 20, 1976; the second meeting was held in Arlington, Va. on November 16–17, 1976. As a result of the AHTG meetings the project scope has been expanded to treat social impact and quality assurance practices in further depth. A third meeting is planned for March 29–30, 1977 in Baltimore, Md. Minutes of these meetings will be placed in the USNRC Public Document Room (1717 H Street, N.W., Washington, DC.) as they become available. Interested persons are encouraged to attend these public meetings. Further information about the Sandia Laboratories assessment, the AHTG, or future meetings may be obtained from A. R. DuCharme, Division 5413, Sandia Laboratories, Albuquerque, New Mexico 87115, telephone (505) 264-5571.

After the environmental impact assessment has been reviewed by the NRC staff, a draft generic environmental impact statement will be prepared. Upon preparation of the draft environmental statement, the NRC will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft generic environmental impact statement, with a request for comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that comments on Federal agencies and State and local officials will be made available when received. Upon consideration of comments submitted with respect to the draft environmental statement, the NRC staff will prepare a final generic environmental impact statement, the availability of which will be published in the FEDERAL REGISTER.

Dated at Bethesda, Maryland this 18th day of February 1977.

(5 U.S.C. 552(a).)

For the Nuclear Regulatory Commission.

KENNETH R. CHAPMAN,
Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc.77-6034 Filed 3-2-77;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFE-GUARDS SUBCOMMITTEE ON ENRICHMENT PLANTS

Meeting

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the ACRS Subcommittee on Enrichment Plants will hold a meeting on March 18, 1977 at the Marriott O'Hare Motel, 8535 W. Higgins Road, Chicago, IL. The purpose of this meeting is to review proposed General Design Criteria for the licensing of isotope separation facilities.

The agenda for subject meeting shall be as follows:

FRIDAY, MARCH 18, 1977

9:00–9:15 a.m.—(Open) The Subcommittee, with any of its consultants who may be present, will meet in Executive Session to explore their preliminary opinions, based upon their independent review of safety reports, regarding matters which should be considered in order to formulate a report and recommendations to the full Committee.

9:15 a.m. until the conclusion of business—(Open) The Subcommittee will hear presentations by representatives of the NRC Staff, and their consultants, and will hold discussions with these groups pertinent to this review.

At the conclusion of this session, the Subcommittee may caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

It may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving classified information.

I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that it is necessary to conduct the above closed sessions to protect classified information (5 U.S.C. 552b(c)(1)).

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.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety and Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the safety area.

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 may do so by providing 15 readily reproducible copies to the Subcommittee at the be-

ginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than March 11, 1977 to Mr. R. L. Wright, Jr., ACRS, NRC, Washington, DC 20555, will normally be received in time to be considered at this meeting.

(b) Persons desiring to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Subcommittee will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on March 17, 1977 to the Office of the Executive Director of the Committee (telephone 202/634-1919, Attn: Mr. R. L. Wright, Jr.) between 8:15 a.m. and 5:00 p.m., est.

(d) Questions may be propounded only by members of the Subcommittee and its consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, 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.

(f) Persons with agreements or orders permitting access to proprietary information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to Mr. R. L. Wright, Jr., of the ACRS Office, prior to the beginning of the meeting.

(g) A copy of the transcript of the open portion(s) of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection on or after March 25 and June 20, respectively, at the NRC Public Document Room, 1717 H Street, N.W., Washington, DC 20555. Copies may be obtained upon payment of appropriate charges.

Dated: February 28, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-6376 Filed 3-2-77;8:45 am]

[Docket No. 40-3453]

ATLAS MINERALS MOAB URANIUM MILL

Availability of Applicant's Environmental Report

Pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in 10 CFR Part 51, Atlas Minerals has filed an environmental report and four supplements in support of their application for renewal of Source Material License SUA-917 for the Moab Uranium Mill located in Grand County near Moab, Utah. The reports, which discuss environmental considerations related to the operation of the facility, are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555. Copies of the report are also being made available at the Utah State Clearinghouse, Utah State Planning Coordinator, Office of the Governor, State Capitol Building, Salt Lake City 84114 and at the Southeastern Utah Association of Governments, P.O. Box 686, 109 S. Carbon Avenue, Price, Utah 84501.

After the environmental report and supplements have been analyzed by the staff, a draft environmental statement will be prepared. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statement, with a request for comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that comments of Federal agencies and State and local officials will be made available when received. Upon consideration of comments submitted with respect to the draft environmental statement, the staff will prepare a final environmental statement, the availability of which will be published in the FEDERAL REGISTER.

Dated at Silver Spring, Maryland, this 23rd day of February, 1977.

For the Nuclear Regulatory Commission.

L. C. ROUSE,
Chief, Fuel Processing and Fabrication Branch, Division of Fuel Cycle and Material Safety.

[FR Doc.77-6378 Filed 3-2-77;8:45 am]

[Docket No. 70-36]

COMBUSTION ENGINEERING, INC. HEMATITE FACILITY

Negative Declaration

The Nuclear Regulatory Commission (the Commission) is considering the renewal of Special Nuclear Material License SNM-33 held by Combustion Engineering, Inc., to authorize continued production of low enriched uranium fuel powder and its pelletizing at the Hematite facility located in Jefferson County, Missouri.

The Commission's Division of Fuel Cycle and Material Safety has prepared an environmental impact appraisal for the proposed action. On the basis of that appraisal, it is concluded that an environmental impact statement for the proposed action is not warranted because there will be no significant environmental impact attributable to the proposed action. The environmental impact appraisal (NR-FM-012) is available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. A copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director of Fuel Cycle and Material Safety.

Dated at Silver Spring, Maryland, this 25th day of February 1977.

For the Nuclear Regulatory Commission.

JOHN B. MARTIN,
Assistant Director for Fuel Cycle Safety and Licensing, Division of Fuel Cycle and Material Safety.

[FR Doc.77-6377 Filed 3-2-77;8:45 am]

[Docket Nos. STN 50-491, STN 50-492, and STN 50-493]

DUKE POWER CO. (CHEROKEE NUCLEAR STATION, UNIT NOS. 1, 2, AND 3)

Issuance of Revision to Limited Work Authorization

Pursuant to the provisions of 10 CFR 50.10(e) of the Nuclear Regulatory Commission's (Commission) regulations, the Commission has authorized the Duke Power Company to conduct certain site activities in connection with the Cherokee Nuclear Station, Unit Nos. 1, 2, and 3, prior to a decision regarding the issuance of construction permits. Notice of the Limited Work Authorization was published in the FEDERAL REGISTER on June 10, 1976 (41 FR 23489). The staff has now authorized the following additional activities which are within the scope of 10 CFR 50.10(e):

Additional excavation for facility structures which are not subject to the provisions of Appendix B to 10 CFR Part 50.

Any activities undertaken pursuant to this amended authorization are entirely at the risk of the Duke Power Company and the grant of the authorization has no bearing on the issuance of construction permits with respect to the requirements of the Atomic Energy Act of 1954, as amended, and rules, regulations, or orders promulgated pursuant thereto.

A Partial Initial Decision on matters relating to the National Environmental Policy Act and site suitability was issued by the Atomic Safety and Licensing Board in the above captioned proceeding on May 21, 1976. A copy of: (1) the

Partial Initial Decision; (2) the applicant's Preliminary Safety Analysis Report and amendments thereto; (3) the applicant's Environmental Report, and amendments thereto; (4) the staff's Final Environmental Statement dated October 1975; (5) the Commission's letter of authorization, dated May 28, 1976 as amended January 19, 1977, and (6) the Commission's further letter of authorization dated February 23, 1977, are available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. and the Cherokee County Library, 300 East Rutledge Avenue, Gaffney, South Carolina.

Dated at Rockville, Maryland this 23rd day of February 1977.

For the Nuclear Regulatory Commission.

WM. H. REGAN, Jr.
Chief, Environmental Projects Branch 2, Division of Site Safety and Environmental Analysis.

[FR Doc.77-6379 Filed 3-2-77;8:45 am]

[Docket No. 50-335]

FLORIDA POWER & LIGHT CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission the Commission) has issued Amendment No. 13 to Facility Operating License No. DPR-67, issued to Florida Power & Light Company (the licensee), which revised Technical Specifications for operation of the St. Lucie Plant Unit No. 1 (the facility) located in St. Lucie County, Florida. The amendment is effective as of its date of issuance.

The amendment (1) terminated the Commission's June 17, 1976 "Order for Modification of License" which had placed an interim power restriction on peak linear heat generation rate of 12.7 kW/ft and interim restrictions related to reactor coolant flow rate, (2) authorized 100% power operation, (3) revised the peak linear heat generation rate limit in Technical Specifications to 14.8 kW/ft, and (4) reinstituted Technical Specification limits based on a reactor coolant flow rate of 370,000 gpm.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated July 9, 1976, and January 5, 1977, and supplemental information dated December 21, 1976, and February 1, 1977, (2) Amendment No. 13 to License No. DPR-67, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida 33450. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 18th day of February 1977.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77-6380 Filed 3-2-77;8:45 am]

[Docket No. 50-315]

INDIANA & MICHIGAN ELECTRIC CO. AND INDIANA & MICHIGAN POWER CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 18 to Facility Operating License No. DPR-58, issued to Indiana & Michigan Electric Company and Indiana & Michigan Power Company (the licensees), which revised the license and Technical Specifications for operation of the Donald C. Cook Nuclear Plant Unit No. 1 (the facility) located in Berrien County, Michigan. The amendment is effective as of its date of issuance.

The amendment revised the facility license and its appended Technical Specifications to authorize continued full power operation with (1) 65 Exxon Nuclear Company (ENC) 15×15 reload fuel assemblies, (2) operating limits based on an ENC ECCS evaluation model that conforms with the requirements of § 50.46 of 10 CFR Part 50, (3) modifications to certain electrically operated ECCS related valves, (4) revised surveillance requirements for ice condenser portion of the containment systems, and (5) corrections to the Technical Specification requirements for containment air recirculation fan response time, containment penetration and valve leakage rates, the audit responsibilities of the offsite review committee, and safety related hydraulic snubbers.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Proposed Issuance of Amendment to Facility Operating License in connection with items (1) and (2) above was published in the FEDERAL REGISTER on September 7, 1976 (41 FR 37679). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action on items (1) and (2) above. Prior public notice of items (3), (4) and (5) above was not required since these items do not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated July 20 and December 7, 1976, and February 4 and 9, 1977, and supplements dated July 19, October 1, November 5, 17, 23 and 30, and December 7, 9, and 13, 1976, and February 8 and 9, 1977, (2) Amendment No. 18 to License No. DPR-58, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 16th day of February 1977.

For the nuclear regulatory commission.

RICHARD D. SILVER,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77-6381 Filed 3-2-77;8:45 am]

[Docket No. 50-320]

METROPOLITAN EDISON CO., ET AL. (THREE MILE ISLAND NUCLEAR STATION, UNIT NO. 2)

Assignment 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 as assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this proceeding:

Alan S. Rosenthal, Chairman, Dr. W. Reed Johnson, Jerome E. Sharfman.

Dated: February 25, 1977.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc.77-6382 Filed 3-2-77;8:45 am]

NATIONAL TRANSPORTATION SAFETY BOARD

[Docket No. DCA-77-AR-021]

RAILROAD ACCIDENT—CHICAGO, ILLINOIS

Accident Investigation Hearing

Notice is hereby given that the National Transportation Safety Board will convene an accident investigation hearing at 9:00 a.m. (local time) March 16, 1977, in the Boulevard Room of the Sheraton Chicago Hotel, Chicago, Illinois.

The public hearing will be held in connection with the Safety Board's investigation of an accident involving the rear end collision of two Chicago Transit Authority trains, which occurred February 4, 1977, at Wabash Avenue and Lake Street, Chicago, Illinois.

Dated: February 24, 1977.

ELMER GARNER,
Hearing Officer.

[FR Doc.77-6436 Filed 3-2-77;8:45 am]

[N-AR 77-9]

ACCIDENT REPORT; RESPONSES TO SAFETY RECOMMENDATIONS

Availability and Receipt

Aircraft Accident Report.—The National Transportation Safety Board has made public a report of its investigation into the crash of an Overseas National Airways Douglas DC-10-30 at John F. Kennedy International Airport, Jamaica, New York, November 12, 1975. The report, No. NTS-AAR-76-19, was released February 26.

The wide-bodied jetliner was destroyed by fire on takeoff when the captain was forced to steer it onto a taxiway to avoid overrunning Runway 13 Right. All 139 persons aboard, airline employees on a transatlantic ferry flight, made a successful emergency evacuation. There were 32 evacuation injuries, two of them serious.

The Safety Board determined that the probable cause of the accident was the disintegration and subsequent fire in the No. 3 engine when it ingested a large number of sea gulls. Following the disintegration of the engine, the aircraft failed to decelerate effectively because (1) The No. 3 hydraulic system was inoperative, causing the loss of the No. 2 brake system and braking torque to be reduced 50 percent, (2) The No. 3 engine thrust reversers were inoperative, (3) At least three tires disintegrated, (4) The No. 3 system spoiler panels on each wing could not deploy, and (5) The runway surface was wet.

Also, the Board found, other factors contributing to the accident were (1) The bird-control program at JFK Airport did not effectively control the bird hazard on the airport, and (2) The FAA and the General Electric Company failed to consider the effects of rotor imbalance on the abradable epoxy shroud material when the engine was tested for certification.

During its investigation, the Safety Board issued 15 safety recommendations to the Federal Aviation Administration, most of these recommendations seeking to improve bird control measures at Kennedy and other similar bird-prone airports, and to solve the General Electric engine overpressurization problem and strengthen FAA engine certification requirements. These 15 recommendations are reproduced in report No. NTSB-AAR-76-19: A-76-59 through A-76-64, issued April 1, 1976 (41 FR 14954, April 8, 1976); A-76-8 through A-76-14 and A-76-15 and A-76-16, issued March 8, 1976 (41 FR 11366, March 18, 1976). Also reproduced in the report are recommendations A-75-22 through A-75-24 issued to FAA on March 25, 1975, as a result of an earlier special investigation concerning the CF6 engine.

Letters in Response to Safety Recommendations.—Received last week were letters from the following addressees of earlier Board recommendations:

Federal Aviation Administration. Letter of February 11 is in answer to the Safety Board's December 29 request for reconsideration of recommendations A-76-20 through A-76-22, A-76-25, and A-76-27 and A-76-28. These recommendations were issued last April 29 in connection with the Board's special study, "Chemically Generated Supplemental Oxygen Systems in DC-10 and L-1011 Aircraft," after investigation of several rapid decompression mishaps involving DC-10 and L-1011 aircraft disclosed problems with chemically generated passenger supplemental oxygen systems. (See 42 FR 3907, January 21, 1977.)

Concerning recommendation A-76-20, which asked that FAA require, after a certain date, that passenger emergency supplemental oxygen systems have readily discernible means to indicate that oxygen is flowing, FAA emphasizes its previous comment that "The current reservoir bag will give a good flow indication as the cabin altitude is increased to the higher levels where the need for supplemental oxygen is greatest." This comment was made in FAA's response of last August 2 (41 FR 30590, August 19, 1976). FAA will evaluate the basis for the United Kingdom/Australian requirement for flow indicating devices. FAA indicates its awareness of some instances where passengers did not use masks because they thought no oxygen was flowing, but FAA says that these instances occurred at relatively low cabin altitudes during noncritical cabin decompressions. FAA states that at cabin altitudes where passenger supplemental oxygen starts to become essential during short-term decompressions, the flow rate would noticeably expand the reservoir bag within seconds. "These events," FAA concludes, "combined with our actions concerning improved passenger briefing and safety cards, provide adequate indication of oxygen flow to the passenger masks."

FAA plans to publish an advisory circular to provide guidance and standardization as to the information air carriers should provide passengers on the use and characteristics of emergency equipment. This action will include consideration of what constitutes an adequate briefing. FAA states that the advisory circular will provide the principal inspectors with guidelines for standardization of passenger briefing card information. Estimated date of publication is March 31, 1977.

Re A-76-21, FAA is working with the Society of Automotive Engineers Aerospace Council to revise TSO-C64 concerning the provision of adjustable tabs on passenger masks. Such tabs would be included on masks manufactured in accordance with the revised TSO standards.

In connection with A-76-22, which asked FAA to issue an airworthiness directive requiring installation of adjustment tabs on in-service and in-stock passengers' supplemental oxygen mask headbands, FAA states that it does not propose to retrofit the presently installed passenger masks with masks equipped with adjustable tabs. In FAA's judgment, there is not "sufficient justification to require such a retrofit of the entire air carrier fleet, irrespective of cost." As new masks are installed in accord with revised TSO standards, masks with adjustable tabs will be installed in place of the present tabs, according to FAA.

FAA notes, with reference to A-76-25, that the advisory circular, referred to above in comments re A-76-20, will include instructions on (1) Chemical supplemental oxygen systems, and (2) The information that should be included on passenger briefing cards.

Regarding A-76-27, FAA is initiating a study of human factors principles and system design concepts relating to passenger supplemental oxygen systems. The study will be made at FAA's Civil Aeromedical Institute in Oklahoma City, and will draw on all currently available data, including SAE data, according to FAA.

In answer to A-76-28, which recommended development of standards for type certification demonstration tests of passenger supplemental oxygen systems, FAA reiterates its previous comment concerning the provisions of FAR 25.1301(d) and concerning special conditions for novel and unusual design features: FAA sees no need for additional demonstration, since this is covered at the time of aircraft certification under 25.1301(d). FAA comments, "The DC-10 passenger masks are in the seat backs; mask door opening tests were done to establish the reliability of this design feature. Extensive tests were done on the reliability of the DC-10 solid state oxygen generators. The FAA witnessed several of these tests. Passenger procedures for utilization of masks in the DC-10 are essentially the same as the procedures used in earlier airplanes such as the DC-8 and Boeing 707."

U.S. Coast Guard. Letter of February 15 updates response to recommendations M-70-3 and M-70-13 which were issued as a result of investigation into the collision of the SS *African Star* and the MV *Midwest Cities* on March 16, 1968, and the collision between the SS *Union*

Faith and the *Warren J. Doucet* on April 6, 1969, respectively.

Recommendation M–70–3 asked that the Coast Guard, Army Corps of Engineers, and Coast and Geodetic Survey consider including in the Coast Pilot or other appropriate navigational guides, information for the inland waterways on the "points and bends" custom and its effect on 33 U.S.C. 203 (Rule I) and 33 U.S.C. 210 (Article 25), the narrow channel rules, and other navigational information useful in navigating these waters; and the need for clarification of these rules in the proposed "United States Nautical Rules" (H.R. 214).

Coast Guard states that the United States ratified the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) on November 23, 1976, and that these COLREGS will enter into force for U.S. vessels on the high seas on July 15, 1977. Coast Guard is revising its rules to conform as closely as possible with the 72 COLREGS, and will begin formal rulemaking procedures when necessary legislation to accomplish this revision is passed. Coast Guard states that it is intended that this revision and unification of local rules will codify the "points and bends" custom on the Western Rivers, and that upon codification, publication of this custom in various navigation guides will then be appropriate. Coast Guard promises further response to M–70–3 prior to January 1, 1978.

Concerning recommendations M–70–13, which asked for amendment of the law and regulations to specify minimum performance standards for whistles on all vessels provided with them in accord with applicable Rules of the Road similar to standards proposed by the International Association of Lighthouse Authorities, Coast Guard states that work has commenced to develop sound-signalling equipment standards for vessels on U.S. waters that will conform as closely as possible to the requirements of the 72 COLREGS. Further response will be forthcoming prior to January 1 next.

Coast Guard letter of February 10 updates response to recommendation M–72–20 which was issued as a result of investigation into the structural failure and sinking of the SS *Texaco Oklahoma* on March 27, 1971. The recommendation asked the Coast Guard to require all ship owners of this class tankship to install a hull stress monitor capable of indicating hull bending stresses at the most critical region of the ship. The recommendation also sought means for making short term predictions of the probable maximum bending moments to enable the master to make evasive ship maneuvers or to allow the crew sufficient warning to vacate the two lower levels of the forward deckhouse.

In response, the Coast Guard states that the EDO Corporation has a stress monitor installation which will be tested this winter aboard the SS *Lash Italia*, and that the Coast Guard will view operation of the system on a routine transatlantic voyage. Coast Guard notes that EDO has altered its initial philosophy of providing an absolute measure of stress warning to one of providing an aid to the master in making decisions re safety of the vessel and her personnel. Coast Guard states, "This approach is much more compatible with the Coast Guard view that the ultimate responsibility for the safety of the ship must rest with the master and that careful consideration must be given to any device which would desensitize him to his responsibility." Further response to this recommendation will be made prior to October 1, 1977.

The accident report and the safety recommendations are available to the general public; single copies may be obtained without charge. Copies of the letters responding to recommendations may be obtained at a cost of $4.00 for service and 10 cents per page for reproduction. All requests must be in writing, identified by recommendation number and date of publication of this notice in the FEDERAL REGISTER. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of the accident report may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93–633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

Dated: February 28, 1977.

MARGARET L. FISHER,
Federal Register Liaison Officer.

[FR Doc.77–6435 Filed 3–3–77;8:45 am]

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 for the public received by the Office of Management and Budget on February 23, 1977, (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, 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.

The symbol (x) identifies proposals which appear to raise no significant issues, and 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).

NEW FORMS

ENVIRONMENTAL PROTECTION AGENCY

Survey of Phosphorus-laden Sludge Management, single-time, city or regional waste water treatment plants, Charles E. Ellett, 395–5867.

REVISIONS

DEPARTMENT OF AGRICULTURE

Agricultural Research Service, 1977–78 nationwide survey of household food consumption and food intake of individuals, single-time, households in 50 States and Puerto Rico, Sunderhauf, M. B., 395–6140.

DEPARTMENT OF COMMERCE

Bureau of the Census, May 1977—Multiple job-holding, premium pay, usual hours worked, usual hourly and weekly earnings, and job search of the employed supplemental surveys, CPS–1, annually specified persons in 53,000 HH in May 1977 CPS, Arnold Strasser, 395–5867.

REVISIONS

DEPARTMENT OF LABOR

Bureau of Labor Statistics, retail prices, initiation and collection of food, commodity and services prices, BLS–3400, A, B, C, 3401, 3084A, monthly, retail establishments, Arnold Strasser, 395–5867.

EXTENSIONS

U.S. CIVIL SERVICE COMMISSION

Review of Operations, Merit System Agency Review of Personnel Operations, Grant Aided Agency (Forms), CSC–1129, annually, State and local government agencies, David P. Caywood, 395–3443.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service, Supplier's Agreement, CCC–308, on occasion, vendors of storage and drying equipment, Marsha Traynham, 395–4529.

Rural Electrification Administration, Personal Experience Record of Applicants for Position as Manager—REA Electric Cooperatives, REA–328, on occasion, Marsha Traynham, 395–4529.

Agricultural Stabilization and Conservation Service, Loan Application and Approval, CCC–185, on occasion, producers of agricultural commodities, Marsha Tranyham, 395–4529.

EXTENSIONS

DEPARTMENT OF COMMERCE

Domestic and International Business Administration, Distribution License-related Reporting Requirements, EAR 373.3(D) 373.3(I), on occasion, commercial exporters and distributors, Warren Topelius, 395–5872.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management, Short Term Grazing Use Application and Authorization, 4120–5, on occasion, livestock ranches, Warren Topelius, 395–5872.

PHILLIP D. LARSEN,
Budget and Maangement Officer.

[FR Doc.77–6531 Filed 3–2–77; 8:45 am]

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 February 24, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; 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 Clerance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

VETERANS ADMINISTRATION

Evaluation of the Outpatient Dental Program, single time, eligible veterans and "fee paid" dentists, Reese, B. F., 395-3211.

DEPARTMENT OF COMMERCE

Bureau of Census:

Nonhousehold Sources Census Record Search and Telephone Follow-Up Verification Record, DH-801, single time, residents of HH's within the Oakland, Calif. city limits, Maria Gonzalez, 395-6132.

Professional Service Firm or Organization Interview Record; Professional Service Association Member Report, B-510(X) B-511 (X), single time, firms and professions, Richard Eisinger, 395-6140.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Program Memorandum—Application, LSCA, Titles I and II, OE-4563, annually, government agencies, Warren Topelius, 395-5872.

Food and Drug Administration, Quick Response Surveys, annually, households in national probability sample, Richard Eisinger, 395-6140.

Center for Disease Control, Morbidity and Mortality Patterns Among Shale Oil Workers, single time, former shale oil workers, Ellett, C. A., 395-5867.

Health Services Administration, In-hospital Review Cost Identification Survey and Interview, guide, on occasion, hospitals in 10 PSRO areas, Richard Eisinger, 395-6140.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration, Survey of Problems Associated With Participation of Small Flood Prone Communities in the National Flood Insurance Program, single time, flood prone communities under 10,000 population, Housing, Veterans and Labor Division, Larry Haber, 395-3532.

DEPARTMENT OF STATE

National Commission on the Observance of International Women's Year, State Meeting Participant Questionnaire, single time, participants registering at State Meetings, Caywood, D. P., 395-3443.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management, Statewide Recreational Survey of California Residents Regarding Use of the California Desert, single time, random sample of approximately 1,200 California citizens, Maria Gonzalez, 395-6132.

EXTENSIONS

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

"European Vision of America" Exhibition Audience Survey—Project Evaluation, single time, individuals attending museum exhibition, Lowry, R. L., 395-3772.

DEPARTMENT OF DEFENSE

Department of the Army (excluding Defense Civil Preparedness Agency), Prequalification Statement for Prime Construction Contractor, ENG3627, on occasion, construction contractors, Warren Topelius, 395-5872.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77-6532 Filed 3-2-77;8:45 am]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

GENERALIZED SYSTEM OF PREFERENCES

Explanation of Changes

Executive Order No. 11974, of February 25, 1977, made a number of changes in the product coverage of the Generalized System of Preferences (GSP). Under the GSP, eligible articles from designated beneficiary developing countries may enter the United States free of import duties. The GSP is provided for in Title V of the Trade Act of 1974 (19 U.S.C. 2461 et seq.).

The changes made by Executive Order No. 11974 were of five types:

A. The "competitive-need" provisions in section 504(c) of the Trade Act of 1974 require that duty-free treatment be withdrawn from eligible articles of particular beneficiary countries that, during 1976, exported such articles to the United States in quantities exceeding either (a) $29.9 million in value or (b) 50 percent of total U.S. imports of the articles. The law requires that these withdrawals be in effect not later than March 1. Executive Order makes such competitive-need withdrawals on the basis of 1976 data. The articles and countries affected by these withdrawls are listed in Part I of the annex to this notice.

B. The competitive-need provisions permit duty-free GSP benefits to be provided for eligible articles from beneficiary countries that exceeded the competitive-need limits for such articles in 1975 (and thus did not receive GSP benefits in 1976), but which fell below those limits in 1976. Thus the Executive order designates for GSP benefits many articles from particular beneficiary countries that are newly eligible for such benefits on the basis of 1976 data. These articles and countries are listed in Part II of the annex to this notice.

C. The law permits the designation of additional articles as eligible for GSP benefits, after certain procedural steps, including public hearings and advice from the U.S. International Trade Commission, have been completed. Nineteen such additional articles were designated for GSP benefits by the Executive order. These articles, together with the ones described in D below, are listed in Part III of the annex to this notice.

D. Executive Order No. 11960, of January 19, 1977, designated 26 articles as eligible for GSP benefits, effective March 1, 1977. Because E.O. 11960 was issued before final trade data for 1976 was available, its application of the competitive-need limits, to exclude certain of the 26 articles from duty-free treatment when imported from particular beneficiary countries, was based on 1975 data. The 1976 data that now is available requires different competitive-need exclusions, for the 26 articles designated by E.O. 11960, than those imposed by that order. Accordingly, to avoid conflict because E.O. 11960 and E.O. 11974 both take effect March 1, E.O. 11974 revokes E.O. 11960 and redesignates the 26 articles, subject to competitive-need exclusions based on 1976 data. These 26 redesignations together with the 19 new designations described in C above, and the countries affected by competitive-need exclusions for these 45 articles, are listed in Part III of the annex to this notice.

5. The Executive order subdivides former category 791.75 of the Tariff Schedules of the United States, which previously encompassed leather wearing apparel, to create the following two new categories: (a) 791.74, apparel articles composed both of leather and of textile materials, in which the textile materials comprise the chief weight of the articles; and (b) 791.76, other leather apparel articles. The order withdraws the designation for GSP benefits of new category 791.74, and continues the designation for the articles contained in category 791.76. This is done in order to correct a technical problem. This action is listed separately in Part IV of the annex to this notice.

WILLIAM B. KELLY,
Chairman, Trade Policy Staff Committee.

PART I

The following articles became ineligible for duty-free treatment when imported from the named beneficiary countries, by virtue of the provisions of Section 504(c) of the Trade Act of 1974

TSUS item No.	Brief description 1/	Country
106.60	Frog meat, fresh, chilled or frozen	India
107.20	Beef sausages in airtight containers	Argentina
107.48	Corned beef in airtight containers	Argentina Brazil
107.70	Meat and edible offal, n.e.s. n/o 30¢/lb.	Haiti
111.92	Fish n.e.s. smoked or kippered, not canned	Phil. Rep.
121.55	Buffalo leather	India
130.35	Corn or maize, except certified seed	Brazil
135.30	Cabbage, fresh, chilled or frozen	Mexico
135.51	Cauliflower, fresh, chilled or frozen, entered 10/16-6/4	Mexico
137.71	Brussels sprouts	Mexico
140.10	Red kidney beans entered 5/1-8/31	Chile
140.20	Dried split chickpeas or garbanzos	Kenya
140.21	Dried chickpeas or garbanzos, not split	Mexico
140.25	Dried black-eye cowpeas	Peru
140.35	Dried lentils	Turkey
141.77	Vegetables in brine, etc. n.s.p.f. except artichokes	Mexico
146.22	Apricots, dried	Turkey
147.36	Citrus fruits n.s.p.f. prepared or preserved	Rep. of China
147.80	Guavas, fresh, dried, pickled or in brine	Phil. Rep.
149.50	Fruits, n.e.s., fresh	Chile
152.54	Guava paste and pulp	Brazil
155.20	Sugars, sirups and molasses, principally crystalline	Guatemala
156.35	Cocoa butter	Ivory Coast
156.45	Cocoa, sweetened	Dom. Rep.
161.15	Cassia, cassia buds, cassia vera, ground	Rep. of China
161.53	Marjoram, manufactured	Syria
161.69	Origanum, except crude	Mexico
184.65	Animal feed meat, prepared or preserved	Rep. of China
186.40	Hair for mattresses or padding	Mexico
200.91	Softwood dowel rods and pins, plain	Honduras
203.20	Compressed wood tool handles	Costa Rica
206.47	Wood forks and spoons, except mahogany	Rep. of China
206.98	Other wood household utensils and parts except mahogany	Rep. of China

1/ For a complete and accurate description of products in this list, see the article description for the corresponding item in the Tariff Schedules of the United States (Annotated).

TSUS item No.	Brief description 1/	Country
222.34	Woven material of raffia for blends, etc.	Phil. Rep.
222.62	Articles, n.e.s. of raffia	Phil. Rep.
240.10	Spanish cedar plywood	Panama
240.12	Parana pine plywood	Rep. of Korea
256.80	Articles of cellulose wadding, n.s.p.f.	Mexico
274.00	Social and gift cards, without wording	Mexico
304.04	Abaca fibers, processed but not spun	Phil. Rep.
304.48	Sisal and henequen fibers, processed	Brazil
305.30	Jute yarns and rovings, plied, under 720 yds/lb.	Rep. of China
306.52	Alpaca hair, etc., greasy or washed, sorted	Peru
308.30	Silk yarn, wholly continuous fiber, organsine, etc.	Rep. of Korea
316.50	Cordage of silk	Phil. Rep.
355.04	Webs, wadding, etc. of veg. fibers, except cotton	Mexico
360.82	Floor coverings, over 50% pile or tuft, veg. fib., except cotton	Hong Kong
370.17	Lace handkerchiefs of veg. fibers, except cotton	Portugal
407.08	2-Naphthol or beta-naphthol	Dom. Rep.
407.12	Salicylic acid and its salts	Romania
408.40	Phenethyl alcohol	Mexico
417.90	Beryllium oxide or carbonate	Malaysia
418.78	Copper compounds n.s.p.f.	Chile
418.80	Gold compounds	Mexico
420.82	Sodium bromide	Israel
425.00	Acrylonitrile	Rep. of China
425.86	Oxalic acid	Brazil
426.46	Organic lithium salts	Mexico
460.35	Geraniol, containing n/o 10% alcohol	Rep. of China
461.05	Bath salts, not perfumed	Israel
473.46	Leaded zinc oxide n/o 25% lead, dry	Mexico
473.48	Leaded zinc oxide n/o 25% lead, with oil or water	Mexico
473.58	Suboxide of lead (leady litharge)	Mexico
473.62	Basic sulfate or sublimed white lead	Mexico
473.66	Vermilion reds	Mexico
490.44	Fatty salts, derived from linseed oil, n.s.p.f.	Hong Kong
493.82	Tall oil	Mexico

1/ For a complete and accurate description of products in this list, see the article description for the corresponding item in the Tariff Schedules of the United States (Annotated).

TSUS item No.	Brief description 1/	Country
494.40	Wood tar oil and wood tar	Cayman
511.51	Articles of concrete floor and wall tiles	Syria
513.84	Granite and articles of granite, n.s.p.f., decorated	Rep. of China
516.11	Untrimmed phlogopite	India
520.51	Precious stones and articles of such stones	Brazil
533.26	Fine-grained earthen tableware $7-$12/set	Romania
540.21	Enamels and colors of glass, etc., ground	Mexico
544.11	Glass strips n/o 6 inches wide	Rep. of China
545.31	Glass inners for vacuum flasks	Rep. of China
603.45	Materials chief value of tungsten	Bolivia
603.50	Materials cont. over 10% copper, lead, zinc	Botswana
605.66	Rolled precious metals, semimanufactured, n.e.s.	Singapore
610.71	Malleable cast-iron pipe fittings, alloyed	Rep. of Korea
612.02	Unwrought cement copper and copper precipitates	Mexico
612.06	Unwrought copper, n.e.s.	Peru Yugoslavia Zambia
612.70	Nickel silver wire not plated or coated	Chile
612.72	Wire of copper, n.e.s., not coated or plated	Chile
620.08	Nickel plates and sheets, clad, not cut	Mexico
622.20	Tin wire, not coated or plated	Malaysia
622.35	Tin powder and flakes	Hong Kong
624.50	Lead pipes, tubes, etc., not alloyed	Rep. of China
626.42	Zinc powders and flakes, n.e.s.	Costa Rica
628.05	Beryllium, unwrought, and waste and scrap	Mexico
628.10	Beryllium, wrought	Mexico
628.40	Hafnium, wrought	Singapore
640.10	Metal pressure containers of stainless steel	Mexico
642.06	Wire strand of nickel, not fitted or covered	Hong Kong
646.04	Copper thumb tacks	Rep. of China
649.39	Abrasive wheels mounted on a framework	Israel
649.71	Pen knives, etc. with folding blades, n/o 40¢/dz.	Rep. of China
650.79	Razors, except safety, n/o $3/dz.	India
650.83	Hair clippers and parts n/o $1.75/dz.	Hong Kong
651.03	Needle books and cases $1.25 or over per dz.	Hong Kong
651.49	Brass hand tools, n.e.s.	Rep. of Korea
652.50	Steel wool	Israel
653.02	Fence posts of iron or steel, not alloyed	Rep. of Korea
653.03	Fence posts of iron or steel, alloyed	Mexico
656.20	Articles of base metal coated with platinum	Hong Kong
657.90	Magnesium articles n.s.p.f. not coated with prec. metal	Mexico
674.56	Accessories, n.e.s. for machine tools	Mexico
676.52	Office machine parts, n.e.s.	Hong Kong
678.50	Machines, n.s.p.f., and parts	Rep. of China
685.24	Solid state radio receivers, n.e.s.	Rep. of Korea
685.25	Radio-telegraphic equipment and parts, n.e.s.	Rep. of China
696.35	Pneumatic craft	Rep. of China
700.54	Zoris	Hong Kong
702.08	Headwear, knit, not of cotton	Hong Kong
704.34	Gloves and glove linings other than of veg. fiber or wool	Phil. Rep.
713.07	Electricity supply meters $10-$15 each	Israel
713.15	Parts of meters	Mexico
724.35	Wire recordings, n.s.p.f.	Hong Kong
730.29	Rifles valued $25-$50 each	Brazil
731.10	Fish baskets or creels	Rep. of China
734.87	Lawn-tennis rackets, strung	Rep. of China
735.11	Sponge rubber balls, n.s.p.f.	Rep. of China
737.80	Toys, n.s.p.f. with a spring mechanism	Hong Kong
740.10	Jewelry of precious metals and stones, etc.	Hong Kong
750.65	Paint brushes, except artists' brushes	Rep. of Korea
755.30	Alcohol, gas, etc. mantles, chemically treated	Malta
771.05	Cellulose acetate waste and scrap for remanufacture	Rep. of China
771.45	Acrylic resin plastic profile shapes, n.s.p.f.	Rep. of China
790.60	Vacuum containers, over 1 n/o 2 pints	Rep. of China
791.17	Fur articles n.s.p.f. of fox skins	Argentina
791.20	Patent leather for footwear	Brazil
791.76	Leather wearing apparel n.s.p.f., except reptile	Rep. of China
791.80	Reptile leather articles, n.s.p.f.	Rep. of China
792.22	Articles of gut, n.s.p.f.	India

1/ For a complete and accurate description of products in this list, see the article description for the corresponding item in the Tariff Schedules of the United States (Annotated).

PART II

The following articles imported from the named beneficiary developing countries became eligible for duty-free treatment. The articles had been ineligible for duty free treatment when imported from these countries by virtue of the provisions of section 504(c) of the Trade Act of 1974

TSUS item No.	Brief description 1/	Country
110.45	Fresh fish n/o 15 lbs. each	Argentina
121.54	Sheep skins	India
135.94	Cucumbers entered 7/1 to 8/31 inclusive	Mexico
136.50	Lentils, fresh	Lebanon
145.24	Pignolia nuts	Mexico
146.66	Dried berries	Portugal
147.80	Guavas, fresh	Mexico
147.92	Mangoes, preserved	India
149.50	Fresh fruits, n.e.s.	Dom. Rep.
152.58	Mango paste and pulp	India
161.83	Capsicum, cayenne or red pepper, unground	Mexico
162.11	Thyme	India
166.30	Vegetable juices	Israel
168.23	Pisco and singani n/o 1 gal., over $9 gal.	Peru
175.51	Sunflower seed	Romania
176.49	Sesame oil unfit for food	Rep. of China
186.40	Hair for mattresses or padding	Rep. of China
202.60	Hardwood flooring	Thailand
203.20	Compressed wood tool handles	Singapore
206.45	Mahogany forks and spoons	Phil. Rep.
206.95	Mahogany household utensils and parts	Haiti
222.32	Woven material of chip for blinds, etc.	Rep. of China
222.42	Baskets and bags of rattan or palm leaf	Hong Kong
240.10	Spanish cedar plywood	Rep. of Korea
240.12	Parana pine plywood	Brazil
240.40	Wood veneer panels, face finished	Phil. Rep.
251.30	Test or container boards	Mexico
304.48	Sisal and henequen fibers processed	Rep. of China
305.50	Chenille yarns of veg. fibers except cotton	Portugal
306.53	Alpaca hair, scoured	Peru
308.80	Chenille yarns of silk	Thailand
347.28	Wicking of vegetable fibers	Hong Kong
364.18	Tapestries of vegetable fibers	Rep. of China
416.10	Boric acid	Turkey
419.60	Molybdenum compounds	Chile
420.24	Potassium nitrate	Israel
420.78	Sodium borate	Argentina
420.84	Sodium carbonate, calcined	Romania
421.06	Sodium hydrosulfite	Colombia
425.74	Citric acid	Brazil
426.78	Potassium citrate	Israel
437.51	Gluconic acid	Brazil
455.16	Edible gelatin under 40¢/lb.	Mexico
455.30	Vegetable glue under 40¢/lb.	Mexico
460.70	Safrol, containing n/o 10% alcohol	Rep. of China
465.65	Coconut, palm-kernel and palm oils	Brazil
470.57	Mangrove, oak, quebracho, etc.	Argentina
472.44	Siennas, washed, not ground	India
473.36	Natural siennas, ground	Cyprus
473.38	Natural umbers, ground	Cyprus
511.41	Concrete tiles	Mexico
512.31	Gypsum cement n/o $40 ton	Mexico
514.34	Chalk articles, n.s.p.f.	Portugal
515.51	Stone suitable for monuments, etc.	Mexico
520.51	Precious stones and articles, n.e.s.	Hong Kong
522.71	Meerschaum, crude	Somalia
523.61	Pumice articles, n.e.s.	Mexico
534.74	Earthenware, fine grained n/o $1.50 dz.	Rep. of China
545.37	Glass inners for vacuum flasks	Hong Kong
547.51	Glass ampoules	Mexico
603.45	Materials, chief value tungsten	Rep. of Korea
610.56	Cast-iron pipes and tubes	India
612.02	Unwrought cement copper and precipitates	Peru
612.03	Unwrought black copper, blister, anode copper	Peru
612.41	Cupro-nickel sheets, plates and strips, not shaped, n.e.s.	Mexico
612.45	Plates and strips copper alloy	Mexico
613.15	Copper, nickel-silver pipe fittings	Mexico
620.26	Wrought nickel angles, shapes and sections	Israel
624.34	Lead bars, rods, angles, etc. n/o 13-1/3¢/lb.	Mexico
628.40	Hafnium, wrought	Barbados
644.08	Aluminum foil, not backed	Colombia
646.88	Cabinet locks of base metal, not cylinder	Hong Kong
648.57	Hoes and rakes and parts, n.e.s.	Rep. of China
651.01	Needle books and cases under $1.25 per dz.	Hong Kong
653.70	Platinum-plated household articles	Hong Kong

1/ For a complete and accurate description of products in this list, see the article description for the corresponding item in the Tariff Schedules of the United States (Annotated).

TSUS item No.	Brief description 1/	Country
660.80	Spring-operated and weight-operated motors	Hong Kong
668.32	Print rollers with raised patterns of brass	Nicaragua
676.20	Calculating machines for multiplying and dividing	Mexico
702.08	Headwear, knit, not cotton	Rep. of Korea
702.14	Headwear, not knit of cotton, flax	Hong Kong
702.35	Headwear, palm leaf or pandan	Mexico
704.34	Gloves and glove linings not veg. fiber or wool	Rep. of China
708.41	Lorgnettes	Hong Kong
709.21	Dental hypodermic needles	Pakistan
710.30	Automatic pilots and parts thereof	Mexico
710.68	Folding rules and parts thereof, of wood	Rep. of China
713.05	Meters, valued not over $10 each	Israel
713.07	Meters, electricity, over $10 not over $15	Yugoslavia
722.14	Photographic cameras, other than fixed focus n/o $10	Hong Kong
730.77	Shotgun rifle combination parts, n.e.s.	Yugoslavia
734.60	Croquet equipment and parts thereof	Rep. of China
737.50	Toy animals having a spring mechanism	Hong Kong
740.70	Chains of precious metal for jewelry	Yugoslavia
741.30	Beads, bugles and spangles	Phil. Rep.
748.25	Cut natural flowers, dried, etc.	Brazil
750.05	Combs, not over $4.50 per gross	Hong Kong
751.15	Umbrella handles of wood, n/o $2.50 doz.	Hong Kong
774.20	Articles of shellac or copal, n.s.p.f.	India
790.07	Clothespins, except spring type, of plastic	Hong Kong
791.20	Patent leather for footwear	Colombia
791.35	Leather welting	Mexico
791.70	Wearing apparel n.s.p.f., of reptile leather	Rep. of Korea

1/ For a complete and accurate description of products in this list, see the article description for the corresponding item in the Tariff Schedules of the United States (Annotated).

PART III

The following articles were newly designated as eligible articles and will receive duty-free treatment when imported into the United States if they are the product of a beneficiary developing country, except that products of certain beneficiary developing countries which are named will not receive duty-free treatment by virtue of the provisions of section 504(c) of the Trade Act of 1974.

TSUS item No.	Brief description 1/	Country
100.73	Live horses n/o $150 each	
105.30	Birds, n.s.p.f., fresh, chilled, etc.	
105.60	Bird meat, n.e.s., fresh	
111.10	Dried cod, cusk, haddock, hake and pollock	
111.60	Fish, n.s.p.f., salted and pickled, in containers n/o 5 lbs.	
121.35	Calf and kip lining leather	
121.55	Buffalo leather	India
125.01	Tulip bulbs	
125.10	Lily bulbs	
125.15	Narcissus bulbs	
125.20	Crocus corms	
125.50	Fruit trees, fruit plant cuttings, seedlings	
126.71	Pepper seeds	
131.80	Milled grain unfit for human consumption n.s.p.f.	
135.41	Carrots under 4 inches	
135.60	Fresh celery entered April 15 to July 31	
136.10	Endive, fresh, chilled or frozen	
136.40	Horseradish, fresh, chilled or frozen	
136.50	Lentils, fresh chilled or frozen	
136.92	Pearl onions n/o 10/16 inch	
137.71	Fresh Brussels sprouts	Mexico
140.20	Dried split chickpeas or garbanzos	Kenya
140.21	Dried chickpeas or garbanzos not split	Mexico
140.25	Dried black-eye cowpeas	Peru
140.35	Dried lentils	Turkey
140.38	Dried lupines	
141.77	Vegetables in brine, etc., n.s.p.f. except artichokes	Mexico
146.73	Black currant, loganberries, gooseberries, etc. prepared or preserved	
152.05	Fruit flours except banana and plantain	
166.20	Ginger ale, ginger beer	

1/ For a complete and accurate description of products in this list, see the article description for the corresponding item in the Tariff Schedules of the United States (Annotated).

TSUS item No.	Brief description 1/	Country
176.49	Sesame oil, unfit for use as food	
177.12	Anchovy oil	
177.16	Shark oil	
177.22	Herring oil	
177.24	Menhaden oil	
177.26	Other fish oils n.s.p.f., except liver oils	
177.40	Marine-animal oils, n.e.s.	
193.10	Tonka beans	
389.61	Artificial flowers of man-made fibers	
403.58	Ethoxyquin	
403.79	Maleic anhydride	
605.27	Platinum- or silver-plated gold	
642.09	Wire strand of copper	
792.70	Articles of natural sponge n.s.p.f.	
799.00	Any articles, not provided for elsewhere	

1/ For a complete and accurate description of products in this list, see the article description for the corresponding item in the Tariff Schedules of the United States (Annotated).

PART IV

The designation as an eligible article for the GSP was terminated for the following articles

TSUS item No.	Brief description 1/
791.74	Wearing apparel of leather and textile materials for which the aggregate weight of textile materials exceeds the weight of an individual non-textile material contained therein.

1/ For a complete and accurate description of products in this list, see the article description for the corresponding item in the Tariff Schedules of the United States (Annotated).

[FR Doc.77-6422 Filed 3-2-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 19902; 70-5954]

CEDAR COAL CO.

Proposed Bank Borrowing by Subsidiary Coal Company

Notice is hereby given that Cedar Coal Company ("Cedar"), 1220 Charleston National Plaza, Charleston, West Virginia 25301, a coal company subsidiary of Appalachian Power Company ("Appalachian"), an electric utility subsidiary of American Electric Power Company, Inc., a registered holding company has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6 and 7 of the Act as applicable to the following proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Cedar is engaged in the mining, delivery and sale of coal to Appalachian. Cedar does not own coal properties, but Cedar holds leases on approximately 24,931 acres of land in West Virginia estimated to contain 76 million tons of recoverable coal. Cedar's current mining capacity is stated to be 2 million tons of coal per year.

It is planned to expand the mining capacity of Cedar to approximately 4 million tons per year by 1979 at a cost of approximately $50,000,000. The bulk of Cedar's coal production is expected to be used by the John E. Amos plant (owned jointly by Appalachian and its affiliate, Ohio Power Company). Expansion plans for Cedar include the development of a 1,000 ton per hour coal preparation plant, coal handling facilities and railroad loadout, all presently under construction (the "White Oak preparation plant"). The cost of the White Oak preparation plant is currently estimated to be approximately $16,000,000.

It is proposed that Cedar raise the funds required to assist in financing the White Oak preparation plant through short-term bank borrowings. Cedar proposes to enter into a Credit Agreement ("agreement") with Irving Trust Company ("Irving Trust") (pursuant to which Cedar may borrow an aggregate principal amount not to exceed $18,000,000 outstanding at any one time. The borrowings are to be evidenced by a note ("note") issued by Cedar to Irving Trust bearing interest at a rate no greater than the prime rate in effect at Irving Trust from time to time. Compensating balances are required in the amount of 10 percent of the amount of the bank line made available by Irving Trust, together with additional compensating balances in the amount of 10 percent of the amount of any borrowings. Assuming the full $18,000,000 were borrowed and a prime rate of 6¼ percent, the effective cost of borrowings under the agreement would be approximately 7.8 percent.

Borrowings on the note will be due and payable in installments, with 50 percent of the outstanding balance of any borrowings being payable on November 30, 1977, and the remainder being payable on December 30, 1977. The note will be prepayable by Cedar at any time without premium or penalty. In the event a certain coal supply agreement between Cedar and Appalachian shall cease to be fully enforceable by Cedar in accordance with its terms, or in the event a regulatory body initiates proceedings directed at the termination of that coal supply agreement, Cedar must prepay the note in full within 90 days.

Borrowings pursuant to the agreement are to be made in contemplation of a sale-leaseback transaction involving the White Oak preparation plant (said transaction to be the subject of a further application to this Commission). It is proposed to retire the borrowings from Irving Trust under the agreement with the proceeds of the sale and leaseback transaction. If the sale-leaseback transaction does not occur the borrowings might be repaid with the proceeds of cash capital contributions contemplated to be made by Appalachian.

It is stated that no state or federal commission, other than this Commission, has jurisdiction over the proposed transaction. Fees and expenses to be incurred in connection with the proposed transaction are estimated at $3,000, including legal fees not to exceed $1,000.

Notice is further given that any interested person may, not later than March 22, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he

desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed, or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. 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 Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-6361 Filed 3-2-77;8:45 am]

[Release No. 34-13289; File No. S7-661]

MEANS OF IMPROVING DISCLOSURE BY CERTAIN FOREIGN PRIVATE ISSUERS

Extension of Comment Period

The Securities and Exchange Commission today announced extension of the period of comment on its solicitation of public views (Release No. 34-13056, December 10, 1976 (41 FR 55012)) concerning means of improving the disclosure presently required by Forms 20 (17 CFR 249.220) and 20-K (17 CFR 249.320).

The period for submitting comments on these tentative proposals was due to expire February 28, 1977. However, the Commission has received requests for additional time within which to prepare and submit such comments. Accordingly, the comment period has been extended to March 31, 1977.

Written comments should be submitted, in triplicate, to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. All such communications should refer to File S7-661 and will be placed in the public files of the Commission.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 23, 1977.

[FR Doc.77-6360 Filed 3-2-77;8:45 am]

[Release No. 13294; File No. SR-MSTC-76-16]

MIDWEST SECURITIES TRUST CO.

Order Approving Rule Change Submitted by the Midwest Securities Trust Company To Modify Auditing Procedures Applicable to Itself

FEBRUARY 24, 1977.

On December 20, 1976, the Midwest Securities Trust Company, 120 South LaSalle Street, Chicago, Illinois 60603, ("MSTC") submitted, pursuant to Rule 19b-4 under the Securities Exchange Act of 1934 (the "Act"), a proposed change to MSTC Rule 17, Section 2, which would modify auditing procedures applicable to itself.

In accordance with section 19(b) of the Act and Rule 19b-4 thereunder, notice of the proposed rule change was published in the FEDERAL REGISTER (42 FR 2734, January 13, 1977) and the public was invited to comment thereon. Notice of the filing and an invitation for comments also appeared in Securities Exchange Act Release No. 34-13138, January 5, 1977. By letter dated February 18, 1977, MSTC made a representation and change in the language of its proposed rule change.

The Commission has reviewed the proposed rule change and finds that it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change contained in File No. SR-MSTC-76-16 be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-6362 Filed 3-2-77;8:45 am]

[Release No. 13296; SR-MSRB-76-4]

MUNICIPAL SECURITIES RULEMAKING BOARD

Order Approving Proposed Rule Change

FEBRUARY 24, 1977.

On December 23, 1976, the Municipal Securities Rulemaking Board, Suite 507, 1150 Connecticut Avenue, N.W., Washington, D.C. 20006 (the "Board") filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change. The proposed rule change filed by the Board contained amended versions of the Board's proposed Rules G-8 through G-10 relating to recordkeeping and preservation requirements. These proposed rules were originally filed with the Commission on April 8, 1976 and published in Securities Exchange Act Release No. 12362 (April 23, 1976) (41 FR 18175 (April 30, 1976)).

Notice of the proposed rule change filed by the Board on December 23, 1976, together with the terms of substance of the proposed rule change, was given by publication of a Commission release (Securities Exchange Act Release No. 13107 (December 23, 1976)) and by publication in the Federal Register (42 FR 913 (January 4, 1977)).

The Commission finds that the proposed rule change set forth in Release No. 13107 is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the Board, and in particular, the requirements of Section 15B and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act that the proposed rule change filed with the Commission on December 23, 1976, be, and it hereby is, approved.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-6363 Filed 3-2-77;8:45 am]

NATIONAL MARKET ADVISORY BOARD

Meeting

This is to give notice, pursuant to Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 1 10(a), that the National Market Advisory Board will conduct open meetings on March 14 and 15, April 18 and 19, and May 16 and 17, 1977, in Room 776, 500 North Capitol Street, Washington, D.C. Initial notice of the March and April meetings was published in the FEDERAL REGISTER on January 27, 1977.

The summarized agenda for the April and May meetings will be published in the FEDERAL REGISTER at a later date. The summarized agenda for the March meeting is as follows:

1. Report of the National Market Association and discussion thereof.

2. Discussion of the Board's report to the Securities and Exchange Commission regarding restrictions on off-board transactions in listed securities by exchange members.

3. Discussion of such other matters as may properly be brought before the Board.

Further information may be obtained by writing Martin L. Budd, Executive Director, National Market Advisory Board Staff, Securities and Exchange Commission, Washington, D.C. 20549.

GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 24, 1977.

[FR Doc.77-6364 Filed 3-2-77;8:45 am]

DEPARTMENT OF STATE

[Public Notice CM-7/85]

STUDY GROUP 5 OF U.S. NATIONAL COMMITTEE FOR INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

Meeting

The Department of State announces that Study Group 5 of the U.S. National Committee of the International Radio Consultative Committee (CCIR) will meet on March 24, 1977, at 9:30 a.m., in the Aspen Room Office of Telecommunications, Department of Commerce, 1325 G Street, NW., Washington, D.C.

Study Group 5 deals with propagation of radio waves (including radio noise) at the surface of the earth, through the non-ionized regions of the Earth's atmosphere, and in space where the effect of ionization is negligible. The purpose of the meeting will be a review of all proposed U.S. contributions to the international meeting of Study Group 5 in September 1977.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

Dated: February 24, 1977.

GORDON L. HUFFCUTT,
Chairman,
CCIR National Committee.

[FR Doc.77-6313 Filed 3-2-77;8:45 am]

Agency for International Development

DIRECTOR, OFFICE OF CAPITAL DEVELOPMENT AND DEPUTY DIRECTOR, OFFICE OF CAPITAL DEVELOPMENT, BUREAU FOR NEAR EAST

Redelegation of Authority No. 162-5

Correction

In FR. Doc. 76-37675, appearing in the issue of Thursday, December 23, 1976 on page 55959, the redelegation of authority number in the last line of the heading, should read as set forth above.

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 77-033]

CHEMICAL TRANSPORTATION INDUSTRY ADVISORY COMMITTEE

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Chemical Transportation Industry Advisory Committee's Subcommittee on Liquefied Gas Vessels to be held on 30 and 31 March 1977, beginning at 8:30 a.m., Room 8334 Nassif Building, 400 7th Street, SW., Washington, D.C. 20590. The agenda for this meeting is as follows:

1. To discuss the meeting of the Bulk Chemicals Subcommittee of the Inter-Governmental Maritime Organization—January 1977, in particular the proposed amendments to the IMCO Gas Carrier Code developed at that meeting.

2. To discuss possible resolutions of public comments on the Coast Guard's Notice of Proposed Rulemaking on Liquefied Gas Vessels (CGD 74-289).

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, Capt. C. E. Mathieu, Commandant (G-MHM/83) U.S. Coast Guard, Washington, D.C. 20590, (202) 426-2306. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C. on February 24, 1977.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.77-6389 Filed 3-2-77;8:45 am]

[CGD 77-034]

CHEMICAL TRANSPORTATION INDUSTRY ADVISORY COMMITTEE

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Chemical Transportation Industry Advisory Committee to be held on March 29, 1977, beginning at 9:30 a.m. in Room 2230, Nassif Building, 400 7th Street SW., Washington, D.C. 20590

The agenda for this meeting is as follows:

1. Call to Order
2. Opening Remarks
3. Subcommittee Status Reports
4. Coast Guard Actions and Plans
5. Committee Comments and Recommendations
6. Any Other Business Brought Before the Committee
7. Adjournment

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, Capt. C. E. Mathieu, Commandant (G-MHM/83) U.S. Coast Guard, Washington, D.C. 20590, (202) 426-2306. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on February 24, 1977.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.77-6390 Filed 3-2-77;8:45 am]

[CGD 77-035]

CHEMICAL TRANSPORTATION INDUSTRY ADVISORY COMMITTEE

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Chemical Transportation Industry Advisory Committee's Subcommittee on Chemical Vessels to be held March 28, 1977, 8:30 a.m., Room 8334 Nassif Bldg., 400 7th St. SW., Washington, D.C. 20590. The agenda for this meeting is as follows:

1. To continue revisions to the rules for shipping bulk chemicals by barge, 46 CFR part 151.

2. To discuss the meeting of the Bulk Chemicals Subcommittee of the Inter-Governmental Maritime Consultative Organization in January 1977.

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, Capt. C. E. Mathieu, Commandant (G-MHM/83) U.S. Coast Guard, Washington, D.C. 20590, (202) 426-2306. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on February 24, 1977.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.77-6391 Filed 3-2-77;8:45 am]

Federal Aviation Administration

GENERAL AVIATION DISTRICT OFFICE AT OPA LOCKA, FLORIDA

Establishment

Notice is hereby given that on or about March 1, 1977, the General Aviation District Office at Opa Locka, Florida, will be redesignated as the Flight Standards District Office No. 63. Services relative to the programs with which the public is concerned, formerly provided, will continue to be rendered by the Flight Standards District Office at Opa Locka without interruption. Communications should addressed as follows:

Chief, Flight Standards District Office, Federal Aviation Administration, Building 121, Opa Locka Airport, Opa Locka, Florida 33054.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354.)

Issued in East Point, Georgia on February 1, 1977.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.77-6324 Filed 3-2-77;8:45 am]

National Highway Traffic Safety Administration

[Docket No. IP77-3; Notice 1]

BATAVUS USA, INC.

Petition for Exemption From Notice and Remedy for Inconsequential Noncompliance

Batavus USA, Inc. of Atlanta, Georgia, has petitioned to be exempted from the notification and remedy requirements of the National Traffice and Motor Vehicle Safety Act (15 U.S.C. 1381 et. seq.) for an apparent noncompliance with 49 CFR 571.123 Motor Vehicle Safety Standard No. 123 *Motorcycle Controls and Displays*, on the basis that it is inconsequential as it relates to motor vehicle safety.

Petitioner is an importer of motor-driven cycles (mopeds). Table 1 of Standard No. 123 requires that the manual fuel shut off control on such vehicles have the following operating positions: "off"—control forward; "on"—control downward; "reserve" (if provided)—control upward. The Batavus control, however, has the following noncomplying positions—"on", upward instead of downward; "reserve", backward instead of upward. The noncompliance exists on approximately 6,000 vehicles manufactured before July 1976. Petitioner argues that the noncompliance is inconsequential because the improper positions "are clearly marked on all mopeds in such a way that a moped user cannot be mistaken." Vehicles manufactured since July 1976 are said to be in compliance with Standard No. 123.

Interested persons are invited to submit written data, views and arguments on the petition of Batavus USA, Inc. described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the FEDERAL REGISTER pursuant to the authority indicated below.

Comment closing date: April 18, 1977.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on February 23, 1977.

ROBERT L. CARTER,
Associate Administrator
Motor Vehicle Programs.

[FR Doc.77-6045 Filed 3-2-77; 8:45 am]

DISCLOSURE OF MAJOR RULEMAKING ACTIONS

Announcement of Annual Publication of Anticipated Rulemaking Actions

The purpose of this notice is to announce that the National Highway Traffic Safety Administration will publish annually in the FEDERAL REGISTER a list and brief description of all significant rulemaking actions anticipated within the 5-year period beginning 1 year after the date of publication.

The decision to publish this information is based upon a determination by the agency that full disclosure of the areas in which it plans to concentrate its rulemaking efforts will permit constructive comment at a time when program plans can be realistically modified. The agency views its mission as serving the interests of the public in the areas of automotive safety, fuel economy, and consumer savings. Publication of its plans to develop new or additional requirements in a particular area will encourage direct and effective public participation from the beginning of the rulemaking process.

The list will be published in the FEDERAL REGISTER each October, and address the 5-year period that begins 1 year following the date of publication. Major rulemaking actions expected to be taken under the authority of the National Traffic and Motor Vehicle Safety Act (Pub. L. 89-563) and Titles I, IV, and V of the Motor Vehicle Information and Cost Savings Act (Pub. L. 92-513) will be listed with a brief description, the anticipated date of publication of the action, and the name and address of a person within the agency who may be contacted for further information. The first list will be published in October of 1977.

Issued on February 24, 1977.

JOHN W. SNOW,
Administrator.

[FR Doc.77-6044 Filed 3-2-77; 8:45 am]

National Highway Traffic Safety Administration

[Docket No. IP77-4; Notice 1]

C. H. WATERMAN INDUSTRIES

Petition for Exemption From Notice and Remedy for Inconsequential Noncompliance

C. H. Waterman Industries of Athol, Massachusetts, has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.208 Motor Vehicle Safety Standard No. 208, *Occupant Crash Protection*, on the basis that it is inconsequential as it relates to motor vehicle safety.

Paragraph S4.1.2.3.1 of Standard No. 208 requires passenger cars to be equipped with lap and shoulder belt systems conforming to Motor Vehicle Safety Standard No. 209, *Seat Belt Assemblies*. Paragraph S4.3 of Standard No. 209 requires such assemblies to incorporate automatic-locking retractors (subparagraph (i)) and emergency-locking retractors (subparagraph (j)). Petitioner is an importer of motor vehicles which it converts to electric propulsion. Seven passenger cars that it brought into the United States in August 1975 lack the emergency, and automatic-locking retractor required of occupant restraint systems. The company argues that the noncompliance is inconsequential because the vehicles' restraint systems comply with all requirements in effect before January 1972, and because the NHTSA has provided it a temporary exemption from the retractor requirements of Standard No. 208, expiring May 1, 1977 (Docket No. EX75-4; Notice 4, 41 FR 53384).

This notice of receipt of a petition for temporary exemption is published in accordance with the NHTSA regulations on this subject (49 CFR 555.7), and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Interested persons are invited to submit comments on the petition of C. H. Waterman Industries, described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20509. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials and all comments received after the closing date will also be filed and will be considered to the extent possible. If the petition is granted, notice will be published in the FEDERAL REGISTER pursuant to the authority indicated below.

Comment closing date. April 18, 1977.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on February 25, 1977.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.77-6371 Filed 3-2-77; 8:45 am]

[Docket No. 75-13; Notice 2]

CATALYTIC CONVERTERS

Closure of Docket

The Administrator of the National Highway Traffic Safety Administration (NHTSA) has concluded, based on all currently available information, that the

rate and nature of catalytic converter incidents do not present an unreasonable risk of death or injury to the public. Docket No. 75–13, which had been established as a central repository of all converter related safety material, will therefore be closed, effective as of the publication of this notice, and no rulemaking will take place with respect to this subject without further notice.

The Office of Defects Investigation (ODI), NHTSA, will continue to monitor reports of catalytic converter safety problems and the docket will be reopened if the public interest demands it. The docket and its comments, including investigative reports of ODI recently filed, remain available for inspection in the NHTSA Docket Room, Room 5108, 400 Seventh Street, S.W., Washington, D.C.

Issued on February 24, 1977.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.77-6372 Filed 3-2-77;8:45 am]

[Docket No. IP76-11; Notice 2]

PREVOST CAR, INC.

Petition for Exemption From Notice and Remedy for Inconsequential Noncompliance

This notice grants the petition by Prevost Car, Inc. of Ste. Claire, Quebec, Canada, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381, et. seq.) for an apparent noncompliance with 49 CFR 571.217 Motor Vehicle Safety Standard No. 217, Bus Window Retention and Release. Prevost petitioned on the basis that the noncompliance was inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on December 2, 1976, (41 FR 52933) and an opportunity afforded for comment.

Paragraph S5.2.1 of Standard No. 217 requires in part that the emergency roof exit on a bus with a GVWR of more than 10,000 pounds provide "an opening large enough to admit unobstructed passage, keeping a major axis horizontal at all times, of an ellipsoid generated by rotating about its minor axis an ellipse having a major axis of 20 inches and a minor axis of 13 inches." The ellipsoid simulates the cross section of the human body. This requirement must be met when the bus is overturned on either side. The rectangle formed by the Prevost opening on 60 Prestige models, and 24 Champion units, manufactured between September 1973 and October 1976, should have had its long sides (24 inches) parallel to the sides of the bus but instead the short sides (17 inches) are parallel to it. This means that the ellipsoid (20 inches) fails by a margin of 1½ inches on each side to pass through the emergency roof exit.

Petitioner's argument that the noncompliance is inconsequential as it relates to motor vehicle safety is that although the width of this opening is 3 inches too narrow, there is a compensation in that the height of the opening is 11 inches greater than is required. Petitioner submitted photographs showing four different male subjects of various sizes existing through both the noncompliant opening and one that meets the minimum requirements of Standard No. 217. It argued that their pictures demonstrated that it is "easier, safer, and faster to escape" through the Prevost opening.

No comments were received on the petition.

The agency has reviewed and found persuasive the arguments and supporting photographs submitted by Prevost. Using sheets of plywood to simulate the roof Prevost cut complying and noncomplying openings to approximate the position of the openings relative to the ground when a bus is overturned. These photographs demonstrate that the Standard No. 217 opening is best utilized by crawling out head or feet first. Prevost's noncomplying opening appears to afford the same means of crawling exit with no apparent increase in difficulty as well as an additional means of exiting upright, by passing one leg through the opening followed by the torso and the other leg. The ability to exit standing appears to be due to the vertical dimension of the opening being 11 inches greater than the standard's minimum requirement.

Accordingly petitioner has met its burden of persuasion and it has been determined that the noncompliance is inconsequential as it relates to motor vehicle safety. The petition by Prevost Car, Inc. is hereby granted.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on February 24, 1977.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.77-6373 Filed 3-2-77;8:45 am]

DEPARTMENT OF THE TREASURY

Office of the Secretary

PRESSURE SENSITIVE PLASTIC TAPE FROM WEST GERMANY

Antidumping; Withholding of Appraisement Notice

Information was received on August 5, 1976, that pressure sensitive plastic tape from West Germany was being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as the "Act"). This information was the subject of an "Antidumping Proceeding Notice" which was published in the FEDERAL REGISTER of August 30, 1976 (41 FR 36521). The "Antidumping Proceeding Notice" indicated that there was evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

Subsequent to the initiation of the investigation it has been concluded that it is inappropriate to include within the scope of the investigation merchandise other than pressure sensitive plastic tape exceeding one and three-eighths inches in width and not exceeding four mils in thickness. Accordingly, insofar as the scope of this notice is concerned, merchandise other than pressure sensitive plastic tape exceeding one and three-eighths inches in width and not exceeding four mils in thickness is not included.

TENTATIVE DETERMINATION OF SALES AT LESS THAN FAIR VALUE

On the basis of the information developed in the United States Customs Service investigation and for the reasons noted below, pursuant to section 201(b) of the Act (19 U.S.C. 160(b)), I hereby determine that there are reasonable grounds to believe or suspect that the purchase price or the exporter's sales price of pressure sensitive plastic tape from West Germany is less, or is likely to be less, than the fair value, and thereby the foreign market value of such or similar merchandise.

STATEMENT OF REASONS ON WHICH THIS DETERMINATION IS BASED

(a) *Scope of the Investigation.* It appears that all imports of the subject merchandise from West Germany were manufactured by Brass and Co. GMBH, Frankfurt, West Germany (Brass), Nopi GMBH, Flensburg, West Germany (Nopi), and Beiersdorf A.G., Hamburg, West Germany (Beiersdorf). Therefore, investigation was limited to these three manufacturers.

(b) *Basis of Comparison.* For the purposes of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison appears to be between purchase price and the home market price of such or similar merchandise on sales by Brass. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162) was used as all export sales by Brass were made to a non-related customer in the United States. On sales by Nopi and Beiersdorf, the proper basis of comparison appears to be between exporter's sales price, as defined in section 204 of the Act (19 U.S.C. 163), and home market price, as sales in the United States are made by importers who are related to the exporters of the merchandise. Home market price, as defined in section 153.3, Customs Regulations (19 CFR 153.3), was used since such or similar merchandise is sold in the home market in sufficient quantities to provide a basis of compari-

son for fair value purposes. Some sales in the home market, as alleged, were at less than the cost to produce. However, after disregarding those sales made over an extended period of time and in substantial quantities and at prices which do not permit recovery of all costs in a reasonable period of time, there remained sufficient home market sales with which to determine fair value.

(c) *Purchase Price.* For the purposes of this tentative determination of sales at less than fair value, adjustments have been made on the following bases. In accordance with § 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning sales of pressure sensitive plastic tape from West Germany during the period of May 1 through August 31, 1976, for sales by Brass.

In the import transactions, all of the merchandise was purchased or agreed to be purchased, prior to the time of exportation, by the persons by whom or for whose account it was imported within the meaning of section 203 of the Act. The purchase price has been calculated on the basis of the c. and f. price to U.S. customers. A deduction was made for the inland and ocean transportation costs included in the prices.

(d) *Exporter's Sales Price.* Pricing information was obtained concerning sales in the United States during the period February 1 through August 31, 1976, for Beiersdorf and April 1 through August 31, 1976, for Nopi. The exporter's sales price represents sales to United States wholesalers. Deductions have been made for ocean freight and insurance, brokerage charges, inland freight, United States import duties, commissions, cash discounts, and for expenses incurred in selling the merchandise in the United States. In addition, costs of manufacturing opreations performed in the United States were deducted when incurred.

(e) *Home Market Price.* For the purposes of this tentative determination of sales at less than fair value, adjustments have been made on the following bases. The home market price has been calculated on the basis of the delivered price in the home market to wholesalers. Adjustments have been made for the differences in amount of tape sold per individual roll in the two markets.

In the case of Brass, adjustments were made for freight, commissions, cash discounts, and cutting and credit cost differentials in the two markets.

In the case of Nopi, adjustments have been made for inland freight and insurance, cash discounts, bonus payments to purchasers, and commissions. An adjustment has also been made for selling expenses incurred in the home market, but not exceeding the amounts incurred in the United States, as provided by § 153.10(b) Customs Regulations (19 CFR 153.10(b)).

In the case of Beiersdorf, adjustments have been made for cash discounts, bonus payments, and selling expenses. However, in accordance with § 153.10(b), the adjustment for selling expenses incurred in the home market was made in an amount not in excess of those expenses incurred in the United States market. As inland freight in both markets is stated to be the same, no adjustment is necessary.

(f) *Result of Fair Value Comparsion.* Using the above criteria, preliminary analysis suggests that purchase price and/or exporter's sales price probably will be lower than the home market price of such or similar merchandise. Comparisons were made on approximately 85 percent of the subject merchandise exported to the United States by the three West German manufacturers during the investigative period. Margins were tentatively found ranging from 3 to 7 percent for sales made by Brass on nearly 100 percent of sales compared, from 1 to 12 percent for sales made by Nopi on 29 percent of sales compared, and from 1 to 28 percent for sales made by Beiersdorf on 80 percent of sales compared. Weighted average margins across each firm's entire sales were approximately 12 percent for Brass, 2 percent for Nopi and 15 percent for Beiersdorf.

According, Customs officers are being directed to withhold appraisement of pressure sensitive plastic tape measuring over one and three-eighths inches in width and not over four mils in thickness from West Germany, in accordance with § 153.48 Customs Regulations (19 CFR 153.48).

In accordance with § 153.40 Customs Regulations (19 CFR 153.40), interested parties may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, in time to be received by his office not more than 10 calendar days from the publication of this notice. Such requests must be accompanied by a statement outlining the issues wished to be discussed.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received in his office not more than 30 calendar days from the publication of this notice.

This notice, which is published pursuant to section 153.35(b), Customs Regulations (19 CFR 153.35(b)), shall become effective on March 3, 1977. It shall cease to be effective at the expiration of 6-months from the date of publication unless previously revoked.

JOHN H. HARPER,
Assistant Secretary of the Treasury.

FEBRUARY 25, 1977.

[FR Doc.77-6396 Filed 3-2-77;8:45 am]

Office of the Secretary

SALE OF UNITED STATES SAVINGS BONDS

Discontinuance of Series E Bond Sales at Post Offices

Notice is given that the sale of United States Savings Bonds, Series E, at United States Post Offices is discontinued. The termination affects only a small number of investors since most post offices have already stopped selling Series E bonds. Investors who buy savings bonds at post offices may make purchases at commercial banks, thrift institutions or other entities qualified under 31 CFR Part 317 as issuing agents for Series E savings bonds. Mail purchases may be made from any Federal Reserve Bank or Branch or the Bureau of the Public Debt, Washington, D.C. 20226. Inquiry may be directed to Mr. Gerald D. Manypenny, Bureau of the Public Debt, Washington, D.C. 20226 (202-376-0249).

Effective date: This notice becomes effective on March 26, 1977.

Dated: February 25, 1977.

DAVID MOSSO,
Fiscal Assistant Secretary.

[FR Doc.77-6314 Filed 3-2-77;8:45 am]

VETERANS ADMINISTRATION

GERIATRIC RESEARCH, EDUCATION AND CLINICAL CENTERS ADVISORY COMMITTEE

Meeting

The Veterans Administration gives notice pursuant to Pub. L. 92-463 that a meeting of the Geriatric Research, Education and Clinical Centers Advisory Committee, authorized by 38 USC 4101, will be held in Conference Room 119, Veterans Administration Central Office, 810 Vermont Avenue, NW, Washington, DC on March 24 and 25, 1977. The meeting will be for the purpose of reviewing and evaluating the Geriatric Research, Education and Clinical Center proposals and advising the Veterans Administration on selection, development and implementation. The Committee advises the Veterans Administration through the Assistant Chief Medical Director for Extended Care.

The meeting will be open to the public up to the seating capacity of the room from 8 a.m. to 4:30 p.m. on March 24, and from 8 a.m. to 1 p.m. on March 25. To assure adequate accommodations, those who plan to attend should contact Dr. Richard Filer, Assistant Departmental Committee Manager, Veterans Administration Central Office, Washington, DC (202-389-3854) prior to March 19, 1977.

Dated: February 25, 1977.

R. L. ROUDEBUSH,
Administrator.

[FR Doc.77-6342 Filed 3-2-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Ex Parte 241; Rule 19, Exemption No. 127, Amdt. No. 3]

ALL RAILROADS

Exemption Under Mandatory Car Service Rules

Upon further consideration of Exemption No. 127 issued June 29, 1976.

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 127 to the Mandatory Car Service Rules ordered in Ex Parte No. 241, be, and it is hereby, amended to *expire May 31, 1977.*

This amendment shall become effective February 28, 1977.

Issued at Washington, D.C., February 23, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-6453 Filed 3-2-77;8:45 am]

[S.O. No. 1252; Order No. 6, Amdt. No. 1]

BALTIMORE AND OHIO RAILROAD CO.

Rerouting Traffic

Upon further consideration of I.C.C. Order No. 6 (The Baltimore and Ohio Railroad Company), and good cause appearing therefor:

It is ordered, That: I.C.C. Order No. 6 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., August 31, 1977, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., February 28, 1976, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., February 22, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-6451 Filed 3-2-77;8:45 am]

[Notice No. 337]

ASSIGNMENT OF HEARINGS

FEBRUARY 28, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 142405, Nevada Bulk Corp., now assigned April 13, 1977 at Los Angeles, California, has been canceled and reassigned April 13, 1977 (3 days) at Las Vegas, Nevada, in a hearing room to be later designated.

MC 141641 (Sub No. 3), Wilson Certified Express, Inc. now being assigned April 21, 1977 (2 days) at Boston, Massachusetts in a hearing room to be later designated.

MC-C 9393, Fleming's Express, Inc.—Investigation and Revocation of Certificates now being assigned April 20, 1977 (1 day) at Boston, Massachusetts in a hearing room to be later designated.

MC 136669 (Sub No. 10), Processed Beef Express, Inc. now being assigned April 19, 1977 (1 day) at Boston, Massachusetts in a hearing room to be later designated.

MC-C 8685, J. Frances McCarthy, dba Mac Transport Lines—Revocation of Permit now being assigned April 18, 1977 (1 day) at Boston, Massachusetts in a hearing room to be later designated.

MC 142260, Oberg's Garage, Inc. now being assigned April 13, 1977 (3 days) at Hartford, Connecticut in a hearing room to be later designated.

MC 136315 (Sub-No. 13), Olen Burrage Trucking, Inc., now assigned April 20, 1977, at New Orleans, La. is canceled and reassigned for April 20, 1977, at Jackson, Miss. (3 days); Location of hearing room will be later designated.

MC 125433 (Sub-No. 85), F-B Truck Line Company, application dismissed. MC 57697 (Sub-6), Lester Smith Trucking, Inc. and MC 140241 (Sub-8), Dalke Transport, Inc., now being assigned March 14, 1977 (2 weeks) at Seattle, Washington, in the Shore Room Edgewater Inn, 2411 Alaska Way.

MC 128224 (Sub-No. 2), George F. Johnson, now assigned March 15, 1977, at Washington, D.C. is postponed indefinitely.

MC 124821 Sub No. 22, William Gilchrist and MC 113388 Sub 113, Lester C. Newton Trucking Co. now being assigned March 17, 1977 at the Offices of the Interstate Commerce Commission in Washington, D.C.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-6457 Filed 3-2-77;8:45 am]

[Ex Parte No. 241; Rule 19; 25th Rev. Exemption No. 90]

BALTIMORE AND OHIO RAILROAD CO., ET AL.

Exemption Under Mandatory Car Service Rules

It appearing, That the railroads named below own numerous 50-ft. plain boxcars; that under present conditions there are substantial surpluses of these cars on their lines; that return of these cars to the owners would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, 50-ft. plain boxcars described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 402, issued by W. J Trezise, or successive isues thereof, as having mechanical designation "XM", and bearing reporting marks assigned to the railroads named below, shall be exempt from the provisions of Car Service Rules 1, 2(a), and 2(b).

The Baltimore and Ohio Railroad Company
Reporting Marks: BO
Cadiz Railroad Company
Reporting Marks: CAD
The Chesapeake and Ohio Railway Company
Reporting Marks: CO-PM
The Clarendon and Pittsford Railroad Company
Reporting Marks: CLP
Green Mountain Railroad Corporation
Reporting Marks: GMRC
Greenville and Northern Railway Company
Reporting Marks: GRN
Lake Erie, Franklin & Clarion Railroad Company
Reporting Marks: LEF
Louisville and Wadley Railway Company
Reporting Marks: LW
Louisville, New Albany & Corydon Railroad Company
Reporting Marks: LNAC

* * * * *

Ogdensburg Bridge and Port Authority
Reporting Marks: NSL
Pearl River Valley Railroad Company
Reporting Marks: PRV
The Pittsburgh and Lake Erie Railroad Company
Reporting Marks: P&LE
Providence And Worcester Company
Reporting Marks: PW
Raritan River Rail Road Company
Reporting Marks: RR
Sacramento Northern Railway
Reporting Marks: SN
St. Johnsbury & Lamoille County Railroad
Reporting Marks: SJL
Sierra Railroad Company
Reporting Marks: SERA
Tidewater Southern Railway Company
Reporting Marks: TS
Toledo, Peoria & Western Railroad Company
Reporting Marks: TPW
Vermont Railway, Inc.
Reporting Marks: VTR
WCTU Railway Company
Reporting Marks: WCTR
Western Maryland Railway Company
Reporting Marks: WM
Yreka Western Railroad Company
Reporting Marks: YW

Effective February 28, 1977, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., February 22, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

NOTE.—New Jersey, Indiana & Illinois Railroad Company, Norfolk and Western Railway Company, and Missouri-Kansas-Texas Railroad Company deleted.

[FR Doc.77-6452 Filed 3-2-77; 8:45 am]

[Ex Parte No. 241; Rule 19, 6th Rev. Exemption No. 129]

BALTIMORE AND OHIO RAILROAD CO., ET AL.

Exemption Under Mandatory Car Service Rules

It appearing, That the railroads named herein own numerous 40-ft. plain boxcars; that under present conditions,

there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

It is order, that, pursuant to the authority vested in me by Car Service Rule 19, plan boxcars described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 402 issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM", with inside length 44-ft. 6-in. or less, regardless of door width and bearing reporting marks assigned to the railroads named below, shall be exempt from the provisions of Car Service Rules 1(a), 2(a), and 2(b).

* * * * *

The Baltimore and Ohio Railroad Company
Reporting Marks: BO.
The Chesapeake and Ohio Railway Company
Reporting Marks: CO–PM.
Chicago, West Pullman & Southern Railroad Company
Reporting Marks: CWP.

* * * * *

Detroit and Mackinac Railway Company
Reporting Marks: D&M–DM.
Elgin, Joliet and Eastern Railway Company
Reporting Marks: EJE.
Illinois Terminal Railroad Company
Reporting Marks: ITC.
Louisville and Nashville Railroad Company
Reporting Marks: CIL–L&N–MON–NC.
Louisville, New Albany & Corydon Railroad Company
Reporting Marks: LNAC.
Missouri-Kansas-Texas Railroad Company
Reporting Marks: MKT.
Missouri Pacific Railroad Company
Reporting Marks: CEI–MI–MP–TP.
New Hope and Ivyland Railroad Company
Reporting Marks: NHIR.
Southern Railway Company
Reporting Marks: CG–NS–SA–SOU.
Western Maryland Railway Company
Reporting Marks: WM.

NOTE.—Bessemer and Lake Erie Railroad Company and The Denver and Rio Grande Western Railroad Company deleted.

Effective 12:01 a.m., February 28, 1977, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., February 17, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-6464 Filed 3-2-77;8:45 am]

[Ex Parte No. 241; Rule 19; Exemption No. 122, Amdt. No. 4]

BALTIMORE AND OHIO RAILROAD CO., ET AL.

Exemption Under Mandatory Car Service Rules

To: The Baltimore and Ohio Railroad Company, The Chesapeake and Ohio Railway Company, Consolidated Rail Corporation, Western Maryland Railway Company.

Upon further consideration of Exemption No. 122 issued April 2, 1976.

It is ordered, that, under the authority vested in me by Car Service Rule 19, Exemption No. 122 to the Mandatory Car Service Rules ordered in Ex Parte No. 241, be, and it is hereby amended to expire May 31, 1977.

This amendment shall become effective February 28, 1977.

Issued at Washington, D.C., February 18, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-6462 Filed 3-2-77;8:45 am]

[Ex Parte No. 241; Rule 19; Exemption No. 132]

BOXCARS IN CALIFORNIA AND ARIZONA

Exemption Under Mandatory Car Service Rules

It appearing, that there are substantial movements of lumber and other commodities moving in plain, forty-foot, wide-door boxcars or in plain fifty-foot boxcars, originating at points in northern California and southern Oregon; that railroads serving southern California and Arizona frequently develop surpluses of these cars; that loadings in the directions of the car owners are often not available on the lines having such cars available in surplus quantities; that return of these surplus cars to owners results in excessive empty car miles and loss of effective car utilization; that the carriers serving northern California and southern Oregon have regular needs for such cars for eastbound loading; and that such loadings will relocate such cars in areas on or close to car owners' lines with a minimum of empty car mileage, thereby increasing car utilization.

It is ordered, that, pursuant to the authority vested in me by Car Service Rule 19, except as otherwise provided herein, railroads serving the States of California and Arizona may interchange empty plain boxcars described in the Official Railway Equipment Register, I.C.C.–R.E.R. No. 402, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM", with inside length 44-ft 6-in. or less and equipped with doors 9 feet or wider, or with inside length in excess of 44-ft. 6-in. regardless of door width without regard to the provisions of Car Service Rule 2(c), 2(d), or 2(e).

It is further ordered, That the final carrier receiving such cars empty from another carrier in the States of California or Arizona, under authority of this exemption, shall be subject to the requirements of Car Service Rules 1 or 2 in its subsequent movements of such cars.

It is further ordered, That the billing on all such empty cars requiring movement over an intermediate carrier shall clearly show the name of the carrier to which such cars are being sent for loading; and that all waybills authorizing the movements of such empty cars shall carry a reference to this exemption.

Exception.—This exemption shall not apply to empty cars subject to Car Service Rule 1; to empty cars subject to an applicable service order of this Commission requiring specific handling of designated cars; to cars subject to car relocation directives issued by the Car Service Division of the Association of American Railroads; nor to cars of Canadian or Mexican ownership.

Effective March 1, 1977, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., February 22, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-6463 Filed 3-2-77;8:45 am]

[Ex Parte No. 241; Rule 19, Rev. Exemption No. 108]

CONSOLIDATED RAIL CORP., ET AL.

Exemption Under Mandatory Car Service Rules

To: Consolidated Rail Corporation, Missouri-Illinois Railroad Company, Missouri Pacific Railroad Company.

It appearing, That the Consolidated Rail Corporation (CR), Missouri-Illinois Railroad Company (MI), Missouri Pacific Railroad Company (MP), have each agreed to the unrestricted use by the other of its plain gondola cars less than 61-ft. in length; and that such mutual use of gondola cars will increase car utilization by reductions in switching and movements of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain gondola cars described in the Official Railway Equipment Register, I.C.C.–R.E.R. No. 402, issued by W. J. Trezise, or successive issues thereof, as having mechanical designations "GA", "GB", "GD", "GH", "GS", and "GW", which are less than 61-ft. 0 in. long, and which bear the reporting marks listed herein, may be used by the CR, MI, and MP, without regard to the requirements of Car Service Rules 1 and 2.

Reporting marks

(1)	CR	MI	MP	(1)
	CNJ	MI	C&EI	TP
	CR		CEI	
	DL&W		KOG	
	EL		MP	
	ERIE			
	LV			
	NH			
	NYC			
	PC			
	PRR			
	RDG			

[1] Chicago & Eastern Illinois RR and Texas & Pacific Railway Co. eliminated. Merged into Missouri Pacific RR Co.

Effective: February 28, 1977.

Expires August 31, 1977.

Issued at Washington, D.C., February 18, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-6449 Filed 3-2-77;8:45 am]

[Ex Parte No. 241; Rule 19; Exemption No. 94; Amdt. No. 10]

DETROIT, TOLEDO AND IRONTON RAILROAD CO. AND CONSOLIDATED RAIL CORP.

Exemption Under Mandatory Car Service Rules

Upon further consideration of Exemption No. 94 issued February 5, 1975.

It is ordered, that under the authority vested in me by Car Service Rule 19, Exemption No. 94 to the Mandatory Car Service Rules ordered in Ex Parte No. 241, be, and it is hereby amended to expire August 31, 1977.

This amendment shall become effective February 28, 1977.

Issued at Washington, D.C., February 23, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-6450 Filed 3-2-77;8:45 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

FEBRUARY 28, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before March 18, 1977.

FSA No. 43326—*Alcohol and Related Articles from Points in Texas.* Filed by Southwestern Freight Bureau, Agent, (No. B-660), for interested rail carriers.

Rates on alcohol and related articles, in tank-car loads, as described in the application, from Eldon and Highlands, Texas, to points in Alabama, Illinois, Iowa, Kentucky, North Carolina, Ohio and Tennessee.

Grounds for relief—Market competition.

Tariff—Supplement 27 to Southwestern Freight Bureau, Agent, tariff 210-M, I.C.C. No. 5245.

Rates are published to become effective on March 29, 1977.

FSA No. 43328—*Vinylidene Butadiene Emulsion from Points in Louisiana and Texas.* Filed by Southwestern Freight Bureau, Agent (No. B-663), for interested rail carriers.

Rates on vinylidene butadiene emulsion, in tank-car loads, as described in the application, from points in Louisiana and Texas, to Sarnia, Ontario, Canada, also Bay City and Midland, Michigan.

Grounds for relief—Market competition.

Tariff—Supplement 31 to Southwestern Freight Bureau, Agent, tariff 12-J, I.C.C. No. 5219.

Rates are published to become effective on April 1, 1977.

AGGREGATE-OF-INTERMEDIATES

FSA No. 43327—*Ethylene Glycol from Points in Texas.* Filed by Southwestern Freight Bureau, Agent, (No. B-661), for interested rail carriers.

Rates on ethylene glycol, in tank-car loads, as described in the application, from Eldon and Highlands, Texas, to Clinton, Iowa.

Grounds for relief—Maintenance of depressed rates published to meet market competition without use of such rates as factors in constructing combination rates.

Tariff—Supplement 27 to Southwestern Freight Bureau, Agent, tariff 210-M, I.C.C. No. 5245.

Rates are published to become effective on March 29, 1977.

By the Commission

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-6455 Filed 3-2-77;8:45 am]

[S.O. No. 1252; Order No. 24, Amdt. No. 1]

GREEN BAY AND WESTERN RAILROAD CO. AND ANN ARBOR RAILROAD

Rerouting Traffic

Upon further consideration of I.C.C. Order No. 24 (Green Bay and Western Railroad Company and the Ann Arbor Railroad), and good cause appearing therefor:

It is ordered, that:

I.C.C. Order No. 24 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., February 28, 1977, unless otherwise modified, changed or suspended.

It is further ordered, that this amendment shall become effective at 11:59 p.m., February 18, 1977, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., February 18, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-6461 Filed 3-2-77;8:45 am]

[Notice No. 127]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarded transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before April 4, 1977. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-76847, filed November 29, 1976. Transferee: WILLIAMS TRUCK SERVICE, INC., 1812 K Avenue, Sioux Falls, South Dakota 57104. Transferor: Ray Williams and Arlene Williams, a partnership, doing business as Williams Truck Service, 1812 K Avenue, Sioux Falls, South Dakota 57104. Applicant's representative: Lyle A. Clemetson, 1812 K Avenue, Sioux Falls, South Dakota 57104. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permits No. MC 111720, MC 111720 (Sub-No. 1), MC 111720 (Sub-No. 3), MC 111720 (Sub-No. 5), MC 111720 (Sub-No. 7), MC 111720 (Sub-No. 8), MC 111720 (Sub-No. 10), and MC 111720 (Sub-No. 11), issued December 20, 1950, May 26, 1953, November 18, 1960, October 30, 1964, March 25, 1969, March 12, 1970, May 14, 1974, and April 12, 1974, respectively, as follows: Specified commodities from, to, or between specified points and counties in the states of Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virginia, West Virginia, and the

District of Columbia. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76934, filed January 18, 1977. Transferee: ROLAND R. BOLTZ, Morrill, Kansas 66515. Transferor: Jacob W. Brunner, 1106 Pottawatomie, Hiawatha, Kansas 66434. Applicant's representative: Clyde N. Christey, attorney at law, 514 Capitol Federal Building, 700 Kansas Avenue, Topeka, Kansas 66603. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 10495, issued December 17, 1976, as follows: Livestock, farm machinery and parts, and other specified commodities over specified regular routes between Hiawatha, Kans. and St. Joseph, Mo. serving all intermediate and off-route points within 10 miles of Hiawatha and from St. Joseph, Mo. to Fairview, Kans.; livestock and farm products over a specified regular route from Fairview, Kans. to St. Joseph, Mo.; and livestock, agricultural commodities, and other specified commodities over irregular routes from and between specified points in Kansas to specified points in Missouri. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76935, filed January 21, 1977. Transferee: SCHMIDGALL TRANSFER, INC. R.R. No. 2, Box 356, Morton, Illinois 61550. Transferor: Elmer C. Schmidgall and Benjamin G. Schmidgall, a partnership, doing business as Schmidgall Transfer, P.O. Box 249, Tremont, Illinois 61568. Applicant's representative: Frederick C. Schmidgall, R.R. No. 2, Box 356, Morton, Illinois 61550. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit No. MC 111274, MC 111274 (Sub-No. 1), MC 111274 (Sub-No. 3), MC 111274 (Sub-No. 6), MC 111274 (Sub–No. 7), MC 111274 (Sub–No. 9), and MC 111274 (Sub–No. 13) issued March 17, 1952, July 15, 1952, November 26, 1975, May 11, 1976, September 24, 1976, September 17, 1976, and January 18, 1977 respectively, as follows: Fencing and fencing materials, farm equipment, and farm machinery from Morton, Ill. to points in Illinois, Indiana, the Lower Peninsula of Michigan, Missouri, Ohio, Wisconsin, Iowa, Minnesota, Nebraska, North Dakota, South Dakota, Kansas, Kentucky, and Tennessee; fencing and pole buildings and appurtenant materials from Winfield, Kans. to points in Illinois, Indiana, Ohio, Wisconsin, Iowa, Missouri, Kentucky, and Michigan and from Menton, Ohio to points in Illinois, Indiana, Wisconsin, Iowa, Missouri, Kentucky, Michigan, and Kansas; and Salvaged and distressed building materials between Anamosa, Iowa, on the one hand, and, on the other, points in Minnesota, Missouri, Illinois, Kansas, Nebraska, South Dakota, and Wisconsin. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76936, filed January 24, 1977. Transferee: DELUXE MOTOR FREIGHT, INC., 3145 17th Street S.W., Canton, Ohio 44706. Transferor: Canton Storage, Inc., 3145 17th Street S.W., Canton, Ohio 44706. Applicant's representative: A. Charles Tell, attorney at law, 100 East Broad Street, Columbus, Ohio 43215. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate of Registration No. MC 121143 (Sub–No. 1), issued July 8, 1965, as follows: Property from and to Canton, Ohio with specified exceptions. Transfereee is presently authorized to operate as a common carrier under Certificate of Registration No. MC 99843 (Sub–No. 1). Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76943, filed January 24, 1977. Transferee: J. E. WISEMAN, INC., 4020 Pinemont St., Houston, Tx. 77018. Transferor: J. E. Wiseman, (J. G. Wiseman, Executor), 4020 Pinemont St., Houston, Tx. 77018. Applicants' representative: Austin L. Hatcher, 1102 Perry Brooks Bldg., Austin, Tex. 78701. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate of Registration No. MC 121422 (Sub-No. 1), issued July 2, 1964, authorizing the transportation of the following commodities between all points in Texas: Oilfield equipment and pipe, when moving as oilfield equipment. Pipe when it is to be used in the construction and maintenance of pipe lines of any and every other character or use other than oilfield equipment; except the carrier is prohibited from transporting pipe when not moving as oilfield equipment when such pipe is less than four (4") inches in diameter and is also less than twenty-eight (28') feet in length. Trenching machines, tractors, drag lines, back fillers, caterpillars, road building machinery, batch bins, ditching machinery, bull dozers, heavy mixers finishing machinery, power hoists, cranes, heavy machinery, pile driving rigs, paving machines and equipment, graders, construction equipment, boilers, scrapers, irrigation and drainage machinery, road maintainers, electric motors, pumps, transformers, circuit breakers, turbines, bridge construction equipment, shovels, planes, lathes, air compressors, rotaries, prefabricated houses, bulk station storage tanks, heavy tanks, pump machinery, erection machinery and equipment, refinery machinery and equipment, boats and prefabricated steel girders, threshing machines, sawmill machinery, telephone and telegraph poles, creosote and other pilings, heavy furnaces or ovens, pipe (including iron, steel, concrete, composition or corrugated), punches, presses, iron or steel girders, beams, columns, posts, channels and trusses, generators and dynamos, iron or steel castings, sheets, and plates, industrial hammers, industrial machinery, including laundry, ice making, air conditioning, baker, bottling, gin, crushing, dredging, mill, brewery, textile, water plant and wire covering, twisting or laying, derricks, hoists, steam or internal combustion engine, rollers, power shovels, safes, vaults, bank doors, and gasoline, fuel oil, and other storage tanks, when said commodities are not moving as oilfield equipment, as follows: The holder of this authority may transport the above named commodities together with its attachments and its detached parts thereof between incorporated cities, towns and villages only when the commodity to be transported weighs 4,000 pounds or more in a single piece or when such commodity, because of physical characteristics other than weight, requires the use of "special devices, facilities or equipment" for the safe and proper loading or unloading thereof. The term "special devices facilities or equipment" is construed to mean only those operated by motive or mechanical power. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76949, filed January 26, 1977. Transferee: WINDSOR AUTOMOTIVE AND TIRE, INC., 595 Windsor Avenue, Windsor, Connecticut 06095. Transferor: G. I. Whitehead and Son, Inc., 207 New Britian Avenue, Hartford, Connetcicut 06106. Applicant's representative: Charles Ungewitter, president, Windsor Automotive and Tire, Inc., 595 Windsor Avenue, Windsor, Connecticut 06095. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 117398 (Sub-No. 1), issued April 14, 1959, as follows: Disabled, repossessed, and wrecked motor vehicles in truckaway and driveaway service between points in Connecticut, on the one hand, and, on the other, points in Maine, New Hampshire, New Jersey, New York, Pennsylvania, and Vermont; and between points in the Town of East Hartford, Conn., and those in that part of Connecticut west of the Connecticut River, on the one hand, and, on the other, points in Massachusetts and Rhode Island. Transferee presently holds no authority from this Commission. Application has been filed for temporary autohrity under Section 210a(b).

No. MC–FC–76964, filed February 4, 1977. Transferee: CORNHUSKER CARRIER, INC., Rural Rt. 2 Box 126, Grand Island, Neb. 68801. Transferor: Siouxland Express, Inc., P.O. Box 353, Lemars, Iowa 51031. Applicants' representative: Gailyn L. Larsen, attorney at law, 521 So. 14th St., P.O. Box 81849, Lincoln, Neb. 68501. Authority sought for purchase by transferee of a protion of the operating rights of transferor, as set forth in Certificate No. MC 129413 (Sub-No. 11), issued April 7, 1976, as follows: *Soybean meal, soybean mill run* and *soybean hulls*, dry in bags and in bulk, from the facilities of Farmland Industries, Inc., located at or near Sergeant Bluff, Iowa, to points in Illinois, Minnesota, Missouri, Ne-

braska, North Dakota, South Dakota, Wisconsin, and Wyoming. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-76967, filed February 7, 1977. Transferee: HARTWIG-WAUSAU TRANSPORTATION, INC., 3526 Sherman Street, Wausau, Wisconsin, 54401. Transferor: Hartwig Realty, Inc., 3526 Sherman Street, Wausau, Wisconsin, 54401. Applicants' representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, Wisconsin 53705. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit No. MC 141404, issued January 28, 1977, as follows: Fabricated metal products and related parts and accessories thereto, From the plant site of the Hartwig Manufacturing Corporation at or near Wausau, Wis., to points in Illinois, Indiana, and Michigan; and Iron, steel, or aluminum articles used in the manufacture of fabricated metal products, from points in Illinois, Indiana, and Michigan to the plant site of the Hartwig Manufacturing Corporation at or near Wausau, Wis. Restriction: The operations are limited to a transportation service to be performed, under a continuing contract, or contracts, with the Hartwig Manufacturing Corporation, Wausau, Wis. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-76972, filed February 8, 1977. Transferee: CURTIS E. MORGAN, doing business as BROWN FEED STORES, Box 645, 132 S. Wabash, Howard, Kansas 67349. Transferor: Day Wilkinson, Box 7, Elk Falls, Kansas 67345. Applicant's representative: Clyde N. Christey, attorney at law, 514 Capitol Federal Bldg., Topeka, Kansas 66603. Authority sought for purchase by transferee of the operatng rights of transferor, as set forth in Certificate No. MC 37210 issued June 26, 1941, as follows: Livestock from Elk Falls, Kans., and points within 15 miles of Elk Falls, to Kansas City, Mo.; and feed, hardware, and agricultural machinery from Kansas City, Mo., to Elk Falls, Kans., and points within 15 miles of Elk Falls. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-76977, filed February 14, 1977. Transferee: DIRECT VAN LINES, INC., 6121 Lincolnia Road, Alexandria, Va. 22311. Transferor: Watson Bros. Van Lines, Inc., 1700 South Amphlett Boulevard, San Mateo, Calif. 94402. Applicants' representative: Martin R. Martino, attorney at law, 207 C St., S.E., Washington, D.C. 20003. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificate No. MC 139547, issued December 23, 1974, authorizing the transportation of household goods as defined by the Commission, between points in Nebraska, on the one hand, and, on the other, points in Illinois, Iowa, Kansas, Missouri, and South Dakota; and between Omaha, Nebr., and points in Nebraska within 100 miles of Omaha, on the one hand, and, on the other, points in Wisconsin, Minnesota, and Colorado. Through operations may be conducted through the gateway points in Omaha, Nebr., or points in Nebraska within 100 miles of Omaha. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

No. MC-FC-76978, filed February 14, 1977. Transferee: VESPER TRUCKING CO., INC., 119 East North St., Staunton, Ill. 62088. Transferor: John F. Vesper, doing business as Vesper Trucking Company, 119 East North St., Staunton, Ill. 62088. Applicants' representative: Robert T. Lawley, attorney at law, 300 Reisch Bldg., Springfield, Ill. 62701. Authority sought for purchase by transferee of the operating rights set forth in Certificate of Registration No. MC 121401 (Sub-No. 1), issued January 7, 1964, as follows: Meat and groceries within a fifty mile radius of 321 North Laurel St., Staunton, Ill. and such property to or from any point outside of such authorized area of operation for a shipper or shippers within such area. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-6459 Filed 3-2-77;8:45 am]

[Ex Parte No. MC-64; General Temporary Order No. 10, Section 210a(a)]

MOTOR CARRIER SERVICE

General Temporary Order

At a General Session of the Interstate Commerce Commission, Division 1, held at its office in Washington, D.C., on February 25, 1977.

The Interstate Commerce Commission, having under consideration the urgent need for motor carrier service due to immediately prior severe winter weather conditions, the national transportation policy, the public interest, and, among others, Sections 202(a), 204(a)(6), and 210a(a) of the Interstate Commerce Act, and

It appearing, That by Order dated January 21, 1977, the Commission, Division 1, made a determination that due to freezing temperatures, certain carriers were unable to transport passengers and property tendered to them; and that an emergency existed in sections of the United States requiring immediate action on the part of the Commission to make provision for adequate transportation services;

It further appearing, That pursuant to Section 210a(a) of the Interstate Commerce Act (49 U.S.C. 310a(a)), the Commission in its Order dated January 21, 1977, issued General Temporary Order No. 10, and ordered that all persons who shall apply to any regional operations director, assistant regional operations director, district supervisor, or their designees, of the Commission's Bureau of Operations are granted temporary authority to transport passengers or property by motor vehicle for a period of not more than 30 days to the extent and scope that such regional operations director, assistant regional operations director, district supervisor, or their designees, shall certify that due to the existing transportation emergency, there is an immediate and urgent need for the service applied for, and there is no available carrier service capable of meeting such need;

It further appearing, That the emergency condition has diminished considerably except for the transportation of liquefied petroleum gas and middle distillate fuels;

And it further appearing, There exists a need to permit 15-day extensions of prior temporary authority grants for the transportation of liquefied petroleum gas and middle distillate fuels;

It is ordered, That General Temporary Order No. 10, entered on January 21, 1977, is modified to make provision only for the adequate transportation of liquefied petroleum gas and middle distillate fuels, and provision for the transportation of other commodities and passengers is hereby vacated and set aside;

It is further ordered, That all persons who have obtained temporary authority under General Temporary Order No. 10 for the transportation of liquefied petroleum gas and middle distillate fuels are granted an extension of such temporary authority grant for not more than 15 days, upon certifying to the said regional operations director, assistant regional operations director, district supervisor, or their designees, that the same conditions still exist which warranted the initial granting of the temporary authority.

It is further ordered, That the extension grant of such temporary authority be, and it is hereby, conditioned upon satisfying the said regional operations director, assistant regional operations director, district supervisor, or their designees, of full compliance by the grantee with all applicable statutory and Commission requirements concerning tariff and schedule publications, evidence of security for the protection of the public, and designation of agents for service of process, and further conditioned upon such tariff and schedule publications quoting rates, fares, and charges no lower than those of existing rail, water, or motor carriers in the territory in which the operations are to be authorized;

It is further ordered, That any extension of temporary authority granted pursuant to this Order shall expire as of the first midnight after the issuance of an order by this Commission revoking General Temporary Order No. 10 except as to passengers and property, the transportation of which was begun prior to that time;

It is further ordered, That this order shall become effective on February 28, 1977.

And it is further ordered, That notice of this order shall be given to motor carriers, other parties of interest, and to the general public by depositing a copy thereof in the Office of the Secretary of the Commission, Washington, D.C., and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission, Division 1, Commissioners Murphy, Gresham and MacFarland.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-6460 Filed 3-2-77;8:45 am]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

[Notice No. 30]

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 51146 (Sub-No. 487TA), filed February 15, 1977. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, Wis. 54306. Applicant's representative: Neil A. DuJardin (same address as applicant). 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 Perry and Des Moines, Iowa, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia and the District of Columbia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Oscar Mayer & Company, Inc., 910 Mayer Ave., Madison, Wis. 53704. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Bldg., & Courthouse, 517 E. Wisconsin Ave., Room 619, Milwaukee, Wis. 53202.

No. MC 53965 (Sub-No. 128TA), filed February 15, 1977. Applicant: GRAVES TRUCK LINE, INC., 2130 S. Ohio, P.O. Box 1387, Salina, Kans. 67401. Applicant's representative: Robert A. Miller, 2505 City National Bank Tower, Oklahoma City, Okla. 73102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* from Oklahoma City, Okla., via U.S. Highway 62 to H. E. Bailey Turnpike via U.S. Highway 281 or 277, Lawton, Okla., serving the off-route point of Fort Sill and return to tack with present authority at Oklahoma City, Okla., for 180 days. Supporting shippers: There are approximately 28 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: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 234 Federal Bldg., Topeka, Kans. 66603.

No. MC 61396 (Sub-No. 324TA), filed February 18, 1977. Applicant: HERMAN BROS. INC., 2565 St. Marys Ave., P.O. Box 189, Omaha, Nebr. 68101. Applicant's representative: John E. Smith, II (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flue dust, kiln dust and mineral filler*, in bulk, in tank vehicles, from Louisville, Nebr., to points in Kansas, Minnesota, Missouri, South Dakota, Colorado, Iowa and Wyoming, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Harry L. Ryan, Traffic Manager, Ash Grove Cement Company, 1000 Ten Main Center, Kansas City, Mo. 64105. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 61396 (Sub-No. 325TA), filed February 18, 1977. Applicant: HERMAN BROS. INC., 2565 St. Marys Ave., P.O. Box 189, Omaha, Nebr. 68101. Applicant's representative: John E. Smith, II (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fly ash*, in bulk, in tank vehicles, from Omaha, Nebr., to points in Kansas, Minnesota, Missouri, South Dakota, Colorado, Iowa and Wyoming, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: L. E. Leber, Manager, Nebraska Ash Company, P.O. Box 80268, Lincoln, Nebr. 68501. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 92068 (Sub-No. 18TA), filed February 18, 1977. Applicant: MUTUAL TRANSPORTATION INCORPORATED, President and Fleet Streets, Baltimore, Md. 21202. Applicant's representative: Walter T. Evans, 7401 Wisconsin Ave., Washington, D.C. 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by department and chain stores, from the facilities of Mutual Transportation, Inc., at Baltimore, Md., to the store and facilities of the K Mart Store of S. S. Kresge Company, at Lexington Park, Md., for 180 days. Supporting shipper: Charles Rowe, General Traffic Manager, S. S. Kresge Company, 3100 W. Big Beaver Road, Troy, Mich. 48084. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814-B Federal Bldg., Baltimore, Md. 21201.

No. MC 95876 (Sub-No. 198TA), filed February 15, 1977. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Ave., North, P.O. Box 1377, St. Cloud, Minn. 56301. Applicant's representative: Val M. Higgins, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Marble chips*, from the facilities of North Country Aggregates, Inc., at or Gouverneur, N.Y., to points in Indiana, Michigan, Ohio, Pennsylvania and West Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: No. Country Aggregates, Inc., P.O. Box 96, Gouverneur, N.Y. 13642. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg., and U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 112617 (Sub-No. 354TA), filed December 10, 1976. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Grain neutral* spirits, alcohol or alcoholic liquors, in bond, in bulk, in tank trailers, from Peoria and Delavan, Ill., to Bardstown, Ky., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: D. J. Ander-

son, General Traffic Manager, Hiram Walker & Sons, Inc., Foot of Edmund St., Peoria, Ill. 61601. Send protests to: Elbert Brown, Jr., District Supervisor, Interstate Commerce Commission, 426 Post Office Bldg., Louisville, Ky. 40202.

No. MC 112750 (Sub-No. 339TA), filed February 18, 1977. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents and written instruments* (except currency and negotiable securities), as are used in the business of banks and banking institutions, from Berlin, N.H., to Boston, Mass., under a continuing contract with The Berlin City Bank; and North Country Bank, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: (1) The Berlin City Bank, 9 Main St., Berlin, N.H. 03570. (2) North Country Bank, Box 6, Berlin, N.H. 03570. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 114632 (Sub-No. 100TA), filed February 16, 1977. Applicant: APPLE LINES, INC., 212 S.W. Second St., P.O. Box 287, Madison, S. Dak. 57042. Applicant's representative: Robert T. Meisner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and bone chews*, from the plantsites and facilities of Sanna Division of Beatrice Foods Co., at Menomonie, Wesper, Cameron, Wisconsin Rapids and Eau Claire, Wis., to points in Maine, Vermont, New Hampshire, Rhode Island, Massachusetts, Connecticut, New York, Pennsylvania, New Jersey, Maryland, Virginia and Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Sanna Division of Beatrice Foods Co., 2801 W. Beltline Hwy., P.O. Box 8046, Madison, Wis. 53708. Send protest to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Bldg., Pierre, S. Dak. 57501.

No. MC 114969 (Sub-No. 59TA), filed February 16, 1977. Applicant: PROPANE TRANSPORT, INC., 1734 State Route 131, P.O. Box 232, Milford, Ohio 45150. Applicant's representative: James M. Roudebush (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquified petroleum gas*, in bulk, in tank vehicles, from the International Boundary at or near Pt. Huron, Mich., to points in Indiana, Michigan and Ohio, for 180 days. Supporting shippers: California Liquid Gas Corporation, P.O. Box 28397, 8401 Gerber Road, Sacramento, Calif. 95828. Columbia Hydrocarbon Corporation, P.O. Box 575, South Shore, Ky. 41175. Dome Petroleum Limited, P.O. Box 200, Calgary, Alberta T2P 2H8. Y. M. Inc., P.O. Box 2011, Wapakoneta, Ohio 45895. Send protests to: Paul J. Lowry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5514–B Federal Bldg., 550 Main St., Cincinnati, Ohio 45202.

No. MC 114969 (Sub-No. 60TA), filed February 15, 1977. Applicant: PROPANE TRANSPORT, INC., 1734 State Route 131, P.O. Box 232, Milford, Ohio 45150. Applicant's representative: James M. Roudebush (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry mixed fertilizer*, in bulk, or in bags, from Peru and Butler, Ind., to points in Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kaiser Agricultural Chemicals, Division of Kaiser Aluminum & Chemical Corp., P.O. Box 246, Savannah, Ga. 31402. 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 116763 (Sub-No. 366TA), filed February 16, 1977. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, Ohio 45380. Applicant's representative: H. M. Richters (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles, containers, woodpulp articles, dishes, plates, and trays*, from the facilities of Huntsman Container Corporation, at or near Memphis, Tenn., to Miami, Fla.; Atlanta, Ga.; Chicago, Ill.; New Orleans, La.; Independence, Joplin, Kansas City, St. Louis, Mo.; Oklahoma City, Okla.; Arlington, Dallas, Gonzales, Houston and Savoy, Tex.; points in Arkansas and the District of Columbia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Huntsman Container Corporation, a Wholly owned subsidiary of Keyes Fibre Company, Waterville, Maine 04901. Send protests to: Paul J. Lowry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5514–B Federal Bldg., 550 Main St., Cincinnati, Ohio 45202.

No. MC 117820 (Sub-No. 11TA), filed February 18, 1977. Applicant: AURELIA TRUCKING CO., 2136 Pine Grove Ave., Port Huron, Mich. 48060. Applicant's representative: Robert D. Schuler, 100 W. Long Lake Road, Suite 102, Bloomfield Hills, Mich. 48013. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products*, in vehicles equipped with mechanical refrigeration, from the plantsite of C. F. Burger Creamery Co., in Detroit, Mich., to points in Wisconsin and Minnesota, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: C. F. Burger Creamery Co., Vice President, General Manager, Edmund J. Gruber, 8230 E. Forest St., Detroit, Mich. 48214. Send protests to: James A. Augustyn, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1110 Broderick Tower, 10 Witherell Ave., Detroit, Mich. 48226.

No. MC 118159 (Sub-No. 198TA), filed February 18, 1977. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366-Dawson Station, Tulsa, Okla. 74151. Applicant's representative: Warren Taylor (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood doors, unfinished, prefinished, and plastic covered*, from Rohnert Park, Calif., to points in Montana, Wyoming, Colorado, New Mexico, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Wisconsin, Illinois, Michigan, Indiana, Ohio, Kentucky, Tennessee, Mississippi, Alabama, Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Maryland, West Virginia, Virginia, North Carolina, South Carolina, Florida Georgia and Delaware, for 180 days. Supporting shipper: Cal-Wood Door, P.O. Box 1656, Santa Rosa, Calif. 95402. Send protests to: Joe Green, District Supervisor, Room 240 Old Post Office Bldg., 215 N. W. Third St., Oklahoma City, Okla. 73102.

No. MC 119726 (Sub-No. 83TA), filed February 16, 1977. Applicant: N.A.B. TRUCKING CO., INC., 3220 Bluff Road, Indianapolis, Ind. 46217. Applicant's representative: James L. Beattey, 130 E. Washington St., Suite 1000, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles; containers; woodpulp articles, dishes, plates and trays*, from the facilities of Huntsman Container Corporation, at or near Memphis, Tenn., to Miami, Fla.; Atlanta, Ga.; Chicago, Ill.; New Orleans, La.; Independence, Joplin, Kansas City, and St. Louis, Mo.; Oklahoma City, Okla.; Arlington, Dallas, Gonzales, Houston and Savoy, Tex.; points in Arkansas and the District of Columbia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Keyes Fibre Company, Waterville, Maine 04901. Send protests to: William Ennis, District Supervisor, Interstate Commerce Commission, Federal Bldg., and U.S. Courthouse, 46 E. Ohio St., Room 429, Indianapolis, Ind. 46204.

No. MC 119789 (Sub-No. 325TA), filed February 16, 1977. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). 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 de-

scribed 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 St. Joseph, Mo., to points in New York, New Jersey, Maine, Maryland, Massachusetts, Connecticut, Virginia and Pennsylvania, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Armour Food Company, 111 W Clarendon, Greyhound Tower, Phoenix, Ariz. 85077. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75242.

No. MC 123233 (Sub-No. 65TA), filed February 18, 1977. Applicant: PROVOST CARTAGE INC., 7887 Grenache St., Ville d'Anjou, Quebec, Canada H1J 1C4. Applicant's representative: J. P. Vermette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dimethylamine*, in bulk, in tank vehicles; and (2) *Tetrahydrofurane*, in bulk, in tank vehicles; (1) from Grasselli, N.J., to the Ports of Entry on the International Boundary Line between the United States and Canada located in New York; and (2) from Grasselli, N.J., and Niagara Falls, N.Y., to the Ports of Entry on the International Boundary Line between the United States and Canada located in New York, restricted in (1) and (2) to the transportation of traffic having an immediate subsequent movement in foreign commerce in through single line service destined to points in Ontairo, Canada, for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Courtaulds (Canada) Limited, 1150 Montreal Road, Cornwall, Ontario, Canada. Send protest to: David A. Demers, District Supervisor, Interstate Commerce Commission, P.O. Box 548, 87 State St., Montpelier, Vt. 05602.

No. MC 123233 (Sub-No. 66TA), filed February 18, 1977. Applicant: PROVOST CARTAGE INC., 7887 Grenache St., Ville d'Anjou, Quebec, Canada H1J 1C4. Applicant's representative: J. P. Vermette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *High fructose corn syrup*, in bulk, in tank vehicles, from Clinton, Iowa and Detroit, Mich., to the Ports of Entry on the International Boundary Line between the United States and Canada located in Michigan and New York, restricted to the transportation of traffic having an ammediate subsequent movement in foreign commerce in through local single line service, for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Clinton Corn Processing, Inc., Subsidiary of Standard Brands, Inc., P.O. Box 340, Clinton, Iowa 52732. Send protests to: David A. Demers, District Supervisor, Interstate Commerce Commission, P.O. Box 548, 87 State St., Montpelier, Vt. 05602.

No. MC 124939 (Sub-No. 10TA), filed February 17, 1977. Applicant: FOOD HAUL, INC., 1215 W. Mound St., Rear, P.O. Box 23394, Columbus, Ohio 43223. Applicant's representative: J. A. Kundtz, National City Bank Bldg., Cleveland, Ohio 44114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail and chain grocery and food business houses, and in connection therewith, equipment, materials and supplies used in the conduct of such business, between points in Ohio, Indiana, Tennessee, Kentucky, West Virginia and that part of Pennsylvania on and west of U.S. Highway 15 and between points in the above-specified territory, on the one hand, and, on the other, Chicago, Ill.; Baltimore and Landover, Md.; Detroit, Mich., and Charlotte, N.C., under a continuing contract with The Great Atlantic & Pacific Tea Company, Inc., for 180 days. Supporting shipper: The Great Atlantic & Pacific Tea Company, Inc., Two Paragon Drive, Montvale, N.J. 07645. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Bldg., and United States Courthourse, 85 Marconi Blvd., Columbus, Ohio 43215.

No. MC 133233 (Sub-No. 50TA), filed February 17, 1977. Applicant: CLARENCE L. WERNER, doing business as WERNER ENTERPRISES, 805 32nd Ave., P.O. Box 831, Council Bluffs, Iowa 51501. Applicant's representative: Donald L. Stern, 530 Univac Bldg., Omaha, Nebr. 68106. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry macaroni products*, from the facilities of Skinner Macaroni Company, at Omaha, Nebr., to points in Alabama, Arkansas, Georgia, Kansas, Kentucky, Louisiana, Minnesota, Missouri, Mississippi, North Carolina, South Carolina, Tennessee, Texas, Virginia and West Virginia, under a continuing contract with Skinner Macaroni Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: George Boand, Traffic Manager, Skinner Macaroni Company, 6858 "F" St., Omaha, Nebr. 68117. Send protests to: Carroll Aussell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 134150 (Sub-No. 11TA), filed February 17, 1977. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., doing business as SOUTHWEST MOTOR FREIGHT, 2931 S. Market St., Chattanooga, Tenn. 37410. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Heating and air conditioning equipment, and ranges, refrigerators, dish washers, disposals, range hoods, and materials, equipment and supplies* used in the manufacture, production and distribution of the commodities above, from Cleveland, Tenn., to the facilities of Gaffers & Sattler, Inc., located at or near Los Angeles and City of Industry, Calif. Restriction: Restricted to a transportation service to be performed under a continuing contract with Gaffers & Sattler, Inc., further restricted to traffic originating at the named origin point and destined to the facilities of Gaffers & Sattler, Inc., at or near Los Angeles and City of Industry, Calif., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Gaffers & Sattler, Inc., 4851 S. Alameda St., Los Angeles, Calif. 90058. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422 U.S. Courthouse, 801 Broadway, Nashville, Tenn. 37219.

No. MC 134755 (Sub-No. 91TA), filed February 17, 1977. Applicant: CHARTER EXPRESS, INC., 1959 E. Turner St., P.O. Box 3772, Springfield, Mo. 65804. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. 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 Ft. Morgan, Colo., to points in Maryland, Pennsylvania, New York, Massachusetts, New Jersey, Connecticut, Rhode Island, Maine, New Hampshire and Vermont, for 180 days. Supporting shipper: Morgan Colorado Beef Company, P.O. Box 487, Ft. Morgan, Colo. 80701. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Office Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 138627 (Sub-No. 17TA), filed February 18, 1977. Applicant: SMITHWAY MOTOR XPRESS, INC., P.O. Box 404, Route 4, Fort Dodge, Iowa 50501. Applicant's representative: Arlyn L. Westergren, Suite 530, Univac Bldg., 7100 W. Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap railroad cars;* (1) from Joliet, Ill., to St. Louis County, Mo.; Douglas County, Nebr.; and Webster and Pottawattamie Counties, Iowa; and (2) from Pottawattamie County, Iowa, to Nez Perce County, Idaho; and points in Missouri, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Northland Sales & Engineering Co., 7815 Douglas Ave., P.O. Box 3695, Des Moines, Iowa 50322. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commis-

sion, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 139618 (Sub-No. 1TA), filed February 18, 1977. Applicant: ASBURY WRIGHT, doing business as WRIGHT TRUCKING COMPANY, Box 67, Pinehurst, Ga. 31070. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 W. Peachtree St., N.W., Atlanta, Ga. 30309. Atuhority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural machinery, equipment, implements, tractors and parts therefor*, from Auburn, Nebr.; Colorado Springs, Colo.; Davenport, Iowa; Memphis, Tenn.; Moline, Ill.; Rock Island, Ill.; and Waterloo, Iowa, to points in Crisp and Dooly Counties, Ga.; for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Fox International, U.S. 19 South, Americus, Ga. International Tractor Co., Pinehurst, Ga. Cordele Implement Company, 412 N. 7th St., Cordele, Ga. 31051. Lewis Truck & Tractor Co., P.O. Box 4, Valley Drive, Perry, Ga. McCranie Tractor, 341 By-Pass, Hawkinsville, Ga. 31036. Send protests to: G. H. Fauss, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 W. Bay St., Jacksonville, Fla. 32202.

No. MC 139999 (Sub-No. 21TA), filed February 18, 1977. Applicant: RED-FEATHER FAST FREIGHT, INC., 2606 N. 11th St., Omaha, Nebr. 68110. Applicant's representative: Arlyn L. Westergren, Suite 530 Univac Bldg., 7100 W. Center Road, Omaha, Nebr. 68106. 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* (except hides and commodities in bulk), from the plantsite and facilities of Great Plains Beef Packers Co., at Omaha, Nebr., to points in its commercial zone, to points in Illinois, Indiana, Ohio, Michigan, Pennsylvania, New York, New Jersey and Massachusetts, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Larry Buckminster, Transportation Manager, Great Plains Beef Packers Co., 2700 23rd Ave., Council Bluffs, Iowa 51501. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 142555 (Sub-No. 1TA), filed February 16, 1977. Applicant: EMERSON DELIVERY, INC., 200 32nd St., Drive, S.E., Cedar Rapids, Iowa 52406. Applicant's representative: James M. Hodge, 1980 Financial Center, Des Moines, Iowa 50309. 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, those requiring special equipment, foodstuffs, feed and feed ingredients, fertilizer, chemicals, and petroleum products), from Cedar Rapids, Iowa, to points in the United States (except Alaska and Hawaii). Restriction: The above authority is restricted to the transportation of emergency shipments, not to exceed 15,000 pounds from one consignor on any one day, and is restricted to shipments moving only in straight trucks, van trucks, pickup trucks or automobiles, and further restricted to traffic originating at Cedar Rapids, Iowa, and points in its Commercial Zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: FMC Corp, Crane & Excavating Div., 1201 6th St., N.W.; Stamats Publishing Company, 427 6th Ave., S.E.; and Fisher Printers, Inc., 2121 N. Towne Lane, N.E., Cedar Rapids, Iowa 52406. Send protests to: Herbert W. Allen, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 142923TA, filed February 18, 1977. Applicant: FLASH EXPRESS CO., INC., 30 Park Ave., P.O. Box 281, Englishtown, N.J. 07726. Applicant's representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, N.J. 08904. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Waste water treatment and pumping equipment units, and materials and supplies* used in connection and installation therewith (except in bulk), from points in New Jersey, to points in the United States east of the Mississippi River, and St. Louis, Mo.; *and Materials and supplies* used in the manufacturing of waste water treatment and pumping equipment units (except in bulk), from points in the United States east of the Mississippi River, and St. Louis, Mo., to points in New Jersey, under a continuing contract with Remsco Associates, Englishtown, N.J., for 180 days. Supporting shipper: Remsco Associates, 30 Park Ave., Englishtown, N.J. 07726. Send protests to: Dieter H. Harper, District Supervisor, Interstate Commerce Commission, 428 E. State St., Room 204, Trenton, N.J. 08608.

No. MC 142924TA, filed February 17, 1977. Applicant: KENNETH D. STEWART, doing business as STEWART'S CONTRACT SERVICE, Box 161, Kanona, N.Y. 14856. Applicant's representative: Roy D. Pinsky, 345 S. Warren St., Syracuse, N.Y. 13202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New tires and tire tubes*, from Memphis, Tenn., to the following points in New York, Alexandria Bay, Auburn, Bainbridge, Bath, Binghamton, Buffalo, Canton, Cazenovia, Constantia, Chittenango, Clayton, Cortland, Corning, Dansville, East Aurora, East Otto, Elmira, Fulton, Geneva, Gouverneur, Hamden, Heuvelton, Hornell, Horseheads, Ithaca, Kanona, Lockport, Losbon, Margaretville, Massena, Mt. Morris, Niagara Falls, Norwich, Ogdensburg, Oneida, Oneonta, Owego, Penn Yan, Potsdam, Richfield Springs, Shawnee, Sidney, Syracuse, Tonawanda, Tupper Lake, Unadilla, Waterloo, Watertown, Waverly and Wayland; from Memphis, Tenn., to the following points in Pennsylvania: Berwick, Bradford, Canton, Danville, Erie, Lewisburg, Middleburg, Mifflinburg, Mt. Carmel, New Bethlehem, Northumberland, Shamokin, Shamokin Dam, Sunbury, Tonawanda, Troy, Waverly and Warren, under a continuing contract with Mohawk Rubber Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kenneth M. Miller, General Manager, Mohawk Rubber Company, 123 Second Ave., Akron, Ohio 44309. Send protests to: Morris H. Gross, District Supervisor, Interstate Commerce Commission, U.S. Courthouse and Federal Bldg., 100 S. Clinton St., Room 1259, Syracuse, N.Y. 13202.

No. MC 142925TA, filed February 16, 1977. Applicant: A.C.B. TRUCKING, INC., P.O. Box 1683, 2344 Sagamore N., Lafayette, Ind. 47902. Applicant's representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, Wis. 54956. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, medicines* and chemicals, in vehicles equipped with mechanical refrigeration, from Dayton, Ohio and Elkhart, Ind., to points in Arizona, California, Nevada, New Mexico, Oregon, Utah, Washington, and for stopping off for partial unloading in Denver, Colo., and the Denver commercial zone, under a continuing contract with Miles Laboratories, Inc., for 180 days. Supporting shipper: Miles Laboratories, Inc., 1127 Myrtle St., Elkhart, Ind. 46514. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 W. Wayne St., Suite 113, Fort Wayne, Ind. 46802.

No. MC 142927TA, filed February 17, 1977. Applicant: DAVID C. LINDSEY, doing business as APOLLO TRUCKING, 11805 Arlis Way, Grand Terrace, Calif. 92324. Applicant's representative: William J. Monheim, 15942 Whittier Blvd., P.O. Box 1756, Whittier, Calif. 90609. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic, paper, and pulpboard articles* moving in ocean containers, for subsequent movement by water, from Riverside, Calif., to points in the Los Angeles Harbor Commercial Zone, as defined by the Commission, under a continuing contract with Lily Division of Owens-Illinois, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Lily Division of Owens-Illinois, Inc., 800 Iowa Ave., Riverside, Calif. 92507. Send protests to: Mary Alice Francy, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, Room 1321 Federal Bldg., 300 N. Los Angeles St., Los Angeles, Calif. 90012.

PASSENGER APPLICATION

No. MC 142926TA, filed February 22, 1977. Applicant: STEPHEN R. PATTI, doing business as ROYAL BLUE COACHES, 321 Warren St., Phillipsburg, N.J. 08865. Applicant's representative:

Thomas J. Kelly, Jr., 93 S. Main St., Phillipsburg, N.J. 08865. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers*, from Alpha, Warren County, N.J., thru S. Main St., and N. Main St., Phillipsburg, N.J., to joint toll bridge, to Centre Square in Easton, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 29 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: Joel Morrows, District Supervisor, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-6454 Filed 3-2-77;8:45 am]

[Notice No. 128]

MOTOR CARRIER TRANSFER PROCEEDINGS

MARCH 3, 1977.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212a(b) in connection with transfer application under Section 212a(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-76991. By application filed February 23, 1977, ARTHUR E. PAMIN, JR. and STEVEN V. BIDLAKE, a partnership, d.b.a. MOLITOR TRUCKING, 6450 Highway 10 West, Missoula, MT 59801, seeks temporary authority to transfer the operating rights of M. S. MOLITOR, an individual, d.b.a. MOLITOR TRUCKING, P.O. Box 259, Boulder, MT 59632. The transfer to ARTHUR E. PAMIN, JR. and STEVEN V. BIDLAKE, a partnership, d.b.a. MOLITOR TRUCKING of the operating rights of M. S. MOLITOR, an individual, d.b.a. MOLITOR TRUCKING, is presently pending.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-6458 Filed 3-2-77;8:45 am]

[S.O. No. 1252; Order No. 7, Amdt. No. 1]

WATERLOO RAILROAD CO.

Rerouting Traffic

Upon further consideration of I.C.C. Order No. 7 (Waterloo Railroad Company), and good cause appearing therefor:

It is ordered, that:

I.C.C. Order No. 7 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., April 30, 1977, unless otherwise modified, changed, or suspended.

It is further ordered, that this amendment shall become effective at 11:59 p.m., February 28, 1977, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., February 22, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-6456 Filed 3-2-77;8:45 am]

[Vol. No. 6]

PETITIONS FOR MODIFICATION, INTERPRETATION OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

FEBRUARY 25, 1977.

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission on or before April 4, 1977. Such protest shall comply with special Rule 247(d) of the Commission's *General Rules of Practice* (49 CFR 1100.247)[1] and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner in no representative is named.

No. MC 22593 (Sub-No. 2) (Notice of filing of petition to modify commodity description), filed February 9, 1977. Petioner: RICO TRANSPORTATION CO., INC., 125 Hillside Avenue, South River, N.J. 08882. Petitioners' Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, N.J. 08904. Petitioner holds a motor *common carrier* Certificate in No. MC 22593 (Sub-No. 2) issued September 16, 1974, authorizing transportation over irregular routes, of *clay products and refractory products*, between points in Middlesex County, N.J., on the one hand, and, on the other, points in Connecticut, New York, New Jersey, and Pennsylvania within 150 miles of South River, N.J.; *undeliverable or refused clay products and refractory products*, upon original movement from points in Middlesex County, N.J., between points in Connecticut, New York, New Jersey, and Pennsylvania within 150 miles of South River, N.J.; and *brick, building blocks, and refractory products*, from Sayreville, N.J., to points in Connecticut, Delaware, Maryland, Massachusetts, New York, Pennsylvania, Rhode Island, Virginia, and the District of Columbia which are located within 250 miles of Sayreville, N.J.; the separately stated grants of operating authority shall not be joined or tacked directly or indirectly one to another for the purpose of performing any through transportation service.

By the instant petition, petitioner seeks to modify the above authority by deleting "clay products" from the commodity descriptions and substituting in lieu thereof "*culvert pipes and tanks*".

No. MC 61592 (notice of filing of petition for modification of commodity description), filed February 7, 1977. Petitioner: JENKINS TRUCK LINE, INC., R.R. 3, Box 697, Jeffersonville, Ind. 47130. Petitioner's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Petitioner holds a motor *common carrier* Certificate in No. MC 61592, issued January 10, 1975, authorizing transportation, as pertinent, over irregular routes, of *machinery and parts*, between Moline, Ill., and points within 10 miles of Moline, on the one hand, and, on the other, St. Louis, Mo., Omaha, Nebr., points in Iowa, points in that part of Wisconsin on and south of a line beginning at the Wisconsin-Minnesota State line, and extending along U.S. Highway 10 to junction unnumbered highway near Nelsonville, Wis., thence along unnumbered highway via Nelsonville to junction U.S. Highway 10, thence along U.S. Highway 10 to junction unnumbered highway near Weyauwega, Wis., thence along unnumbered highway via Weyauwega to junction U.S. Highway 10, and thence along U.S. Highway 10 to the shore of Lake Michigan at Manitowoc, Wis., and points in Illinois on and north of a line beginning at the Illinois-Missouri State line, and extending along U.S. Highway 40 via Collinsville, Ill., to junction Alternate U.S. Highway 40, thence along Alternate U.S. Highway 40 via Greenville, Smithboro, Mulberry Grove, Hagerstown, and Vandalia, Ill., to junction U.S. Highway 40, thence along U.S. Highway 40 to junction unnumbered highway near Casey, Ill., thence along unnumbered highway via Casey and Martinsville, Ill., to junction U.S. Highway 40, thence along U.S. Highway 40 to junction unnumbered highway near Marshall, Ill., thence along unnumbered highway via Marshall to junction U.S. Highway 40, and thence along U.S. Highway 40 to the Illinois-Indiana State Line.

By the instant petition, petitioner seeks to modify the above commodity description to read: "(A) *Machinery and parts;* (B) *commodities*, the transportation of which because of size or weight, requires the use of special equipment, and of related machinery parts and related contractors' materials and supplies, when their transportation is incidental to the transportation by applicant of

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

commodities which by reason of size or weight require special equipment; and (C) *self-propelled articles*, each weighing 15,000 pounds or more, related to machinery, tools, parts, materials and supplies when the transportation is incidental to the transportation of self-propelled articles each weighing 15,000 pounds or more, restricted against the transportation of agricultural implements and parts, pumps and pump parts and castings, and pressure and water softener tanks and tractors weighing less than 15,000 pounds."

No. MC 63258 (Notice of filing of petition for reinstatement of authority), filed December 1, 1976. Petitioner: ALEXANDER CARLUCCI, 1895 West 7th Street, Piscataway, N.J. 08854. Petitioner's representative: Alex Carlucci, Jr., (Same address as petitioner). Petitioner formerly held motor *contract carrier* authority in No. MC 63258, issued August 18, 1943, and revoked in No. MC-C-2376 by Order dated October 20, 1958, and effective December 4, 1958. The revoked authority authorized operation in interstate or foreign commerce, under special and individual contracts or agreements, with persons (as defined in section 203 (a) of the Interstate Commerce Act) who operate wholesale grocery houses, the business of which is the sale of food, for the transportation of *groceries and such commodities*, as are dealt in by wholesale and retail grocery houses, over irregular routes, between points in Bergen, Hudson, Essex, Passaic, Union, Middlesex, Morris, and Somerset Counties, N.J., on the one hand, and, on the other, New York, N.Y., and points in Westchester, Nassau, and Suffolk Counties, N.Y.

By the instant petition, filed by petitioner's Successor-In-Interest, petitioner seeks to have the above revoked authority reinstated. Petitioner states that notice was never received concerning the revocation proceedings.

No. MC 87928 (Sub-No. 46) (notice of filing of petition to remove restriction), filed February 3, 1977. Petitioner: AUTOMOBILE TRANSPORT, INC., 36555 Michigan Avenue, P.O. Box 805, Wayne, Mich. 48186. Petitioner's representative: Eugene C. Ewald, 100 West Long Lake Road, Suite 102, Bloomfield Hills, Mich. 48013. Petitioner holds a motor *common carrier* Certificate in No. MC 87928 (Sub-No. 46), issued February 25, 1976, authorizing transportation over irregular routes, of *motor homes*, in secondary movements, in truckaway service, when moving in mixed loads with automobiles and trucks (otherwise authorized), (1) between points in Connecticut, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Vermont, Virginia, and the District of Columbia; (2) between points in Illinois, Indiana, Kentucky, Michigan, Ohio, Virginia, West Virginia, North Carolina, South Carolina, Tennessee, and that part of Pennsylvania on and west of U.S. Highway 219; (3) between points in Delaware and Rhode Island; (4) between points in Delaware and Rhode Island, on the one hand, and, on the other, points in Connecticut, Maryland, Massachusetts, New Jersey, New York, Pensylvania, Vermont, Virginia, and the District of Columbia; (5) between points in North Carolina, South Carolina, and Tennessee, on the one hand, and, on the other, points in Maryland, New Jersey, New York, Connecticut, Massachusetts, Vermont, points in that part of Pennsylvania east of U.S. Highway 219, and the District of Columbia; (6) between points in Michigan, Illinois, Indiana, and Ohio, on the one hand, and, on the other, points in Vermont, Massachusetts, Connecticut, New York, New Jersey, and points in that part of Pennsylvania east of U.S. Highway 219;

(7) between points in Maryland and the District of Columbia, on the one hand, and, on the other, points in Ohio, Indiana, Illinois, and Michigan; (8) between points in Kentucky, on the one hand, and, on the other, points in Maryland, New Jersey, New York, Connecticut, Massachusetts, Vermont, and the District of Columbia, and that part of Pennsylvania east of U.S. Highway 219; (9) between points in West Virginia, on the one hand, and, on the other, points in Vermont, Massachusetts, Connecticut, New York, New Jersey, that part of Pennsylvania east of U.S. Highway 219, and that part of Maryland in and east of Frederick County, Md., and the District of Columbia; (1) between points in Garrett, Allegany and Washington Counties, Md., on the one hand, and, on the other, points in that part of West Virginia, in, west, and south of Pendleton, Randolph, Barbour, Taylor, and Monongahela Counties, W. Va.; (11) between points in Delaware and Rhode Island, on the one hand, and, on the other, points in Michigan, Illinois, Indiana, Kentucky, Ohio, West Virginia, Tennessee, South Carolina and North Carolina; and (12) from places of manufacture and assembly in Wayne County, Mich., and Warren Township, Macomb County, Mich., to points in Tennessee, South Carolina and North Carolina.

By the instant petition, petitioner seeks to delete the restriction, "when moving in mixed loads with automobiles and trucks (otherwise authorized)," from the above authority.

No. MC 109515 (Sub-No. 7) (Notice of Filing of Petition to Renew Explosives Authority), filed February 4, 1977. Petitioner: OZELLA HARRINGTON, Box 604, Benson, Ariz. 85602. Petitioner's representative: William J. Lippman, 1819 H Street, N.W., Washington, D.C. 20006. Petitioner previously held a motor *contract carrier* Permit in No. MC 109515 (Sub-No. 7) which expired January 17, 1976, which authorized the transportation over irregular routes, of *classes A and B explosives, nitro carbo nitrate, and blasting supplies and accessories*, from Curtiss, Ariz., to the site of the Ozark Lead Company's mines located approximately 20 miles northwest of Ellington, Mo., under a continuing contract, or contracts, with Apache Powder Company, located at Curtiss, Ariz. By the instant petition, petitioner seeks to renew the above explosives authority for another five year term.

No. MC 125550 and (Sub-Nos. 1, 2, 3, 4, 5, 6, and 7 (Notice of Filing of Petition to Modify Permits), filed December 28, 1976. Petitioner: THE HELLER COMPANY, a corporation, 2nd and Glenwood Avenue, P.O. Box 4406, Philadelpia, Pa. 19140. Petitioner's representative: Charles J. Williams, 1815 Front Street, Scotch Plains, N.J. 07076. Petitioner holds motor *contract carrier* Permits in No. MC 125550 and (Sub-Nos. 1, 2, 3, 4, 5, 6, and 7) issued June 19, 1964, June 22, 1965, June 2, 1976, July 1, 1968, March 13, 1969, July 24, 1969, July 24, 1969, and October 17, 1969, respectively, authorizing transportation (1) in MC 125550, over irregular routes, of *electrical fixtures and component parts thereof and metal housewares, metal utility buildings, and metal houseware products* manufactured by Stanley Electric Manufacturing Company and sold by Stanley Electric Manufacturing Company, and under the trade names of William Heller Company, Inc., and the Warwick Company, Inc., from Altoona, Pa., to Atlanta, Ga., Kansas City, Mo., Detroit Mich., Dallas, Tex., and Denver, Colo.; and *materials* used in the manufacture of the above specified commodities, from the above-specified destination points, to Altoona, Pa., under a continuing contract, or contracts, with Stanley Electric Manufacturing Company, at Altoona, Pa.; (2) in No. MC 125550 (Sub-No. 1) over irregular routes, of *electrical fixtures and component parts thereof, metal housewares and houseware products, and metal utility buildings*, from Altoona, Pa., to Boston, Mass., Camden, N.J., Chicago, Ill., Indianapolis, Ind., Rochester, N.Y., points in California, and the District of Columbia; and *materials* used in the manufacture of the above-specified commodities, from Boston, Mass., Camden, N.J., Chicago, Ill., Columbia, S.C., Danville, Ill., Mendenhall, Miss., and points in California, to Altoona, Pa., restricted against the transportation of commodities which because of their size or weight require the use of special equipment and commodities in bulk, between Altoona, Pa., and Boston, Mass., under a continuing contract, or contracts, with Stanley Electric Manufacturing Company, at Altoona, Pa.;

(3) In No. MC 125550 (Sub-No. 2) irregular routes, of *electrical fixtures, metal housewares and houseware products, and metal utility buildings*, knocked down, from Altoona, Pa., to Minneapolis and St. Paul, Minn., Milwaukee, Wis., St. Louis, Mo., Omaha, Nebr., Phoenix, Ariz., Des Moines, Iowa, Oklahoma City, Okla., and points in Florida and Texas; and *materials* used in the manufacture of the above-specified commodities, from the above-described destination points, to Altoona, Pa., restricted against the transportation of such commodities in bulk, under a continuing contract, or contracts, with Stanley Electric Manufacturing Company, at Altoona, Pa.; (4) in NO. MC 125550 (Sub-No. 3) over irregular routes, of *electrical fixtures, metal housewares, metal houseware*

products, and metal utility buildings, knocked down, from the plantsite of Stanley Electric Manufacturing Company located at Altoona, Pa., to Hartford, Conn., Syracuse, N.Y., Youngstown, Cincinnati, and Cleveland, Ohio, Memphis, Tenn., and points in Wisconsin, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Oklahoma, Kansas, Nebraska, South Dakota, North Dakota, Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, Idaho, Washington, Oregon, and Nevada; and *materials* (except commodities in bulk), used in the manufacture of the above-specified commodities, from the above-specified destination points to the plantsite of Stanley Electric Manufacturing Company located at Altoona, Pa., under a continuing contract, or contracts, with Stanley Electric Manufacturing Company;

(5) In No. MC 125550 (Sub-No. 4) over irregular routes, *of electrical fixtures, metal housewares and houseware products, and metal utility buildings*, knocked down, from the plantsite of Stanley Electric Manufacturing Company located at Altoona, Pa., to points in Alabama, Georgia, Mississippi, North Carolina, South Carolina and Tennessee; and *materials* used in the manufacture of the above-specified commodities, from points in the above-named destination states, to the above-named plantsite, under a continuing contract, or contracts, with Stanley Electric Manufacturing Company located at Altoona, Pa.; (6) in No. MC 125550 (Sub-No. 5) over irregular routes, *of electrical fixtures, metal housewares and houseware products, and metal utility buildings*, knocked down, from Altoona, Pa., to points in Ohio (except Cincinnati, Cleveland, and Youngstown), Indiana (except Indianapolis), Illinois (except Chicago), and Michigan (except Detroit); and *materials* used in the manufacture of the above-described commodities, from points in Ohio (except Cincinnati, Cleveland, and Youngstown), Indiana, Illinois (except Chicago and Danville), and Michigan (except Detroit), to Altoona, Pa., under a continuing contract, or contracts, with Stanley Electric Manufacturing Company located at Altoona, Pa.; (7) in No. MC 125550 (Sub-No. 6) over irregular routes, of *electrical fixtures, metal housewares, and houseware products and metal utility buildings*, knocked down, from Altoona, Pa., to points in Virginia, West Virginia, Kentucky, and Marylarfd; and *materials* used in the manufacture of the above-described commodities, from points in Virginia, West Virginia, Kentucky and Maryland, to Altoona, Pa., restricted against performing any transportation to or from Amcelle, Cumberland and Ellerslie, Md., under a continuing contract, or contracts, with Stanley Electric Manufacturing Company, at Altoona, Pa.; and

(8) In No. MC 125550 (Sub-No. 7) over irregular routes, of *electrical fixtures, metal housewares and houseware products, and metal utility buildings*, knocked down, from the plantsite of Stanley Electric Manufacturing Company located at Altoona, Pa., to points in New Jersey, Delaware, New York, Connecticut, Massachusetts, Rhode Island, Vermont, New Hampshire, and Maine; and *materials* used in the manufacture of the above-specified commodities, from the destination points specified above, to the plantsite of Stanley Electric Manufacturing Company located at Altoona, Pa., under a continuing contract, or contracts, with Stanley Electric Manufacturing Company located at Altoona, Pa. By the instant petition, petitioner seeks (a) to reflect, with respect to all the above Permits, "Lighting By Stanley, Inc." as the contracting shipper, in lieu of "Stanley Electric Manufacturing Company; (b) to delete, with respect to the lead Permit and (Sub-Nos. 1, 2, 5, and 6), Altoona, Pa., from the territorial description, and substitute in lieu thereof," Saddle Brook, N.J.; and (c) to delete, with respect to (Sub-Nos. 3, 4, and 7), Stanley Electric Manufacturing Company located at Altoona, Pa., from the territorial description, and substitute in lieu thereof, "Lighting By Stanley, Inc., located at Saddle Brook, N.J."

No. MC 141358 (Notice of filing of petition to modify Commodity Description), filed December 2, 1976. Petitioner: S & M CORP., 14 Middletown Avenue, North Haven, Conn. 06473. Petitioner's representative: Arthur Liberstein, P.O. Box 1409, 167 Fairfield Road, Fairfield, N.J. 07006. Petitioner holds a motor *contract carrier* Permit in No. MC 141358, issued February 14, 1977, authorizing transportation over irregular routes, of *such commodities* as are dealt in by retail department stores (except foodstuffs), between points in Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, and New Jersey, under a continuing contract, or contracts, with Giltex, Inc., of North Haven, Conn. By the instant petition, petitioner seeks to include "candy" in the above commodity description, but retain the above exception against foodstuffs other than candy.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application. Further processing steps will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing. Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 2202 (Sub-No. 528), filed January 14, 1977. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Blvd., P.O. Box 471, Akron, Ohio 44309. Applicant's representative: William O. Turney, Suite 1010, 7101 Wisconsin Avenue, Washington, D.C. 20014. 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), serving the plantsite and warehouse facilities of E. T. Barwick Industries, located at or near Lafayette and Hedges, Ga., as off-route points, in connection with applicant's present authority.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Atlanta, Ga. or Washington, D.C.

No. MC 2228 (Sub-No. 67), filed January 17, 1977. Applicant: MERCHANTS FAST MOTOR LINES, INC., Highway 80 East, P.O. Drawer 591, Abilene, Tex. 79604. Applicant's representative: Mike Cotten, P.O. Box 1148, Austin, Tex. 78767. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): (1) Between Bay City, Tex. and the junction

of Farm Road 521 and Texas Highway 35, serving the plantsite of South Texas Project Houston Lighting and Power Company, and all intermediate points: From Bay City over Texas highway 60 to its junction with Farm Road 521, thence over Farm Road to its junction with Texas Highway 35, and return over the same route; and (2) Between Bay City, Tex., and junction Farm Road 2668 and Farm Road 521, serving the plantsite of South Texas Project Houston Lighting and Power Company: From Bay City over Texas Highway 60 to its junction with Farm Road 2668, thence over Farm Road 2668 to its junction with Farm Road 521, and return over the same route.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Houston or Dallas, Tex.

No. MC 4405 (Sub-No. 545), filed January 14, 1977. Applicant: DEALERS TRANSIT, INC., 522 South Boston Ave., Enterprise Bldg., Tulsa, Okla. 74103. Applicant's representative: Alan Foss, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal and metal articles*, between Hazelwood, Mo., Tamaqua, Pa., Cucamonga, Calif., and Livia, Ky., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 19157 (Sub-No. 34), filed January 17, 1977. Applicant: McCORMACK'S HIGHWAY TRANSPORTATION, INC., R.D. 3, Box 4, Campbell Road, Schenectady, N.Y. 12306. Applicant's representative: Clem Tomlins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cameras, and commodities* used in the production, distribution, operation and sale of cameras (except commodities in bulk and those which because of size or weight require the use of special equipment), between Bettsville, Ohio, Clarksburg, W. Va., and Brockway, Pa., on the one hand, and, on the other, Penfield Center, N.Y.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Albany, N.Y. or Knoxville, Tenn.

No. MC 19157 (Sub-No. 35), filed January 18, 1977. Applicant: McCORMACK'S HIGHWAY TRANSPORTATION, INC., Route 3, Box 4, Campbell Road, Schenectady, N.Y. 12306. Applicant's representative: Clem Tomlins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rubber and rubber products and materials and supplies* used in manufacture of rubber and rubber products (except commodities in bulk and those which because of size or weight require the use of special equipment), (1) between Mountain View, Ala., on the one hand, and, on the other, points in Delaware, Maryland, Massachusetts, New Jersey, New York, Ohio, Pennsylvania, South Carolina, Virginia and West Virginia; and (2) between Hardin, Ohio, on the one hand, and, on the other, points in Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania and West Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Albany, N.Y. or Memphis, Tenn.

No. MC 35334 (Sub-No. 79), filed December 23, 1976. Applicant: COPPER-JARRETT, INC., 23 South Essex Ave., Orange, N.J. 07051. Aplicant's representative: Irving Klein, 371 Seventh Avenue, (Southgate Tower), New York, N.Y. 10001. 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 and those requiring special equipment, between points in Bell City, Cuba, Fairbanks, Harvy, Lynnville, Pilotoak and Tri City, Ky., on the one hand, and, on the other, Dukedom and Memphis, Tenn.

NOTE:—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Louisville, Ky.

No. MC 44639 (Sub-No. 91), filed January 14, 1977. Applicant: L & M EXPRESS CO., INC., 220 Ridge Road, Lyndhurst, N.J. 07071. Applicant's representative: Robert B. Russell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel and materials and supplies* used in the manufacture of wearing apparel (except commodities in bulk), between Dublin, Independence and Rural Retreat, Va., on the one hand, and, on the other Lyndhurst, N.J. and New York, N.Y.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y. or Newark, N.J.

No. MC 44783 (Sub-No. 7), filed January 12, 1977. Applicant: THE MAHONING EXPRESS COMPANY, a Corporation, Union Street, P.O. Box 563, Mineral Ridge, Ohio 44440. Applicant's representative: John P. McMahon, 100 E. Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal stampings*, between the plantsite of Bliss Manufacturing Company, located at Youngstown, Ohio, on the one hand, and on the other, the plantsite of Houdaille Corporation, Huntington Division, Huntington, W. Va.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Columbus, Ohio.

No. MC 51146 (Sub-No. 485), filed January 13, 1977. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, 2661 South Broadway, Green Bay, Wis. 54304. Applicant's representative: Neil A. DuJardin (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising materials, and returned empty malt beverage containers*, between South Volney, N.Y., on the one hand, and, on the other, points in Illinois, Indiana, Kentucky and Michigan.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 59856 (Sub-No. 72), filed January 21, 1977. Applicant: SALT CREEK FREIGHTWAYS, a Corporation, 3333 West Yellowstone, Casper, Wyo. 82601. Applicant's representative: John R. Davidson, Room 805, Midland Bank Building, Billings, Mont. 59101. 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 the use of special equipment), between Missoula, Mont. and Spokane, Wash., serving the off-route points of Spokane Industrial Park, located at or near Spokane, Wash., and the intermediate points of Mullan, Wallace, Kellogg and Coeur d'Alene, Idaho, on westbound shipments only, serving no intermediate points on eastbound shipments: From Missoula over Interstate Highway 90 (also U.S. Highway 10) to Spokane and return over the same route.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Missoula, Mont., or Spokane, Wash.

No. MC 83835 (Sub-No. 136), filed January 18, 1977. Applicant: WALES TRANSPORTATION, INC., P.O. Box 6186, Dallas, Tex. 75222. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, Tex. 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *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; and (2) *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, operations, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) 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, between points in

Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Rhode Island, South Carolina, and Virginia, on the one hand, and, on the other, points in the United States, including Alaska but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held on a consolidated record with other similar applications at Houston, Tex., Tulsa, Okla., San Francisco, Calif., or St. Louis, Mo.

No. MC 103926 (Sub-No. 53), filed January 13, 1977. Applicant: W. T. MAYFIELD SONS TRUCKING CO., a Corporation, P.O. Box 947, Mableton, Ga. 30059. Applicant's representative: K. Edward Wolcott, Suite 1600, First Federal Bldg., Atlanta, Ga. 30303. Authority sought to opreate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prestressed and precast concrete products*, from Columbus, Ga., to points in Alabama and Florida.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Columbus or Atlanta, Ga.

No. MC 106398 (Sub-No. 768), filed January 17, 1977. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, Okla. 74103. Applicant's representative: Irvin Tull (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood and plywood paneling*, finished and unfinished, and *accessories*, used in the installation thereof, from the plantsite and warehouse facilities of Ply Gem Manufacturing, at Gloucester, N.J., to points in Alabama, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Ohio, Oklahoma, South Dakota, Tennessee, and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Philadelphia, Pa.

No. MC 106398 (Sub-No. 769), filed January 17, 1977. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, Okla. 74103. Applicant's representative: Irvin Tull (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe, cable, conduit, wire, and strip steel, and attachments therefor*, from Glendale (Marshall County), W. Va., to points in Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, North Dakota, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Virginia, Wisconsin and the District of Columbia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Charleston, W. Va.

No. MC 106644 (Sub-No. 233), filed January 17, 1977. Applicant: SUPERIOR TRUCKING COMPANY, INC., 2770 Peyton Road, N.W., Atlanta, Ga. 30318. Applicant's representative: Hubert Johnson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used motorized step van delivery vehicles* each weighing less than 15,000 pounds transported on flatbed, lowboy or drop deck trailers, between points in the United States (except Alaska and Hawaii), restricted to a transportation service to be performed for Frito-Lay, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Austin, Tex., or Washington, D.C.

No. MC 107107 (Sub-No. 453) (Correction), filed December 23, 1976, published in the FR issue of February 10, 1977, and republished as corrected this issue. Applicant: ALTERMAN TRANSPORT LINES, INC., 12805 N.W. 42nd Avenue, Opa Locka, Fla. 33054. Applicant's representative: Ford W. Sewell (same address as applicant).

NOTE.—The purpose of this partial republication is to correct part (A)(10), as previously published, to read as follows: (A)(10) Between Fort Myers, Fla. and Fort Lauderdale, Fla: From Fort Myers, over Florida Highway 84 to Fort Lauderdale, and return over same route, serving the intermediate and off-route points in Florida east and south of a line formed by the eastern boundaries of Columbia, Gilchrist and Levy Counties, Fla., in (1) through (10) above, service at Tallahassee is restricted to traffic having a prior or subsequent movement in interchange or interline service. The rest of the publication remains the same.

HEARING: April 4–8, 1977, at 9:30 a.m. local time, at the Gold Key Inn, 7100 S. Orange Blossom Trail, Orlando Fla. Second session: Commencing April 11, 1977, at the Miami District Office of the Florida Public Service Commission, Suite 121, Koger Executive Center, 8400 N.W. 52nd St., Miami, Fla.

No. MC 107107 (Sub-No. 454), filed January 17, 1977. Applicant: ALTERMAN TRANSPORT LINES, INC., 12805 N.W. 42nd Avenue, Opa Locka, Fla. 33054. Applicant's representative: Ford W. Sewell (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from points in Florida, to Dallas and Fort Worth, Tex.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Orlando, Fla.

No. MC 107496 (Sub-No. 1059), filed January 4, 1977. Applicant: RUAN TRANSPORT CORPORATION, 3200 Ruan Center, 666 Grand Avenue, Des Moines, Iowa 50309. Applicant's representative: E. Check, P.O. Box 855, Des Moines, Iowa 50304. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum and petroleum products*, in bulk, (a) from the Chevron pipeline terminal, located at or near Pocatello, Idaho, to points in Wyoming; and (b) from points in Mead, Perkins, Ziebach, Dewey, Corson, and Haakon Counties, S. Dak., to points in Morton, Oliver, Burleigh and Starke Counties, N. Dak.; and (2) *LPG*, in bulk, from Memphis, Tenn., to points in Alabama, Arkansas, Mississippi, Missouri, and Tennessee.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo., or Chicago, Ill.

No. MC 107615 (Sub-No. 8), filed January 18, 1977. Applicant: UNTCO, INC., 850 East Luzerne Street, Philadelphia, Pa. 19124. Applicant's representative: Richard A. Mehley, 1000 Sixteenth Street, N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter, products and materials, and supplies* used in the manufacture and production thereof, between Strasburg, Va., on the one hand, and, on the other, points in Delaware, Maryland, New Jersey, and Pennsylvania, and points in Nassau, Rockland, Suffolk, and Westchester Counties, N.Y.; and New York, N.Y. Commercial Zone, and the District of Columbia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 107678 (Sub-No. 62), filed January 10, 1977. Applicant: HILL & HILL TRUCK LINE, INC., P.O. Box 9698, Houston, Tex. 77015. Applicant's representative: J. Marshall Forsyth, 14942 Talcott, Houston, Tex. 77015. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Garfield County, Utah, to points in Arizona, Arkansas, New Mexico, Oklahoma and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Phoenix, Ariz.

No. MC 108207 (Sub-No. 454), filed January 14, 1977. Applicant: FROZEN FOOD EXPRESS, INC., 318 Cadiz St., P.O. Box 5888, Dallas, Tex. 75222. Applicant's representative: Mike Smith (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Neoprene insulated wire*, from Los Angeles, Calif., to points in Arizona, Arkansas, Illinois, Indiana, Iowa, Kansas, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, Ohio, Oklahoma, South Dakota, Texas, Wisconsin, and Memphis, Tenn.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Los Angeles, Calif. or Dallas, Tex.

No. MC 108676 (Sub-No. 99), filed January 14, 1977. Applicant: A.J. METLER HAULING & RIGGING, INC., 117 Chicamauga Avenue, Knoxville, Tenn. 37917. Applicant's representative: Louis J. Amato, P.O. Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rock crusher equipment*, from the plantsite of Hewitt-Robins, Inc., located in Rich-

land County, S.C. to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Atlanta, Ga. or Columbia, S.C.

No. MC 109533 (Sub-No. 84) (Partial correction), filed December 30, 1976, published in the FR issue of February 10, 1977, and republished, in part, as corrected this issue. Applicant: OVERNITE TRANSPORTATION COMPANY, a Corporation, 1000 Semmes Avenue, Richmond, Va. 23224. Applicant's representative: E. T. Liipfert, 1660 L Street, N.W., Suite 1100, Washington, D.C. 20036. The purpose of this partial republication is to correct items (15) and (16) by the inclusion of a requested route which was omitted in the previous publication. The correct request reads as follows: (15) Between Covington, Va., and junction U.S. Highway 60 and Interstate Highway 64 at Port Amherst, W. Va., serving all intermediate points: From Covington over U.S. Highway 60 to its junction with Interstate 64 at Port Amherst, W. Va., and return over the same route; (16) Serving all points in West Virginia (except those on the above routes) as off-route points; and (17) Serving all points in Pennsylvania on and south of U.S. Highway 22 between the West Virginia-Pennsylvania state line and Pittsburgh, Pa., and on and west of U.S. Highway 19 between Pittsburgh, Pa., and the West Virginia state line, as off-route points.

NOTE.—The rest of the publication remains the same. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Charleston or Huntington, W. Va. or Washington, D.C.

No. MC 110525 (Sub-No. 1179), filed January 17, 1977. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, from ports of entry on the International Boundary line between the United States and Canada, located in Michigan on the Detroit and St. Clair Rivers, to points in Indiana, Michigan and Ohio, restricted to traffic originating at the Courtright, Ontario, Canada plantsite of Beker Industries Corp.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Hartford, Conn.

No. MC 110817 (Sub-No. 22), filed January 18, 1977. Applicant: E. L. FARMER & COMPANY, a Corporation, P.O. Box 3512, Odessa, Tex. 79760. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, Tex. 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *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; and (2) *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, operations, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) 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, between points in Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Rhode Island, South Carolina, and Virginia, on the one hand, and, on the other, points in the United States, including Alaska, but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Houston, Tex., Tulsa, Okla., San Francisco, Calif. or St. Louis, Mo.

No. MC 111545 (Sub-No. 232), filed January 10, 1977. Applicant: HOME TRANSPORTATION COMPANY, INC., 1425 Franklin Road, S.E., Marietta, Ga. 30067. Applicant's representative: Robert E. Born, P.O. Box 6426, Station A, Marietta, Ga. 30065. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum, aluminum products, and supplies, materials and equipment*, used in the manufacture of aluminum and aluminum products (except in bulk), between the plantsites of Alumax, Inc., located at Decatur, Ala.; Casa Grande, Ariz.; Long Beach, Riverside, Visalia, Perris Valley and Woodland, Calif.; Loveland, Colo.; Ocala and Plant City, Fla.; Peachtree City and Jonesboro, Ga.; Twin Falls, Idaho; Chicago and Morris, Ill.; Lebanon, Bristol and Franklin, Ind.; McPherson, Kans.; Frederick, Md.; Montevideo, Minn.; St. Louis, Mo.; Hernando, Miss.; Reidsville, N.C.; Cleveland, Ohio; Tulsa and Checotah, Okla.; Stayton, Oreg.; Bloomsburg, Pa.; Mansfield, Tex.; Harrisonburg, Va.; Spokane and Ferndale, Wash.; and Marchfield, Wisc., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 112750 (Sub-No. 36), filed January 21, 1977. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, and written instruments* (except currency and negotiable securities), used in the operation of banks and banking institutions, from Chicago, Ill., to points in Elkhart, Lake, La Porte, Marshall, Porter, St. Joseph, and Starke Counties, Ind. under contract with Federal Reserve Bank of Chicago.

NOTE.—Applicant holds common carrier authority in MC 111729 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 113388 (Sub-No. 114), filed January 17, 1977. Applicant: LESTER C. NEWTON TRUCKING CO., a Corporation, P.O. Box 618, Seaford, Del. 19973. Applicant's representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street, N.W., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen foods;* and (2) *commodities* the transportation of which is exempt under the provisions of Section 203(b)(6) of the Interstate Commerce Act when moving in the same vehicle and at the same time with frozen foods, from Syracuse, N.Y., to points in Delaware, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, Virginia, West Virginia and the District of Columbia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 113651 (Sub-No. 204), filed December 13, 1976. Applicant: INDIANA REFRIGERATOR LINES, INC., 2404 North Broadway, Muncie, Ind. 47303. Applicant's representative: Daniel C. Sullivan, 327 South LaSalle Street, Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *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), (a) from Spencer and Hartley, Iowa, to points in Connecticut, Delaware, Indiana, Kentucky, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island and Vermont; (b) from Schuyler, Nebr., to points in Alabama, Florida, Georgia, Indiana, Kentucky, Michigan, Mississippi, North Carolina, Ohio, South Carolina, Tennessee and West Virginia; and (c) from Ft. Dodge, Iowa, to points in Indiana, Kentucky, Michigan, and those points in Ohio on and north of U.S. Highway 224; and (2) *meats, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Section 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 Fort Dodge, Iowa, to points in Maine, Massachusetts, New Hampshire, New Hampshire, New York, those points in Ohio south of U.S. Highway 224, and

points in Pennsylvania, Virginia, Vermont and West Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 113651 (Sub-No. 206), filed January 7, 1977. Applicant: INDIANA REFRIGERATOR LINES, INC., 2404 North Broadway, Muncie, Ind. 47303. Applicant's representative: Daniel C. Sullivan, 327 South LaSalle Street, Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pickles, pickled tomatoes, sauerkraut and relishes* all requiring movement in mechanically refrigerated vehicles (except commodities in bulk in tank vehicles), from the plant site of Claussen Pickle Co., a wholly-owned subsidiary of Oscar Meyer & Co., Inc., located at or near Woodstock, Ill., to points in Connecticut, Delaware, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to traffic originating at the above named origin and destined to the states named.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 114194 (Sub-No. 192), filed January 17, 1977. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Road, East St. Louis, Ill. 62201. Applicant's representative: Ernest A. Brooks II, 13031-02 Ambassador Bldg., St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcohol*, in bulk, from the plant and storage facilities of Archer Daniels Midland Company, at Decatur, Ill., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Chicago or Springfield, Ill.

No. MC 114632 (Sub-No. 95), filed January 17, 1977. Applicant: APPLE LINES, INC., 212 S.W. Second St., Madison, S. Dak. 57042. Applicant's representative: Robert Gisvold, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen potatoes and frozen potato products*, from Minneapolis, Minn., to points in Missouri and Nebraska.

NOTE.—Applicant holds contract carrier authority in MC 129706, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Omaha, Nebr.

No. MC 114896 (Sub-No. 45), filed January 13, 1977. Applicant: PUROLATOR SECURITY, INC., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Credit cards and magnetic tape*, between Garrison, Md., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under a continuing contract, or contracts, with Malco Plastics, Inc.

NOTE.—Applicant holds common carrier authority in No. MC 140345 (Sub-No. 1), therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 115311 (Sub-No. 208), filed January 13, 1977. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, Ga. 31061. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising matter*, from Pabst (Houston County), Ga., to Newark, N.J.; points in Arkansas, Kentucky, Louisiana, Virginia, and those points in Tennessee west of Interstate Highway 65.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Atlanta, Ga.

No. MC 117119 (Sub-No. 610), filed January 13, 1977. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Greenville and Grand Rapids, Mich. and Massillon, Ohio, to points in Colorado, Idaho, Oregon, Utah and Washington.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Salt Lake City, Utah or Washington, D.C.

No. MC 117119 (Sub-No. 611), filed January 13, 1977. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Ontario, Oreg. and points in Idaho, to points in California, restricted to the transportation of traffic originating at plantsites and storage facilities of Ore-Ida Foods, Inc., located at the above named points.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Salt Lake City, Utah or Washington, D.C.

No. MC 117940 (Sub-No. 209), filed January 12, 1977. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Alan L. Timmerman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electric ranges and microwave ovens and such commodities* as are used in the manufacture of electric ranges and microwave ovens, including *materials, supplies, and accessories* related thereto, between the plantsite and storage facilities utilized by Litton Microwave Cooking Products, located at Sioux Falls, S. Dak., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), restricted to traffic originating at or destined to the above named facilities located at Sioux Falls, S. Dak.

NOTE.—Applicant holds contract carrier authority in No. MC 114789 and subs thereunder; therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Minneapolis, Minn.

No. MC 118159 (Sub-No. 194), filed January 13, 1977. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, Okla. 74151. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Boxes, pulpboard* (except corrugated), from Cleveland, Tenn., to points in Georgia, Kansas, Kentucky, Louisiana, Maryland, North Carolina, Texas and Virginia; and (2) *materials, supplies and equipment* used in the manufacture and distribution of pulpboard boxes (except corrugated), from points in Georgia, Kentucky, North Carolina and Virginia, to Cleveland, Tenn.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 119991 (Sub-No. 14), filed January 13, 1977. Applicant: YOUNG TRANSPORT, INC., 1601 Woodlawn, P.O. Box 3, Logansport, Ind. 46947. Applicant's representative: Michael V. Gooch, 777 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Feed and feed ingredients*, in bags, and (2) *commodities* the transportation of which is otherwise exempt from economic regulation pursuant to section 203(b)(6) of the Interstate Commerce Act, in mixed loads with feed and feed ingredients, in bags, from the plantsite and storage facilities of Milk Specialties Company, a Division of Cudahy Foods Co., located at or near Dundee, Ill., to points in Indiana, Ohio, Michigan and Pennsylvania.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or Washington, D.C.

No. MC 124078 (Sub-No. 712), filed January 6, 1977. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28 Street, Milwaukee, Wis. 53215. Applicant's representative: James R. Ziperski, P.O. Box 1601, Milwaukee, Wis. 53201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bentonite clay, processed clay, and foundry sand additives*, in bulk, in tank vehicles, from Aberdeen, Miss., to points in Colorado, Kansas, Minnesota, Nebraska, Oklahoma and Texas; (2) *bentonite clay, processed clay, and foundry sand additives*, in bulk, in tank vehicles, from the plantsite of American Colloid Company, located at Sandy Ridge, Ala., to St. Louis and Kansas City,

Mo., and Wheeling, W. Va., and points in Colorado, Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, New Hampshire, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, Texas, Vermont and Wisconsin; (3) *calcined petroleum coke, coke breeze, graphite ore, and carbon scrap, or any combination thereof*, in bulk, in tank vehicles, from Greenup, Ky., to those points in the United States in and east of Iowa, Kansas, Minnesota, Missouri, Oklahoma and Texas; and (4) *foundry sand, foundry sand additives, calcined petroleum coke, coke breeze, graphite ore, carbon scrap, bentonite clay, and processed clay*, in bulk, in tank vehicles, from the plantsites of American Colloid Company, located at Albion, Mich., and Columbus, Ohio, to those points in the United States in and east of Colorado, Iowa, Minnesota, Nebraska, Oklahoma and Texas (except Illinois, Indiana, Michigan, Ohio and Wisconsin).

NOTE.—Applicant holds contract carrier authority in MC 113832 Sub. 68, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 124774 (Sub-No. 99), filed January 13, 1977. Applicant: MIDWEST REFRIGERATED EXPRESS, INC., 4440 Buckinham Drive, P.O. Box 7344, Omaha, Nebr. 68107. Applicant's representative: Arlyn L. Westergren, Suite 530 Univac Building, 7100 West Center Road, Omaha, 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Games, toys, hobby and craft articles, gym sets, wading pools and children's vehicles*, from points in Arkansas, Illinois, Kentucky, Minnesota, Mississippi, Missouri and Tennessee, to the facilities of Mutual Distributing Co., located at Omaha, Nebr.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Omaha, Nebr.

No. MC 125433 (Sub-No. 93), filed January 18, 1977. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, Utah 84104. Applicant's representative: Michael J. Norton, P.O. Box 2135, Salt Lake City, Utah 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber mill products*, from Escalante, Utah, to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Nebraska, Ohio, and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Salt Lake City, Utah or Denver, Colo.

No. MC 126118 (Sub-No. 28), filed January 13, 1977. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, Nebr. 68501. Applicant's representative: Duane W. Acklie (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers (except in bulk), from Monroe, Wis., and Chicago, Ill., to points in Arkansas, Georgia, Maryland, Missouri, New Jersey, New York, North Carolina, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas and Virginia.

NOTE.—Applicant holds contract carrier authority in MC 128375 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Lincoln, Nebr.

No. MC 127042 (Sub-No. 186), filed January 18, 1977. Applicant: HAGEN, INC., 3232 Highway 75 North, P.O. Box 98, Leeds Station, Sioux City, Iowa 51108. Applicant's representative: Robert G. Tessar (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by products, and articles distributed by meat 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, in tank vehicles), from the plantsite and facilities utilized by Morgan Colorado Beef Co., located at Ft. Morgan, Colo., to points in California, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Denver, Colo.

No. MC 127042 (Sub-No. 187), filed January 18, 1977. Applicant: HAGEN, INC., 3232 Highway 75 North, P.O. Box 98, Leeds Station, Sioux City, Iowa 51108. Applicant's representative: Robert G. Tessar (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products, and articles distributed by meat 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, in tank vehicles), from the plantsite and facilities utilized by Flavorland Industries, Inc. located at Denver, Colo., to points in Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin, restricted to traffic originating at the above named points and destined to the above named destination states.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Denver, Colo.

No. MC 127346 (Sub-No. 7), filed January 18, 1977. Applicant: HALL'S FAST MOTOR FREIGHT, INC. P.O. Box 183, 330 Oak Tree Avenue, South Plainfield, N.J. 07080. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Automotive parts;* and (2) *materials, equipment, and supplies* used in the manufacture or sale of the commodities specified in (1) above (except commodities in bulk), between the facilities of Hall's Warehouse Corp., located at South Plainfield, N.J., on the one hand, and, on the other, Baltimore, Md., and points within its commercial zone.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y., or Washington, D.C.

No. MC 128868 (Sub-No. 4), filed January 17, 1977. Applicant: TEXAS CONSTRUCTION SERVICE COMPANY OF AUSTIN, a corporation, 15000 F.M. Road 1825, Round Rock, Tex. 78664. Applicant's representative: W. S. Levens (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime*, in bulk, from Texas to Arkansas, Colorado, Florida and Mississippi.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Austin, San Antonio or Dallas, Tex.

No. MC 129328 (Sub-No. 7), filed January 13, 1977. Applicant: PALTEX TRANSPORT CO., a corporation, P.O. Box 296, Palestine, Tex. 75801. Applicant's representative: Kenneth R. Hoffman, 1100 Milam Bldg., Suite 3300, Houston, Tex. 77002. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glassware* (except cut glassware), *and closures therefor*, from the facilities of Glass Containers Corporation, located at or near Dallas and Houston, Tex., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Missouri, Oklahoma, South Carolina, and Tennessee; and (2) *materials, equipment and supplies*, used in the manufacture, sale, or distribution of the commodities in (1) above, (a) from points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Missouri, Oklahoma, South Carolina, and Tennessee, to the facilities of Glass Containers Corporation, located at or near Dallas, Houston, and Palestine, Tex.; and (b) from the plantsite of Hunt-Wesson Foods, Inc., located at Memphis, Tenn., and points in Arkansas, Louisiana (except New Orleans and Opelousas, and points within their Commercial Zone as defined by the Commission), and points in Oklahoma and Texas, to the facilities of Glass Containers Corporation, located at or near Jackson, Miss., restricted in (1) and (2) above, against the transportation of commodities in bulk, and to a transportation service to be performed under a continuing contract, or contracts, with Glass Containers Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Dallas or Houston, Tex.

No. MC 129808 (Sub-No. 25), filed January 17, 1977. Applicant: GRAND ISLAND CONTRACT CARRIER, INC., P.O. Box 2078, Grand Island, Nebr. 68801. 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: *Processed logs and wooden beams*, from Claremore, Okla., and Licking, Mo., to points in Colorado, Iowa, Kansas and Nebraska, under continuing contract or contracts with Chisum Industries, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 133095 (Sub-No. 137), filed January 13, 1977. Applicant: TEXAS-CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, Tex. 76039. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, medicines, soap, capsules, toilet preparations, animal dip solutions and disinfectant*, in containers, in vehicles equipped with mechanical refrigeration, from the plantsite and warehouse facilities of Parke, Davis & Co. located at Allen Park, Mich., to the plantsite and warehouse facilities utilized by Parke, Davis & Co. located at or near Atlanta, Ga., Los Angeles, Calif., Dallas, Tex., and Seattle, Wash.

NOTE.—Applicant holds contract carrier authority in No. MC 136032 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Detroit, Mich.

No. MC 133119 (Sub-No. 11) filed January 10, 1977. Applicant: HEYL TRUCK LINES, INC., 200 Norka Drive, Akron, Iowa 51001. Applicant's representative: A. J. Swanson, 521 So. 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. 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* (except hides and commodities in bulk), (1) from points in Colorado, Kansas, Michigan, Missouri, North Dakota, Ohio, Oklahoma, Tennessee, Texas and Wisconsin, to the ports of entry on the International Boundary line between the United States and Canada located at or near Sweetgrass, Mont. and Portal, N. Dak., restricted to the transportation of traffic moving in foreign commerce to points in the Provinces of Saskatchewan and Alberta, Canada; and (2) from the ports of entry on the International Boundary line between the United States and Canada located at or near Sweetgrass, Mont. and Portal, N. Dak., to points in Alabama, Arizona, Arkansas, California, Colorado, Idaho, Louisiana, Michigan, Mississippi, Montana, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah and Washington, restricted to the transportation of traffic moving in foreign commerce from points in the Provinces of Saskatchewan and Alberta, Canada.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Omaha, Nebr. or Minneapolis, Minn.

No. MC 133591 (Sub.-No. 29), filed January 14, 1977. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mount Vernon, Mo. 65712. Applicant's representative: Harry Ross, 58 South Main Street, Winchester, Ky. 40391. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Mattress parts and furniture parts;* and (2) *materials, equipment, supplies and machinery* used in the manufacture of mattress parts and/or furniture parts, from Carthage, Mo., to points in Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Utah and Washington.

NOTE.—Applicant holds contract carrier authority in No. MC 134494 and subs there under, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Little Rock, Ark. or Kansas City, Mo.

No. MC 133689 (Sub-No. 101), filed January 5, 1977. Applicant: OVERLAND EXPRESS, Inc., 719 First St., S.W., New Brighton, Minn. 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning, washing and scouring compounds, sodium bicarbonate, sodium carbonate, borax, health and beauty aids, and sal soda*, (1) from Syracuse, N.Y., to points in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin; and (2) from Cincinnati, Ohio, to points in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, South Dakota and Wisconsin, restricted in (1) and (2) above to traffic originating at the plantsite and storage facilities of Church & Dwight Company, Inc., located at the above named origins.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 134286 (Sub-No. 16) (Amendment), filed December 13, 1976, published in the FEDERAL REGISTER issue of February 3, 1977, republished as amended this issue. Applicant: ILLINI EXPRESS, INC., Box 1564, Sioux City, Iowa 51102. Applicant's representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foods, food products, food ingredients, animal foods, animal food ingredients, and meat by-products* (except in bulk), (1) from the warehouses of Beatrice Foods Co., located at Scranton, Pa., and at or near Allentown, Pa., to points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Vermont, Verginia, West Virginia, and the District of Columbia, restricted to the transportation of traffic originating at the warehouse of Beatrice Foods Co., located at Scranton, Pa., and at or near Allentown, Pa., and destined to the named destination states; and (2) from points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, to the warehouses of Beatrice Foods Co., located at Scranton, Pa., and at or near Allentown, Pa., restricted to the movement of traffic originating in the named origin states and destined to the warehouses of Beatrice Foods Co., located at Scranton, Pa., and at or near Allentown, Pa.

NOTE.—This proceeding is assigned for hearing on the 17th day of March 1977, at 9:30 a.m. Local Time, at the Offices of the Interstate Commerce Commission, Washington, D.C. If a hearing is deemed necessary, the applicant requests it be held at Philadelphia, Pa.

No. MC 134599 (Sub-No. 154), filed January 13, 1977. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O. Box 748, Salt Lake City, Utah 84110. Applicant's representative: Richard A. Peterson (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic rubber, rubber products, and materials, supplies and equipment*, used in the manufacture thereof (except commodities in bulk, and those which because of size or weight require special handling or equipment), from the plantsite and facilities of Uniroyal, Inc., located at Cheswold, Del., to points in Arkansas, California, Colorado, Connecticut, Georgia, Illinois, Indiana, Iowa, Kentucky, Massachusetts, Michigan, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Texas, Utah, Virginia, and Wisconsin, under continuing contract or contracts, with Uniroyal, Inc.

NOTE.—Applicant holds common carrier authority in MC 139906 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Lincoln, Nebr., or Salt Lake City, Utah.

No. MC 134599 (Sub-No. 155), filed January 13, 1977. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O. Box 748, Salt Lake City, Utah 84110. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rubber, rubber products, chemicals, plastic powder, flakes and granules*, and *equipment, materials and supplies* used in the manufacture thereof (except commodities in bulk and those which because of size or weight require special handling or equipment), between Painesville, Ohio, on the one hand, and, on the other, points in California, Colorado, Connecticut, Delaware, Georgia, Illinois, Indiana, Kentucky, Massachusetts, Michigan, Missouri, Mississippi, Nebraska, New Jersey, New York, North Carolina, Oklahoma, Rhode Island, Tennessee, Texas, Virginia and Wisconsin,

under a continuing contract, or contracts, with Uniroyal, Inc.

NOTE.—Applicant holds common carrier authority in No. MC 139906 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Lincoln, Nebr. or Salt Lake City, Utah.

No. MC 134806 (Sub-No. 45), filed January 14, 1977. Applicant: B-D-R TRANSPORT, INC., P.O. Box 1277, Brattleboro, Vt. 05301. Applicant's representative: Francis J. Orlman, 7101 Wisconsin Avenue, Suite 605, Washington, D.C. 20014. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tanned leather*, from points in Los Angeles County, Calif., to Chicago and Rockford, Ill., Huntington, W. Va., and points in Maine, Massachusetts, New Hampshire, New York, Pennsylvania and Wisconsin; and (2) *oils and greases, finishing compounds*, and *supplies* for tanning leather (except commodities in bulk), from Exeter, N.H., Newark, N.J., Brattleboro, Vt., and points in Massachusetts, to points in Los Angeles County, Calif., under a continuing contract, or contracts, with West Coast Tanners Production Club.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Los Angeles County, Calif.

No. MC 134922 (Sub-No. 225), filed January 13, 1977. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, Ark. 72118. Applicant's representative: Bob McAdams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except in bulk), between Mills Shoals and Springerton, Ill., on the one hand, and, on the other, points in the United States in and west of Arkansas, Illinois, Louisiana, Missouri and Wisconsin, restricted to traffic having a prior or subsequent movement by rail.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Little Rock, Ark. or St. Louis, Mo.

No. MC 134922 (Sub-No. 226), filed January 18, 1977. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, Ark. 72118. Applicant's representative: Bob McAdams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is sold and used by wholesale, retail and discount stores and *chemicals* in vehicles equipped with mechanical refrigeration (except foodstuffs, alcoholic beverages, commodities in bulk and those which because of size or weight require the use of special equipment), (1) between Muskegon and Greenville, Mich., Brockway, Pa., Corning, N.Y., Cumberland, Md., and Jackson, Miss., on the one hand, and, on the other, points in Arizona, California, Idaho, Nevada, Oregon, Utah and Washington; and (2) from Memphis, Tenn., to points in Nevada.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either San Francisco, Calif. or Little Rock, Ark.

No. MC 135082 (Sub-No. 4), filed January 21, 1977. Applicant: BURSCH TRUCKING, INC., doing business as ROADRUNNER TRUCKING, INC., P.O. Box 26748, 415 Rankin Road N.E., Albuquerque, N. Mex. 87125. Applicant's representative: D. F. Jones (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum wallboard*, from Albuquerque, N. Mex., to points in Arizona and Colorado.

NOTE.—Applicant holds contract carrier authority in MC 115524 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Albuquerque, N. Mex.

No. MC 135170 (Sub-No. 16), filed January 18, 1977. Applicant: TRI-STATE ASSOCIATES, INC., P.O. Box 188, Federalsburg, Md. 21632. Applicant's representative: James C. Hardman, 33 N. LaSalle St., Chicago, Ill. 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Containers, container closures, and materials, equipment and supplies* used in the manufacture, sale and distribution of containers and container closures (except commodities in bulk and those which because of size or weight require the use of special equipment), from Baltimore, Md., to points in Virginia, under a continuing contract, or contracts, with National Can Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 135874 (Sub-No. 70), filed January 13, 1977. Applicant: LTL PERISHABLES, INC., 550 E. 5th Street So., South St. Paul, Minn. 55075. Applicant's representative: Paul Nelson (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs* and *potato products* (except frozen, in bulk), (1) from the facilities of Midwest Food Corporation located at or near Clark, S. Dak., to Sioux Falls, S. Dak.; and (2) from the facilities of Midwest Foods Corporation located at or near Sioux Falls, S. Dak., to points in Colorado, Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Maine, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, West Virginia, Vermont, Wisconsin, and the District of Columbia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at St. Paul, Minn.

No. MC 136343 (Sub-No. 98), filed January 12, 1977. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, Pa. 17847. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper, paper products and woodpulp* from the facilities of Westvaco Corporation located at Biggs, Cumberland and Luke, Md., and Piedmont, W. Va., to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont; and (2) *equipment, materials and supplies*, used in the manufacture and sale of paper, paper products and woodpulp (except commodities in bulk), from the above named destination states, to the facilities of Westvaco Corporation located at Biggs, Cumberland and Luke, Md., and Piedmont, W. Va., restricted in (1) and (2) above to the transportation of shipments originating at the specified origins and destined to the designated destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y. or Washington, D.C.

No. MC 136774 (Sub-No. 8), filed January 17, 1977. Applicant: MC-MOR-HAN TRUCKING CO., INC., P.O. Box 368, Shullsburg, Wis. 53586. Applicant's representative: Anthony E. Young, 327 South LaSalle Street, Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, 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 Spencer and Hartley, Iowa, to points in Illinois and Wisconsin, restricted to the transportation of shipments originating at the plantsites or facilities utilized by Spencer Foods, Inc., and destined to points in the States named above.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 136989 (Sub-No. 16), filed January 10, 1977. Applicant: R. F. Box Inc., 500 Kinley N.E., Albuquerque, N. Mex. 87104. Applicant's representative: Edwin E. Piper, Jr., 1115 Sandia Savings Building, Albuquerque, N. Mex. 87102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, medicines, pharmaceuticals and samples*, from the plantsites of McNeil Laboratories, Inc., located at or near Fort Washington, Pa., to points in California, under a continuing contract, or contracts, with McNeil Laboratories, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Albuquerque, N. Mex.

No. MC 138144 (Sub-No. 17), filed January 10, 1977. Applicant: FRED OLSON CO., INC., 6022 West State Street, Milwaukee, Wis. 53213. Applicant's representative: Daniel C. Sullivan, 327 South LaSalle Street, Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer compounds, ice melting compounds*, ver-

miculite products (except commodities in bulk), from Union Grove and Kenosha, Wis., to points in Illinois.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Milwaukee, Wis. or Chicago, Ill.

No. MC 139091 (Sub.-No. 18), filed January 13, 1977. Applicant: LOGAN MOTOR LINES, INC., 2829 Mays Street, Amarillo, Tex 79109. Applicant's representative: Clayton J. Logan, P.O. Box 30038, Amarillo, Tex. 79120. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and 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, from the plantsite and storage facilities of Swift Fresh Meats Co. located at or near Glenwood, Iowa, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, under a continuing contract, or contracts, with Swift Fresh Meats Co., Division of Swift & Co.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or Omaha, Nebr.

No. MC 139193 (Sub-No. 54), filed January 7, 1977. Applicant: ROBERTS & OAKE, INC., P.O. Box 1356, 527 East 52nd Street North, Sioux Falls, S. Dak. 57101. Applicant's representative: Jacob P. Billig, 2033 K Street, N.W., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electric ranges and microwave ovens and such commodities* as are used in the manufacture of electric ranges and microwave ovens, and *materials, supplies, and accessories* related thereto, between the plantsite and storage facilities utilized by Litton Microwave Cooking Products located at Sioux Falls, S. Dak., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), restricted to traffic originating at or destined to the above named facilities located at Sioux Falls, S. Dak., and under a continuing contract or contracts with Litton Microwave Cooking Products.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C., or Chicago, Ill.

No. MC 139482 (Sub-No. 12), filed January 13, 1977. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 347, New Ulm, Minn. 56073. Applicant's representative: James E. Ballenthin, 630 Osborn Building, St. Paul, Minn. 55102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, equipment and supplies* used in the manufacture, assembly, equipping, outfitting, furnishing and repairing of mobile homes, modular homes or recreational vehicles (except commodities in bulk, in tank vehicles), (1) between points in the United States (except Alaska and Hawaii); and (2) between the facilities of Distribution Center, Inc. and New Ulm Terminal Warehouse Company, located at or near New Ulm, Minn.; Spencer and Praire du Chien, Wis.; Elkhart, Ind.; Loveland, Colo.; and Waco, Tex., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), restricted in (1) above to the transportation of traffic destined to the facilities used by (a) manufacturers, assemblers, equippers, outfitters, furnishers and repairers of mobile homes, modular homes, or recreational vehicles; or (b) suppliers of manufacturers, assemblers, equippers, outfitters, furnishers or repairers of mobile or modular homes, or recreational vehicles; restricted in (2) above to the transportation of traffic originating at or destined to the named facilities.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Chicago, Ill. or St. Paul, Minn.

No. MC 139495 (Sub-No. 191), filed January 18, 1977. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1819 H Street, N.W., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Swimming pools*, from West Helena, Ark., to points in the United States in and east of Minnesota, Iowa, Nebraska, Kansas, Oklahoma and Texas.

NOTE.—Applicant holds contract carrier authority in No. MC 133106 and subs thereunder; therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 139783 (Sub-No. 2), filed January 14, 1977. Applicant: GEORGE McFARLAND, SR., 218 North, P.O. Box 21, Austin, Minn. 55912. Austin, Minn. 55912. Applicant's representative: James Malecki, 1 South State Street, New Ulm, Minn. 56073. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Milwaukee and La Cross, Wis., to Austin, Minn.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Austin or Minneapolis, Minn.

No. MC 139973 (Sub-No. 15), filed January 17, 1977. Applicant: J. H. WARE TRUCKING, INC., 909 Brown Street, P.O. Box 398, Fulton, Mo. 65251. Applicant's representative: Larry D. Knox, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel wire rope*, from Houston, Tex., to Denver, Colo.; Melrose Park, and Peoria, Ill., and St. Louis, Mo.

NOTE.—Applicant holds contract carrier authority in MC 138375 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo.

No. MC 140271 (Sub-No. 5) filed January 17, 1977. Applicant: GREAT WESTERN TRUCKING CO., INC., Highway 103 East, P.O. Box 1384, Lufkin, Tex. 75901. Applicant's representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from Eugene, Oreg., to points in Kansas, Louisiana, Missouri, Oklahoma, and Texas.

NOTE.—Applicant holds contract carrier authority in MC 119988 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 140487 (Sub-No. 1), filed January 6, 1977. Applicant: YELLOWSTONE TRUCKING, INC., North 9 Post Street, Room 425 Peyton Bldg., Spokane, Wash. 99210. Applicant's representative: William J. Monheim, 15942 Whittier Blvd., P.O. Box 1756, Whittier, Calif. 90609. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber*, from the plantsites of the Pack River Company, located at or near Bonners Ferry, Coeur d'Alene and Dover, Idaho; Plains, Polson and Thompson Falls, Mont.; and Ardenvoir, Cashmere, Peshastin and Spokane, Wash., to points in Illinois, Indiana, Iowa, Michigan, Minnesota, Nebraska, North Dakota, South Dakota and Wisconsin; and (2) *materials, equipment and supplies*, used in the production, sales, and distribution of lumber, from Chicago, Ill.; Clackamas, Oreg.; and Tracy, Calif., to the origins named in (1) above, under a continuing contract or contracts with Pack River Tree Farm Products, a division of The Pack River Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Spokane, Wash., or Washington, D.C.

No. MC 140755 (Sub-No. 46), filed January 13, 1977. Applicant: BRAY TRANSPORTS, INC., 1401 N. Little Street, P.O. Box 270, Cushing, Okla. 74023. Applicant's representative: William W. Frick (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia and nitrogen fertilizer solutions*, from the plantsites of Oklahoma Nitrogen Company and Bison Chemical Company located at or near Woodward, Okla., to points in Arkansas, Colorado, Iowa, Kansas, Louisiana, Missouri, Nebraska, New Mexico, Oklahoma, South Dakota, and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Kansas City or St. Louis, Mo.

No. MC 140986 (Sub-No. 3), filed January 12, 1977. Applicant: GREAT NORTHERN TRUCK LINES, INC., Bank Street, Netcong, N.J. 07857. Applicant's representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, N.J. 28904. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Materials,*

and supplies used in the construction of tennis courts (except in bulk), from the facilities of Robert Lee Co., Inc., located at Charlottesville, Va., to points in Connecticut, Delaware, Kentucky, Massachusetts, Maryland, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, and Vermont, under a continuing contract or contracts with Robert Lee Co., Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Newark, N.J., or Richmond, Va.

No. MC 141402 (Sub-No. 5), filed December 29, 1976. Applicant: LINCOLN FREIGHT LINES, INC., State Highway Route 32, P.O. Box 332, Lapel, Ind. 46051. Applicant's representative: Alki E. Scopelitis, 815 Merchants Bank Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper bags*, (a) from the facilities of Samson-Midamerica, Inc., at Indianapolis, Ind., to points in Delaware, Maryland, New Jersey, New York, North Carolina, Pennsylvania, Virginia, West Virginia, and the District of Columbia; and (b) from the facilities of Samson Paper Bag Company, at Huntington, N.Y., to Indianapolis, Ind.; and (2) *materials, equipment and supplies*, used in the manufacture and distribution of paper bags (except commodities in bulk and commodities which because of size or weight require special handling or special equipment), from points in Delaware, Maryland, New Jersey, New York, North Carolina, Pennsylvania, Virginia, West Virginia, and the District of Columbia, to the facilities of Samson-Midamerica, Inc., at Indianapolis, Ind., under contract or continuing contracts with Samson-Midamerica, Inc., at Indianapolis, Ind.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Chicago, Ill.

No. MC 141410 (Sub-No. 2), filed January 17, 1977. Applicant: BLACK ANGUS, INC., P.O. Box 8780, Jackson, Miss. 39204. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Glass fiber, glass yarn, fiberglass cloth and fabric*, and *waste fiber*, from Aiken and Anderson, S.C., Jackson and Nashville, Tenn., New Castle and Wilmington, Del., Huntington and Pittsburgh, Pa., to Salt Lake City, Utah, Denver, Colo., Wallace, Idaho, Andover, Bellingham, Seattle and Spokane, Wash., Bend, Culver City and Portland, Oreg., under a continuing contract or contracts with Fiberchem, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Seattle, Wash.

No. MC 141519 (Sub-No. 5), filed January 10, 1977. Applicant: TEJAS LINES, INC., Route 2, Box 174A, Canyon, Tex. 79015. Applicant's representative: Clyde N. Christey, 514 Capitol Federal Bldg., 700 Kansas Avenue, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia, nitrogen fertilizer solutions and urea liquor*, from the plantsites of Oklahoma Nitrogen and Bison Chemical, located at or near Woodward, Okla., to points in Arkansas, Colorado, Iowa, Kansas, Louisiana, Missouri, Nebraska, New Mexico, Oklahoma, South Dakota and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Oklahoma City, Okla.

No. MC 141810 (Sub-No. 3), filed January 3, 1977. Applicant: PORTER & KELLN TRANSPORT LTD., 241 Schoolhouse Road, Coquitlam, British Columbia, Canada. Applicant's representative: Robert G. Gleason, Evergreen Bldg., Suite 217, 15 So. Grady Way, Renton, Wash. 98055. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Corrugated paper*, from Bellevue, Wash., and its commercial zone, to ports of entry on the International Boundary line between the United States and Canda, located at or near Blaine, Wash.; (2) *building materials and lumber*, (a) from ports of entry on the International Boundary line between the United States and Canada, located at or near Blaine, Wash., to points in Washington and Oregon west of the Cascade Mountain Range; and (b) from points in Washington and Oregon lying west of the Cascade Mountain Range to ports of entry on the International Boundary line between the United States and Canada, located at or near Blaine, Lynden, Sumas and Oroville, Wash., and Eastport, Idaho, under a continuing contract, or contracts, with Cascade Imperial Mills Ltd.; (1) above is restricted to traffic originating at or destined to Surrey, British Columbia, Canada; (2)(a) above is restricted to traffic originating at or near Vancouver, British Columbia, Canada; and (2)(b) above is restricted to traffic destined to Edmonton and Calgary, Alberta, Canada.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Seattle, Wash. or Vancouver, British Columbia, Canada.

No. MC 142024 (Sub-No. 2), filed January 14, 1977. Applicant: J. M. HUTTO, P.O. Box 1104, Holly Hill, S.C. 29059. Applicant's representative: G. Thomas Cooper, Jr., 1111 Broad Street, Camden, S.C. 29020. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cut cloth and manufactured apparel goods*, between Health Springs, Camden and Olanta, S.C., on the one hand, and, on the other, Miami, Fla., under a continuing contract, or contracts, with Skyline Manufacturing Co.; Skyline, Ltd.; and Avondale Manufacturing Company.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Columbia, S.C.

No. MC 142506 (Sub-No. 1), filed January 17, 1977. Applicant: McKEOWN FEED & SUPPLY COMPANY, INC., 113 Columbia Street, P.O. Box 373, Chester, S.C. 29706. Applicant's representative: George W. Clapp, 109 Hartsville Street, P.O. Box 836, Taylors, S.C. 29687. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, in dump vehicles and Killebrew-type vehicles, (1) from Chester, S.C., and points in its commercial zone, to points in North Carolina; and (2) from Goldsboro, N.C., and points in Iredell County, N.C., to points in South Carolina.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Charlotte or Wilmington, N.C.

No. MC 142596 (Sub-No. 1), filed January 18, 1977. Applicant: DELIVERY SERVICE & TRANSFER CO. INC., 962 South 700 West, Salt Lake City, Utah 84104. Applicant's representative: Keith E. Sohm, Suite No. 81 Trolley Square, Salt Lake City, Utah 84102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Household products and dry packaged foods*, between Salt Lake City, Utah, on the one hand, and, on the other, points in Davis, Morgan, Salt Lake, Utah, and Weber Counties, Utah, under a continuing contract, or contracts, with Jewel Companies, Inc.

NOTE.—Applicant holds common carrier authority in No. MC 14479; therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Salt Lake City, Utah or Denver, Colo.

No. MC 142623 (Sub-No. 2), filed January 10, 1977. Applicant: ROBERT L. MACON, 1501 Edgebrook Drive, Garner, N.C. 27529. Applicant's representative: Robert L. Macon (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Structural clay products*, from points in North Carolina and South Carolina, to points in Alabama, Connecticut, Delaware, Florida, Georgia, Maryland, Massachusets, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vigrinia and West Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Raleigh or Charlotte, N.C.

No. MC 142646 (Sub-No. 2), filed January 18, 1977. Applicant: ROBERT S. RYAN, doing business as RYAN TRUCKING, Route 4, Box 208A, Eau Claire, Wis. 54701. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, Minn. 55403. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Inedible rendering products*, including meat scraps, bones and hides, from Eau Claire, Wis., to points in Illinois, Iowa and Minnesota, under a continuing contract, or contracts, with Eau Claire Rendering Co.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Minneapolis or St. Paul, Minn.

No. MC 142713 (Amendment), filed November 26, 1976, published in the FEDERAL REGISTER issue of February 3, 1977, and republished, as amended, this issue. Applicant: PETER GOLDING, doing business as SEVEN BROTHERS TRUCKING CO., 1055 Highland Avenue, Needham, Mass. 02194. Applicant's representative: Jeremy A. Stahlin, 294 Washington Street, Boston, Mass. 02108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fluorescent and incandescent lamps and lighting fixtures, batteries, electric dry cell* (except spent) *rectifiers, storage and display racks, pallets, boxes, advertising matter and packing materials*, between Newton, Mass., on the one hand, and on the other, points in Connecticut, Massachusetts, Rhode Island, those points in that part of New Hampshire south of New Hampshire Highway 9, and east of the New Hampshire-Vermont State line to Concord, N.H. thence over U.S. Highway 202, located at or near Hillsboro, N.H. to its junction with Maine Highway 25, located at or near Gorham, Maine, thence over Maine Highway 25 to Portland, Maine, under a continuing contract, or contracts with General Electric Company, Lamp Business Division.

NOTE.—The purpose of this republication is to add "incandescent lamps" to applicant's commodity description. If a hearing is deemed necessary, the applicant requests it be held at either Boston, Mass., Providence, R.I., or Hartford, Conn.

No. MC 142808, filed January 4, 1977. Applicant: SOUTH BAY TRUCK LINE, INC., 1040 Hermosa Avenue, Hermosa Beach, Calif. 90254. Applicant's representative: Fred H. Mackensen, 9454 Wilshire Blvd., Suite 400, Beverly Hills, Calif. 90212. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, between McMinnville, Oreg., on the one hand, and, on the other, points in that part of the United States on and west of a line beginning with the mouth of the Mississippi River at the Gulf of Mexico and continuing north along the Mississippi River to the southern boundary of Itasca County, Minn., thence along the southern boundary of Itasca County to the eastern boundary line of Itasca County, thence northward along the eastern boundary line of Itasca County to the eastern boundary line of Koochiching County, Minn., and thence northward along the eastern boundary line of Koochiching County to ports of entry on the International Boundary line between the United States and Canada, under a continuing contract, or contracts with Cascade Steel Rolling Mills, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 142843, filed January 10, 1977. Applicant: HOLMAN TRANSPORTATION, INC., P.O. Box 31, Dodge City, Kans. 67801. Applicant's representative: Clyde N. Christey, 514 Capitol Federal Bldg., 700 Kansas Avenue, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia, nitrogen fertilizer solutions and urea liquor*, from the plantsites of Oklahoma Nitrogen Corporation, and Bison Chemical Company, at or near Woodward, Okla.; to points in Arkansas, Colorado, Iowa, Kansas, Louisiana, Missouri, Nebraska, New Mexico, Oklahoma, South Dakota and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla.

No. MC 142869, filed January 13, 1977. Applicant: DENVER WHOLESALE FLORIST CO., a Corporation, 4800 Dahlia Street, Denver, Colo. 80216. Applicant's representative: Gerald T. Boyle, 2801 East Colfax Avenue, Denver, Colo. 80206. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carpet*, in rolls or in packages, from Dalton, Ga., to Denver, Colo., under a continuing contract, or contracts, with Col Con Columbine Consolidators, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Denver, Colo.

No. MC 142878, filed January 14, 1977. Applicant: HERBERT ROARK, doing business as KID'S EXPRESS CO., 8081 Forest Road, Cincinnati, Ohio 45230. Applicant's representative: Boyd B. Ferris, 50 West Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, between the plant site and warehouse facilities of E. K. Morris Co., Inc. located in Cincinnati, Ohio, on the one hand, and, on the other, points in Illinois, Indiana, Kentucky, Michigan, Tennessee, Virginia and West Virginia, restricted to the transportation of shipments originating at or destined to the plant site and warehouse facilities of E. K. Morris Co., Inc. located in Cincinnati, Ohio, under a continuing contract or contracts with E. K. Morris Co., Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Columbus, Ohio.

No. MC 142879, filed January 3, 1977. Applicant: HEELY-BROWN TRUCKING CO., a Corporation, 1345 Mayson Turner Rd., N.W., Atlanta, Ga. 30314. Applicant's representative: Guy H. Postell, Suite 713, 3384 Peachtree Rd., N.E., Atlanta, Ga. 30326. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such merchandise* as is sold, used, or dealt in by building supply houses, between points in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Ohio, South Carolina, Tennessee and Texas, under a continuing contract, or contracts, with Heely-Brown Company, at Atlanta, Ga.; and (2) *pallets*, from the plantsite of Atlanta Southern Corporation, located at or near Loganville, Ga., to points in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Ohio, South Carolina, Tennessee and Texas, under a continuing contract, or contracts, with Atlanta Southern Corporation, at Covington, Ga.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Atlanta, Ga.

No. MC 142880, filed January 7, 1977. Applicant: VICTOR ISMAEL MARQUEZ, 140 S.E. Eighth Avenue, Hialeah, Fla. 33010. Applicant's representative: Carlos Lidsky, 2121 Ponce de Leon Blvd., Suite 710, Coral Gables, Fla. 33134. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Miami, Tampa, and Orlando, Fla., and Atlanta, Ga., to Secaucus, N.J., under a continuing contract, or contracts, with Goya Foods, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Miami, Fla.

PASSENGER APPLICATIONS

No. MC 108811 (Sub-No. 7), filed January 3, 1977. Applicant: THOMAS MOTOR TOURS, INC., 5047 Solomon's Island Road, Lothian, Md. 20820. Applicant's representative: S. Harrison Kahn, Suite 733, Investment Bldg., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Passengers and their baggage*, in special operations, in round trip sightseeing and pleasure tours, beginning and ending at points in Prince Georges and Montgomery Counties, Md., and the District of Columbia, and extending to points in the United States, including Alaska, but excluding Hawaii; and (2) *passengers and their baggage*, in round trip charter operations, beginning and ending at points in Prince Georges and Montgomery Counties, Md., and the District of Columbia, and extending to points in the United States, including Alaska but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 112108 (Sub-No. 4), filed January 19, 1977. Applicant: LEPRECHAUN LINES, INC., Route 32, P.O. Box 2628, Newburgh, N.Y. 12550. Applicant's representative: J. G. Dail, Jr., P.O. Box 567, McLean, Va. 22101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special operations, beginning and ending at points in Columbia, Dutchess, Orange, and Ulster Counties, N.Y., and extending to the site of New Jersey Sports and Exposition Authority, located at East Rutherford, N.J., and to Atlantic City, N.J.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Poughkeepsie, N.Y.

No. MC 142531 (Sub-No. 1), filed January 17, 1977. Applicant: CLAUSEN TRANSPORTATION CORPORATION, 25 Surrey Lane, Valley Stream, N.Y.

11581. Applicant's representative: Sidney J. Leshin, 575 Madison Avenue, New York, N.Y. 10022. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers*, in special and round trip operations, Between Huntington, Oyster Bay and Hempstead, N.Y., on the one hand, and, on the other, the Meadowlands Sporting Complex, located in East Rutherford, N.J. and Bridgeport, Conn.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 142788, filed January 5, 1977. Applicant: FARRUGGIO'S LIMOUSINE SERVICE, A DIVISION OF FARRUGGIO'S BRISTOL AND PHILADELPHIA AUTO EXPRESS, INC., 1419 Radcliffe Street, Bristol, Pa. 19007. Applicant's representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special and charter operations, in nonscheduled, door-to-door service, between points in Bucks County, Pa., on the one hand, and on the other, points in Ocean City, N.J. and in Atlantic County, N.J., restricted to the transportation of not more than eleven passengers in one vehicle, not including the driver, and not including children under ten years of age who do not occupy a seat or seats.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Philadelphia, Pa. or Washington, D.C.

BROKER APPLICATION

No. MC 130432, filed December 27, 1976. Applicant: RICHARD PRICE AND SUSAN E. PRICE, doing business as PRICE'S TOURS, 761 North 36th Street, Paducah, Ky. 42001. Applicant's representative: H. S. Melton, Jr., P.O. Box 1407, Paducah, Ky. 42001. Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Paducah, Ky., to sell or offer to sell the transportation of *passengers and their baggage*, on regulated, conducted tours, beginning and ending at Paducah, Ky., and extending to points in the United States, including Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Paducah, Ky. or Memphis, Tenn.

ABANDONMENT APPLICATIONS

NOTICE OF FINDINGS

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act that orders have been entered in the following abandonment applications which are administratively final and which found that subject to conditions the present and future public convenience and necessity permit abandonment.

A Certificate of Abandonment will be issued to the applicant carriers 30 days after this FEDERAL REGISTER publication unless the instructions set forth in the notices are followed.

[Docket No. AB-1 (Sub-No. 33)]

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY ABANDONMENT BETWEEN WATERTOWN AND STRATFORD, IN CODINGTON, CLARK, DAY, SPINK, AND BROWN COUNTIES, SOUTH DAKOTA

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on September 9, 1976, and the decision and order of the Commission, Division 3, acting as an Appellate Division, served January 14, 1977, which affirmed and adopted the report and order of the Commission, Review Board Number 5, entered on September 9, 1976, a finding, which is administratively final, was made stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Chicago and North Western Transportation Company of its line of railroad between milepost 234.9 near Watertown, Codington County, and milepost 306.3 near Stratford, Brown County, a distance of 71.4 miles in Codington, Clark, Day, Spink and Brown Counties, South Dakota. A certificate of abandonment will be issued to the Chicago and North Western Transportation Company based on the above described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-3 (Sub-No. 8)]

MISSOURI PACIFIC RAILROAD COMPANY ABANDONMENT BETWEEN OLIVIER AND SORRELL AND AT GARDEN CITY, IN IBERIA AND ST. MARY PARISHES, LOUISIANA

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on December 22, 1976, a finding, which is administratively final, was made by the Administrative Law Judge stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, the present and future public convenience and necessity permit the abandonment by the Missouri Pacific Railroad Company of the line of railroad between milepost 56.6 at Loisel and milepost 63.86 at Sorrell and between milepost 82.84 and milepost 83.04 at Garden City in Iberia and St. Mary Parishes, Louisiana. A certificate of abandonment will be issued to the Missouri Pacific Railroad Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; an

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line.

Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-7 (Sub-No. 8)]

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY ABANDONMENT BETWEEN ST. CLAIR JUNCTION AND ST. CLAIR, IN FREEBORN, WASECA AND BLUE EARTH COUNTIES, MINN.

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on December 22, 1976, a finding, which is administratively final, was made by the Commission, Division 3, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Chicago, B. & Q. R. Co., Abandonment, 257 I.C.C. 700, the present and future public convenience and necessity permit the abandonment by the Chicago, Milwaukee, St. Paul and Pacific Railroad Company of that portion of its branch line between Pemberton and St. Clair, Minnesota, a distance of 6.56 miles, all in Blue Earth County, Minnesota. A certificate of abandonment will be issued to the Chicago, Milwaukee, St. Paul and Pacific Railroad Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-9 (Sub-No. 6)]

ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY ABANDONMENT-BETWEEN TYRONZA JUNCTION AND LEPANTO, IN POINSETT COUNTY, ARKANSAS

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on December 21, 1976, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Chicago, B. & Q. R. Co., Abandonment, 257 I.C.C. 700, the present and future public convenience and necessity permit the abandonment by the St. Louis-San Francisco Railway Company of a portion of its line extending from milepost C-449.6 near Tyronza Junction in a northwesterly direction to Lepanto milepost SA-458.8, a distance of 9.2 miles in Poinsett County, Arkansas. A certificate of abandonment will be issued to the St. Louis-San Francisco Railway Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-43 (Sub-No. 3)]

ILLINOIS CENTRAL GULF RAILROAD COMPANY ABANDONMENT DYERSBURG BRANCH BETWEEN ROBERTS AND DYERSBURG, IN MADISON, CROCKETT, AND DYER COUNTIES, TENNESSEE

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a) that by an order entered on December 17, 1976, a finding, which is administratively final, was made by the Commission, Division 3, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Chicago, B. & Q. R. Co., Abandonment, 257 I.C.C. 700, the present and future public convenience and necessity permit the abandonment by the Illinois Central Gulf Railroad Company of that portion of the line of railroad beginning at milepost 10.62 immediately southeast of Roberts, Madison County, Tennessee, and extending in a northwesterly direction to milepost 47.5 approximately 1 mile southeast of Dyersburg, Dyer County, Tennessee, a distance of 36.88 miles, all in Madison, Crockett and Dyer Counties, Tennessee. A certificate of abandonment will be issued to the Illinois Central Gulf Railroad Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line; or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-43 (Sub-No. 15)]

ILLINOIS CENTRAL GULF RAILROAD COMPANY ABANDONMENT IN HICKMAN AND CARLISLE COUNTIES, KENTUCKY

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on December 20, 1976, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Chicago, B. & Q. R. Co., Abandonment, 257 I.C.C. 700, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Illinois Central Gulf Railroad Company of the line of railroad beginning at milepost 470 near Columbus, Kentucky, and extending in a northerly direction to Winford junction, Kentucky, at milepost 485, a distance of 15 miles, in Hickman and Carlisle Counties, Kentucky. A certificate of abandonment will be issued to the Illinois Central Gulf Railroad Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

FINANCE APPLICATIONS

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's General Rules of Practice (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

NOTICE

William M. Gibbons, Trustee of the Property of Chicago, Rock Island and Pacific Railroad Company, Debtor, 139 West Van Buren Street, Chicago, Illinois 60605, represented by Mr. Henry E. Szachowicz, Jr., Attorney, Chicago, Rock Island and Pacific Railroad Company, 139 West Van Buren Street, Chicago, Illinois 60605, hereby gives notice that on the 7th day of February, 1977, it filed with the Interstate Commerce Commission at Washington, D.C., an application under Section 5(2) of the Interstate Commerce Act for an order approving and authorizing the acquisition of trackage rights over the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, a distance of approximately 38.46 miles between Emmetsburg and Webb, Iowa, which application is assigned Finance Docket No. 28394.

The proposed transaction will allow the applicant to provide rail service to the Chicago, Rock Island and Pacific Railroad Company's Gowrie-Sibley line, just south of Webb, Iowa, by the most economical expeditious route available. Furthermore, this application will replace I.C.C. Service Order No. 1131, which has been extended until February 28, 1977.

In the opinion of the applicant, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 C.F.R. 1108.8) in Ex Parte No. 55 (Sub-No. 4), Implementation—National Environmental Policy Act, 1969, 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See Implementation—National Environmental Policy Act, 1969, supra, at p. 487.

Pursuant to the provisions of the Interstate Commerce Act, as amended, the proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue, N.W., Washington, D.C. 20423, and the aforementioned counsel for applicant, within 45 days after date of first publication in the FEDERAL REGISTER: that such comments shall be served upon (a) Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Room 5101, 400 Seventh Street, S.W., Washington, D.C. 20590, (b) Mr. Edward H. Levi, Attorney General, Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530, and certificate of all such service is given to the Interstate Commerce Commission; and that all other applications, which are inconsistent, in whole or in part, with such applications, and all petitions for inclusion in the transaction, shall be filed with the Commission and furnished to the Docket Clerk, Secretary of Transportation, within 90 days after the publication of notice of the application in the FEDERAL REGISTER.

WILLIAM M. GIBBINS, TRUSTEE OF THE PROPERTY OF CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY, DEBTOR

NOTICE

Norfolk and Western Railway Company, 8 North Jefferson Street, Roanoke, Virginia 24042, represented by John S. Shannon, Vice President, Law, Norfolk and Western Railway Company, 8 North Jefferson Street, Roanoke, Virginia 24042, hereby give notice that on the 28th day of January, 1977, it filed with the Inter-

state Commerce Commission at Washington, D.C., an application under section 5(2) of the Interstate Commerce Act for an order approving and authorizing the acquisition by applicant of relocated trackage rights over approximately 27.18 miles of the tracks of the Burlington Northern Inc. (BN) in Marion County, Missouri, and Adams County, Illinois, which application is assigned Finance Docket No. 28387.

The proposed transaction covered by this application is the acquisition by Applicant of relocated trackage rights over the tracks of Burlington Northern, Inc. between Hannibal, Missouri, Mile Post 120.23, and West Quincy, Missouri, Mile Post 137.07, between West Quincy, Missouri, Mile Post 263.62, and Quincy, Illinois, Mile Post 261.60, and between Quincy, Illinois, Mile Post 261.26, and Marblehead, Illinois, Mile Post 269.58, a total distance of approximately 27.18 miles in Marion County, Missouri, and Adams County, Illinois.

In the opinion of the Applicant, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-No. 4), Implementation—National Environmental Policy Act, 1969, 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See Implementation—National Environmental Policy Act, 1969, supra, at p. 487.

Pursuant to the provision of the Interstate Commerce Act, as amended, the proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue, N.W., Washington, D.C. 20423, and the aforementioned counsel for applicant, within 45 days after date of first publication in the FEDERAL REGISTER; that such comments shall be served upon (a) Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Room 5101, 400 Seventh Street, S.W., Washington, D.C. 20590, (b) Mr. Edward H. Levi, Attorney General, Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530, and certificate of all such service is given to the Interstate Commerce Commission; and that all other applications, which are inconsistent, in whole or in part, with such applications, and all petitions for inclusion in the transaction, shall be filed with the Commission and furnished to the Docket Clerk, Secretary of Transportation, within 90 days after the publication of notice of the application in the FEDERAL REGISTER.

NORFOLK AND WESTERN RAILWAY COMPANY

MC-F-13027. Authority sought for purchase by KENDALL A. BAILEY & MILTON A. BAILEY, PARTNERS, d.b.a. PARKER K. BAILEY & SONS, Houlton Road (U.S. Rt. 1), Presque Isle, Maine. 04769 of a portion of the operating rights of BARROWS TRANSFER & STORAGE COMPANY, INC., P.O. Box 560, Waterville, Maine. 04901, of control of such rights through the purchase. Applicant's attorney: Milton A. Bailey, P.O. Box 308, Presque Isle, Maine 04769. Operating rights sought to be transferred: *New furniture*, crated, as a common carrier over irregular routes from the plant sites of Moosehead Manufacturing Company at Dover-Foxcroft and Monson, Maine, to points in Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and the District of Columbia, with no transportation for compensation on return except as otherwise authorized. Vendee is authorized to operate as a common carrier in Connecticut, Delaware, the District of Columbia, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and Virginia. Application has not been filed for temporary authority under section 210a(b). Subject authority sold by IRS to LUCIEN BISSON, INC. on June 28, 1976. Transfer to BISSON by ICC has never been made nor has application for transfer been made. Bisson has contracted in the instant proceeding to sell the Barrows' authority to d.b.a. PARKER K. BAILEY & SONS, however, Bisson has never applied to the Commission for authority to acquire the operating rights of Barrows.

No. MC-F-13123. Authority sought for purchase by SYSTEM 99, 8201 Edgewater Drive, Oakland, CA 94621, of a portion of the operating rights of NORTHWESTERN TRANSFER COMPANY, 215 S.E. Morrison, Portland, OR 97214, and for acquisition by M. D. GILARDY, L. A. DORÉ, JR., and E. R. PRESTON, all of 8201 Edgewater Dr., Oakland, CA 94621, of control of such rights through purchase. Applicant's attorneys: Jerry R. Woods, 200 Market Building, Portland, OR 97201, and Melvin P. Pihl, 215 S.E. Morrison, Portland, OR 97214. Operating rights sought to be transferred: *General commodities*, with exceptions as a *common carrier* over regular routes between Portland, Oregon, and Vancouver, Washington, serving no intermediate points: from Portland over U.S. Highway 99 to Vancouver and return over the same route. *General commodities*, with exceptions as a *common carrier* over irregular routes between points within three miles of Portland, Oregon, including Portland. Vendee is authorized to operate as a *common carrier* in Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-13128. Authority sought for purchase by BLUFF CITY TRANSPORTATION, INC., 2877 Farrisview Road, Memphis, TN 38118, of a portion of the operating rights of CONTINENTAL CONTRACT CARRIER CORP., 15045 East Salt Lake Avenue, City of Industry, CA 91749, and for acquisition by WALLACE A. KNERR, and KNERR TRAILER SERVICE, INC., P.O. Box 18391, Memphis, TN 38118, of control of such rights through the purchase. Applicants' attorneys: Bradford E. Kistler, P.O. Box 82028, Lincoln, NB 68501 and Richard A. Peterson, P.O. Box 81849, Lincoln NB 68501. Operating rights sought to be transferred: *Vinyl plastic*, as a contract carrier over irregular routes from Corinth, Miss., to points in the United States (except Alaska and Hawaii); and *Materials and supplies* (except commodities in bulk), used in the manufacture of vinyl plastic, and returned shipments of vinyl plastic, from points in the United States (except Alaska and Hawaii), to Corinth, Miss., with restrictions: (1) *plastic film, sheeting, bags and trays and materials, supplies and equipment* used in the manufacture and distribution of such commodities, between the plant site and warehouse facilities utilized by W. R. Grace & Co. (Cryovac Division) at or near Duncan and Simpsonville, S.C., on the one hand, and, on the other, Cedar Rapids, Iowa, (2) *plastic film, sheeting, bags and trays*, from the plant sites and warehouse facilities utilized by W. R. Grace & Co. (Cryovac Division) at or near Cedar Rapids, Iowa, and Duncan and Simpsonville, S.C., to points in the United States west of a line beginning at the mouth of the Mississippi River, and extending along the west bank of the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the United States-Canada Boundary line (except Alaska and Hawaii), (3) *materials*, supplies and equipment used in the manufacture and distribution of the commodities described in (2) above, and returned shipments of plastic film, sheetings, bags and trays, from points in the United States west of a line beginning at the mouth of the Mississippi River, and extending along the west bank of the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the United States-Canada Boundary line (except Alaska and Hawaii), to Cedar Rapids, Iowa, and Duncan and Simpsonville, S.C.;

(4) *food processing and packaging machinery and equipment*, and *component parts and accessories* therefor, from the plant site and warehouse facilities utilized by W. R. Grace & Co. (Cryovac Division), at or near Woburn, Mass., to points in the United States (except Alaska, Hawaii, Georgia, Massachusetts, North Carolina and South Carolina), (5)

materials, equipment and supplies used in the manufacture and distribution of the commodities described in (4) above, and *returned* shipments of food processing and packaging machinery and equipment and component parts and accessories therefor, from points in the United States (except Alaska, Hawaii, Georgia, Massachusetts, North Carolina and South Carolina), to Woburn, Mass., with restrictions; *plastic products*, from Camarillo, Calif., to points in the United States (except Alaska, California, and Hawaii); and *vinyl plastic*, from Clifton, N.J., to points in the United States (except Alaska, Hawaii, Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Delaware, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, and the District of Columbia); and from Los Angeles, Calif., to points in the United States (except Alaska, California, and Hawaii); and *returned shipments and materials, equipment and supplies* utilized in the manufacture, sale and distribution of plastic products and vinyl plastic, from the destination points named herein above, to Camarillo, Calif., Clifton, N.J., and Los Angeles, Calif., with restrictions; (1) *bone cloth* and *aluminum clips*, from Woburn, Holyoke, and Boston, Mass., to points in the United States (except Alaska and Hawaii); and (2) *packaging supplies* and *plastic articles*, from Reading, Pa., and Michigan City, Ind., to points in the United States (except Alaska and Hawaii); and (3) *vinyl plastic* and *plastic articles*, from New York City, N.Y., to points in the United States (except Alaska and Hawaii); and (4) *aluminum clips*, from Los Angeles, Calif., to points in the United States (except Alaska and Hawaii); and (5) returned shipments and materials, equipment and supplies used in the manufacture, sale, and distribution of the commodities named in (1), (2), (3), and (4) above, from points in the United States, except Alaska and Hawaii, to Woburn, Holyoke, and Boston, Mass., Reading, Pa., Michigan City, Ind., New York City, N.Y., and Los Angeles, Calif., with restrictions; plastic articles, from Duncan, S.C., and Simpsonville, S.C., to points in the United States west of the Mississippi River and the western boundaries of Itasca and Koochiching, Counties, Minn., (except Alaska and Hawaii); *plastic articles, bone guard cloth and aluminum clips*, from Cedar Rapids, Iowa, to points in the United States (except Alaska and Hawaii); *bone guard cloth* and *aluminum clips*, from Camarillo, Calif., to points in the United States (except Alaska and Hawaii); *returned shipments* of the commodities described herein above and *materials and equipment, and supplies* utilized in the manufacture, sale and distribution of plastic products, bone guard cloth and aluminum clips, from the above-described destination points, to Duncan, S.C., and Simpsonville, S.C., Cedar Rapids, Iowa, and Camarillo, Calif., with restrictions. Vendee is authorized to operate as a *contract carrier* in all the States in the United States (except Alaska and Hawaii). Application has been filed for temporary authority under section 210a(b).

No. MC-F-13129. Authority sought for control by KAW TRANSPORT COMPANY, P.O. Box 8525, Sugar Creek, MO 64054, of ROYAL TRANSPORTS, INC., 642 Adams, Kansas City, KS 66105, and for acquisition by DR. STERLING B. SUDDARTH, 6501 Engelwood Road, Raytown, MO, DONALD L. SUDDARTH, 8 West 115 Street, Kansas City, MO, MARJORIE S. MIMS, 6214 Valley Road, Kansas City, MO, and ROBERT L. HOLWICK, 6204 N. Bales, Kansas City, MO, of control of ROYAL TRANSPORT, INC., through the acquisition by DR. STERLING B. SUDDARTH, DONALD L. SUDDARTH, MARJORIE S. MIMS, and ROBERT L. HOLWICK. Applicants' attorneys: John E. Jandera, 641 Harrison Street, Topeka, KS 66603, Robert Hawkins, Jefferson City, MO, and Patrick E. Quinn, 605 S. 14th, P.O. Box 82028, Lincoln, NB 68501. Operating rights sought to be controlled: *Gasoline, diesel fuel, aviation fuel, fuel oil, asphalt*, and *asphalt products*, in bulk, in tank vehicles, as a *common carrier* over irregular routes between points in Kansas, on the one hand, and on the other, points in Missouri; ROYAL TRANSPORTS, INC., of Kansas also has pending an application for a contract carrier permit in MC-136956 and is operating under temporary authority as a contract carrier. ROYAL TRANSPORTS, INC., the Kansas Corporation, owns all of the outstanding capital stock of ROYAL TRANSPORTS, INC. of Nebraska, a Nebraska corporation. ROYAL TRANSPORTS, INC., of Nebraska holds authority as follows: *Petroleum products*, in bulk, as a *common carrier* over regular routes, from Arkansas City, Kans., to points in Nebraska as follows, serving the intermediate points of Augusta, Wichita, and McPherson, Kans., restricted to pickup only, and Grafton, Sutton, Hastings, Kearney, Lexington, North Platte, Hershey, Sutherland, Paxton, Sidney, Potter, Kimball, Gibson, Shelton, Lawrence, Benkelman, Red Cloud, Stratton, Culbertson, McCook, Cambridge, Holdrege, Broken Bow, and Oshkosh, Nebr., restricted to delivery only, and the off-route points of Eldorado, Kans., to be served from junction U.S. Highway 81 and Kansas Highway 196 over Kansas Highway 196 restricted to pickup only; Gurley and Dalton, Nebr., to be served from Sidney, Nebr., from junction Nebraska Highway 19 and Nebraska Highway 385 (formerly portion Nebraska Highway 19), over Nebraska Highway 385, Wauneta and Palisade, Nebr., to be served from Culbertson, Nebr., over U.S. Highway 6, and Hayes Center, Nebr., to be served from junction U.S. Highway 6 and unnumbered highway (formerly portion Nebraska Highway 17), over unnumbered highway, restricted to delivery only; from Argentine, Kans., to Bushnell, Anselmo, and Fremont, Nebr., as follows:

Serving the intermediate points of Fairfield, Sutton, Grafton, Hastings, Kearney, Lexington, North Platte, Hershey, Sutherland, Paxton, Sidney, Kimball, Grand Island, and Broken Bow, Nebr., restricted to delivery only; and the off-route points of Gurley and Dalton to be served from Sidney, Nebr., from junction Highway 19 and Nebraska Highway 385 (formerly portion Nebraska Highway 19), over Nebraska Highway 385, and Lawrence, Nebr., restricted to delivery only; *liquid petroleum products*, from Kansas points to points in Nebraska and Iowa, as follows, serving the intermediate points of Harlan, Iowa, restricted to delivery only, and Maryville, Mo., restricted to delivery of traffic moving from Eldorado, Kans., only; from Portsmouth, Iowa, to junction Iowa Highway 44 (formerly Iowa Highway 39) and U.S. Highway 30, serving no intermediate points; *petroleum products*, in bulk, as a *common carrier* over irregular routes from refining and distributing points in Kansas to Auburn, Nebr.; *liquid petroleum products*, in bulk, in tank trucks, from Sugar Creek, Mo., to Anselmo, Ansley, Aranshoe, Ashland, Benkelman, Broken Bow, Cambridge, Culbertson, Dalton, Exeter, Fairbury, Fairfield, Fremont, Friend, Geneva, Gibbon, Grafton, Gretna, Grand Island, Haigler, Hastings, Hebron, Holdrege, Kearney, Kimball, Lawrence, Lexington, Lincoln, Lodgepole, McCook, Milford, North Platte, Ogallala, Omaha, Oshkosh, Palisade, Paxton, Red Cloud, Scribner, Sidney, Stratton, Sutherland, Sutton, Valley, Wahoo, Wallace, and Wauneta, Nebr., from Coffeyville, Kans., to Jolley and Lohrville, Iowa, from Coffeyville, Eldorado, McPherson, Arkansas City, Neodesha, and Augusta, Kans., to Malvern, Council Bluffs, Logan, Sioux City, Red Oak, Wesley, Titonka, Corning, Carroll, Bagley, Wall Lake, Manning, Rippey, Dunlap, Mapleton, and Havelock, Iowa, from Eldorado, McPherson, Arkansas City, Neodesha, and Augusta, Kans., to Jolley, Iowa; *liquid petroleum products*, in bulk, from refining and distributing points in Kansas to Cambridge, Broadwater, Omaha, Scribner, Fairbury, Arapahoe, Chester, Grafton, Geneva, Hastings, Kearney, Lexington, Paxton, Oshkosh, Ansley, Ogallala, Sutton, Exeter, Friend, Milford, Lincoln, Ashland, Gretna, Wahoo, Fremont, Hebron, Deshler, Irvington, Valley, and Morse Bluff, Nebr.; Catalogs, from McCook, Nebr., to Rexford; Menlo, Gem, Colby, Lovant, Brewster, Edson, Goodland, Ruleton, Kanorado, St. Francis, Wheeler, Bird City, McDonald, Beardsley, Blakeman, Atwood, Ludell, Herndon, Traer, and Cedar Bluffs, Kans.; *salt*, from Hutchinson and Kanapolis, Kans., to McCook, Orleans, Cambridge, Indianola, and Benkelman, Nebr.; *fruits and vegetables*, from points in Colorado to McCook, Nebr.; Household goods, between McCook, Nebr., and points in Nebraska within 25 miles of McCook, on the one hand, and, on the other, points in Kansas and Colorado. Vendee is authorized to operate as a *common carrier* in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New

York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming. Application has been filed for temporary authority under section 210a(b).

No. MC-F-13132. Authority sought for control by BILL HODGES TRUCK COMPANY, INC., 4050 West Interstate Hwy. 40, Oklahoma City, OK 73128, of J. D. HODGES TRUCKING, INC., P.O. Box 842, Woodward Oklahoma 73801, and for acquisition by HAROLD L. HODGES, 4050 Interstate Hwy. 40, Oklahoma City, OK 73128, of control of J. D. HODGES TRUCKING, INC., through the acquisition by HAROLD L. HODGES. Applicants' attorneys: Clayte Binion, 1108 Continental Life Building, Fort Worth, TX 76102, and Robert G. Grove, Suite 300, 324 North Robinson Street, Oklahoma City, OK 73102. Operating rights sought to be controlled: 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, dismantling of pipelines, including the stringing and picking up thereof, as a common carrier over irregular routes between points in Kansas, on the one hand, and, on the other, points in Colorado; machinery, equipment, materials, and supplies used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water or sewerage, restricted to the transportation of shipments moving to or from pipeline rights-of way, between points in Kansas, on the one hand, and, on the other, points in Colorado. Vendee is authorized to operate as a common carrier in Texas, Oklahome, Kansas, and Colorado. Application has been filed for temporary authority under section 210a(b).

Motor Carrier Alternate Route Deviations

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this Federal Register notice.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

Motor Carriers of Property

No. MC 59957 (Deviation No. 16), MOTOR FREIGHT EXPRESS, INC., P.O. Box 1039, York, Pa. 17405, filed February 18, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Port Matilda, Pa., over U.S. Highway 322 to Philipsburg, Pa., and (2) From Bald Eagle, Pa., over Pennsylvania Highway 350 to Philipsburg, Pa., and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Port Matilda and Bald Eagle, Pa., over U.S. Highway 220 to Altoona, Pa., thence over Pennsylvania Highway 764 to Duncanville, Pa., thence over U.S. Highway 22 to Ebensbrug, Pa., thence over U.S. Highway 219 via Carrolltown, St. Benedict, Spangler, and Barnesboro, Pa., to Grampian, Pa., thence over Pennsylvania Highway 879 to Clearfield, Pa., thence over U.S. Highway 322 to Philipsburg, Pa., and return over the same route.

No. MC 52953 (Deviation No. 23), ET&WNC TRANSPORTATION COMPANY, 132 Legion St., Johnson City, Tenn. 37601, filed February 16, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Texarkana, Ark., over U.S. Highway 82 to junction Arkansas Highway 98, thence over Arkansas Highway 98 to junction U.S. Highway 79, thence over U.S. Highway 79 to Camden, Ark., thence over Arkansas Highway 4 to Monticello, Ark., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Monticello, Ark., over Arkansas Highway 81 to junction U.S. Highway 65, thence over U.S. Highway 65 to Pine Bluff, Ark., thence over U.S. Highway 270 to junction Interstate Highway 30, thence over Interstate Highway 30 to Texarkana, Ark., and return over the same route.

No. MC 52953 (Deviation No. 22), ET&WNC TRANSPORTATION COMPANY, 132 Legion St., Johnson City, Tenn. 37601, filed February 16, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Bristol, Tenn., over U.S. Highway 421 to Mountain City, Tenn., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Bristol, Tenn., over U.S. Highway 19 to junction U.S. Highway 19E, thence over U.S. Highway 19E to junction U.S. Highway 321, thence over U.S. Highway 321 to junction Tennessee Highway 67, thence over Tennessee Highway 67 to Mountain City, Tenn., and return over the same route.

Motor Carrier Intrastate Application(s)

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 206(a)(6) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's General Rules of Practice (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes there in, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

Oklahoma Docket No. MC 39435 (Amended), filed February 7, 1977. Applicant: AMBASSADOR COACH LINES, INC., 212 A Street NW., Miami, Okla. 74354. Applicant's representative: I. E. Chenoweth, 1300 Mid-Continent Bldg., Tulsa, Okla. 74103. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of (1) *Passengers, baggage and express*, between Tulsa and Oklahoma City, Okla. over U.S. Highway 66, serving all intermediate points; and (2) for charter service over irregular routes, from, to and between Tulsa and Oklahoma City, Okla. over U.S. Highway 66, serving all intermediate points, on the one hand, and, on the other, from and to all points and places in the United States. Intrastate, interstate and foreign commerce authority sought.

HEARING: Date, time and place scheduled for April 4th and April 6th, 1977, at 9 a.m., 2nd Floor, Jim Thorpe Office Bldg., Oklahoma City, Okla. Requests for procedural information should be addressed to the Oklahoma Corporation Commission, Jim Thorpe Office Building, Oklahoma City, Okla. 73105 and should not be directed to the Interstate Commerce Commission.

By the Commission.

Robert L. Oswald,
Secretary.

[FR Doc.77-6222 Filed 3-2-77;8:45 am]

federal register

THURSDAY, MARCH 3, 1977

PART II

SECURITIES AND EXCHANGE COMMISSION

■

BENEFICIAL OWNERSHIP DISCLOSURE REQUIREMENTS

Adoption, Proposed Amendments, and Withdrawal

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-5808; 34-13291]

ADOPTION OF BENEFICIAL OWNERSHIP DISCLOSURE REQUIREMENTS

The Securities and Exchange Commission today announced the amendment of existing rules and Schedule 13D (17 CFR 240.13d-101) and the adoption of new rules and a Form 13D-5 (17 CFR 240.13d-102) relating to disclosure by certain beneficial owners of securities pursuant to Section 13(d) of the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)). At the same time, the Commission amended certain of its forms and schedules under the Securities Act of 1933 ("Securities Act") (15 U.S.C. 77a et seq.) and under the Exchange Act to require issuers to disclose information regarding certain beneficial owners of their securities. These actions, which will not become effective until August 31, 1977, were primarily based on the "Proposals Relating to Disclosure of Beneficial Owners and Holders of Record of Voting Securities" published by the Commission on August 25, 1975 in Exchange Act Release No. 11616 (40 FR 42212). It should be particularly noted that portions of the proposed rulemaking (including the proposal which would have required each issuer to disclose information regarding its thirty largest holders of record and each of their respective ten largest voting blocks of securities) have been formally withdrawn and will not be adopted. See FR Doc. 77-6359 appearing at page 12355 of this issue, Exchange Act Release No. 34-13292. As discussed below, the Commission has also concurrently published for comment proposed amendments to certain of the rules adopted today. See FR Doc. 77-6359 appearing at page 12355 of this issue, Exchange Act Release No. 34-13292). It should also be noted that the Commission has deferred amending Form U5S (17 CFR 259.5s) under the Public Utility Holding Company Act of 1935 (15 U.S.C. 79a et seq.) as it relates to disclosure of information about beneficial owners of more than five percent of a class of securities required to be reported on that form.

All of the rules and forms adopted or amended herein will become effective on August 31, 1977, except that any person who so chooses may rely upon them as of the date of their publication in the FEDERAL REGISTER.

I. SUMMARY OF NEW AND AMENDED RULES AND FORMS ADOPTED

Generally, Section 13(d) of the Exchange Act requires a report by any person (or group of persons) who, as a result of an acquisition, becomes the beneficial owner of more than five percent of certain classes of equity securities of certain issuers. In order to provide more objective standards for the application of this general requirement, the Commission has adopted rules defining, for certain purposes, the terms "beneficial owner," "acquisition," and "group."

For the purposes of section 13(d), the Commission has adopted a definition of the term "beneficial owner" which primarily focuses on who possesses voting power or investment power over securities, including a person who has the right to acquire certain securities within sixty days (Rule 13d-3, 17 CFR 240.13d-3). The rule specifically excludes from the definition of beneficial owner stock exchange members with respect to customer's securities which may be voted by the exchange members on certain routine matters and certain lenders with respect to pledged securities. Also, Rule 13d-4 (17 CFR 240.13d-4) permits any person filing a statement under Section 13(d) to disclaim beneficial ownership in the securities covered in such statement. However, disclosure requirements in the amended schedules under Section 13(d) call for information concerning other persons who, although not "beneficial owners" of securities held by a reporting person, nonetheless are known to have an economic interest in more than five percent of that class of securities.

Another rule (Rule 13d-6, 17 CFR 240.13d-6) defines certain transactions (such as gifts and inheritances) as acquisitions for purposes of section 13(d) even though such transactions do not involve a purchase, and deems the formation of certain groups of persons for the purpose of acquiring, holding or disposing of securities to be an acquisition which may trigger the reporting requirements of section 13(d), even though the group has not made any purchase or other acquisition subsequent to its formation.

In addition, the Commission has exercised its exemptive powers under sections 13(d) (5) and (6) of the Exchange Act for the first time on a general basis. A new rule (Rule 13d-5, 17 CFR 240.13d-5) and a related short form (Form 13D-5) will permit certain institutional investors (such as broker-dealers, investment companies and banks), and certain employee benefit plans, who acquire more than five percent of a class of securities in the ordinary course of their business and without the intent or effect of changing or influencing control, and who meet certain other requirements, to file an abbreviated acquisition notice on a quarterly basis in lieu of filing the current form, Schedule 13D (17 CFR 240.13d-101), which otherwise is required to be filed within ten days after certain acquisitions. Another rule (Rule 13d-7, (17 CFR 240.13d-7)) provides an exemption from reporting for certain underwriters engaging in a registered, firm commitment underwriting.

The Commission has amended Schedule 13D, the long form acquisition statement, in order to make the information therein more meaningful to investors and, to the extent feasible, the reporting of that information less burdensome to beneficial owners. Schedule 13D, as amended, requires disclosure of the citizenship of the beneficial owner; the general nature of any non-purchase acquisitions; and certain pledges of securities by the beneficial owner. Certain other disclosure requirements of Schedule 13D, which were "temporarily" adopted in 1968, have been amended as follows: The requirement that the beneficial owner and certain related persons disclose their ten year employment histories and any criminal convictions during the past ten years has been reduced to five years; the requirement that a reporting corporation disclose information regarding all of its officers has been limited to information regarding its executive officers; and the requirement that a reporting limited partnership disclose information regarding its general and limited partners has been reduced to information with respect to general partners only.

Finally, certain "housekeeping" interpretations regarding required signatures and incorporation of information by reference to exhibits have been codified in the schedule, as amended.[1]

The Commission also has determined to integrate information concerning beneficial ownership of the securities of publicly owned corporations into the Commission's continuous disclosure system under the federal securities laws as previously was proposed. Accordingly, additional disclosure by issuers regarding the beneficial owners of more than five percent of a class of their securities will now be required in registration statements on Forms S-1 (17 CFR 239.11) and S-11 (17 CFR 239.18) under the Securities Act, and in registration statements on Form 10 (17 CFR 249.210), annual reports on Form 10-K (17 CFR 249.310) and in proxy, information and other statements prepared pursuant to Schedules 14A (17 CFR 240.14a-101), 14B (17 CFR 240.14a-102) and 14C (17 CFR 240.14c-101) under the Exchange Act. The information to be required in the specified forms will, in large part, be based on disclosures made by beneficial owners pursuant to section 13(d) of the Exchange Act; issuers may rely upon such statements unless they have knowledge of other information.

It must be emphasized that the definition of "beneficial owner" and the related rules have been adopted primarily for the purposes of section 13(d) of the Exchange Act. While substantially similar concepts will apply with respect to various registration and reporting forms, the new rules are not intended to affect interpretations of the provisions of section 16 of the Exchange Act, or the rules and regulations thereunder, since the

[1] It should be noted that Schedule 13D also is presently required to be filed in connection with the making of certain tender offers subject to the provisions of Section 14(d) of the Exchange Act. On August 2, 1976, the Commission proposed for comment certain rules and related schedules under Sections 14(d) and 14(e) of the Exchange Act with respect to tender offers. If adopted, these proposals would, among other things, provide for a specific Tender Offer Statement (proposed Schedule 14D-1), (17 CFR 240.14d-100) to be used instead of Schedule 13D. Exchange Act Release No. 12676 (August 6, 1976) (41 FR 33004).

purposes of section 16 are different from those of section 13(d). Accordingly, beneficial ownership for the purposes of section 16 would continue to be defined and interpreted by the Commission and construed by the federal courts in light of the purposes of that section.

II. Background

In 1968, the Congress adopted the so-called Williams Act Amendments which added sections 13(d), 13(e), 14(d), 14(e) and 14(f) to the Exchange Act.[3]

During the period in which the Williams Act has been in effect, there have been apparently varying judicial interpretations of the Williams Act and a number of interpretative questions raised regarding the Commission's rules thereunder, which were adopted as emergency rules pursuant to the Administrative Procedure Act, but without the benefit of written comments from interested persons. In addition, there has been growing Congressional and public interest in the adequacy of ownership data in general and of foreign ownership data in particular. Most importantly, there have been certain questions raised as to whether the Commission's schedules, rules and regulations in this area provided adequate disclosure and other protections to investors in connection with significant acquisitions and takeovers. Accordingly, in the fall of 1974, the Commission ordered a Public Fact-Finding Investigation in the Matter of Beneficial Ownership, Takeovers and Acquisitions by Foreign and Domestic Persons (hereinafter "Beneficial Ownership Hearings")[4] to re-examine this entire area.

Based primarily on the testimony, exhibits and written comments contained in the record of the Beneficial Ownership Hearings and on its own experience, the Commission published on August 25, 1975, its "Proposals Relating to Disclosure of Beneficial Owners and Holders of Record of Voting Securities" (hereinafter, "1975 Ownership Proposals").[5] As set forth therein, the 1975 Ownership Proposals if adopted would, among other things, have:

Defined "beneficial owner" to include any person who has or shares the power to direct the voting or disposition of the securities, or who has or shares the power to direct the receipt of dividends or proceeds from the sale of the securities;

Required more disclosure in Schedule 13D regarding the nature of beneficial ownership, other beneficial owners of the securities covered therein, and the record holders involved;

Deemed certain persons, including members of a group, who become beneficial owners of securities through non-purchase transactions to have "acquired" such securities;

Provided a short form acquisition notice to be used by certain persons, particularly certain institutional investors, who acquire securities in the ordinary course of their business and not for the purpose or with the effect of changing control;

Required certain public companies to disclose in various registration, reporting and proxy forms: beneficial owners of more than five percent of a class of voting securities, including their names, nationalities, and the nature of their ownership; the aggregate beneficial ownership by management of securities of the issuer or any of its parents or subsidiaries; and certain pledge agreements;

Required public companies to disclose in various registration, reporting and proxy soliciting forms their and their parents' thirty largest record holders, subject to a de minimus exception, of each class of voting securities as well as such persons' voting authority, and if such persons had no voting authority, the owners of the ten largest blocks held of record by each such record holder.

In response to these proposals the Commission received over 225 letters of comment from interested persons.[6]

Based upon these letters of comment and based on its own experience, the Commission has determined to adopt some of the 1975 Ownership Proposals as published for comment and some in modified form, as already summarized and as set forth more fully below in the "Synopsis" and the text of the rules themselves, and not to adopt one proposal at all and portions of other proposals, as discussed more fully below in "Proposals Not Adopted."

III. Synopsis of Adopted and Amended Rules and Forms

This brief synopsis is included in order to assist all interested persons in their understanding of, and compliance with, the provisions of section 13(d) of the Exchange Act and the rules adopted herein. The synopsis is, however, brief and the attention of all interested persons is directed to the actual text of the rules and forms themselves for a more complete understanding.

A. Provisions Relating to Obligations of Beneficial Owners

(1) *Rule 13d-1: Filing of Schedule 13D.* Rule 13d-1 has been re-adopted in its entirety as Rule 13d-1(a). Under the new Rule 13d-3(a), there may be multiple beneficial owners of the same securities when two or more persons share voting power or investment power over such securities or when such powers reside in different persons. Also, Rule 13d-3(d)(1) provides that with respect to certain options relating to outstanding securities both the holder of the option and the person who presently owns the underlying securities would be deemed to be beneficial owners. Accordingly, a new Rule 13d-1(b) has been adopted to permit one acquisition statement to be filed when there is more than one beneficial owner of the same securities.

Rule 13d-1(b) is permissive, however, so that each beneficial owner of the same securities may file a separate acquisition statement. This is important because each beneficial owner in a multiple beneficial ownership situation must comply with all of the rules set forth herein and the provisions of new Rule 13d-1(b) do not relieve such person from this responsibility. When two or more persons do report jointly pursuant to Rule 13d-1(b), each such person is responsible for the timely filing of the statement and any amendment, and for the completeness and accuracy of such statement or amendment. The joint statement so filed must contain all requisite information about each person and should include, as an exhibit, their agreement in writing that the statement is filed on behalf of each. If an institutional investor who meets the standards of Rule 13d-5 and an individual investor who does not are beneficial owners of the same securities and are required to file under section 13(d), they may not both utilize Form 13D-5 since the individual investor does not meet the requirements for the use of that form. They may file a joint Schedule 13D or the individual may file Schedule 13D and the institutional investor Form 13D-5.

A new subsection to Rule 13d-(a) provides that any person may rely upon the information set forth in that issuer's most recent quarterly or annual report and any current report subsequent thereto under the Exchange Act for determining, for the purposes of section 13(d), the amount of outstanding shares of a class of equity securities, so long as he does not know or have reason to

[3] An examination of the legislative history reveals that the amendments were primarily enacted for the twofold purpose of (i) providing adequate disclosure and other protections to stockholders in connection with takeover attempts, such as tender offers, and corporate repurchases, and (ii) providing adequate disclosure to stockholders in connection with any substantial acquisition of securities within a relatively short period of time. S. Rep. No. 550, 90th Cong. 1st Sess. 7 (1967); H.R. Rep. No. 1711, 90th Cong. 2d Sess. 8 (1968); and Hearings on S. 510 Before the Subcomm. on Securities of the Senate Comm. on Banking and Currency, 90th Cong., 1st Sess. (1967). In 1970 Congress amended certain of these provisions by lowering the reporting threshold for acquisitions and tender offers from ten percent to five percent and by granting the Commission additional rulemaking authority. Hearings on S. 3431 Before the Subcomm. on Securities of the Senate Comm. on Banking and Currency, 91st Cong., 2d Sess. (1970). In order to implement immediately those provisions of the 1968 and 1970 Williams Act Amendments which were not self-executing upon their effectiveness, the Commission adopted temporary rules and regulations. Exchange Act Release No. 8370 (July 30, 1968) (33 FR 11015) as amended by Release No. 8392 (August 30, 1968) (33 FR 13036), as further amended by Release No. 9060 (January 18, 1971) (36 FR 976).

[4] Exchange Act Release Nos. 11003 (September 9, 1974) (39 FR 33855) and 11088 (November 5, 1974) (39 FR 41223).

[5] Exchange Act Release No. 11616 (August 25, 1975) (40 FR 42212). See SEC Docket S7-580.

[6] SEC Docket S7-580, available for inspection and copying at SEC Public Reference Section, Room 6101, 1100 L Street, N.W., Washington, D.C.

believe that such information is inaccurate.[6]

(2) *Rule 13d–2: Filing of Amendments.* Rule 13d–2, which requires the prompt filing of an amendment to Schedule 13D to reflect any material change, has been re-adopted without change.

(3) *Rule 13d–3: Determination of Beneficial Ownership.* For the purposes of section 13(d), new Rule 13d–3(a) provides that a beneficial owner of a security includes any person who directly or indirectly has or shares voting power and/or investment power of such security. Voting power includes "the power to vote, or to direct the voting of, such security" and investment power includes "the power to dispose, or to direct the disposition, of such security." An analysis of all relevant facts and circumstances in a particular situation is essential in order to identify each person possessing the requisite voting power or investment power. For example, for the purposes of the rule, the mere possession of the legal right to vote securities under applicable state or other law (i.e., a management proxy committee) may not be determinative of who is a beneficial owner of such securities inasmuch as another person or persons may have the power whether legal, economic, or otherwise, to direct such voting. Furthermore, paragraph (b) of new Rule 13d–3 points out that the rule cannot be circumvented by an arrangement to divest a person of beneficial ownership or to prevent the vesting of beneficial ownership as part of a plan or scheme to evade the reporting requirements of section 13(d).

New Rule 13d–3(c) provides that all securities beneficially owned by a person are to be aggregated in determining how many securities such person owns, regardless of the nature of the beneficial ownership. Thus, a person who serves as trustee of several trusts which hold securities of the same issuer would have to aggregate the number held in each trust with respect to which such trustee has either voting power or investment power, or both.

In addition to being a beneficial owner by possession of voting power or investment power, a person is also deemed to be a beneficial owner of a security pursuant to new Rule 13d–3(d)(1) if such person has the right to acquire beneficial ownership of such security at any time within sixty days through the exercise of an option, warrant or right, conversion of a convertible security, or pursuant to the power to revoke a trust or similar arrangement.[7]

New Rule 13d–3(d)(2) excludes from the definition of beneficial owner any person whose only interest in the securities is record ownership and membership on a national securities exchange that has rules which permit a member to vote such securities without instruction, on certain routine matters.[8] Rule 13d–3(d)(3) excludes from the definition of beneficial owner any person whose only interest in the securities is that of a pledgee in the ordinary course of his business pursuant to a bona fide pledge agreement. However, if there has been a default under such an agreement, the rule provides that the pledgee may be deemed the beneficial owner during such time as the event of default shall remain uncured for more than thirty days, or at any time before a default is cured if the power acquired by the pledgee because of the default enables him to change or influence issuer control.

(4) *Rule 13d–4: Disclaimer of Beneficial Ownership.* New Rule 13d–4 permits any person to expressly declare in such person's Schedule 13D or Form 13D–5 that the filing of such a statement shall not be construed as an admission that the person is the beneficial owner of the securities covered by such statement.

(5) *Rule 13d–5 and Form 13D–5: Short Form Acquisition Statements.* New Rule 13d–3, defining beneficial owner, and new Rule 13d–6, defining acquisition, may have a significant impact on the reporting obligations of certain institutional investors and professionals in the securities business. Since such persons often acquire securities in the ordinary course of their business and not with a view toward changing or effecting a change in the control of an issuer, it is not necessary or appropriate for the purposes of section 13(d) in such instances to have such a person file a complete Schedule 13D within ten days after any acquisition which results in such person being the beneficial owner of more than five percent of a class. In recognition of this situation, Congress specifically provided in section 13(d)(5) that the Commission could permit the filing of a short form acquisition notice in lieu of the more detailed Schedule 13D which is primarily aimed at obtaining information about potential changes in control of an issuer.

Accordingly, the Commission has adopted a new Rule 13d–5 and a related new Form 13D–5 which will permit certain persons to utilize an abbreviated acquisition notice. The use of this short form at this time is expressly limited to certain brokers, dealers, banks, investment companies, investment advisers, and employee benefit plans.[9] In every situation such a person must be acquiring and holding securities in the ordinary course of business, and not with the purpose or with the effect of changing or influencing the control of the issuer, or in connection with or as a participant in any transaction having such purpose or effect.

In those situations where the institutional investor knows that another person has an economic interest in the securities reported on and this interest relates to more than five percent of the class of securities, Form 13D–5 calls for the same information regarding such other person as does Item 6 of Schedule 13D. Item 6 now requires, among other things, information regarding any relationship with any other person with respect to the securities reported on and requires the identities of the parties involved in the transaction and the details of the relationship.

A condition to use of the short form requires the reporting person to have promptly notified any discretionary account owner, on whose behalf it holds securities which amount to more than five percent of the class, of any acquisition or transaction which might subject such person to the reporting requirements of section 13(d). It is contemplated that such account owner would be notified of information known to the reporting person which would reasonably inform such account owner of his ownership and a possible obligation to report on Schedule 13D. The Commission believes this provision is necessary since such person may be the beneficial owner of securities held in the account, pursuant to Rule 13d–3(d)(1), if such person has the power to revoke the account at any time.

Instead of filing within ten days of the triggering acquisition, the short form may be filed within ten days after the end of the calendar quarter (March 31; June 30; September 30; December 31) in which the triggering acquisition was made. Thereafter such person would be required to file an amended form on a quarterly basis to reflect all increases and decreases of beneficial ownership

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[6] Section 13(d)(4) of the Exchange Act deems certain treasury and other shares not to be outstanding and Rule 13d–3(d)(1) deems certain unissued securities to be outstanding for calculating the ownership by certain persons.

[7] Proposed amendments to this rule, announced today, would, if adopted, delete the sixty-day time limit so that a person would be deemed to be the beneficial owner of securities which such person has the right to acquire at any time, pursuant to the exercise of an option, warrant, right, or convertible security or power to revoke a trust or similar arrangement. In addition, a person would be deemed to be the beneficial owner of securities such person has the right to acquire, within a specified time period, pursuant to the automatic termination of a trust or similar arrangement. Exchange Act Release No. 34–13292 in Proposed Rules in this issue at page .

[8] See, e.g. Rule 451, Rules of the New York Stock Exchange and Rule 577, Rules of the American Stock Exchange.

[9] The Commission has today proposed certain revisions of Rule 13d–5(a) concerning the availability of the short form particularly for foreign persons. (See Note 7). As adopted, the new rule limits the use of the short form essentially to domestic persons. A proposed amendment to the rule would, if adopted, allow use of the short form by similar nondomestic institutions which agree to make available to the Commission information which would be required if such person were filing a Schedule 13D with respect to the transaction. Another proposed revision would, if adopted, cause the short form to be unavailable if any of the securities being reported on were purchased at the direction of another person. This amendment is intended to clarify the condition that the persons using the short form acquired the reported securities in the ordinary course of their business and not with a view toward changing or effecting a change in control of the issuer of securities.

during the quarter, or to disclose that such person's ownership has dropped to five percent or less of a class of equity securities. If no changes in beneficial ownership of the securities occur during the quarter, an amended Form 13D–5 need not be filed.

A group of institutional investors, each of whom alone meets one of the standards of Rule 13d–5(a)(2), upon agreeing to act together for the purpose of acquiring securities in a private placement, may utilize the short form to report the acquisition as well as to report, if true, the dissolution of the group. Whether a group is dissolved is, of course, dependent on the relevant facts and circumstances of each case, such as the nature of registration rights with respect to its recently acquired restricted securities which the group may have.

Form 13D–5 requires disclosure of the reporting person's identity, business address, type of business, the amount and respective percent of securities beneficially owned, and the number of accounts or other entities for whom securities are owned. The new rule specifies that eight copies of the new Form 13D–5 should be filed with the Commission; one copy should be forwarded to the issuer; and one copy should be sent to the principal national securities exchange, if any, on which the security is traded.

The adoption of the short form is in the nature of an experiment. The Commission will closely monitor its use to determine whether the form carries out the legislative purpose of section 13(d)."

As originally proposed, the short form would have been available to insurance companies, as defined in section 3(a)(19) of the Exchange Act. However, the Commission has determined that the considerations which would make use of a short form appropriate for broker-dealers, banks, investment companies, investment advisers and employee benefit plans do not apply equally to insurance companies. The rationale for precluding insurance companies from using the short form is based, in part, upon the lack of any uniform legal requirement restricting such companies in the amount of securities they may acquire in a given issuer, and on the fact that the transactions by which an insurance company or its affiliates may become the beneficial owners of securities, even taking into account the aggregation and attribution aspects of the new rules, generally involve volitional investment decisions of a character different from those generally made by the other entities entitled to use Form 13D–5. Moreover, even though certain aspects of the operations of insurance companies are subject to regulation under state law, the Commission does not believe such regulation to be an adequate substitute for the protection to investors provided by disclosure under section 13(d).

(6) *Rule 13d–6: Acquisition of Securities.* New Rule 13d–6(a) deems certain persons who become beneficial owners of securities to have "acquired" them for the purposes of section 13(d)(1) of the Exchange Act. Donees, executors, trustees and legatees who become beneficial owners of securities will be deemed to have "acquired" such securities, even though such persons had not so intended and had taken no action to become beneficial owners.[11] However, executors and administrators of the estate of a decedent will be presumed not to have acquired beneficial ownership until they are qualified under local law to perform their duties.

New Rule 13d–6(b) deems the group formed by two or more persons who agree to act together for the purpose of acquiring, holding or disposing of securities to have "acquired," for the purpose of section 13(d)(1), beneficial ownership, as of the date of their agreement, of all securities beneficially owned by any member of such group.[12] A group has the option of either filing a joint acquisition statement or each member of the group may file an individual acquisition statement reporting both his ownership and the group's collective ownership.

(7) *Rule 13d–7: Exemption of Certain Acquisitions.* New Rule 13d–7(a) exempts an acquisition by an underwriter of securities as part of a good faith firm commitment underwriting where it is anticipated that such person will, as part of a distribution registered under the Securities Act, be immediately reselling such securities since such a transaction is not the type of acquisition that section 13(d)(1) was intended to cover. By analogy to the forty-day period specified in section 4(3) of the Securities Act, the rule subjects such underwriter to section 13(d)(1) if beneficial ownership of the securities is retained for more than forty days. New Rule 13d–7(b) exempts certain acquisitions pursuant to preemptive rights previously exempted by old Rule 13d–4.

(8) *Schedule 13D: Acquisition (and Tender Offer) Statement.* The Commission has amended Schedule 13D, its current, long form acquisition statement, in order to make the disclosure therein more meaningful to investors and, to the extent feasible, less burdensome to beneficial owners. The amendments will require disclosure of the citizenship of the beneficial owner, the general nature of any non-purchase acquisitions; certain pledges of securities by the beneficial owner; and interests of other persons in the securities being reported on. Certain other disclosure requirements of Schedule 13D, which were adopted on an emergency basis in 1968, have been amended. For example, the requirements in Item 2 that the beneficial owner and certain related persons disclose their ten year employment history and any criminal convictions during the past ten years has been reduced to five years.[13] The instructions to Schedule 13D have been amended as follows; a corporation need only disclose information regarding its directors and executive officers[14] rather than directors and all officers; a limited partnership need only disclose information regarding its general partners rather than all partners; and in multiple tier corporate structures no information need be given with respect to any officers or directors of mid-tier corporations unless they are also controlling persons. Finally, a new cover page has been adopted and certain "housekeeping" interpretations regarding required signatures and incorporation of information by reference to exhibits have been codified in the Schedule.

B. PROVISIONS RELATING TO REPORTING OBLIGATIONS OF REGISTRANTS: ADOPTION OF SO-CALLED PROPOSED ITEM X

An integral part of the 1975 Ownership Proposals was Proposed Item X which would have required public companies to disclose in various registration, reporting and proxy forms certain information as to each beneficial owner of more than five percent of a class of the company's voting securities, including name, address, nationality, and nature of ownership. The Item as proposed also would have required disclosure about aggregate beneficial ownership by management of securities of the issuer and its parents and subsidiaries and certain pledge agreements.

In order to further integrate the continuous disclosure system under the federal securities laws, the Commission has determined to require the substance

[11] At such time as rules are adopted under Section 13(f) of the Exchange Act for the reporting of information by certain institutional investment managers, the Commission will take whatever action is appropriate in order to avoid any unnecessary duplication. Section 13(f) generally provides for the filing of reports, not less often than quarterly, by institutional investment managers which use jurisdictional means in the course of their business and which exercise investment discretion with respect to accounts holding securities of a class described in section 13(d)(1) having an aggregate fair market value over $100 million or such lesser amount (but in no case less than $10 million) as the Commission, by rule, may prescribe.

[12] Compare *Sisak* v. *Wings & Wheels Express, Inc.*, (1970–1971 Decisions) CCH Fed. Sec. L. Rep. para. 92,991 (S.D.N.Y. 1970) and *Ozark Air Lines, Inc.* v. *Cox*, 326 F. Supp. 1113 (E.D. Mo. 1971).

[13] See *GAF Corp.* v. *Millstein*, 453 F. 2d 709 (2d Cir. 1971), cert. denied 406 U.S. 910 (1972).

[14] The Commission's staff is presently reexamining all of the registration, reporting and proxy soliciting forms to determine the feasibility of adopting uniform requirements for five year backgrounds on certain individuals in all such forms. For example, a similar item in the proposed Tender Offer Statement (Note 1, supra) is based on a five-year period and the Commission's proposed amendments concerning disclosure about management background in issuer proxy statements, annual reports and registration statements would, if adopted, reduce the time period for such disclosure from ten years to five years (Exchange Act Release No. 12946, (November 9, 1976) (41 FR 49493)).

[15] The term "executive officer" has been defined in Instruction C to mean "the president, secretary, treasurer, any vice-president in charge of a principal business function (such as sales, administration or finance), and any other person who performs similar policy making functions for the corporation."

of proposed Item X in Forms S–1 and S–11 under the Securities Act and Forms 10 and 10–K and Schedules 14A, 14B and 14C under the Exchange Act. This action will have the effect of making more readily available to investors certain of the information required under the amendments to the rules under the Williams Act discussed above.

It should be noted that Item X has been modified not only to conform it to the revised definition of beneficial ownership but also to adapt the item to each particular form. For example, in most of the revised forms, the first paragraph of the new item requires a table setting forth the name and address and information as to security ownership of any person (including any group) known to the registrant to be the beneficial owner of more than five percent of any class of the registrant's voting securities. However, Item 18 of Form S–11 will continue to require ownership information as to any class of the registrant's equity securities because of the special purposes of that form.[15] In addition, although the item as proposed would have requested a breakdown as to various ownership interests of each person listed, the new item only requires disclosure of the number of shares beneficially owned and the percent of class represented by such shares and an appropriate indication of any shares subject to options, warrants, rights, etc., exercisable at any time within sixty days (Rule 13d–3(d)(1)).

The second paragraph of the new item requires a table showing the aggregate amount and percentage beneficially owned by all directors and officers of the registrant (other than directors' qualifying shares) of each class of voting securities of the registrant and its parents, in the case of Item 5 of Schedule 14A, and of each class of equity securities of the registrant or its parents or subsidiaries in the case of Item 19 of Form S–1, Item 18 of Form S–11, Item 5 of Form 10, and Item 11 of Form 10–K. This paragraph also requires that shares deemed to be beneficially owned pursuant to Rule 13d–3(d)(1) be appropriately indicated.

Instruction 1 specifies that percentages are to be calculated on the basis of outstanding securities but that securities deemed outstanding pursuant to Rule 13d–3(d)(1) may also be considered if appropriate clarification is included. Other instructions provide that the definition of beneficial ownership set forth in Rule 13d–3 also applies for purposes of this item and that any overlapping beneficial ownership should be appropriately disclosed, if known, in order to avoid confusion.

The instructions also provide that the registrant is deemed to know information with respect to its securities as set forth in any acquisition statements filed with the Commission pursuant to section 13(d) and can rely on such statements unless it knows or has reason to believe that the information is not complete or accurate or that an acquisition statement should have been filed but was not.

[15] Form S–11 is for the registration of securities of certain real estate companies.

In connection with the implementation of Item X into Schedules 14A and 14C, issuers should be aware that this addition will also effect a change in the disclosure required by other items in the proxy statement schedule such as Items 7 (f) and (g) regarding transactions with management and others.

IV. Selected Illustrations

The following illustrations are intended to supplement the explanation and analysis set forth elsewhere in the release, and to demonstrate the manner in which the rules would be interpreted. It should be assumed in each of the following illustrations that the rules adopted in this release are in effect and that the securities of the subject company ("Z Corporation") are registered pursuant to Section 12 of the Exchange Act. These illustrations reflect the views of the Commission and its staff as of this date notwithstanding any previous interpretations expressed to the contrary by the staff orally or in writing.

Example 1. Rule 13d–3(a), indirect ownership; Rule 13d–3(d)(1)(i), option to acquire. X, an individual, beneficially owns sixty-eight percent of Y Corporation. Y Corporation purchases four percent of a class of securities of Z Corporation and also an option, exercisable within thirty days of the date of purchase, to purchase an additional two percent of the outstanding shares of the same class of Z corporation.

Question. Does X have a filing obligation and, if so, how may it be satisfied?

Interpretative Response. Yes. X has an obligation to file under Rule 13d–1 since under Rule 13d–3 he is the indirect beneficial owner of the Z shares held by Y Corporation due to his power to direct their voting or disposiiton. It should be noted that the operation of Rule 13d–3(d)(1)(i) puts X above the five percent threshold inasmuch as the shares subject to the option will be aggregated with those purchased. X's reporting obligation may be satisfied with a filing by X disclosing his indirect ownership and the intermediaries involved; alternatively, since Y Corporation also would be subject to a separate filing requirement with respect to the same securities, X may file jointly with Y disclosing the control position and other information required with respect to X pursuant to Instruction C to Schedule 13D.

Example 2. Rule 13d–3, indirect ownership by corporation; Rule 13d–5, use of short form; Instruction C, Schedule 13D. Y Corporation, a wholly-owned subsidiary of X Corporation, acquires six percent of a class of securities of Z Corporation. X is a widely-held company with no single shareholder owning in excess of one percent of X's shares and its directors beneficially own only directors' qualifying shares.

Question. Who has the obligation to report beneficial ownership of the Z shares, and how may this obligation be satisfied?

Interpretative Response. Both X and Y would be viewed as beneficial owners of the Z shares due to their power to direct the voting or disposition. X's obligation to report such ownership may be satisfied with a filing by either X or Y. If Y Corporation files on behalf of X and Y, the control position and the other information required with respect to X must be disclosed pursuant to Instruction C to Schedule 13D. If X Corporation files on behalf of X and Y, it must disclose that it is indirectly the beneficial owner of the Z shares as a result of its control over Y Corporation, which actually holds the shares. However, if all the conditions of Rule 13d–5 are satisfied, including paragraph (a)(2)(vi), X may satisfy its filing obligation by filing that form.

Example 3. Rule 13d–3(d)(3), pledge of securities. X Corporation beneficially owns six percent of a class of securities of Z Corporation. In order to obtain financing from Y, a national bank, X pledges its Z shares as collateral. X's treasurer is on vacation and X inadvertently fails to make the current installment payment until twenty days after it is due, an event of default under the terms of the loan agreement.

Question. Will Y be considered the beneficial owner of the Z shares during the period of time X was in default?

Interpretative Response. No. Rule 13d–3(d)(3) would operate to prevent Y from being deemed the beneficial owner of the shares because the event of default was cured within thirty days, and in the absence of facts to indicate otherwise, it would not appear that before the default was cured, Y was able to change or influence the control of Z.

Example 4. Rule 13d–3(a), related beneficial owners. X and his son Y each beneficially own three percent of the same class of securities of Z Corporation. Y is twenty-six years old, and lives overseas with his family; X lives in the United States. Several years ago X and Y had a parting of the ways over a family matter and no longer communicate with each other.

Question. Will X and Y each be viewed as the beneficial owner of the other's shares and be required to file under Rule 13d–1?

Interpretative Response. In the absence of other facts which would indicate the presence of power to direct the voting or disposition of the other's securities, neither X nor Y would be deemed to beneficially own the other's shares of Z Corporation. Accordingly, since neither has acquired in excess of five percent of a class of Z's outstanding shares, no obligation to file exists.

Example 5. Rule 13d–3(a), voting trust; Rule 13d–5(a), use of short form. X acquires fifty-two percent of a class of securities of Z Corporation and simultaneously establishes a ten year voting trust in order to alleviate certain fears of incumbent management. The voting trust agreement names Y as trustee with power to vote on all ordinary corporate matters.

Question 5–A. In view of the fact that X has given up the power to vote on all ordinary corporate matters for a substantial period of time, does he have a filing obligation under Rule 13d–1?

Interpretative Response. X's retention of the power to direct the disposition of

the Z shares is sufficient to constitute beneficial ownership within the meaning of Rule 13d–3(a). Therefore, as a beneficial owner of more than five percent of a class of Z's securities, X has an obligation to file under Rule 13d–1.

Question 5–B. Does Y also have a filing obligation with respect to the Z securities, and, if so, how may this obligation be satisfied?

Interpretative Response. Since Y has the power to vote the Z shares on all ordinary corporate matters it too is a beneficial owner under Rule 13d–3(a) of more than five percent of the Z shares and would therefore have a filing obligation under Rule 13d–3(a). Y may satisfy this obligation either by an individual filing on Schedule 13D or by a joint filing under Rule 13d–1(b) with X on Schedule 13D.

Example 6. Rule 13d–3(a), co-trustee ownership; Rule 13d–3(c), aggregation; Rule 13d–5, use of short form. X, a trust department of a national bank, acquires three percent of a class of securities of Z Corporation, as co-trustee for the benefit of A who does not have investment power over the securities. The terms of the trust agreement vest investment power with respect to the Z shares in X and voting power in X and Y, an individual who is not a person specified in Rule 13d–5(a)(2). Prior to the trust's creation, X had voting power and/or investment power under other unrelated trusts with respect to four percent of the subject class of shares of Z Corporation. The individual co-trustee, Y, also beneficially owned four percent of such stock prior to the trust's creation.

Question. What are the respective filing obligations of X, Y and A and what is the appropriate form for complying with any such obligation?

Interpretative Response. Both X and Y have a filing obligation under Rule 13d–1 since, under Rule 13d–3(a) and Rule 13d–3(c), they are each beneficial owners of more than five percent of a class of securities. X may report its acquisition on Form 13D–5 since presumably it satisfies Rule 13d–5(a). Y, the individual co-trustee, however, must report on Schedule 13D as a result of his acquisition. Y is precluded from using Form 13D–5 because he is not among the classes of persons specified in Rule 13d–5(a)(2). It should be noted that the unavailability of the short form to Y does not deprive X of its use as long as X and Y do not act as a group. A does not have a filing obligation because he is not a beneficial owner under Rule 13d–3(a) due to his lack of voting or investment power over the Z shares.

Example 7. Rule 13d–3(a), bank ownership; Rule 13d–5, use of short form; Rule 13d–1(b), joint filing; Item 6, Schedule 13D. X, a foreign bank, through three of its nominees acquires in excess of five percent of a class of securities of Z Corporation on behalf of Y. Y simultaneously with the acquisition on his behalf gives a bona fide irrevocable proxy to the bank.

Question. Who has the obligation to file and how may this obligation be satisfied?

Interpretative Response. Because X has the power to vote, it is a beneficial owner of the Z shares and therefore has the obligation to file. Furthermore, if Y has retained the power to direct the disposition of the Z shares, Y is also a beneficial owner of the shares and also has an obligation to file. X must use Schedule 13D rather than Form 13D–5 to report its beneficial ownership because it is not a bank defined in Section 3(a)(6) of the Act. X and Y may file jointly provided the requirements of Rule 13d–1(b), are satisfied. It should be noted that the bank's relationship with Y would be disclosed under Item 6 of Schedule 13D.

Example 8. Rule 13d–3(b), scheme to evade. In order to acquire a substantial position in the voting securities of Z Corporation prior to the election of directors which will take place in the near future, X causes ten institutions to each acquire three percent of the outstanding shares of Z Corporation. None of the institutions are aware of the purchases by the other institutions or of X's control objective. As an attempted means of avoiding disclosure of his beneficial ownership of the Z shares until a short time before the election, X, simultaneously with the purchase of the Z shares, gives an irrevocable proxy to A, which proxy will lapse according to its terms.

Question. What are the respective filing obligations of X and A, and how may they be satisfied?

Interpretative Response. A is a beneficial owner of the Z shares subject to the proxy due to his power to vote them and therefore he must report such ownership pursuant to Rule 13d–1, as well as information about X under Item 6 of Schedule 13D. In addition, as indicated in Rule 13d–3(b), X is also deemed a beneficial owner of the same Z shares for the period of the proxy as well as thereafter, and therefore must file a Schedule 13D.

Example 9. Rule 13d–6(a), acquisition. The estate of decedent X contains six percent of a class of securities of Z Corporation. Y, the executor named in X's will, is a trust department of a national bank. Y will not be qualified under local law to perform its duties until a court order is issued appointing it executor.

Question. Does Y have a filing obligation prior to the time the order is issued appointing it executor?

Interpretative Response. In the absence of other facts which would indicate the presence of power in Y to direct the voting or disposition of the Z shares in X's estate immediately, Y will be presumed not to have acquired the beneficial ownership of such shares until such time as it is qualified under local law to perform its duties (See Rule 13d–6(a)). Since a court order is necessary to so qualify Y, it will be presumed not to have acquired the beneficial ownership necessary to create a filing obligation prior to the issuance of such an order. This result involves a presumption which could be rebutted by additional facts (e.g., that Y or another person in fact voted such shares prior to Y's appointment).

Example 10. Rule 13d–5(b), changes reported on short form. X, a person specified in Rule 13d–5(a)(2), acquires six percent of a class of securities of Z Corporation in a single transaction. At the end of the quarter in which such acquisition was made, X files Form 13D–5. In the first month of the succeeding quarter X acquires an additional three percent of the same class of Z shares. In the second month of that same succeeding quarter X sells three percent of the same class of Z shares. X makes no further acquisitions or dispositions during the remainder of that quarter.

Question. Is X required to amend its initial Form 13D–5 at the end of the succeeding quarter?

Interpretative Response. Yes. Rule 13d–5(b), regarding the reporting in changes of beneficial ownership, requires the filing of an amendment to Form 13d–5 to reflect all acquisitions and dispositions of beneficial ownership of securities of the same class previously reported. Consequently, X would file an amended form to show his acquisitions and dispositions during the quarter, regardless of the fact that there has been no net change in his holdings. If X had disposed of five percent of his holdings under the facts presented, a similar result would obtain since Rule 13d–5(b) requires an amendment to Form 13D–5 even when aggreagte beneficial ownership drops below the five percent standard.

Example 11. Rule 13d–5(a)(3) short form notification prerequisite; Rule 13d–3(c), aggregation; Item 6, Form 13D–5, information on other persons; Rule 13d–3(d)(1)(iii), power to revoke. X, an individual, owns securities of various classes of stock of various companies. The largest concentration of shares that X owns are shares amounting to three percent of a class of securities of Z Corporation. Because X feels that his various holdings are too diverse to handle personally, X places all his shares into a discretionary account with Y, a broker-dealer registered under Section 15 of the Act. Y already holds two percent of the class in various other discretionary accounts. Thereafter, through ordinary business transactions, Y acquires additional shares of the Z securities so that Y holds a total of eight percent of the class of Z securities in various discretionary accounts, including five and two tenths percent on behalf of X's account.

Question. What are X's and Y's obligations under Rule 13d–1 with respect to the Z securities?

Interpretative Response. Ordinarily, Y would have investment power and/or voting power over the Z securities held in its various discretionary accounts and therefore would be a beneficial owner of such securities. Pursuant to Rule 13d–3(c), Y would aggregate all shares which it is considered beneficially to own and would be obligated to report its ownership of eight percent of the class under Section 13(d). Since Y is a person specified in Rule 13d–5(b)(2), Y would be eligible to report its ownership on the short form, provided that the other conditions of Rule 13d–5 are met. One condition of that rule requires that Y shall have notified X at the time of any transaction on

behalf of X's account which would be reportable by X under Section 13(d). In this case, Y should have notified X at the time of the acquisition which caused the Z securities in X's account to exceed five percent that X might have a filing obligation pursuant to Rule 13d–1. In addition, information about X would be provided in Y's report on Form 13D–5 pursuant to Item 6 of the form.

Since X ordinarily would have the power to terminate the discretionary account at any time, X would also be a beneficial owner of the shares held in the account pursuant to Rule 13d–3(d)(1)(iii). X would have a reporting obligation under Rule 13d–1 when his beneficial ownership of the class of securities of Z exceeded five percent, including securities held for his account by Y, as well as any other securities in which X has a beneficial interest. The type of information Y should furnish to X is information of which Y reasonably may have knowledge which would alert X of his current obligation to file an initial or amended Schedule 13D and which would provide the data necessary for the preparation of such filing.

V. Proposals Not Adopted

As previously indicated, the Commission received more than 225 letters of comment from interested persons in response to the 1975 Ownership Proposals. Based on these letters and its own experience, the Commission adopted certain of the proposals as published; adopted certain of the proposals in modified form; and withdrew one proposal entirely. See FR Doc. 77–6359 appearing at page 12355 of this issue. The Commission's most significant modification was with respect to proposed Rule 13d–3, Determination of Beneficial Ownership. As published for comment, the definition would have included any person who has or shares the power to direct the voting or disposition of the securities, or who has or shares the power to direct the receipt of dividends or proceeds from the sale of securities. The Commission has adopted the standard of voting power and/or investment power for the determination of beneficial ownership.

Although the definition of beneficial ownership adopted by the Commission does not expressly encompass those proposals relative to economic interests—such as the right to receive or the power to direct the receipt of dividends from, or the proceeds from the sale of securities—Items 6 of Schedule 13D and Form 13D–5, as adopted, will require certain disclosure of persons having an economic interest in more than five percent of the class.

The Commission also determined to modify proposed Rule 13d–3(a)(1) by eliminating that portion of the proposal which would have deemed a person to be the beneficial owner of all securities beneficially owned by persons related by blood, marriage or adoption to such person and who have the same home as such person. The Commission determined that such a standard was totally inapposite to the voting/investment power approach discussed above. As a result of this determination, proposed Rule 13d–1(b) and proposed Instruction C to Schedule 13D have been similarly modified.

One of the more controversial aspects of the 1975 Ownership Proposals was the so-called Item XA which would have required each corporation and its parent to disclose its thirty largest holders of record and, to the extent known, each of their respective ten largest voting blocks. On the basis of the public commentary, the Commission has formally withdrawn the proposal. See FR Doc. 77–6359 appearing at page 12355 of this issue, Exchange Act Release No. 34–13292. In this connection, the Commission has not adopted those portions of proposed Schedule 13D and proposed Form 13D–5 which related to record holders and nominees; and has deleted the present requirement that issuers disclose ten percent record holders in certain registration, reporting and proxy soliciting forms. As previously noted, so called Item X has been adopted requiring disclosure of certain beneficial owners.

Based on the letters of comment, the Commission is requiring a beneficial owner to disclose his "citizenship" in Schedule 13D rather than the "country of which such person is a national," as proposed, since commentators felt this latter term was too imprecise. The Commission is not requiring disclosure of citizenship in its new Form 13D–5 since the vast majority of qualifying institutions are domestic and since institutional citizenship is largely meaningless. The Commission also deleted such a requirement from Item X as incorporated into various forms since the information would already be publicly available.

The other changes between the 1975 Ownership Proposals and the rules adopted herein are either self-explanatory or are so minor as not to merit specific discussion.

VI. Possible Future Related Commission Action

Because of special regulatory considerations, the Commission has determined to defer action regarding what additional ownership disclosure requirements, if any, are necessary or appropriate for adoption in Annual Report Form U5S under the Public Utility Holding Company Act of 1935.

Similarly, the Commission has deferred all action on Forms 12 (17 CFR 249.212) and 12–K (17 CFR 249.312) inasmuch as these forms are being re-evaluated in light of recent statutory amendments.[17] In addition, no action has been taken on Form 1–A (17 CFR 239.90) at this time since the entire Regulation A (17 CFR 230.251 to 230.262) is being re-examined.

As noted above[18], the Commission has proposed for comment various rules and related schedules with respect to tender offers, which are based in part on the record of the Beneficial Ownership Hearings. The Commission is currently reviewing the more than 100 letters of comment received concerning those proposals. In addition, the Commission will shortly propose a revised fee schedule for filings pursuant to sections 13(d)(1), 13(d)(5), 14(d)(1) and 14(d)(4) of the Exchange Act.

Also based in part on the record of the Beneficial Ownership Hearings, the Commission, on August 25, 1975, published proposed Rule 14b–1 (17 CFR 240.14b–1) under the Exchange Act, relating to issuer communications with beneficial owners of issuer securities.[19] The Comission had postponed action on proposed Rule 14b–1 pending completion of the "Street Name Study" mandated by the Securities Act Amendments of 1975[20] however, since that Study was published on December 3, 1976,[21] the Commission is now considering proposed Rule 14b–1 in light of the conclusions of the study.

At a future date, the Commission anticipates the publication of proposed rules which will implement section 13(f). That section generally requires the filing of reports, not less often than quarterly, by institutional investment managers which use jurisdictional means in the course of their business and which exercise investment discretion with respect to accounts holding securities of a class described in section 13(d)(1) having an aggregate fair market value over $100,000,000 or such lesser amount (but in no case less than $10,000,000) as the Commission, by rule, may prescribe.

One of the specific inquiries of the Beneficial Ownership Hearings was:

> Whether the Commission should adopt special rules or procedures relating to persons subject to jurisdictions whose laws permit or require bank secrecy procedures and/or bearer shares (i.e., equity securities recorded on the issuer's books in the name of "Bearer")?[22]

Also, in the Street Name Study sent to Congress, the Commission recommended that the Exchange Act be amended to clarify "that the Commission has available to it specific ancillary remedies in instances in which it is unable to obtain information in furtherance of its in-

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[17] See Note 1, supra.

[18] Exchange Act Release No. 11617 (September 9, 1975) (40 FR 42219).

[19] Securities Exchange Act of 1934, Section 12(m).

[20] Final Report of the Securities and Exchange Commission on the Practice of Recording Securities in the Records of the Issuer in Other Than the Name of the Beneficial Owner of Such Securities (December 3, 1976) (hereinafter "Street Name Study").

[21] Exchange Act Release No. 11003 (September 9, 1974) (39 FR 33855).

[22] Railroad Revitalization and Regulatory Reform Act, Pub. L. No. 94–210 (February 5, 1976). On September 3, 1976, the Commission published for comment proposals which, if adopted, would revoke Form 12–K and therefore require registrants who currently report on that form to file reports in full compliance with annual report Form 10–K (17 CFR 249.310) and quarterly report Form 10–Q (17 CFR 249.308a). Exchange Act Release No. 12769 (September 14, 1976) (41 FR 39048).

vestigations" and that "Congress should consider broadening section 15(b)(6) (of the Exchange Act) to grant to the Commission authority to proceed administratively against foreign financial institutions for violations of the Act." [23] As of this time, the Commission has not put forth specific proposals on these matters.

VII. Certain Findings

As required by section 23(a)(2) of the Exchange Act, the Commission has specifically considered the impact which the rules adopted herein would have on competition. The Commission has found that neither the preparation and disclosure of ownership information by beneficial owners pursuant to the Exchange Act nor the preparation and disclosure of ownership information by issuers pursuant to the Securities Act and the Exchange Act will significantly burden competition. In any event, the Commission has determined that any possible resulting competitive burden will be far outweighed by, and is necessary and appropriate to achieve, the benefits of this information to investors.

In publishing the 1975 Ownership Proposals the Commission pointed out that it was "mindful of the costs to registrants and others of its proposals" and specifically invited comments on the costs of the proposals. The Commission finds that the costs of the rules adopted herein are not unreasonable and are far outweighed by the benefits which will accrue to investors.

VIII. Operation of Rules Adopted, Effective Date

All of the new rules and forms and amendments will become effective on August 31, 1977, except that any person who so chooses may rely upon them as of the date of their publication in the Federal Register. No person is relieved from complying with such person's present statutory obligations under section 13(d) pending the effective date of these rules, forms and amendments.

IX. Authority

The Commission hereby adopts Rules 13d-1, 13d-2, 13d-3, 13d-4, 13d-5, 13d-6 and 13d-7, Form 13D-5 and Schedule 13D on a permanent basis pursuant to the authority set forth in sections 3(b), 13(d)(1), 13(d)(2), 13(d)(5), 13(d)(6), 14(d)(1) and 23 of the Exchange Act; amends Forms 10 and 10-K, and Schedules 14A, 14B, and 14C pursuant to the authority set forth in sections 12, 13, 14, 15(d) and 23 of the Exchange Act; and amends Forms S-1 and S-11 pursuant to the authority set forth in sections 7, 10 and 19(a) of the Securities Act. The Commission finds that any changes in the adopted and amended rules and forms from those published in the 1975 Ownership Proposals have already been generally subject to comment during the Beneficial Ownership Hearings and are either technical in nature or are less burdensome than previous requirements, so that, other than as described above, further notice and other rulemaking procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553) are not necessary.

The full text of the adopted and amended rules and forms follows:

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

I. Item 19 of Form S-1 is amended to read as follows:

§ 239.11 Form S-1, registration statement under the Securities Act of 1933.

* * * * *

Item 19. Security Ownership of Certain Beneficial Owners and Management.

(a) Furnish the following information, as of the most recent practicable date, in substantially the tabular form indicated, with respect to any person (including any "group" as that term is used in section 13(d)(3) of the Securities Exchange Act of 1934 who is known to the registrant to be the beneficial owner of more than five percent of any class of the registrant's voting securities. Show in Column (3) the total number of shares beneficially owned and in Column (4) the percent of class so owned. Of the number of shares shown in Column (3), indicate, by footnote or otherwise, the amount known to be shares with respect to which such listed beneficial owner has the right to acquire beneficial ownership, as specified in Rule 13d-3(d)(1) under the Exchange Act (17 CFR 240.13d-3(d)(1)).

(1)	(2)	(3)	(4)
Title of class	Name and address of beneficial owner	Amount beneficially owned	Percent of class

(b) Furnish the following information, as of the most recent practicable date, in substantially the tabular form indicated, as to each class of equity securities of the registrant or any of its parents or subsidiaries, other than directors' qualifying shares, beneficially owned by all directors and officers of the registrant as a group, without naming them. Show in Column (2) the total number of shares beneficially owned and in Column (3) the percent of class so owned. Of the number of shares shown in Column (2), indicate, by footnote or otherwise, the amount of shares with respect to which such persons have the right to acquire beneficial ownership as specified in Rule 13d-3(d)(1) under the Exchange Act.

(1)	(2)	(3)
Title of class	Amount beneficially owned	Percent of class

(c) Describe any arrangements, known to the registrant, including any pledge by any person of securities of the registrant or any of its parents, the operation of which may at a subsequent date result in a change in control of the registrant.

Instructions. 1. The percentages are to be calculated on the basis of the amount of outstanding securities, excluding securities held by or for the account of the registrant or its subsidiaries; however, such calculations may be made on the basis of outstanding securities plus securities deemed outstanding pursuant to Rule 13d-3(d)(1) under the Exchange Act provided appropriate disclosure is made as to the method of calculating.

2. For the purposes of this item, beneficial ownership shall be determined in accordance with Rule 13d-3 (17 CFR 240.13d-3) under the Exchange Act.

3. The registrant shall be deemed to know the contents of any statements filed with the Commission pursuant to Section 13(d) of the Exchange Act. A registrant may rely upon information set forth in such statements unless the registrant knows or has reason to believe that such information is not complete or accurate or that a statement or amendment should have been filed and was not.

4. For purposes of furnishing information pursuant to paragraph (a), the registrant may indicate the source and date of such information.

5. Where more than one beneficial owner is known to be listed for the same securities, appropriate disclosure should be made to avoid confusion.

6. Paragraph (c) does not require a description of ordinary default provisions contained in the charter, trust indentures or other governing instruments relating to securities of the registrant.

7. If the equity securities are being registered in connection with, or pursuant to, a plan of acquisition, reorganization, readjustment or succession, indicate as far as practicable the status to exist upon consummation of the plan on the basis of present holdings and commitments.

8. If any of the securities being registered are to be offered for the account of security holders, name each such security holder and state the amount of securities owned by him, the amount to be offered for his account, and the amount to be owned after the offering.

9. If, to the knowledge of the registrant or any principal underwriter of the securities being registered, more than five percent of any class of voting securities of the registrant are held or are to be held subject to any voting trust or similar arrangement, state the title of such securities, the amount held or to be held and the duration of the agreement. Give the names and addresses of the voting trustees and outline briefly their voting rights and other powers under the agreement.

* * * * *

Item 18 of Form S-11 is amended to read as follows:

§ 239.18 Form S-11, for registration under the Securities Act of 1933 of securities of certain real estate companies.

* * * * *

Item 18. Security Ownership of Certain Beneficial Owners and Management. (a) Furnish the following information, as of the most recent practicable date, in substantially the tabular form indicated, with respect to any person (including any "group" as that term is used in Section 13(d)(3) of the Securities Exchange Act of 1934) who is known to the registrant to be the beneficial owner of more than five percent of any class of the registrant's equity securities. Show in Column (3) the total number of shares beneficially owned and in Column (4) the percent of class so owned. Of the number of shares shown in Column (3), indicate, by footnote or otherwise, the amount known to be shares with respect to which such listed beneficial owner has the right to acquire beneficial ownership as specified in Rule 13d-3(d)(1) under the Exchange Act (17 CFR 240.13d-3(d)(1)).

[23] Street Name Study, supra Note 20, at 76.

(1) Title of class	(2) Name and address of beneficial owner	(3) Amount beneficially owned	(4) Percent of class

(b) Furnish the following information, as of the most recent practicable date, in substantially the tabular form indicated, as to each class of equity securities of the registrant or any of its parents or subsidiaries, other than directors' qualifying shares, beneficially owned by all officers and directors of the registrant and their associates, as a group, without naming them. Show in Column (2) the total number of shares beneficially owned and in Column (3) the percent of class so owned. Of the number of shares shown in Column (2), indicate, by footnote or otherwise, the amount of shares with respect to which such persons have the right to acquire beneficial ownership, as specified in Rule 13d-3(d)(1) under the Exchange Act.

(1) Title of class	(2) Amount beneficially owned	(3) Percent of class

(c) Describe any arrangements, known to the registrant, including any pledge by any person of securities of the registrant or any of its parents, the operation of which may at a subsequent date result in a change in control of the registrant.

Instructions. 1. The percentages are to be calculated on the basis of the amount of outstanding securities, excluding securities held by or for the account of the registrant or its subsidiaries; however, such calculations may be made on the basis of outstanding securities plus securities deemed outstanding pursuant to Rule 13d-3(d)(1) under the Exchange Act provided appropriate disclosure is made as to the method of calculating.

2. For the purposes of this item, beneficial ownership shall be determined in accordance with Rule 13d-3 under the Exchange Act (17 CFR 240.13d-3).

3. The registrant shall be deemed to know the contents of any statements filed with the Commission pursuant to Section 13(d) of the Exchange Act. A registrant may rely upon information set forth in such statements unless the registrant knows or has reason to believe that such information is not complete or accurate or that a statement or amendment should have been filed and was not.

4. For purposes of furnishing information pursuant to paragraph (a), the registrant may indicate the source and date of such information.

5. Where more than one beneficial owner is known to be listed for the same securities, appropriate disclosure should be made to avoid confusion.

6. Paragraph (c) does not require a description of ordinary default provisions contained in the charter, trust indentures or other governing instruments relating to securities of the registrant.

7. If securities are being registered in connection with, or pursuant to, a plan of acquisition, reorganization, readjustment or succession, indicate as far as practicable the status to exist upon consummation of the plan on the basis of present holdings and commitments.

8. If any of the securities being registered are to be offered for the account of security holders, name each such security holder and state the amount of securities owned by him, the amount to be offered for his account, and the percentage of securities of the class (computed in accordance with instruction 1) to be owned after the offering if all of the securities offered for his account are sold.

9. If, to the knowledge of the registrant or any principal underwriter of the securities being registered, more than five percent of any class of voting securities of the registrant are held or to be held subject to any voting trust or other similar agreement, state the title of such securities, the amount held or to be held and the duration of the agreement. Give the names and addresses of the voting trustees and outline briefly their voting rights and other powers under the agreement.

* * * * *

(Secs. 7, 10, 19(a), 48 Stat. 78, 81, 85; secs. 205, 209, 48 Stat. 906, 908; sec. 8, 68 Stat. 685; 15 U.S.C. 77g, 77j, 77s(a).)

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

II. 17 CFR Part 240 is amended by revising Regulation 13D to read as follows:

REGULATION 13D

§ 240.13d-1 Filing of Schedule 13D (§ 240.13d-101).

(a) Any person who, after acquiring directly or indirectly the beneficial ownership of any equity security of a class which is registered pursuant to Section 12 of the Act, or any equity security of an insurance company which would have been required to be so registered except for the exemption contained in Section 12(g)(2)(G) of the Act, or any equity security issued by a closed-end investment company registered under the Investment Company Act of 1940, is directly or indirectly the beneficial owner of more than five percent of such class shall, within ten days after such acquisition, send to the issuer of the security at its principal executive office, by registered or certified mail, send to each exchange where the security is traded, and file with the Commission, a statement containing the information required by Schedule 13D (§ 240.13d-101). Eight copies of the statement, including all exhibits, shall be filed with the Commission. At the time of filing the statement, the person making the filing shall pay to the Commission a fee of $100, no part of which shall be refunded. For the purposes of section 13(d), any person, in determining the amount of outstanding shares of a class of equity securities, may rely upon information set forth in the issuer's most recent quarterly or annual report, and any current report subsequent thereto, filed with the Commission pursuant to this Act, unless he knows or has reason to believe that the information contained therein is inaccurate.

(b) Whenever two or more persons are required to file a statement pursuant to section 13(d) with respect to the same securities, only one acquisition statement need be filed, *Provided*, That:

(1) Each person on whose behalf the acquisition statement is filed is responsible for the timely filing of such statement and any amendments thereto, and for the completeness and accuracy of the information contained therein; and

(2) Such acquisition statement shall identify all such persons, shall contain the required information with regard to each such person, shall indicate that such statement is filed on behalf of all such persons, and shall include, as an exhibit, their agreement in writing that such a statement is filed on behalf of each of them.

§ 240.13d-2 Filing of amendments.

If any material change occurs in the facts set forth in the statement required by § 240.13d-1 (Rule 13d-1), the person or persons who were required to file such statement shall promptly file or cause to be filed with the Commission and send or cause to be sent to the issuer and to each exchange on which the security is traded an amendment disclosing such change. Eight copies of each such amendment shall be filed with the Commission. No additional filing fee shall be required for any such amendment.

§ 240.13d-3 Determination of beneficial owner.

(a) For the purposes of section 13(d) of the Act a beneficial owner of a security includes any person who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares:

(1) *Voting power* which includes the power to vote, or to direct the voting of, such security; and/or,

(2) *Investment power* which includes the power to dispose, or to direct the disposition, of such security.

(b) Any person who, directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement or any other contract, arrangement, or device with the purpose or effect of divesting such person of beneficial ownership of a security or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade the reporting requirements of section 13(d) of the Act shall be deemed for purposes of such section to be the beneficial owner of such security.

(c) All securities of the same class beneficially owned by a person, regardless of the form which such beneficial ownership takes, shall be aggregated in calculating the number of shares beneficially owned by such person.

(d) Notwithstanding the provisions of other paragraphs of this rule:

(1) A person shall be deemed to be the beneficial owner of a security, subject to the provisions of paragraph (b) of this section, if that person has the right to acquire beneficial ownership of such security, as defined in Rule 13d-3(a) (§ 240.13d-3(a)) at any time within sixty days including but not limited to any right to acquire: (i) Through the exercise of any option, warrant or right; (ii) Through the conversion of a security or (iii) Pursuant to the power to revoke a trust, discretionary account, or similar arrangement. Any securities not outstanding which are subject to such options, warrants, rights or conversion privileges shall be deemed to be outstanding for the purpose of computing the percentage of outstanding securities of the class owned by such person, but

shall not be deemed to be outstanding for the purpose of computing the percentage of the class by any other person.

(2) A member of a national securities exchange shall not be deemed to be a beneficial owner of securities held directly or indirectly by it on behalf of another person solely because such member is the record holder of such securities and, pursuant to the rules of such exchange, may direct the vote of such securities, without instruction, on other than contested matters or matters that may affect substantially the rights or privileges of the holders of the securities to be voted, but is otherwise precluded by the rules of such exchange from voting without instruction.

(3) A person who in the ordinary course of business is a pledgee of securities pursuant to a bona fide pledge agreement shall not be deemed to be the beneficial owner of such pledged securities merely because there has been a default under such an agreement, except during such time as the event of default shall remain uncured for more than thirty days or at any time before a default is cured if the power acquired by the pledgee pursuant to the default enables him to change or influence control of the issuer.

§ 240.13d–4 Disclaimer of beneficial ownership.

Any person may expressly declare in any statement filed that the filing of such statement shall not be construed as an admission that such person is, for the purposes of section 13(d), the beneficial owner of any securities covered by the statement.

§ 240.13d–5 Short form acquisition notice.

(a) A person who, after acquiring directly or indirectly the beneficial ownership of any equity security of a class described in section 13(d)(1) of the Act, is directly or indirectly the beneficial owner of more than five percent of such class may, in lieu of filing a Schedule 13D (§ 240.13d–101) statement required by section 13(d)(1) of the Act, file with the Commission, within ten days after the end of the calendar quarter in which such person became obligated to report under section 13(d)(1), with a non-refundable fee of $100, eight copies, including all exhibits, of a short form notice on Form 13D–5 (§ 240.13d–102) and send one copy each of such form, by registered or certified mail, to the issuer of the security at its principal executive office and to the principal national securities exchange where the security is traded, provided that:

(1) Such person has acquired such securities in the ordinary course of his business and not with the purpose nor with the effect of changing or influencing the control of the issuer, nor in connection with or as a participant in any transaction having such purpose or effect, including any transaction subject to Rule 13d–3(b) (§ 240.13d–3(b)); and

(2) Such person is:

(i) A broker or dealer registered under section 15 of the Act; or

(ii) A bank as defined in section 3(a)(6) of the Act; or

(iii) An investment company registered under section 8 of the Investment Company Act of 1940; or

(iv) An investment adviser registered under section 203 of the Investment Advisers Act of 1940; or

(v) An employee benefit plan, pension fund or an endowment fund; or

(vi) A parent holding company, provided that: (A) The Form is being used to report the indirect acquisition of the beneficial ownership of securities acquired by a subsidiary and (B) Such subsidiary is a person specified in Rule 13d–5(a)(2) (§ 240.13d–5(a)(2)); or

(vii) A group, provided that: (A) All the members are persons specified in Rule 13d–5(a)(2) (§ 240.13d–5(a)(2)) and (B) The securities were acquired in a transaction exempt pursuant to section 4(2) of the Securities Act of 1933; and

(3) Such person has promptly notified any other person (or group as defined in section 13(d)(3)) on whose behalf it holds, on a discretionary basis, securities exceeding five percent of the class, of any acquisition or transaction on behalf of such other person which might be reportable by that person under section 13(d). This subsection only requires notification to the beneficial owner(s) of information as to which the filing person reasonably might be expected to know, which would notify the account owner of a possible obligation he may have to file a notice under section 13(d) of the Act or an amendment thereto.

(b) Notwithstanding Rule 13d–2 (§ 240.13d–2), and provided that such person continues to meet the requirements set forth in Rule 13d–5(a) (§ 240.13d–5(a)), any person who has filed a short form acquisition notice on Form 13D–5 (§ 240.13d–102) shall amend such form within ten days after the end of each calendar quarter to reflect, as of the end of the quarter,

(1) All increases of the beneficial ownership of securities of the same class during the quarter, and

(2) All decreases of the beneficial ownership of securities of the same class during the quarter, including any decrease in the percentage of the class beneficially owned to five percent or less.

Eight copies of such amendment, including all exhibits, shall be filed with the Commission and one each sent, by registered or certified mail, to the issuer of the security at its principal executive office and to the principal national securities exchange where the security is traded. No additional filing fee is required for any such amendment. Once an amendment has been filed reflecting beneficial ownership of five percent or less of the class of securities, no additional filings are required unless the person thereafter becomes the beneficial owner of more than five percent of the class.

(c) Notwithstanding paragraphs (a) and (b) of this section, if any person who has filed a short form acquisition notice on Form 13D–5 (§ 240.13d–102) would not be presently eligible to use such Form to report an additional acquisition, such person shall immediately become subject to Rule 13d–1 (§ 240.13d–1) and shall file an acquisition statement thereunder on Schedule 13D in the event such person is a beneficial owner at that time of more than five percent of the class of equity securities.

§ 240.13d–6 Acquisition of securities.

(a) A person who becomes a beneficial owner of securities pursuant to § 240.13d–3 shall be deemed to have acquired such securities for purposes of section 13(d)(1), whether such acquisition was through purchase or otherwise.

(1) The executors or administrators of the estate of a decedent generally will be presumed not to have acquired beneficial ownership of the securities in the decedent's estate until such time as such executors or administrators are qualified under local law to perform their duties.

(b) When two or more persons agree, orally or in writing, to act together for the purpose of acquiring, holding or disposing of securities of an issuer, the group formed thereby shall be deemed to have acquired, as of the date of such agreement, beneficial ownership of all securities of that issuer beneficially owned by any such persons, for purposes of section 13(d)(1).

(1) The group's filing obligation may be satisfied either by a single joint filing or by each of the group's members making an individual filing. If the group's members elect to make their own filings, each such filing should identify all members of the group but the information provided need only reflect the extent of their individual knowledge.

§ 240.13d–7 Exemption of certain acquisitions.

(a) An acquisition of equity securities of a class described in section 13(d)(1) by a person engaged in business as an underwriter of securities, through his participation in good faith in a firm commitment underwriting registered under the Securities Act, shall be deemed not to be an acquisition for purposes of section 13(d), provided that any such securities which are beneficially owned by such person for more than forty days shall be deemed to have been acquired for purposes of section 13(d) at the end of such forty day period.

(b) Acquisitions of securities of an issuer by a person who prior to such acquisition was the beneficial owner of more than five percent of the outstanding securities of the same class as those acquired shall be exempt from section 13(d) of the Act, provided that:

(1) The acquisition is made pursuant to preemptive subscription rights in an offering made to all holders of securities of the class to which the preemptive subscription rights pertain;

(2) Such person does not, through the exercise of such preemptive subscription rights, acquire more than his pro rata share of the securities; and

(3) The acquisition is duly reported, if required, pursuant to section 16(a) of

the Act and the rules and regulations thereunder.

§ 240.13d–101 Schedule 13D Information to be included in statements filed pursuant to § 240.13d–1 and § 240.14d–1.

SECURITIES AND EXCHANGE COMMISSION,
WASHINGTON, D.C. 20549

SCHEDULE 13D

Under the Securities Exchange Act of 1934
(Amendment No. ____)

(Name of persons(s) filing statement)

(Name of issuer)

(Title of class of securities)

(CUSIP Number)

(Name, address and telephone number of person authorized to receive notices and communication)

(Date of event which requires filing of this statement)

NOTE.—Eight copies of this statement, including all exhibits, should be filed with the Commission.

Instructions. A. The item numbers and captions of the items shall be included but the text of the items is to be omitted. The answers to the items shall be so prepared as to indicate clearly the coverage of the items without referring to the text of the items. Answer every item. If an item is inapplicable or the answer is in the negative, so state.

B. Information contained in exhibits to the statement may be incorporated by reference in answer or partial answer to any item or sub-item of the statement unless it would render such answer incomplete, unclear or confusing. Matter incorporated by reference shall be clearly identified in the reference by page, paragraph, caption or otherwise. An express statement that the specified matter is incorporated by reference shall be made at the particular place in the statement where the information is required.

C. If the statement is filed by a partnership, limited partnership, syndicate, or other group, the information called for by Items 2–6, inclusive, shall be given with respect to (i) Each partner of such partnership or each general partner of such limited partnership, (ii) Each member of such syndicate or group and (iii) Each person controlling such partner or member. If a person referred to in (i), (ii) or (iii) is a corporation or if the statement is filed by a corporation the information called for by the above mentioned items shall be given with respect to (a) Each executive officer and director of such corporation, (b) Each person controlling such corporation and (c) Each executive officer and director of any corporation ultimately in control of such corporation. Executive officer shall mean the president, secretary, treasurer, any vice president in charge of a principal business function (such as sales, administration or finance), and any other person who performs similar policy making functions for the corporation.

Item 1. Security and Issuer. State the title of the class of equity securities to which this statement relates and the name and address of the issuer of such securities.

Item 2. Identity and Background. State the following with respect to all persons by whom or on whose behalf the acquisition has been or is to be effected:

(a) Name;

(b) Residence or business address;

(c) Present principal occupation or employment and the name, principal business and address of any corporation or other organization in which such employment is carried on;

(d) Material occupations, positions, offices or employments during the last five years, giving the starting and ending dates of each and the name, principal business and location of any business corporation or other organization in which such occupation, position, office or employment was carried on;

Instruction. If a person has held various positions with the same organization, each and every such position need not be specifically disclosed. Likewise, if a person holds comparable positions with multiple related organizations, each and every such position need not be specifically disclosed.

(e) Whether or not, during the last five years, such person has been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors) and, if so, give the dates, nature of conviction, name and location of court, any penalty imposed, or other disposition of the case; and

Instruction. A negative answer to this subitem need not be furnished to security holders.

(f) Citizenship.

Item 3. Source and Amount of Funds or Other Consideration. State the source and amount of funds or other consideration used or to be used in making the purchases, and if any part of the purchase price or proposed purchase price is represented or is to be represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding or trading the securities, a description of the transaction and the names of the parties thereto. If the securities were acquired otherwise than by purchase, describe the method of acquisition.

Item 4. Purpose of Transaction. State the purpose or purposes of the purchase or proposed purchase of securities of the issuer. If the purpose or one of the purposes of the purchase or proposed purchase is to acquire control of the business of the issuer, describe any plans or proposals which the purchasers may have to liquidate the issuer, to sell its assets or to merge it with any other person(s), or to make any other major change in its business or corporate structure, including, if the issuer is a registered closed-end investment company, any plans or proposals to make any changes in its investment policy for which a vote would be required by section 13 of the Investment Company Act of 1940.

Item 5. Interest in Securities of the Issuer. (a) State the aggregate number and percentage of the class represented by such shares beneficially owned (identifying those shares which there is a right to acquire) by each person named in Item 2 and by each associate and majority-owned subsidiary of such person, and identify and state the address of any such associate or subsidiary.

(b) For each person named in response to paragraph (a), indicate the nature of such person's beneficial ownership (i.e. voting power or investment power or both);

(c) Describe any transactions in the class of securities reported on that were effected during the past sixty days or since the most recent filing on Schedule 13D(§ 240.13d–101), whichever is less, by the persons named in response to paragraph (a) and by any executive officers, directors or affiliates of any subsidiary of such person;

(d) If any other person is known to have an economic interest in the securities reported on, including but not limited to the right to receive or the power to direct the receipt of dividends from, or the proceeds from the sale of, such securities, a statement to that effect should be included in response to this item and, if such interest relates to more than five percent of the class, such person should be identified. A listing of the shareholders of an investment company registered under the Investment Company Act of 1940 or the beneficiaries of an employee benefit plan, pension fund or endowment fund is not required;

Item 6. Contracts, Arrangements, Understandings or Relationships with Respect to Securities of the Issuer. Furnish any information as to any contracts, arrangements, understandings or relationships (legal or otherwise) with any person with respect to any securities of the issuer, including but not limited to transfer or voting of any of the securities, finder's fees, joint ventures, loan or option arrangements, puts or calls, guaranties of loans, guaranties against loss, or guaranties of profits, division of profits or loss, or the giving or withholding of proxies, naming the persons with whom such contracts, arrangements, understandings or relationships have been entered into and giving the details thereof. Include such information for any of the securities that are pledged or otherwise subject to a contingency the occurrence of which would give another person voting power or investment power over such securities except that disclosure of standard default and similar provisions contained in loan agreements need not be included.

Item 7. Persons Retained, Employed or to be Compensated. Where the Schedule 13D (§ 240.13d–101) relates to a tender offer, or request or invitation for tenders, identify all persons and classes of persons employed, retained or to be compensated by the person filing this Schedule 13D, or by any person on his behalf, to make solicitations or recommendations to security holders and describe briefly the terms of such employment, retainer or arrangement for compensation.

Item 8. Material to be Filed as Exhibits. Copies of all requests or invitations for tenders or advertisements making a tender offer or requesting or inviting tenders, additional material soliciting or requesting such tender offers, solicitations or recommendations to the holders of the security to accept or reject a tender offer or request or invitation for tenders shall be filed as an exhibit.

Signature. I certify that to the best of my knowledge and belief the information set forth in this statement is true, complete and correct.

Date Signature

Name/Title

The statement shall be signed by each person on behalf of whom the statement is filed or his authorized representative. If the statement is signed on behalf of a person by his authorized representative, evidence of the representative's authority to sign on behalf of such person shall be filed with the statement. The name and any title of each person who signs the statement shall be typed or printed beneath his signature.

§ 240.13d–102 Form 13D–5 Short Form Acquisition Notice pursuant to § 240.13d–5 under the Securities Exchange Act of 1934.

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 13D–5, SHORT FORM ACQUISITION NOTICE

Pursuant to Rule 13d–5 under the Securities Exchange Act of 1934.

(Amendment No.)

1(a) *Name of Person Filing:* ----------

1(b) *Business Address of Principal Office:* ----------

2(a) *Name of Issuer:* _____
2(b) *Title of Class of Securities:* _____
2(c) *CUSIP Number:* _____

3. *Check whether the person filing is a:*
(a) ☐ Broker or Dealer registered under Section 15 of the Act.
(b) ☐ Bank as defined in section 3(a)(6) of the Act.
(c) ☐ Investment Company registered under section 8 of the Investment Company Act.
(d) ☐ Investment Adviser registered under section 203 of the Investment Advisers Act of 1940.
(e) ☐ Employee Benefit Plan, Pension Fund or Endowment Fund (see § 240.13d-5(a)(2)(v)).
(f) ☐ Parent Holding Company, in accordance with § 240.13d-5(a)(2)(vi) (Note: See Item 7).
(g) ☐ Group, in accordance with § 240.13d-5(a)(2)(vii) (Note: See Item 8).

4. *Ownership.* (a) During the period covered by this statement and during which the filing person(s) was the beneficial owner of more than five percent of the class, state the aggregate number of such securities as to which there was an increase or decrease in beneficial ownership:
Increases: _____ Decreases: _____
(b) As of the date of this notice, if the percent of the class owned is five percent or more, provide the following information:
(1) Amount Beneficially Owned: _____
(2) Percent of Class: _____
(3) Number of Accounts or Other Entities for Whom Securities are Owned: _____

5. *Ownership of Five Percent or Less of Class.* State the date or dates on which the filing person commenced and/or ceased to be the beneficial owner of more than five percent of the class of securities.

6 *Ownership of More than Five Percent on Behalf of Another Person.* If another person is known to have an economic interest in the securities reported on, including but not limited to the right to receive or the power to direct the receipt of dividends from, or the proceeds from the sale of, such securities and this interest relates to more than five percent of the class of securities, attach an exhibit containing the information required by Item 6 of Schedule 13D with respect to that person. This item does not require a listing of the shareholders of an investment company registered under the Investment Company Act of 1940 or the beneficiaries of an employee benefit plan, pension fund or endowment fund.

7. *Identification and Classification of the Subsidiary Which Acquired the Security Being Reported on by the Parent Holding Company.* If a parent holding company has filed this Form, so indicate under Item 3(g) and attach an exhibit stating the identity and the Item 3 classification of the relevant subsidiary.

8. *Identification and Classification of Members of the Group.* If a group has filed this Form, so indicate under Item 3(h) and attach an exhibit stating the identity and the Item 3 classification of each member of the group.

9. *Notice of Dissolution of Group.* Notice of dissolution of a group may be furnished on an exhibit stating the date of the dissolution and that all further filings with respect to transactions in the security reported on will be filed, if required, by members of the group, in their individual capacity.

Signatures. I certify that, to the best of my knowledge and belief, the securities referred to above were acquired in the ordinary course of business and were not acquired for the purpose of and do not have the effect of changing or influencing the control of the issuer of such securities and were not acquired in connection with or as a participant in any transaction having such purpose or effect.

Date of Notice	Reporting Person
	Signature and Title

NOTE.—Eight copies of this statement, including all exhibits, should be filed with the Commission.

(Secs. 3(b), 13(d)(1), 13(d)(2), 13(d)(5), 13(d)(6), 14(d)(1), 23; 48 Stat. 882, 894, 895, 901; sec. 203(a), 49 Stat. 704, sec. 8, 49 Stat. 1379; sec. 10, 78 Stat. 88a; secs. 2, 3, 82 Stat. 454, 455; secs. 1, 2, 3-5, 84 Stat. 1497; secs. 3, 18, 89 Stat. 97, 155; 15 U.S.C. 78c(b), 78m(d)(1), 78m(d)(2), 78m(d)(5), 78m(d)(6), 78n(d)(1), 78w.)

PART 249—FARMS, SECURITIES EXCHANGE ACT OF 1934

III. Item 5 of Form 10 is amended to read as follows:

§ 249.210 Form 10, general form for registration of securities pursuant to section 12 (b) or (g) of the Securities Exchange Act of 1934.

* * * * *

Item 5. *Security Ownership of Certain Beneficial Owners and Management.* (a) Furnish the following information, as of the most recent practicable date, in substantially the tabular form indicated, with respect to any person (including any "group" as that term is used in section 13(d)(3) of the Act) who is known to the registrant to be the beneficial owner of more than five percent of any class of the registrant's voting securities. Show in Column (3) the total number of shares beneficially owned and in Column (4) the percent of class so owned. Of the number of shares shown in Column (3), indicate, by footnote or otherwise, the amount known to be shares with respect to which such listed beneficial owner has the right to acquire beneficial ownership as specified in Rule 13d-3(d)(1) under the Act (17 CFR 240.13d-3(d)(1)).

(1)	(2)	(3)	(4)
Title of class	Name and address of beneficial owner	Amount beneficially owned	Percent of class

(b) Furnish the following information, as of the most recent practicable date, in substantially the tabular form indicated, as to each class of equity securities of the registrant or any of its parents or subsidiaries, other than directors' qualifying shares, beneficially owned by all directors and officers of the registrant as a group, without naming them. Show in Column (2) the total number of shares beneficially owned and in Column (3) the percent of class so owned. Of the number of shares shown in Column (2), indicate, by footnote or otherwise, the amount of shares with respect to which such persons have the right to acquire beneficial ownership, as specified in Rule 13d-3(d)(1) under the Act.

(1)	(2)	(3)
Title of class	Amount beneficially owned	Percent of class

(c) Describe any arrangements, known to the registrant, including any pledge by any person of securities of the registrant or any of its parents, the operation of which may at a subsequent date result in a change in control of the registrant.

Instructions. 1. The percentages are to be calculated on the basis of the amount of outstanding securities, excluding securities held by or for the account of the registrant or its subsidiaries; however, such calculations may be made on the basis of outstanding securities plus securities deemed outstanding pursuant to Rule 13d-3(d)(1) under the Act provided appropriate disclosure is made as to the method of calculating.

2. For the purposes of this item, beneficial ownership shall be determined in accordance with Rule 13d-3 under the Act (17 CFR 240.13d-3).

3. For purposes of furnishing information pursuant to paragraph (a), the registrant may indicate the source and date of such information. When applicable, the registrant shall be deemed to know the contents of any statements filed with the Commission pursuant to Section 13(d) of the Exchange Act. A registrant may rely upon information set forth in such statements unless the registrant knows or has reason to believe that such information is not complete or accurate or that a statement or amendment should have been filed and was not.

4. Where more than one beneficial owner is known to be listed for the same securities, appropriate disclosure should be made to avoid confusion.

5. Paragraph (c) does not require a description of ordinary default provisions contained in the charter, trust indentures or other governing instruments relating to securities of the registrant.

* * * * *

Item 14 of Form 10-K is amended to read as follows:

§ 249.310 Form 10-K, annual report pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934.

* * * * *

Item 14. Security Ownership of Certain Beneficial Owners and Management. (a) Furnish the following information, as of the most recent practicable date, in substantially the tabular form indicated, with respect to any person (including any "group" as that term is used in section 13(d)(3) of the Act) who is known to the registrant to be the beneficial owner of more than five percent of any class of the registrant's voting securities. Show in Column (3) the total number of shares beneficially owned and in Column (4) the percent of class so owned. Of the number of shares shown in Column (3), indicate, by footnote or otherwise, the amount known to be shares with respect to which such listed beneficial owner has the right to acquire beneficial ownership as specified in Rule 13d-3(d)(1) under the Act (17 CFR 240.14d-3(d)(1)).

(1)	(2)	(3)	(4)
Title of class	Name and address of beneficial owner	Amount beneficially owned	Percent of class

(b) Furnish the following information, as of the most recent practicable date, in substantially the tabular form indicated, as to each class of equity securities of the registrant or any of its parents or subsidiaries, other than directors' qualifying shares, beneficially owned by all directors and officers of the registrant as a group, without naming them. Show in Column (2) the total number of shares beneficially owned and in Column (3) the percent of class so owned. Of the number of shares shown in Column (2),

indicate, by footnote or otherwise, the amount of shares with respect to which such persons have the right to acquire beneficial ownship as specified in Rule 13d-3(d)(1) under the Act.

(1)	(2)	(3)
Title of class	Amount beneficially owned	Percent of class

(c) Describe any arrangements, known to the registrant, including any pledge by any person of securities of the registrant or any of its parents, the operation of which may at a subsequent date result in a change in control of the registrant.

Instructions. 1. The percentages are to be calculated on the basis of the amount of outstanding securities, excluding securities held by or for the account of the registrant or its subsidiaries; however, such calculations may be made on the basis of outstanding securities plus securities deemed outstanding pursuant to Rule 13d-3(d)(1) under the Act provided appropriate disclosure is made as to the method of calculating.

2. For the purposes of this item, beneficial ownership shall be determined in accordance with Rule 13d-3 under the Act (17 CFR 240.13d-3).

3. The registrant shall be deemed to know the contents of any statements filed with the Commission pursuant to Section 13(d) of the Act. A registrant may reply upon information set forth in such statements unless the registrant knows or has reason to believe that such information is not complete or accurate or that a statement or amendment should have been filed and was not.

4. For purposes of furnishing information pursuant to paragraph (a), the registrant may indicate the source and date of such information.

5. Where more than one beneficial owner is known to be listed for the same securities, appropriate disclosure should be made to avoid confusion.

6. Paragraph (c) does not require a description of ordinary default provisions contained in the charter, trust indentures or other governing instruments relating to securities of the registrant.

Items 5 and 6 of Schedule 14A are amended to read as follows:

§ 240.14a-101 Schedule 14A. Information required in proxy statement.

* * * * *

Item 5. Voting Securities and Ownership Thereof By Certain Beneficial Owners and Management.

(a) * * *

(b) * * *

(c) * * *

(d) Furnish the following information, as of the most recent practicable date, in substantially the tabular form indicated, with respect to any person (including any "group" as that term is used in section 13(d)(3) of the Act) who is known to the persons on whose behalf the solicitation is made to be the beneficial owner of more than five percent of any class of the issuer's voting securities. Show in Column (3) the total number of shares beneficially owned and in Column (4) the percent of class so owned. Of the number of shares shown in Column (3), indicate, by footnote or otherwise, the amount known to be shares with respect to which such listed beneficial owner has the right to acquire beneficial ownership as specified in Rule 13d-3(d)(1) under the Act (§ 240.13d-3(d)(1)).

(1)	(2)	(3)	(4)
Title of class	Name and address of beneficial owner	Amount beneficially owned	Percent of class

(e) Furnish the following information, as of the most recent practicable date, in substantially the tabular form indicated, as to each class of voting securities of the issuer or of its parent, other than directors' qualifying shares, beneficially owned by all directors and officers of the issuer as a group, without naming them. Show in Column (2) the total number of shares beneficially owned and in Column (3) the percent of class so owned. Of the number of shares shown in Column (2), indicate, by footnote or otherwise, the amount of shares with respect to which such persons have the right to acquire beneficial ownership as specified in Rule 13d-3(d)(1) (§ 240.13d-3(d)(1)) under the Act.

(1)	(2)	(3)
Title of class	Amount beneficially owned	Percent of class

(f) If, to the knowledge of the persons on whose behalf the solicitation is made, a change in control of the issuer has occurred since the beginning of its last fiscal year, state the name of the person or persons who acquired such control, the date and a description of the transaction or transactions in which control was acquired and the percentage of voting securities of the issuer now owned by such person or persons.

(g) Describe any arrangements known to the persons on whose behalf the solicitation is made, including any pledge by any person of securities of the issuer or any of its parents, the operation of which may at a subsequent date result in a change in control of the issuer.

Instructions. 1. The percentages are to be calculated on the basis of the amount of outstanding securities, excluding securities held by or for the account of the issuer or its subsidiaries; however, such calculations may be made on the basis of outstanding securities plus securities deemed outstanding pursuant to Rule 13d-3(d)(1) (§ 240.13d-3(d)(1)) under the Act provided appropriate disclosure is made as to the method of calculating.

2. For the purposes of this item, beneficial ownership shall be determined in accordance with Rule 13d-3 under the Act (§ 240.13d-3).

3. Persons on whose behalf the solicitation is made shall be deemed to know the contents of any statements filed with the Commission pursuant to section 13(d) of the Act. Such persons may rely upon information set forth in such statements unless they know or have reason to believe that such information is not complete or accurate or that a statement or amendment should have been filed and was not.

4. For purposes of furnishing information pursuant to paragraph (d), the source and date of such information may be indicated.

5. Where more than one beneficial owner is known to be listed for the same securities, appropriate disclosure should be made to avoid confusion.

6. Paragraph (g) does not require a description of ordinary default provisions contained in the charter, trust indentures or other governing instruments relating to securities of the issuer.

Item 6. Nominees and Directors.

(a) * * *

(5) * * *

Instruction. For purposes of this item, beneficial ownership shall be determined in accordance with Rule 13d-3 under the Act (§ 240.13d-3).

* * * * *

Item 3 of Schedule 14B is amended to read as follows:

§ 240.14a-102 Schedule 14B. Information to be included in statements filed by or on behalf of a participant (other than an issuer pursuant to § 240.14a-11(c) (Rule 14a-11(c)).

* * * * *

Item three. Interests in securities of the issuer.

* * * * *

(g) * * *

Instruction. For purposes of this item, beneficial ownership shall be determined in accordance with Rule 13d-3 under the Act (§ 240.13d-3).

* * * * *

(Secs. 12, 13, 14, 15(d), 23, 48 Stat. 892, 894, 895, 901; sec. 203(a), 49 Stat. 704; secs. 1, 3, 8, 49 Stat. 1375, 1377, 1379; sec. 202, 68 Stat. 686; secs. 3, 4, 5, 6, 10, 78 Stat. 565–568, 569, 570–574, 88a; secs. 1, 2, 3, 82 Stat. 454, 455; secs. 1, 2, 3–5, 28(c), 84 Stat. 1435, 1479; sec. 105(b), 88 Stat. 1503; secs. 8, 9, 10, 18, 89 Stat. 117, 118, 119, 155; 15 U.S.C. 78*l*, 78m, 78n, 78o(d), 78w.)

By the Commission.

Dated: February 24, 1977.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-6358 Filed 3-2-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Rel. No. 34-13292; File No. S7-677]

BENEFICIAL OWNERSHIP DISCLOSURE REQUIREMENTS

Additional Proposed Amendments and Withdrawal of Proposal

The Securities and Exchange Commission today announced proposed amendments to new Rules 13d-3 (17 CFR 240.13d-3) and 13d-5 (17 CFR 240.13d-5) and new Schedule 13D (17 CFR 240.13d-101) relating to disclosure of beneficial ownership of securities of public companies. The Commission has also withdrawn proposed Item XA requiring disclosure of an issuer's thirty largest security holders of record and the ten largest voting blocks of its securities. This item was proposed for comment in Exchange Act Release No. 11616 (August 25, 1975) (40 FR 42212). These announcements were made at the same time that the Commission announced adoption of extensive amendments to existing rules and Schedule 13D and new rules and a short form acquisition notice, under Section 13(d) of the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)). See FR Doc. 77-6358 appearing at page 12342 of this issue, Exchange Act Release No. 34-13291 (February 24, 1977). The additional amendments are being proposed at this time because the Commission believes that their adoption would be in the public interest, but that they cover areas which have not been specifically subject to public comment in the prior proposals.[1]

PROPOSED AMENDMENTS TO RULE 13d-3

As adopted, Rule 13d-3 provides standards for determining beneficial ownership for the purposes of section 13(d) which are based on voting power and investment power. Pursuant to Rule 13d-3(d)(1) a person is deemed to be the beneficial owner of securities which that person has the right to acquire within 60 days pursuant to the exercise of an option, warrant or right; the conversion of a convertible security; or the power to revoke a trust, discretionary account, or similar arrangement. One proposed amendment to Rule 13d-3(1) would, if adopted, eliminate the present 60 day time period so that a person would be deemed the beneficial owner of securities which such person has the right to acquire at any time through the exercise of a option, warrant, right or power to revoke.

Another proposed amendment to Rule 13d-3(d)(1) would provide that a person would be deemed the beneficial owner of securities such person has the right to acquire, within a specified period of time, through the automatic termination of a trust, discretionary account or similar arrangement. For example, a beneficiary of a trust who, pursuant to the trust agreement, is to acquire beneficial ownership of all securities held in the trust upon reaching the age of 21 would be deemed to be the beneficial owner of the securities within a specified time before his or her 21st birthday. If the securities to be acquired exceed 5% of the class, such beneficial owner would have a filing obligation under Section 13(d) at the start of the time period although this requirement could be satisfied by a filing by the trustee.

The Commission is considering whether a specified time period of one to two years, or a longer period such as five years, would be appropriate for purposes of this proposed amendment to Rule 13d-3(d)(1). The Commission is aware, however, of the need to balance the interests of issuers and their security holders in learning about beneficial owners of large blocks of issuer stock against the burdens placed on beneficial owners required to report. Therefore, the Commission specifically invites comment on what would be the appropriate lead time for reporting securities to be acquired upon the automatic termination of one of the enumerated arrangements.

The Commission is of the view that these proposed amendments are consistent with the purposes of the Williams Act in that they would, if adopted, result in issuers, their security holders and the Commission receiving necessary information about persons with significant beneficial interests in large blocks of an issuer's stock.

PROPOSED AMENDMENTS TO RULE 13d-5

As adopted today, new Rule 13d-5 provides that certain persons may file a short form acquisition notice (Form 13D-5) (17 CFR 240.13d-102) instead of the longer Schedule 13D to report their ownership of securities. The group of persons eligible to use the short form includes certain brokers, dealers, banks, investment companies, investment advisers, employee benefit plans, and parents and groups of these persons, which, for the most part, are domestic entities. The Commission is of the view that certain other entities which are similar in nature, but which are not domestic entitites, perhaps should be eligible to use the short form. Therefore, it is proposing an amendment to Rule 13d-5 which, if adopted, would provide that similar types of persons, although not domestic entities, may use the short form provided that such persons agree to make available to the Commission in the United States the same information they would be required to furnish in responding to the disclosure requirements of Schedule 13D.

Another proposed amendment to Rule 13d-5 would, if adopted, cause the short form to be unavailable if any of the securities being reported on were purchased at the direction of another person. The amendment is intended to assure further that such securities were acquired in the ordinary course of business and not with the purpose or effect of changing or influencing the control of the issuer.

The final proposed amendment to Rule 13d-5 is designed to limit the use of the short form and is proposed as an aid to the Commission's enforcement program of the federal securities laws. The amendment would create a presumption that the acquisition of 10 percent or more of a class of an issuer's equity securities by the reporting person would not be deemed to have been acquired in the ordinary course of business. The presumption would preclude use of the short form when an acquisition causes the reporting person to exceed the 10 percent amount and require the reporting person immediately to file on the long form, Schedule 13D, pursuant to Rule 13d-5(c).

PROPOSED AMENDMENT OF ITEM 2, SCHEDULE 13D

The Commission is proposing to amend Item 2 of Schedule 13D to require the disclosure of a reporting person's involvement in civil proceedings concerning securities violations at both the federal and state level during the preceding five year period. This requirement would parallel the item contained in the proposed tender offer schedule.[2] It is believed that the information would be helpful to the Commission's enforcement program and be in the public interest.

PROPOSED AMENDMENT OF ITEM 4, SCHEDULE 13D

At present, Item 4 of Schedule 13D requires disclosure of the purpose(s) of the purchase or proposed purchase being reported on and, if one of the purposes is to acquire control of the issuer, Item 4 also requires disclosure about any plans of the reporting person to liquidate the issuer, to sell its assets, to merge it with any other person or to make any other change in the issuer's business or corporate structure. As proposed herein, Item 4 would be amended to conform to a similar item included in the Commission's proposed Tender Offer Statement, Schedule 14D-1. Thus, the amended item would, if adopted, require reporting persons to describe any such plans, whether or not one of the purposes of the purchase or proposed purchase is to acquire control of the issuer. In addition, the item would also be expanded to require disclosure about types of plans of the purchaser not specifically required now, including plans relating to: any extraordinary corporate transaction involving the issuer or its subsidiaries; any change in the issuer's board of directors or management; any material change in the issuer's present capitalization or dividend policy; the delisting of a class of the issuer's securities from a national securities exchange; or a class of the issuer's equity securities becoming eligible for termination of registration pursuant to Section 12(g) of the Act.

[1] The earlier proposed amendments under Section 13(d) adopted today, as well as Item XA, appeared in Securities Exchange Act Release No. 11616 (August 25, 1975) (40 FR 42212).

[2] Item 5 of Proposed Schedule 14D-1 (§ 240.14d-101); Exchange Act Release No. 34-12676 (August 6, 1976) (41 FR 33004).

PROPOSED AMENDMENT OF ITEM 8, SCHEDULE 13D

As presently structured, Item 8 of Schedule 13D is designed to require exhibits only insofar as a tender offer is involved. The staff of the Commission has noted that supporting documents for responses to Schedule 13D items outside of the tender offer situation are sometimes necessary. Consequently, the Commission proposes to amend the exhibit item to Schedule 13D to require the filing as exhibits any supporting documentation for responses to Items 3, 4 and 6 of the schedule. The proposed item will also carry over the existing requirement of Rule 13d–1(b)(2) to file as an exhibit the written agreement of two or more persons required to file an acquisition statement covering the same securities pursuant to which they agree to file only one statement.

While not for purposes of public commentary, the Commission is also using this opportunity to indicate that Items 7 and 8 of Schedule 13D which are presently designed to elicit information concerning tender offers will be revised or eliminated from the schedule at such time as a separate tender offer schedule is adopted.

PROPOSED AMENDMENTS

Attention: The text of the following proposed amendments uses ►◄ arrows to indicate additions and [ ] brackets to indicate deletions.

§ 240.13d–3 is proposed to be amended to read as follows:

§ 240.13d–3 Determination of beneficial owner.

* * * * *

(d) Notwithstanding the provisions of the other paragraphs of this rule:

(1) A person shall be deemed to be the beneficial owner of a security, subject to the provisions of paragraph (b) of this rule, if that person has the right to acquire beneficial ownership of such security, as defined in Rule 13d–3(a) at any time [within 60 days] including but not limited to any right to acquire: (i) Through the exercise of any option, warrant or right; (ii) Through the conversion of a security; or [or] (iii) Pursuant to the power to revoke a trust, discretionary account, or similar ararngement; ►or (iv) Pursuant to the automatic termination of a trust, discretionary account or similar arrangement within (1–5) years.◄ Any securities not outstanding which are subject to such options, warrants, rights or conversion privileges shall be deemed outstanding for the purpose of computing the percentage of outstanding securities of the class owned by such person, but shall not be deemed to be outstanding for the purpose of computing the percentage of the class by any other person.

* * * * *

Section 240.13d–5 is proposed to be amended to read as follows:

§ 240.13d–5 Short form acquisition notice.

(a) * * *

(1) Such person ►has not purchased such securities at the direction of another person and◄ has acquired such securities in the ordinary course of his business and not with the purpose nor with the effect of changing or influencing the control of the issuer, nor in connection with or as a participant in any transaction having such purpose of effect including any transaction subject to Rule 13d–3(b). ►It is presumed that any acquisition of 10 percent or more of a class of an issuer's securities shall not satisfy the conditions of this paragraph (a)(1).◄

* * * * *

►(4) However, any person who could meet the requirements of this rule except for the fact that such person is not organized under the laws of the United States or any State thereof may file a short form acquisition notice if the filing includes an undertaking that such person will make available to the Commission, upon request, in the United States such information as would be required concerning the reported transactions by Schedule 13D.◄

* * * * *

Items 2, 4, 7 and 8 of § 240.13d–101 are proposed to be amended to read as follows:

§ 240.13d–101 Schedule 13D—Information to be included in statements[s] filed pursuant to § 240.13d–1 ►.◄ [and § 240.14d–1.]

* * * * *

Item 2. Identity and Background.

* * * * *

(e) Whether or not, during the last five years, such person has been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors) and, if so, give the dates, nature of conviction, name and location of court, any penalty imposed, or other disposition of the case; [and]

Instruction: A negative answer to this subitem need not be furnished to security holders.

►(f) Whether or not, during the last five years, such person was a party to a civil proceeding of a judicial or administrative body of competent jurisdiction and as a result of such proceeding was or is subject to a judgment, decree or final order enjoining future violations of, or prohibiting activities subject to, federal or state securities laws or finding liability with respect to such laws; and, if so, identify and describe such proceedings and summarize the terms of such judgment, decree or final order; and◄

[(f)] ►(g)◄ Citizenship.

* * * * *

Item 4. Purpose of transaction.

State the purpose or purposes of the purchase or proposed purchases of securities of the issuer. [If the purpose or one of the purposes of the purchase or proposed purchase is to acquire control of the business of the issuer,] Describe any plans or proposals which the purchasers may have [to liquidate the issuer, to sell its assets or to merge it with any other person(s), or to make any other major change in its business or corporate structure, including, if the issuer is a registered closed-end investment company, any plans or proposals to make any changes in its investment policy for which a vote would be required by section 13 of the Investment Company Act of 1940.] ►which relate to or would result in an extraordinary corporate transaction involving the issuer or its subsidiaries, including but not limited to:

(a) A merger or liquidation;

(b) A sale or transfer of a material amount of assets of the issuer or any of its subsidiaries;

(c) Any change in the present board of directors or management of the issuer, including any plans or proposals to change the number or term of directors or to fill any existing vacancies on the board;

(d) Any material change in the present capitalization or dividend policy of the issuer;

(e) Any other material change in the issuer's business or corporate structure, including, if the issuer is a registered closed-end company, any plans or proposals to make any changes in its investment policy for which a vote is required by section 13 of the Investment Company Act of 1940;

(f) The delisting of a class of securities of the issuer from a national securities exchange; or

(g) A class of equity securities of the issuer becoming eligible for termination of registration pursuant to section 12(g)(4) of the Act.◄

* * * * *

[*Item 7. Persons Retained, Employed or to be Compensated.* Where the Schedule 13D (§ 240.13d–101) relates to a tender offer, or request or invitation for tenders, identify all persons and classes of persons employed, retained or to be compensated by the person filing this Schedule 13D, or by any person on his behalf, to make solicitations or recommendations to security holders and describe briefly the terms of such employment, retainer or arrangement for compensation.]

Item [8.] ►7.◄ *Material to be Filed as Exhibits.* [Copies of all requests or invitations for tenders or advertisements making a tender offer or requesting or inviting tenders, additional material soliciting or requesting such tender offers, solicitations or recommendations to the holders of the security to accept or reject a tender offer or request or invitation for tenders shall be filed as an exhibit.]

►Copies of written agreements relating to the filing of joint acquisition statements as required by Rule 13d–1(b)(2) (§ 240.13d–1(b)(2)) and copies of all written agreements, contracts, arrangements, understandings, plans or proposals relating to (1) the borrowing of funds to finance the acquisition as disclosed in Item 3, (2) the acquisition of issuer control, liquidation, sale of assets, merger, or change in business or corporate structure or any other matter as disclosed in Item 4, and (3) the transfer or voting of the securities, finders fees, joint ventures, options, puts, calls, guarantees of loans, guarantees against loss or of profits, or the giving or withholding of proxies as disclosed in Item 6 shall be filed as exhibits.◄

* * * * *

(Secs. 3(b), 13(d), 14(d), 23(a), 48 Stat. 882, 894, 895, 901; sec. 203(a), 49 Stat. 704; sec. 8, 49 Stat. 1379; secs. 2, 3, 82 Stat. 454, 455; secs. 1, 2, 3–5, 84 Stat. 1497; secs. 3, 18, 89 Stat. 97, 155; 15 U.S.C. 78c(b), 78m(d), 78n(d), 78w(a).)

OPERATION OF PROPOSALS

The Commission is mindful of the cost to reporting persons of its proposals and recognizes its responsibilities to weigh with care the costs and benefits which result from its rules. Accordingly, the Commission specifically invites comments on the costs to reporting persons of the adoption of the proposals published herein.

Pursuant to section 23(a)(2) of the Exchange Act, the Commission has considered the impact that these proposals would have on competition and is not aware, at this time, of any burden that such rules, if adopted, would impose on competition not necessary or appropriate in furtherance of the purposes of that Act. However, the Commission specifically invites comments as to the competitive impact of these proposals, if adopted.

The Commission hereby proposes for comment proposed amendments to Rules 13d–3 and 13d–5 and Items 2, 4 and 8 of Schedule 13D pursuant to Sections 3(b), 13(d), 14(d), and 23(a) of the Exchange Act.

All interested persons are invited to submit their written views and comments on the foregoing proposals in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549 on or before April 15, 1977. Such communications should refer to file S7–677 and will be available for public inspection.

WITHDRAWAL OF PROPOSED ITEM

On August 25, 1975, the Commission proposed Item XA which would have required disclosure in proxy statements and certain other reporting forms and registration statements of the identification and holdings of each of the thirty largest record holders of each class of an issuer's voting securities.* The proposed item also sought information about persons with the power to direct the voting of the ten largest blocks of stock held of record. This proposal was based on the Interagency Steering Committee's "Model Corporate Disclosure Regulations." The Commission has determined, on the basis of public commentary, to withdraw the proposal because the information to be elicited would not provide material information to investors; that the proposed disclosures would be unnecessarily burdensome, and in some instances, might involve an unwarranted invasion of privacy. The Commission also takes note of the strongly asserted views that the required lists would be neither legally nor logistically feasible. Moreover, it was repeatedly indicated that the information would not appear to serve any distinct, necessary disclosure purpose under the federal securities laws, and could be utilized in takeover attempts to give the offeror an advantage not presently available and not intended by Congress to be made available through the enactment of the Williams Act.

In consideration of the foregoing, the proposal published in the FEDERAL REGISTER (40 FR 42212) on August 25, 1975 and circulated as Securities Exchange Act Release No. 11616 entitled "Item XA" is hereby withdrawn.

By the Commission.

Dated: February 24, 1977.

GEORGE A. FITZSIMMONS,
Secretary.

*See note 1 supra.

[FR Doc.77-6359 Filed 3-2-77;8:45 am]

federal register

THURSDAY, MARCH 3, 1977

PART III

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

■

NOISE STANDARDS AIRCRAFT TYPE AND AIRWORTHINESS CERTIFICATION

Noise Level Limits and Acoustical Change Requirements For Subsonic Transport Category Large Airplanes and For Subsonic Turbojet Powered Airplanes

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 15131; Amdt. 36-7]

PART 36—NOISE STANDARDS: AIRCRAFT TYPE AND AIRWORTHINESS CERTIFICATION

Noise Level Limits and Acoustical Change Requirements for Subsonic Transport Category Large Airplanes and for Subsonic Turbojet Powered Airplanes

The purpose of this amendment to Part 36 of the Federal Aviation Regulations (14 CFR Part 36) is to provide for three stages of aircraft noise levels with specified limits, to prescribe definitions for classifying airplanes under each stage, to require applicants for new type certificates applied for on or after November 5, 1975, to comply with "Stage 3" noise limits which are more restrictive than those in current Appendix C (herein redesignated as "Stage 2"), and to prescribe the acoustical change requirements for airplanes in each noise level stage under Part 36. This amendment applies to subsonic transport category large airplanes and to subsonic turbojet powered airplanes. The primary basis for this amendment is § 611 of the Federal Aviation Act of 1958 (49 U.S.C. 1431), as amended by the Noise Control Act of 1972 (Pub. L. 92-574).

This amendment is based on Notice No. 75-37, published in the FEDERAL REGISTER on November 5, 1975 (40 FR 51476), as supplemented by Notice No. 75-37B (41 FR 5641; February 9, 1976). The period for submitting comments to the regulatory docket regarding the matters contained in Notice Nos. 75-37 and 75-37B closed March 8, 1976. Accordingly, interested persons have been afforded an opportunity to participate in this rule making. All comments submitted have been considered in the issuance of this amendment.

While this amendment is expected to produce significant reductions in the noise created by new aircraft designs, substantial local action will be necessary to complement the noise reduction actions of the Federal Government. The only successful attack that can be launched on the overall problem of aircraft noise is one that involves the cooperative participation of all levels of government, as well as airport operators, manufacturers, and airport neighbors. The responsibilities of these parties are stated in detail in the comprehensive "Aviation Noise Abatement Policy," issued jointly by the Secretary of Transportation and the Administrator on November 18, 1976. That document is available for examination in the FAA Rules Docket.

In addition to The Policy Statement, the FAA has issued a final environmental impact statement (EIS), dated December 7, 1976, concerning this amendment. This document (herein called "The EIS") has been placed in the public rules docket for this amendment. It contains detailed analyses concerning the need for this amendment and its estimated costs and benefits. The EIS also contains a discussions of the alternatives to taking this action and the data used in the environmental and inflationary impact analysis supporting this regulatory action.

I. REGULATORY HISTORY

1. Part 36 of the Federal Aviation Regulations "Noise Standards: Aircraft Type Certification" (34 FR 18355; November 18, 1969), which became effective December 1, 1969, originally prescribed noise measurement, noise evaluation, and noise level requirements for the issuance of type certificates, and changes to those certificates, for subsonic transport categoriy airplanes, and for subsonic turbojet engine-powered airplanes, regardless of category. That regulation initiated the noise abatement regulatory program of the FAA under the statutory authority of Pub. L. 90-411 (July 21, 1968) which added § 611 to the Federal Aviation Act of 1958.

2. On November 5, 1975, the FAA published Notice No. 75-37, a notice of proposed rulemaking (NPRM) entitled "Proposed Noise Reduction Stages and Acoustical Change Requirements for Subsonic Transport Category Large Airplanes and Subsonic Turbojet Powered Airplanes" (40 FR 51476). That NPRM proposed to establish three levels (or stages) of aircraft noise with specified limits and to prescribe definitions for identifying those airplanes classified under each stage. (Those standards include the noise levels created by the airplane during original noise type certification tests.) Notice No. 75-37 also proposed to require applicants for new type certificates applied for on or after November 5, 1975, to comply with noise limits more restrictive than those in current Appendix C; it also proposed to increase the severity of the acoustical change requirements for airplanes that comply with current Appendix C of Part 36.

3. Notice No. 75-37A, a notice of extension of the comment period for Notice No. 75-37, was published on December 24, 1975 (40 FR 59447) in response to a petition for an extension to permit additional time for reviewing the proposal and preparing comments to the docket. The extended period also permitted submission of comments regarding the expansion of the proposed rule in accordance with the following supplemental notice of proposed rulemaking (Notice No. 75-37B).

4. On February 9, 1976, the FAA published a supplemental notice of proposed rulemaking (Notice No. 75-37B; 41 FR 5641), proposing that those provisions in Notice No. 75-37 which would apply to the type certification and acoustical change approval of airplanes with two engines also be applied to single-engine turbojet powered airplanes and single-engine transport category airplanes (regardless of engine type).

5. On July 25, 1975 (40 FR 31255), the Council on Environmental Quality published in the FEDERAL REGISTER a notice of availability for public review and comment regarding a draft environmental impact statement prepared by the FAA regarding the rule proposed in Notice No. 75-37.

6. On October 1, 1976, pursuant to § 611(c)(1) of the Federal Aviation Act of 1958 (the Act), as amended by the Noise Control Act of 1972 (Public Law 92-574), the U.S. Environmental Protection Agency (EPA) submitted to the FAA its recommended regulation to amend FAR Part 36 to supplement and complement the proposals in Notice No. 75-37 by providing additional stages for noise reduction in 1980 and 1985. The EPA proposed to adopt the acoustical change provisions proposed by the FAA in Notice No. 75-37. Revised noise test procedures and conditions, as well as applying Part 36 noise standards to all propeller-driven large airplanes were also recommended by the the EPA proposed rule. That EPA recommended regulation, which is contained in Notice No. 76-22 (41 FR 47352; October 28, 1976; and 41 FR 53807; December 9, 1976), is discussed in greater detail below. The period for submitting written comments to the Rules Docket on the proposal contained in Notice No. 76-22 closes on February 28, 1977.

7. Another supplemental notice of proposed rule making (SNPRM) regarding FAR Part 36 noise levels, Notice No. 75-37C, was also published in the FEDERAL REGISTER on October 28, 1976 (41 FR 47375). That SNPRM proposed certain alternative noise reduction stages and acoustical change requirements to those previously proposed by the FAA. As discussed in that notice, those proposals, including specified changes in the noise measuring points and test procedure, were based on draft modifications to ICAO Annex 16 subsequently adopted by the Interantional Civil Aviation Organization (ICAO) and currently under consideration for ratification by the United States and other member States. Comments regarding the alternative proposals in Notice No. 75-37C may be submitted to the docket until February 28, 1977.

8. Pursuant to Section 611(b)(1) of the Act, the FAA has consulted with the Secretary of Transportation and the EPA prior to adoption of this amendment. Also, submission of this amendment to the EPA for review and comments prior to its adoption is in accordance with § 309 of the Clean Air Act, as amended (42 U.S.C. 1857 h-7), and the guidelines of the Council on Environmental Quality contained in 40 CFR 1500.9(b).

9. As previously indicated, a final environmental impact statement (EIS), reflecting this amendment and the comments received on the draft EIS was issued on December 7, 1976, in conjunction with this regulatory action in accordance with the National Environmental Policy Act of 1969 and implementing guidelines of the Council on Environmental Quality.

II. RELATIONSHIP TO PRIOR RULE MAKING

This amendment is an important part of the FAA's overall aircraft noise control and abatement program. The adoption of FAR Part 36 in 1969 prohibited

the further escalation of aircraft noise levels of subsonic civil turbojet and transport category airplanes and required new airplane types to be markedly quieter than the generation of turbojets that were developed in the late 1950's and early 1960's. Since the adoption of Part 36, the FAA has issued a number of notices proposing amendments to its provisions and, subsequent to notice and public procedure, has adopted those amendments which have been found to conform to the statutory authority and responsibility conferred upon the FAA by the Congress. Those amendments have increased the protection of the public health and welfare by providing the control and abatement of aircraft noise and sonic boom under § 611 of the Federal Aviation Act of 1958, as amended. Further amendments and proposed amendments are currently under consideration by the FAA for future issuance.

In considering amendments under the authority of § 611 of the Act, factors which the FAA must consider include the following:

1. Available data relating to aircraft noise, including the results of research, development, testing, and related evaluation activities.

2. The views and positions of other Federal, State, and interstate agencies.

3. Whether the proposed regulations are consistent with the highest degree of safety in air commerce and air transportation in the public interest.

4. Whether proposed regulations are: (a) Economically reasonable; (b) Technologically practicable; and (c) Appropriate for the particular types of aircraft, aircraft engines, appliance, or certificates to which they would apply.

5. The extent to which the proposed regulations contribute to providing protection to the public health and welfare by carrying out the purpose of § 611 of the Act.

The overall environmental impacts of the proposed regulations (including environmental factors other than noise) must be assessed in accordance with the National Environmental Policy Act of 1969, and implementing Federal guidelines and directives.

Further, in exercising the authority under the Act, § 1102 requires the Administrator to do so "* * * consistently with any obligations assumed by the United States in any treaty, convention, or agreement that may be in force between the United States and any foreign country. * * *"

Thus, in furtherance of its aircraft noise policy and its responsibility to issue appropriate rules for the control and abatement of aircraft noise and sonic boom, the FAA has adopted amendments to the Federal Aviation Regulations (FARs). A summary of those regulatory actions is presented in the preamble to FAR Amendment 91-136 (41 FR 56046; December 23, 1976). FAR Amendment 91-136 prescribes significant noise operating limits for certain U.S. registered civil subsonic turbojet powered airplanes (weighing more than 75,000 pounds) with standard airworthiness certificates, if those airplanes are not engaged in foreign air commerce. That amendment requires affected aircraft to comply with Part 36 noise levels according to a specified schedule before 1985. As stated in the preamble, that amendment "* * * is intended to encourage the introduction of the newest generation of airplanes, as soon as practicable" and provides a compliance schedule to maximize the incentive to replace rather than retrofit older aircraft. This amendment prescribes the noise level standards for that "newest generation of airplanes."

III. Relationship To Recommended Regulation Submitted To the FAA by the EPA (Notice No. 76-22).

As previously stated, on October 1, 1976, the EPA submitted to the FAA its recommended regulation regarding noise level limits and acoustical change requirements for turbojet powered airplanes and propeller-driven large airplanes, pursuant to § 611(c)(1) of the Federal Aviation Act of 1958, as amended by the Noise Control Act of 1972 (Pub. L. 92-574). Section 611(c)(1) of the Federal Aviation Act of 1958 provides that EPA shall submit to the FAA proposed regulations to provide such control and abatement of aircraft noise and sonic boom as EPA determines is necessary to protect the public health and welfare. That section also provides that the FAA "shall consider such proposed regulations submitted by EPA under this paragraph and shall, within thirty days of its submission to the FAA, publish the proposed regulations in a notice of proposed rule making." Accordingly, pursuant to that provision of law, the FAA published Notice No. 76-22 entitled (as corrected) "Proposed Regulations Submitted to the FAA by the Environmental Protection Agency: Noise Levels for Turbojet Engine Powered Airplanes and for Large Propeller-Driven Airplanes" (41 FR 47358, October 28, 1976; and 41 FR 53807, December 9, 1976). A second correction submitted by the EPA (41 FR 53807; December 9, 1976) republished proposed § C36.5(a) to include the proposed text of paragraph (a)(2) which had been omitted in the original EPA submission to the FAA. Pursuant to a notice also published on October 28, 1976 (41 FR 47378), the FAA held a public hearing in Washington, D.C., on December 14, 1976, regarding the proposals contained in Notice No. 76-22. The period for submitting written comments to the regulatory docket for the EPA recommended regulation will close on February 28, 1977.

The FAA has conducted a comparative review of the EPA proposal and the draft provisions of this amendment to determine whether issuance of this amendment at this time would in any manner commit the FAA to a course of action that would conflict with an objective consideration of the EPA proposals under the procedures prescribed in § 611(c) of the Act, or would in other ways impair its ability to discharge its responsibilities under the Noise Control Act of 1972. That review focused on those areas in which the EPA proposals may differ from this amendment with respect to the resulting protection afforded to the public health and welfare from the noise of airplanes to which each would apply. The review also concerned the EPA's analysis and views regarding the specific proposals contained in Notice Nos. 75-37 and 75-37B. The EPA analysis and views are set forth in Notice No. 76-22. The EPA recommends adoption of its proposed rules (Notice No. 76-22) to supplement and complement the respective FAA proposals in certain regulatory areas which it believes are necessary to protect the public health and welfare.

In summary, the review indicates that the EPA proposal would affect the provisions FAR Part 36 in several respects, including (1) amending the applicability provisions in § 36.1 to substitute the words "large propeller-driven airplanes" for the term "subsonic transport category large airplanes"; (2) amending § C36.1 to authorize expressly an "approved equivalent procedure" in showing compliance under Appendix C; (3) amending the sideline noise measuring point provisions (§ C36.3); (4) amending § C36.5 noise level provisions and adding two additional noise reduction stages for airplanes for which application is made for new type certificates (i) on or after January 1, 1980, and (ii) on or after January 1, 1985; (5) amending the takeoff noise test conditions (§C36.7); (6) prescribing a new alternate takeoff test procedure (§ C36.8); and (7) amending the approach noise test conditions (§ C36.9).

Based on its review, the FAA concludes that there is no provision of the EPA proposals submitted on October 1, 1976, or November 29, 1976, that could not be adopted later, as a supplement to this amendment, if adoption is appropriate under the procedure and standards of § 611 of the Act. Furthermore, the FAA, by issuing this amendment at this time, has in no way limited its ability or intent to respond fully to the respective EPA proposals in a manner contemplated by § 611(c) of the Federal Aviation Act of 1958, as amended.

In addition to preserving FAA's ability to take any action that may be shown to be proper under the § 611(c) process, this amendment reflects FAA's awareness of the need for timely action to protect the public from the noise of the affected airplanes. This amendment, thus, establishes immediate criteria for the manufacturers of those airplanes, consistent with the direction in § 611(b) that the public be protected from aircraft noise.

The FAA has consulted with the EPA regarding this amendment. The FAA notes that this amendment may be supplemented by further amendments on the basis of comments received in response to the EPA proposals (issued as FAA Notice No. 76-22) and that it will proceed to consider issuance of an amendment regarding acoustical change requirements for Stage 2 airplanes and reduced takeoff and sideline noise level

limits for Stage 3 airplanes based on proposals contained in Notice No. 75-37 or Notice No. 75-37C. Considering the public need for timely action and the fact that final action on all of the provisions of the corresponding EPA proposals that are shown to be appropriate can be fully and objectively taken under § 611(c) of the Act, the FAA believes that it would be contrary to the public interest, and to the intent of § 611, to delay this immediately available regulatory action until the regulatory process prescribed in the Act is completed anew with respect to the recent EPA proposals.

IV. Background: The Need for This Amendment

Under the Federal Aviation Act of 1958, as amended by Public Law 90-411 and the Noise Control Act of 1972 (Pub. L. 92-574), the Federal Aviation Administration (FAA) is responsible for aircraft noise regulation and is directed to afford present and future relief and protection to the public health and welfare by control and abatement of noise, consistent with the requirement that the FAA consider whether noise abatement regulations are consistent with the highest degree of safety in air commerce in the public interest and are economically reasonable, technologically practicable, and appropriate to the type of aircraft. As previously stated, the FAA adopted Part 36 of the Federal Aviation Regulations (FARs) in 1969, pursuant to § 611 of the Act. Part 36 specifies noise limitations, based on gross weight, measured at three specified points under the takeoff flight path, on the sideline from the extended centerline of the runway, and under the approach flight path. The noise level at each of these points is measured as an effective perceived noise level (EPNL), in units of EPNdB; the EPNL of an event is calculated by a procedure that accounts for loudness, the presence of discrete tones, and the duration of the noise.

Part 36 halted the escalation of aircraft noise at its source. The relatively low noise levels achieved by the current generation of widebody jets with high bypass ratio engines—the Boeing 747, Lockheed L-1011, and McDonnell-Douglas DC-10—serve to demonstrate the effectiveness of the regulation. FAR Amendment 36-2 extended the requirements of Part 36 to most newly manufactured transport category and turbojet aircraft (produced after December 31, 1973), regardless of the date of application for type certificate. This "new production rule" applies to aircraft with maximum gross weights of more than 75,000 pounds; however, aircraft powered by the JT3D engine, and weighing 75,000 pounds or less, were brought under the rule on January 1, 1975. It was adopted after research had shown that technology allows these earlier aircraft to achieve the noise levels of Part 36.

Recently, the FAA issued an amendment to the Federal Aviation Regulations (FAR Amendment 91-136; 41 FR 56046; December 23, 1976), to achieve further relief and protection to the public from aircraft noise by requiring certain previously excepted turbojet powered airplanes to meet current Federal noise standards or to be retired in accordance with a phased time schedule ending January 1, 1985.

Even with those significant Federal actions, aircraft noise is currently a significant annoyance for six to seven million persons in the United States. The problem is particularly serious at some of the major airports. As air travel increases, noise may become a significant problem for residents living near many other airports across the nation.

The aircraft noise issue became increasingly important in the early 1960s as airlines introduced jet aircraft to their fleets. The rapidly increasing number of commercial jet operations in the latter part of the decade further increased the importance of this problem. Because of its adverse effect on people, noise was soon recognized as a major constraint on the further development of commercial aviation. The engine manufacturers and the Federal Government both engaged in extensive research into quieting jet engines. In 1968, Congress gave the FAA the responsibility to regulate aircraft design and equipment for noise reduction purposes, and the FAA then embarked upon a long-term program of controlling aircraft noise at its source.

Of the six to seven million persons subject to significant aircraft noise, approximately 600,000 reside in areas that are severely impacted. Severe noise impacts include disturbances of the normal activities of airport neighbors—their conversation, sleep, and relaxation—and degrades the quality of life. Based on an analysis of citizen and Congressional complaints, the imposition of airport use restrictions, litigation, and the number of persons affected, the FAA has identified many airports where noise is an issue. The affected airports are identified in the Policy Statement.

As a result of the impact of aircraft noise on airport neighbors, serious pressures have developed that could threaten the continued growth of a healthy air transportation system. These pressures include restrictions on airport usage such as curfews, restrictions on the use of certain aircraft, opposition to airport development, and serious liability exposure for existing airports. For example, over the past five years, airport proprietors have paid out over twenty-five million dollars in legal judgments and settlements in noise related suits and have spent over three million dollars in legal fees and other legal defense costs. This is in addition to the monies being spent by airport proprietors in acquiring land adjacent to their airports and soundproofing affected buildings such as schools, residences, and public buildings.

The critical conclusion coming out of the many years of FAA review of this problem is that, both from the standpoint of the quality of life in airport environments and from the standpoint of the preservation of a strong airport/air transportation system, Federal action is required to provide effective aircraft noise reduction at its source. The normal incentives of the private marketplace are not expected to achieve this. In that regard, the issuance of FAR Amendment 91-136 provided an incentive for the introduction of the newest, quieter and more efficient airplane types, as soon as practicable. The FAA encourages the replacement of retired aircraft with airplanes which comply with the noise standards adopted in this amendment.

The FAA has consistently stated that reduced Part 36 noise levels would be adopted when it is determined that improved noise reduction techniques are available and that it is economically reasonable to require their application. As stated in the preamble to the original FAR Part 36 (1969), as technology makes further reasonable noise reductions possible, the FAA will act to ensure that the lowest reasonable noise levels are achieved. The FAA is firmly committed to lowering the prescribed noise limits consistent with the constraints of § 611 of the Act.

This amendment to FAR Part 36 is based on the twofold premise—that technology making reasonable noise reductions possible is now available and that to "ensure that the lowest reasonable noise levels are achieved" in all aircraft requires that the new standard differentiate among aircraft according to the number of engines. Both these assertions are supported by the experience gained with aircraft certificated under the current standard. Thus, this amendment is needed to ensure that currently achieved noise reduction is preserved and that future aircraft types more fully utilize the noise suppression technology which has been and will be developed.

This amendment to FAR Part 36 standards is necessary to establish an "equal technology standard" that requires the application to all aircraft of the best available economically reasonable noise suppression technology. At the present time application of this level of suppression for the larger turbojet aircraft is essentially defined by the high bypass ratio engine with sound absorbent linings incorporated in the nacelle and engine ducts. While this technology has been utilized primarily in large, widebody jets, powered by engines rated at from 40,000 to 50,000 pounds thrust, the FAA believes that it should be effective in reducing noise in other aircraft. Indeed, smaller engines with higher bypass ratio design have been developed. Two manufacturers are developing engines in the so called ten-ton class (20,000 to 30,000 pounds thrust); these may be suitable for advanced aircraft comparable in size to the present narrowbodied commercial transport. At least one other high bypass ratio engine has been developed in the 6,000 pound-thrust class which could be used in smaller aircraft down to about 30,000 pounds maximum weight. These projects indicate that the application of high bypass technology to smaller aircraft is

economically reasonable; thus, the FAA believes that other aircraft types can achieve noise reductions comparable to the widebodies.

At the lower end of the thrust spectrum, engines of less than 5,000 pounds thrust employ a lower bypass ratio dictated by engine size limitations; thus, the noise standards adopted in this amendment for small turbojet aircraft are based on the performance of medium bypass ratio engines which are both economically and technologically appropriate for aircraft powered by engines in this thrust class. Those aircraft are mostly business jets with maximum weights of less than 25,000 pounds. These new turbofan engines with bypass ratios of approximately 3:1 (compared with 5:1 or 6:1 for the typical large high bypass ratio engine) have been demonstrated to generate much less noise than their predecessors, which were mostly pure turbojets.

The EIS contains data showing the Part 36 noise levels generated by aircraft that currently employ advanced noise suppression technology (i.e., high bypass ratio engines and sound absorbent linings or, in the case of relatively light, business jet type airplanes, medium bypass ratio engines). The equal technology standard adopted by this amendment requires that new aircraft designs employ noise suppression techniques at least as effective as those demonstrated by these aircraft. Approach data taken from FAA certification experience show that with the higher bypass engines, widebody aircraft and business jets at entry into service were able to achieve noise levels below current Part 36 standards. Accordingly, this amendment adopts approach levels that are 3 to 4 EPNdB below current limits. The sideline noise data show the greatest differences between present standards and actual certificated levels for both the widebody jets and the business jets. Because these results clearly show that levels substantially below Part 36 are being achieved at entry into service, this amendment adopts significant reductions in allowable sideline levels from 5 to 8 EPNdB with the size of that reduction varying according to number of engines and weight. Takeoff noise level reductions between 1 to 9 EPNdB below current limits are adopted by this amendment.

Since all the widebody aircraft represent essentially the same level of noise suppression technology and the limits are designed to account for noise increase with weight, the current Part 36 levels do not represent an equal technology standard. That deficiency can be illustrated by considering the number of engines on the aircraft (the A-300B has two engines, the DC-10 and L-1011 three, and the B-747 four). The number of engines affects perceived noise level through aircraft performance. Generally, two engine aircraft tend to pass over the 3.5 nautical-mile takeoff noise measurement point at higher altitudes than four engine type of the same weight and, thus, appear to be quieter. Aircraft with fewer engines tend to reach the measurement point at greater altitudes for several reasons. Airworthiness regulations require that aircraft maintain a certain gradient with one engine inoperative; a two engine design must maintain its required gradient with only 50% of its total installed thrust available, while a four engine type has 75% power available; therefore, the two engine aircraft at full power generally will be able to achieve a steeper climb than one with four engines. In addition, two engine aircraft tend to have shorter takeoff rolls than other types, since they are designed to serve smaller airports. Thus, the number of engines is a significant factor in determining the altitude that aircraft can be expected to achieve at the 3.5 nautical-mile measuring point. Since each aircraft of the same weight, regardless of the number of engines, would create essentially equivalent noise levels at the source, the difference in sound levels observed on the ground largely results from differences in altitude.

For aircraft powered by high bypass ratio engines, it appears that current technology is capable of achieving takeoff noise levels several EPNdB below Part 36 levels for four engine aircraft, levels somewhat farther below Part 36 levels for three engine types, and still lower levels for two engine types. This amendment lowers the FAR Part 36 noise levels, depending on weight, from approximately 1 to 6 EPNdB for four engine aircraft, 3 to 8 EPNdB for three engine types, and 3 to 9 EPNdB for two engine types. It also reduces the rate of the takeoff noise limit increase from 5 to 4 EPNdB per doubling of weight. This rate reflects a practical compromise between the theoretical prediction that a doubling of thrust should lead to a 3 EPNdB increase in noise and the experience gained with certifications to date. Accordingly, the rate of allowable sideline noise increase for airplanes having 3 or fewer engines is increased from 2 to 2.56 EPNdB per doubling of weight.

The certification experience with takeoff noise levels for the business jets show that they fall well below the Part 36 standard of 93 EPNdB. (The standard is constant at this level for all weights less than 75,000 pounds.) This amendment retains the concept of a constant limit in the lower weight range, but reduces the takeoff noise limit for airplanes with 3 and more engines by 3 EPNdB to 90 EPNdB and by 4 EPNdB to 89 EPNdB for airplanes with fewer than 3 engines. Since all the business jet aircraft certificated to date have 2 engines, further reductions due to the effect of the number of engines was not established for those airplanes with 3 or more engines under Notice Nos. 75-37 and 75-37B. Accordingly, and as proposed, the level for light weight three and four engine types is established at 90 EPNdB at this time. Further, consideration is being given to that matter under Notice No. 75-37C.

V. Comments on the Proposed Rule

As previously stated, interested persons have been afforded the opportunity to participate in this rulemaking by submitting comments to regulatory docket for Notice Nos. 75-37 and 75-37B. Those written comments have been reviewed and considered in the issuance of this amendment.

More than 25 comments were received from a range of interests, including individual private citizens; civic and environmental groups; state and local governmental authorities, a foreign governmental body; airport operators and operating authorities; aircraft operators; foreign and domestic aircraft and aircraft engine manufacturers; and aviation trade/industry associations. The FAA also recognizes the public concern for aircraft noise problems expressed in other recent FAA regulatory actions and has considered those views to the extent that they are relevant to the issues involved in this amendment. A more detailed discussion of that concern appears in the preamble to FAR Amendment 91-136 (41 FR 56046) and in the Policy Statement.

The issues focused on by commenters include: the options or alternatives to the proposed rule that may be available; the impacts of the proposed acoustical change requirements, the impacts of the noise level limits (including costs versus benefits, economic reasonableness, technological practicability, compliance dates, the need for tradeoffs and thrust cutbacks, and the appropriateness to particular aircraft types); interaction with international standards; and other miscellaneous issues. These comments are discussed as follows:

A. Alternatives to the Proposed Rule

Commenters to this and previous rulemaking dockets have expressed their support for the goal of aircraft noise reduction or, more generally, the need for appropriate action to abate the impact of noise annoyance in the airport environment. In responding to the issues involved in the proposals contained in these notices, many commenters recognized the broader issues of aircraft noise control going beyond source noise reduction and discussed the various methods which may be used to achieve noise relief and reduce noise impact on the community. Many Commenters recognized, however, that most of those alternatives are beyond the scope of the Notice No. 75-37. One of those alternatives is specific flight procedures. Other alternatives cited included matters beyond direct FAA control, such as land-use controls.

The FAA agrees with those commenters who recognize that this rulemaking action will not resolve the entire aircraft noise matter. It will not silence all complaints of annoyance or injury because of aircraft noise. The FAA also agrees with those commenters, who believe that this amendment is a necessary step toward achieving beneficial reductions at the noise source and will contribute to making aircraft and airports more compatible with the communities they affect. As several commenters have noted, a comprehensive national program combining the various noise control and abatement techniques is needed to

achieve the necessary protection to the public health and welfare. A discussion of these other noise reduction techniques is contained in the Policy Statement.

The FAA does not agree with those who believe that the use of specific noise abatement operating/flight procedures (or combination of procedures) would, by itself, provide the necessary noise control and abatement. Further, some persons mistakenly believed that using an operational procedure during the flight of a noncomplying aircraft can serve as a substitute for compliance with noise type certification and acoustical change standards. While some procedures help to minimize the generation or the propagation of noise from the aircraft in flight, their benefits to the public health and welfare are most significant when combined with other effective techniques, such as source noise control. Operational procedures are not a substitute for, but complement to control and abatement of noise generation at its source.

Unless future reductions in aircraft noise emissions at the source completely satisfy the need for protection of the public health and welfare, supplemental action by aircraft and airport operators and state and local governmental entities will continue to be needed. However, the FAA believes that the fact that non-Federal action is necessary is not a justification for delaying strong Federal action to bring about that part of the overall solution that is within Federal control.

Some persons have pointed to local airport measures as alternative means of achieving noise control. Since many of these matters are within the authority and control of the local community, the FAA cannot ensure that they will be acted upon. The FAA agrees with those who stress the important role of aggressive local action, including planned airport development, zoning and related land-use controls, and the use of sound suppression materials in certain buildings in achieving the desired reduction of aircraft noise impact on local communities. However, the FAA does not agree with the suggestion that the noise impacted communities or any single segment of the air transportation system should bear the full burden of reducing aircraft noise around airports. As previously stated, the combined effort of the various elements of a comprehensive noise program is, and is expected to continue to be, necessary to achieve the required protection to the public health and welfare. This amendment is a significant Federal contribution to that comprehensive program.

B. IMPACT ON THE PUBLIC

The disruptive effect of aircraft noise on the quality of life, and on the air transportation system and is discussed in detail in the Policy Statement. Private citizens; citizens groups; Federal, State, and local authorities; and in particular, airport operators and proprietors have stressed the need for present, as well as future, aircraft noise reduction requirements. The noise of transport category large airplanes and turbojet-powered airplanes has been cited as a principal target for such reductions by many commenters to rulemaking dockets. The FAA agrees that technology must be applied in the further reduction of noise of those aircraft. This amendment accomplishes that result consistent with the considerations listed in § 611(d) of the Act.

The public concern regarding the perceived impacts of aircraft noise has been duly noted and comments on aircraft noise abatement proposals were found to be useful and informative. Those comments have assisted the FAA in determining, after due consideration of all comments, that the economic impacts imposed by this amendment are reasonable and appropriate in relation to the benefits to be achieved.

C. ACOUSTICAL CHANGE REQUIREMENTS

As stated in the preamble to Notice No. 75-37, in proposing to establish reduced noise level standards, the FAA considered the fact that a new airplane design is generally "grown" over its lifetime, either by increasing its capacity, its range, or both. While each results in an increased public transportation capacity, it usually also involves an increase in aircraft weight, reduced climb performance, eventually the need for increased thrust, and thus, the potential of increased noise levels. Planning and allowance for that aircraft growth are basic factors in the economic viability of aircraft design programs. But unfortunately, that growth may also evolve into increased perceived noise levels of single event and community noise exposure. The proposed reduced noise level standards, therefore, included requirements governing acoustical changes for subsequent generations of new types of aircraft when the change in type design may result in noise increases.

Notice No. 75-37 proposed, and this amendment adopts, specific requirements for acoustical changes for each of the three designated airplane stages. Within the scope of Notice No. 75-37, this amendment prohibits the escalation of noise levels above those that the FAA has determined are consistent with the purposes and requirements of § 611 of the Act in providing protection to the public health and welfare. For Stage 1 airplanes (all airplanes that are noiser than current Appendix C noise limits, including those of older type designs still in the fleet), the FAA proposed to apply the current requirements in § 36.7(a)(2) by not permitting noise levels after a change in type design to be increased above those created before the change in type design. Under the proposed rule, Stage 2 airplanes (those airplanes that have been shown to comply with current Appendix C) for which application is made before November 5, 1975, would be permitted to continue to increase noise level emissions up to the current Part 36 noise limits. After that date, the proposed rule would only allow noise level increases proportionately with increased maximum weight of the airplane in accordance with the ratio of noise limit to maximum weight reflected in the current Part 36 noise limits, which are designated as "Stage 2" noise limits in this amendment. The tradeoff provisions could not be used to increase an exceedance of a Stage 1 noise level but could be used, within specified limits, with respect to Stage 2 noise levels. Tests conducted before the change in type design would be required at the quietest airworthiness approved configuration available for the highest takeoff weight. In addition, under the proposal, for airplanes for which application is made after May 5, 1976, power or thrust cut backs would not be allowed in showing compliance. Stage 3 airplanes (those that create noise levels at or below the proposed reduced or "Stage 3 noise level" limits) for which the application for acoustical change approval was made before November 5, 1975, would be permitted to increase noise levels after a change in type design up to the Part 36 (proposed "Stage 2") noise limits and thereby become a Stage 2 airplane after the change under the rule. Under the text of the proposed rule, if the application was made on or after May 5, 1976 (six months after the application was made on or after May 5, 1976 (six months after publication of the NPRM), the airplane must remain a Stage 3 airplane and, accordingly, any noise increase would be restricted to those levels at or below the reduced or "Stage 3" noise limits. Both the tradeoff provisions and power or thrust cutbacks could be used to show compliance under the proposal, regardless of the date of application.

Most commenters addressed the acoustical change proposals and focused their strongest criticisms on those aspects of the proposed rule as it applies to Stage 2 airplanes. Those commenters stated that the acoustic change provisions would impose severe and unreasonable restrictions and economic impacts on virtually all future growth versions of turbojet powered airplanes currently in production. Many commenters also objected to the proposal because the smaller aircraft (those below the respective noise floors at weights varying according to the number of engines) would not be permitted any increase at all in noise emission levels regardless of weight increase. The aviation community (including non-manufacturing interests) uniformly viewed such restrictions on already planned for growth of current production Stage 2 airplanes as not being economically reasonable or practicable. Many commenters noted that the early growth versions of the yet quieter Stage 3 airplanes (those for which application is made before May 5, 1976) were not similarly restricted to Stage 3 noise levels but could increase noise levels, even without corresponding weight increases, all the way up to the current limits of Part 36. Those commenters frequently stated that such unequal treatment is inherently unwise, unfair, and unreasonable and would seriously affect the competitive structure of the market place among the affected aircraft. According to those commenters, the effect would be contrary to the interests of the air

transportation industry and a healthy air transportation system and would not be consistent with the purposes or requirements of section 611 of the Act.

Several comments generally took exception to the basic concept of the proposed acoustical change requirements as being an unsupportable departure from the current provisions. Many of these commenters felt the restriction upon growth of the aircraft "family" should not be based upon the entry into service, or "parent" aircraft within a specified noise levels stage, since it would eliminate the incentive to apply the most effective sound suppression technology on the earlier versions in order not to establish unnecessary restrictions on later growth. Many stated that the concept behind the proposal is basically faulty and misconceived and would encumber the industry with excessive details, increased costs, and limit necessary flexibility within the industry programs without contributing substantially to community noise reduction. Some commenters felt that the proposed provisions are ambiguous and susceptible of more restrictive interpretations than those explanations highlighted in the preamble to Notice No. 75-37.

Strong opposition was also expressed to the limitations on power or thrust cutback and tradeoff provisions, as applied to acoustical changes of certain Stage 2 airplanes after May 5, 1976. Many commenters stated that retesting of the parent aircraft to obtain the necessary "before change" data, which would be necessary in many cases where the airplane was previously certificated under different requirements, would not be realistic or economically reasonable.

Several comments were received which stated that use of power or thrust cutbacks, as well as the tradeoff provisions under § C36.5(b), which are currently permitted in showing compliance, should be permitted for all Stage 2 and Stage 3 airplane noise tests. One commenter contended that, in order to achieve the 90 percent confidence level required for the validity of test results under Appendix A, tradeoffs are needed during the tests both before and after change in type design. Similarly, other commenters stated the tradeoffs and thrust cutbacks are needed to accommodate design/flight performance differentials that are inherent in airplane design programs. Several commenters presented their views, and supporting data, for the continuing need for power or thrust cutbacks to achieve the proposed noise levels reductions.

Some commenters recommended using the same noise test procedure and conditions for all subsequent versions of the aircraft, regardless of intervening amendatory action. Other practical and technical questions were raised by commenters who opposed adoption of the acoustical change proposal. It was suggested that the proposals should be reconsidered since they involve complex and far-reaching implications which have not been shown to be realistic in application and which may not be completely understood or appreciated at this time.

After careful review of the proposed acoustical change requirements for all three airplane stages and of the seriousness of the certain impacts identified in the comments and the supporting data submitted to the docket, the FAA has determined that, at this time, it should not adopt the major portion of those Stage 2 airplane acoustical change requirements as proposed in Notice No. 75-37. Further review and consideration of the overall Stage 2 airplane acoustical change requirements issue is necessary to ensure that those requirements that are adopted are consistent with the purposes and requirements of the Noise Control Act of 1972. However, this decision to continue its consideration of the Stage 2 acoustical change proposal does not prejudge any future FAA regulatory action. Neither does it preclude later adoption of amendments based upon those proposals announced in Notice No. 75-37 or other NPRMs recently issued by the FAA. In that regard, and as previously stated, two other notices of proposed rule making (Notice Nos. 75-37C and 76-22), which include acoustical change requirements proposals, have been issued. In accordance with the FAA's commitment to seek substantial uniformity in aircraft noise standards on an international basis through ICAO, the FAA proposed in Notice No. 75-37C certain alternative acoustical change provisions based upon the international standards recommended by ICAO. Also, Notice No. 76-22 contains the recommended regulations submitted to the FAA by the EPA. The regulatory dockets for both of those NPRMs are still open to receive public comments. After the close of those comment periods, the FAA will consider further amendments based on the proposals contained in, and the comments received on, Notice Nos. 75-37, 75-37B, 75-37C, and 76-22.

Accordingly, this amendment revises § 36.7 to reflect the classification of the respective airplane and noise level stages and to prescribe the appropriate acoustical change requirements. Also, the current provisions of paragraph (b) regarding acoustical changes for propeller-driven small airplanes are redesignated under § 36.9, without substantive change.

Comments with respect to the Stage 3 airplane acoustical change rule were generally more favorable. A major concern expressed was that the regulatory concept of further acoustical change restrictions, like those proposed for Stage 2 airplanes, would eventually also be proposed for Stage 3 airplanes. Commenters stated that the impacts of such additional limitations on noise increases for growth versions of airplanes in production would thwart the manufacturers' ability to receive the planned for economic return on the basic aircraft design investment. Thus, the commenters expect the same impacts on Stage 3 airplanes as those they expressed with regard to proposed acoustical change rule for Stage 2 airplanes. While the FAA appreciates that concern, Notice 75-37 proposed only to limit acoustical change noise levels for Stage 3 airplanes applied for on or after May 5, 1976, to the proposed Stage 3 noise limits. Thus, those comments addressed possible rules which are beyond the scope of this rule-making action.

Several commenters suggested that all Stage 3 airplanes be permitted noise increases up to the current Part 36 noise limits (i.e., Stage 2 noise limits). The FAA does not accept that suggestion since it would have the effect of eventually negating the noise reductions for Stage 3 airplanes adopted in this amendment. The required noise reduction would be meaningful only for new airplane type designs at their entry into service. The environmental benefits achieved by applying the existing noise reduction technology would be forfeited if the acoustical change rule authorized virtually unrestricted noise increases for growth versions of Stage 3 airplanes. Such a rule would not provide the needed noise control and would not be consistent with the requirements of the Noise Control Act of 1972. The Stage 3 noise limits adopted in this amendment reflect consideration of the need for growth of those airplanes and, if properly accounted for in design planning, include the appropriate margins of noise increase for growth of Stage 3 airplanes during a reasonable life for their type design.

This amendment adopts, in modified form, the proposed requirements for Stage 1 airplanes, without substantive change. These requirements are essentially the current acoustical change rule for airplanes that cannot achieve the current Part 36 noise limits. The definition of Stage 1 airplanes has been clarified to include those airplanes that have not been shown to comply with Part 36 noise limits, as well as those that have actually been shown to exceed those limits. For Stage 2 airplanes, this amendment retains, in modified form, the current requirements for those airplanes that can achieve the current Part 36 noise limits.

This amendment adopts, in modified form, the proposed requirements for Stage 3 airplanes. The provisions of § 36.7(e)(1) clarify the expressed intent of the proposal to apply the Stage 2 acoustical change requirements to those airplanes defined as Stage 3 airplanes where compliance to Stage 3 noise levels is not required prior to the change in type design. Thus, those airplanes may either become Stage 2 airplanes or remain Stage 3 airplanes after a change in type design and show compliance accordingly. As adopted, the rule also clarifies the compliance date of requirements for Stage 3 airplanes. As adopted, the rule applies to applications made on or after May 5, 1976. The FAA has analyzed the details of comments and supplementing data submitted to the docket regarding the Stage 3 acoustical proposals, particularly with respect to the application of available technology and the Stage 3 noise level limits adopted in this amendment. The FAA concluded that, first, a firm noise limit applicable to the new type design airplanes is needed and that the noise limits adopted

in this amendment as applied to acoustical changes are economically reasonable and technologically practicable, and second, because this amendment encompasses both new type certificates and acoustical change approvals, compliance at or below the prescribed noise limit should be applicable to Stage 3 airplanes in accordance with the NPRM in both instances. The FAA also concluded that to permit acoustical changes to Stage 3 airplanes for which application for type certification is made after May 5, 1976, to continue to increase above the prescribed Stage 3 levels would not be consistent with its responsibilities under section 611 of the Act to provide the current and future relief from aircraft noise. After considering all the issues discussed by commenters, those in the Policy Statement, and those discussed in the EIS regarding those options that might be selected in prescribing an acoustical change rule, the FAA has determined that this amendment is economically reasonable, technologically practicable, and appropriate to the particular aircraft types and certificates to which it applies. However, as previously stated, additional amendments to the Stage 2 acoustical change rule are being considered for future adoption, as proposed in Notices Nos. 75-37C and 76-22.

D. NOISE LEVEL REQUIREMENTS

As previously discussed with respect to the need for this amendment and in the NPRM, in the Policy Statement and in the EIS, the FAA proposed to ensure that the lowest airplane noise levels are achieved consistent with the constraints of section 611 of the Act. Thus, this amendment adopts noise limits which ensure that currently achieved noise reduction is preserved and that future aircraft types more fully utilize the noise suppression technology which has been, and will be, developed. The noise standards adopted in this amendment specify an "equal technology standard" that requires the application of the best available economically reasonable noise suppression technology to all airplanes under new type certificates.

Many commenters addressed the reduced, or "Stage 3," noise level limits proposed for airplanes for which application for type certification is made on or after November 5, 1975. Some commenters believe the noise limits should be lower, others contend that they were too low or that compliance should be delayed until compliance with the requirements would be economically reasonable or technologically practicable. Several commenters expressed their dissatisfaction with the proposed continuation of the minimum "noise floor" concept for airplanes below certain maximum weights. Opposition to that concept was stated for contrary reasons. One view favors further reduction of the permissible noise levels by applying the rate of noise reduction per halving of maximum weights to all aircraft regardless of weight, because the leveling off points for takeoff, sideline, and approach noise limits that create a "noise floor" are set at levels that are too high without any apparent reason. The other view contends that those airplanes under the noise floor are subject to more stringent limitations on acoustical changes than those having the higher maximum weights. Another commenter suggested that the proposed "noise floor" fails to require the most effective application of available noise reduction technology and, thus, results in an unjustified impact on many smaller airports served by those airplanes. Many commenters have objected to the failure to have proposed, and adopted, more stringent noise level requirements before now, stating that further reductions have been needed and were technologically possible for several years.

Based on its analysis of the respective noise level limits for airplanes in the lower weight range, the FAA concludes that the limits adopted by this amendment adequately take into account a full consideration of the various factors raised by those comments. The noise floor concept results from the physical limits of an aerodynamic (airframe) noise floor, as well as from the need to provide rules of appropriate stringency for all aircraft types, regardless of weight. Certification experience has shown that the equal technology standard objective of this amendment requires recognition of basic distinctions in the manner in which the available noise suppression technology may be applied to the wide range of airplane weights and designs. As indicated in the NPRM, the smaller airplanes have not, as yet, experienced their growth or technological potentials and have specific limitations on application of the higher by-pass ratio engines and sound absorbent materials. However, the noise limits prescribed represent the levels consistent with the best available economically reasonable noise suppression technology that may be adopted under the levels proposed in Notice No. 75-37. In that regard, the FAA notes that certain differences in the respective noise levels are proposed in Notice No. 75-37C; those further reductions are being considered for adoption as refinements of the levels adopted in this amendment, in accordance with the considerations of section 611 of the Act.

Some commenters stated their belief that the current Part 36 levels, as a whole, are adequate and that no further reduction is necessary since current levels achieve a sound compromise between health, safety, economic, and technological considerations. Other commenters stated their concern that greater control and abatement should be adopted, particularly for airplanes powered by 3 or 4 turbojet engines. On the other hand, several commenters contend that the certification experience relied upon in proposing the reduced noise limits is not a sufficient basis from which to judge the economic reasonableness or technological practicability of the proposals.

As stated in the preamble to Notice No. 75-37, the certification experience under Part 36 indicates that the development of noise reduction technology has progressed to the point that significant noise reductions below the current Appendix C can be achieved consistent with considerations of safety, economic reasonableness, and technological practicability for civil subsonic turbojet powered airplanes and subsonic transport category large airplanes. The FAA, therefore, proposed to adopt Stage 3 noise limits which it believed were the lowest limits consistent with considerations of economic reasonableness and technologically practicability. The FAA recognized that the proposals cover a large range of airplane weights and designs and, therefore, suitable criteria for distinguishing among those airplanes were built into the Stage 3 noise limit proposals to reflect the refinements to significant noise emission characteristics. Comments were received in the docket on several of those factors.

Several commenters stated that using the number of engines powering an airplane to differentiate it from among other airplanes oversimplifies the true characteristics of the noise emission potential and is not appropriate. Some felt that such a distinction for sideline noise makes the rule unnecessarily complex. Several commenters cited the ICAO recommended noise reduction standard which employs the number of engines as a factor only with respect to takeoff noise measurements and, thus, would use the same sideline and approach noise level values regardless of the number of engines. Comments and supporting data submitted to the FAA regarding the number of engines generally focused attention upon the takeoff and sideline noise level differences proposed for airplanes with three engines compared with those having more than three engines. Several commenters pointed to the proposed 3 EPNdB difference in sideline noise limits for airplanes weighing more than 90,000 pounds as permitting an airplane to create higher noise levels simply because it has more engines. It was felt that such a difference would create an anti-competitive effect among those airplanes and would unreasonably favor those having more than three engines.

After carefully reviewing the economic and technological aspects of the proposed rule in light of comments and supporting data submitted to the docket, as well as other available economic and technological data, the FAA agrees that a modification of the proposed noise levels is appropriate. Thus, the noise levels adopted in this amendment reflect a refinement of the various factors which distinguish the different classes of aircraft. This is accomplished in a manner consistent with the scope of Notice Nos. 75-37 and 75-37B and with the considerations of section 611 of the Act. The FAA does not agree, however, that the number of engines powering an airplane is not an appropriate factor in prescribing appropriate takeoff and sideline noise limits. For the reasons stated in the NPRM and as analyzed in the EIS, the FAA has concluded that among the vari-

ous quantifiable factors which have been identified, the number of engines, when taken with maximum airplane weight, provides a useful and reasonable basis for distinguishing among the wide range of airplane types and prescribing appropriate standards for takeoff and sideline noise levels in accordance with the considerations under section 611 of the Act. The FAA does not agree with those commenters who suggested that power or thrust criteria should be included as a separate factor in showing compliance with the noise standards. While power or thrust is a consideration which must be taken into account in developing noise standards and in designing airplanes that comply with established noise standards, the FAA has determined that the effect of various power or thrust values and their relationship to airplane weight has been fully considered and properly accounted for in the criteria being adopted for noise tests conducted under the procedures and conditions prescribed in Part 36.

Some commenters suggested that certain other aspects of the proposed reduced noise levels should not be adopted or should be modified in certain respects. It was suggested that the EPNdB rate of increase per doubling of weight for takeoff noise should not be reduced from the current 5 to 4 EPNdB for Stage 3 airplanes. It was stated that 5 EPNdB is needed to provide an adequate incentive to apply advanced noise suppression technology for these airplanes. Substitution in the noise level formula of a rate of noise increase (in EPNdB's) based on power or thrust for the current rate based on airplane weight was also suggested. The rates of permissible noise level increase, including takeoff levels, and the use of increased weight as the basis for permissible noise level increases have been extensively analyzed and reviewed by the FAA and the ICAO Committee on Aircraft Noise (CAN). The certification experiences under Part 36 and Annex 16 and the data generated in conducting certification and acoustical change noise tests indicate that the current state of the art of noise reduction is reasonably and adequately reflected in the relationship of noise level to aircraft maximum weight adopted in Part 36 in 1969, and later in Annex 16 by ICAO. As stated in the NPRM, the proposed rate of noise increase permitted with a doubling of aircraft weight reflects an empirical compromise between the prescribed rate and the basic acoustical principle that an increase of 3 EPNdB results from a doubling of thrust. It serves to retain a limit on the potential escalation of noise while retaining a reasonable growth potential for airplanes at those weights as demonstrated during the certification experience. This amendment adopts the proposed rate of takeoff noise increase (4 EPNdB) and retains maximum weight as the factor against which the respective noise increases are permitted. Also, by so doing, the takeoff noise levels more accurately reflect the consideration of the number of engines and the impact of the airworthiness climb gradient requirements of FAR § 25.121 on the thrust to weight ratio of the airplanes. In that regard, as part of the sideline noise provisions, this amendment also adopts a 2.56 EPNdB rate of increase in the sideline noise levels for airplanes in the three-engine and the fewer-than three-engine classifications. This relaxation of the proposed rate of 2 EPNdB is necessary to adjust adequately the respective changes to the proposed sideline noise level requirements for those classifications of airplanes. As adopted those noise limits are consistent with the maximum proposed noise level reductions which are economically reasonable and technologically practicable at this time.

Opposing views were also received regarding the proposed increase from 600,000 pounds to 850,000 pounds as the airplane weight level at which the highest permissible noise levels, or noise ceiling, would occur under the proposed Stage 3 noise limits. In light of the higher maximum weights of several wide-bodied aircraft designs, one commenter suggested there is ample justification for extending the proposed noise level and weight limits up to at least the 1,200,000 pound point. Another commenter objected to the proposed extension even up to the 850,000 pound point. Both comments have merit to the extent that they recognized that the proposed noise reductions should establish a line representing the various points where the respective takeoff, sideline, and approach noise levels and corresponding maximum weights achieve the maximum noise reduction consistent with the equal application of technology objective of this rulemaking action. Review of all the economic and technological data submitted, indicates, as analyzed in the EIS, that minor modifications to the respective noise levels proposals should be adopted in order to achieve the greatest benefit to the public from aircraft noise reductions that are within the scope of Notice No. 75-37 and consistent with the purposes and requirements of section 611 of the Act. This amendment achieves that result.

Comments were received which suggested that the rule, if adopted, should be restated to indicate clearly that the Stage 3 provisions apply only to future aircraft not already certificated. As previously discussed, the proposed rule does not apply to type certification or acoustical change approvals which have already been completed. The prescribed compliance date for both type certification and acoustical change approvals is governed by the date the application is made. In that regard, many commenters objected to what they viewed as enforcing the proposed amendment "retroactively" to applications filed before the issuance of the final rule, or before thirty days after publication of the amendment. As described in Notice No. 75-37, "while certain of the proposals specified herein would apply to applications that are made on and after the date of this NPRM (but before the effective date of the final rule), none of these proposals would affect approvals (of applications) that are actually issued prior to the effective date of the final rule." That form of applicability date has been proposed and adopted before in amendments to Part 36 when the FAA was concerned with the timing of the effective date of proposed rules because of the significant and enduring impact upon the noise abatement benefits the rules are intended to achieve. Thus, the FAA proposed to apply these proposals to applications made on or after a specified date related to the date of publication of the NPRM. By adopting that part of the proposals, the FAA avoids the possibility of a significant number of applications being submitted in anticipation of the effective date of the final rule but for which FAA approval could not be given before the rule becomes effective (or for years after the rule becomes effective, since applications for certain type certificates do not expire for five years after they are filed). In effect, the NPRM announced the FAA's intention to apply the amended rules, when they became effective, to approvals even though the application was received during the period between the publication date of the NPRM and the effective date of the amended rule. The FAA has concluded, that in those cases, the applicable rules should be those in effect on the date of approval, not the date of application for type certification or acoustical change.

An important criterion used in setting the proposed levels discussed in the notice was the FAA's recognition that aircraft and aircraft engine manufacturers must work within a certain tolerance band in moving from design stage to final product. The tolerance, or design parameter, reflects uncertainties in design and manufacture, and various unknown factors, including variations in noise measurements at the time of noise certification testing. For a new airplane, a tolerance of at least 3 EPNdB is frequently necessary. The tolerance also varies widely for different design changes. As noted by several commenters, there is the risk that a new type design or design change, possibly costing many millions of dollars, might fail to meet the prescribed noise standard. Therefore, the noise levels to which the airplane is designed must be sufficiently below the noise level limit that the entire tolerance band is below the noise standard. At the time the FAA issued its proposals, it stated that it believed that the proposed noise levels would allow sufficient tolerance for manufacturers to develop realistic designs using the best available noise reduction technology with reasonable assurance that the final product would satisfy the noise standard. (Two other major considerations in establishing the FAA proposed limits, the application of the most advanced noise suppression technology achieved by presetnt day airplanes, and accounting for the basic factor of growth versions of an airplane in its economic viability, have already been discussed.)

Several comments were received from commenters who felt that an anticipated

proposed rule changes to Appendices A and B of Part 36, regarding the procedures and conditions for conducting noise tests and evaluating noise test data, might have a significant impact on their comments regarding the proposed noise levels and acoustical change requirements in Notice No. 75-37 because such things as basic design parameters may be affected. Some of those commenters stated that they were concerned that amendments to the noise test procedures and conditions would significantly increase the stringency of the instant proposal. On October 28, 1976, the FAA did propose substantial changes to Appendices A and B (Notice No. 76-21; 41 FR 47342); however, as indicated in that NPRM, the anticipated impact of the proposals does not involve any significant increase or decrease in the resulting noise levels but would contribute substantially to improving the consistency and repeatability of noise test data under the proposed requirements.

The FAA recognizes the interaction between noise test methodology and the noise level measurements which result. While no significant change is expected from the proposed amendments to Appendices A and B, the FAA will consider the potential of those impacts in reviewing the proposals and comments to the docket before taking any action regarding Notice No. 76-21.

Notice No. 75-37 proposed that the sideline noise measuring point should be the same for all Stage 3 airplanes, regardless of the number of engines. The distance of 0.25 nautical miles from the runway centerline was proposed. Under the current rule, that distance is applied to airplanes powered by two or three turbojet engines and to all non-turbojet transport category large airplanes. Currently, airplanes powered by four turbojet engines are measured at a distance of 0.35 nautical miles. Several commenters agreed with the proposal but several others recommended either that the current rule should also be applied to Stage 3 airplanes or that the 0.35 nautical mile distance should be used for all Stage 3 airplanes. Some commenters stated that the proposed Stage 3 sideline noise levels could not be achieved by four engine, and perhaps some three engine, airplanes. The FAA has reviewed the proposed rule in light of the comments received and concludes that it should be adopted without change. A distinction in sideline noise levels between three and four engine airplanes is indicated in the certification experience and other data. The FAA believes, however, that demonstrated differences are adequately reflected in the respective noise limits presented for those airplanes. A 0.35 nautical mile distance for a four engine airplane would result in a significantly less stringent noise standard at the higher weight range than that required for a three engine airplane with the same maximum weights under the noise limits adopted in this amendment. As discussed in the EIS, the objective of requiring equal application of the best available noise suppression technology is thus achieved in this amendment without prescribing different noise measuring point distances for three and four engine airplanes.

One commenter also suggested that the altitude at which a thrust cutback is permitted for airplanes having three or fewer engines should be reduced from 1,000 feet to 700 feet for comparability with four engine airplanes. A major reason stated for that change was that certain airplanes do not achieve the higher altitude during noise tests before reaching the 3.5 nautical mile takeoff noise measuring point and, thus, are required to show compliance without thrust cutbacks where an airplane having four engines would be permitted to use a thrust cutback. Since the notice did not propose to amend section C36.7(b), which contains the provisions involved, the suggested amendment is beyond the scope of Notice 75-37. However, the FAA does not believe that such an amendment is necessary because the respective noise level limits for Stage 3 airplanes adopted in this amendment adequately reflect the various factors which differentiate the noise emission potential and noise test requirements of the various affected airplanes.

Before adopting this amendment, each component factor of aircraft noise emission was considered in relationship to the applicability and stringency of the noise standard, as well as the consistency of the standard with the purpose and requirements of the Noise Control Act of 1972. Accordingly, the FAA proposed in Notice No. 75-373B, and this amendment adopts, the supplemental proposal to Notice No. 75-37 regarding application of the proposals to single-engine turbojet powered airplanes in all categories, and all single engine airplanes in the transport category, regardless of engine type.

Many of the comments received concerned the economic impacts of the proposed rules on aircraft manufacturers, and aircraft owners and operators. The commenters concentrated primarily on the cost impacts of the proposed acoustical change rule for Stage 2 airplanes, the reduced (i.e., Stage 3) noise level limits, and the Stage 3 airplane acoustical change rule. The FAA has fully reviewed these factors and concludes that the regulation adopted in this amendment adequately and properly accounts for the cost impacts involved. Economically reasonable noise reduction technology is available for the affected airplanes. The compliance/applicability dates of the provisions of this amendment were selected to provide application of currently available noise reduction technology at the earliest date that is economically reasonable and consistent with the significant and enduring impacts upon the noise abatement benefits the rules are intended to achieve. Deferring those environmental benefits would not be in the public interest or consistent with the FAA's responsibility under the Noise Control Act of 1972 to provide current and future relief from aircraft noise through appropriate noise control and abatement regulations.

The major concerns for the cost impact of the proposed rules addressed by most commenters were with respect to the Stage 2 acoustical change proposal. They focused upon the costs involved in applying the proposed further limitations on the growth versions of aircraft already certificated under Part 36 and in-production aircraft. Many commenters stated in effect that, since the economic viability of an airplane design program depends in significant measure on the ability to modify the basic design at various times during the life of the aircraft, the substantial change proposed would not permit realization of planned-for growth. According to commenters, those restrictions would be economically unreasonable and would have far reaching economic implications to the aviation industry and the national and international air transportation systems. As previously stated, the FAA believes that the reasoning and views of these comments appear to have merit and the FAA has decided that it should not adopt the major portions of the proposed Stage 2 acoustic change rule at this time. The cost information and data for this decision are discussed in the EIS.

Accordingly, the cost impacts resulting from this amendment are those associated with its effect upon the Stage 3 aircraft for which type certification or acoustical change approvals are applied for on or after the applicable dates. As noted by commenters and discussed in the EIS, identified costs of the rule include those in the following three general categories: (1) Investment costs for the development of a new technology airplane which will comply with the new noise levels; (2) changes in the direct operating costs for the new technology airplanes, including costs due to changes in weight, fuel consumption, and performance as a result of design parameters required to meet the reduced noise levels; and (3) lost productivity arising from decreased payload or range capabilities due to design parameters. The FAA has reviewed the nonproprietary cost information and data available to it. In addition, manufacturers of aircraft and aircraft engines were requested to provide the necessary additional data which would be used to consider the economic reasonableness of the proposed rule. The FAA has considered that information and data which was submitted.

The economic bases for a manufacturer's decision of whether the economic/technological factors support the development of a new type of aircraft are treated with the utmost proprietary caution. However, the FAA believes that sufficient data are available to it to determine that the noise limits adopted by this amendment will not eliminate or adversely affect the development or introduction into service of those aircraft which would otherwise be produced. A detailed discussion of the bases for this conclusion is presented in the EIS.

The FAA agrees with those commenters who reasoned that certain aspects of the proposed noise levels would be so

stringent as to make them economically unreasonable and not technologically achievable at this time. The FAA believes, further, that the recent review of aircraft noise levels by ICAO supports this view. While some commenters recommended that the noise limits should be either significantly higher or lower in certain weight and number of engine combinations, the FAA concludes that the noise levels adopted in this amendment reflect the necessary modification of the proposed standard and, within the scope of Notice No. 75–37, are consistent with the purpose and the requirements under section 611 of the Act. The detailed analysis supporting this amendment is contained in the EIS prepared in connection with this action.

As previously indicated, the applicability date for Stage 3 noise levels is based on the date of the application for type certification or acoustical change approval. Several commenters stated that the text of the acoustical change proposal in Notice No. 75–37 was not clear since it would permit Stage 2 or 3 noise levels after a change in type design of a Stage 3 airplane for applications made before November 5, 1975, but for applications made on and after May 5, 1976, Stage 3 noise levels would be required. Several commenters noted the differences in the text of the proposed rule and the preamble discussion. The FAA agrees that the rules should be clarified and simplified by applying the more stringent Stage 3 requirements to applications for acoustical change approvals on and after May 5, 1976, for those airplanes for which Stage 3 noise levels were required for issuance of their type certificates. Accordingly, this amendment adopts the proposal with those clarifications. Since May 5, 1976, was the earliest date proposed on which all applications for acoustical change approvals would be subject to Stage 3 noise levels, this amendment adopts that date.

E. INTERACTION WITH ICAO

Most commenters objected to the FAA's proposed rule because they believed it departed from the work then being carried on by many nations, including the United States, through the International Civil Aviation Organization. Those commenters expressed their concern with unilateral action by the FAA with respect to noise standards for future airplane types which would have significant and far reaching implications for civil aviation on an international scale. Many comments cited the principle that the interests of the orderly growth of international aviation make it necessary for all States to adopt regulations which are in harmony with ICAO standards, rather than those which might result in a proliferation of conflicting standards. Comparisons were frequently made between the proposals in Notice No. 75–37 and the international noise certification standards proposed by the ICAO Committee on Aircraft Noise at the CAN–IV meeting in 1975. Some commenters expressed their disappointment that the FAA would choose not to await the outcome of the ICAO process before proposing noise reduction amendments. Many commenters indicated that they could support adoption of the proposed rule if it were modified to achieve parity with the ICAO recommended standards. Conformity with eventual international noise standards was of primary concern to those commenters.

As stated in Notice No. 75–37 and the Policy Statement, the United States, as a matter of international air transportation policy, encourages agreement on international environmental issues through the ICAO forum. This policy is intended to promote equal treatment for foreign and domestic aircraft manufacturers and operators through international standards and preclude unwarranted economic advantages or disadvantages among competitors which could be created in a world air transportation environment characterized by diverse national noise requirements. In proposing these amendments to Part 36, the FAA stated its belief that, if adopted, the amendments would result in significant improvement in noise levels of newly type certificated airplanes. Further, the FAA stated that the public health and welfare requires that progress be realized by those airplanes that will be using U.S. airports for decades to come. The FAA also believed that the proposals, if adopted on an international basis, would provide a major contribution to the limitation of aircraft noise nuisance at airports throughout the world. The FAA announced its intention to support adoption of the proposed rule by ICAO to achieve the recognized need for conformity. The FAA believed its responsibilities for the development of civil aviation and those under the Noise Control Act of 1972, require that it initiate regulatory proceedings leading to amendment of U.S. airplane noise level limits.

As previously indicated, based on the ICAO recommended airplane noise reduction changes to Annex 16, the FAA proposed alternative noise level and acoustical change requirements in Notice No. 75–37C. Since that notice was published, the recommendations of Working Group D of CAN were adopted at the fifth meeting of the ICAO Committee on Aircraft Noise. Thus, those standards are currently awaiting ratification by ICAO member States. The FAA believes that adoption of the noise standards in this amendment will accomplish most of the objectives of the ICAO standards. Further, supplementary amendments, which would provide additional conformity with the ICAO standards, will be considered for adoption on the basis of Notice No. 75–37C after the close of the comment period for that notice on February 28, 1977.

F. MISCELLANEOUS COMMENTS

A number of comments contained views regarding other aspects of the proposals. Many of those comments involved subjects or issues which are beyond the scope of Notice Nos. 75–37 or 75–37B. To the extent that those comments provided information which is relevant to this regulatory action, those comments have been considered it adopting this amendment.

One commenter suggested that the FAA should extend its proposed rule to achieve noise reductions in military aircraft. The authority of the FAA to prescribe noise regulations under § 611 of the Act is expressly confined to regulations applicable to civil aircraft and, thus, does not extend to public, including military, aircraft.

Another commenter recommended increasing test reference altitude for the approach noise measuring point, because certain tones, which attenuate at greater distances, are included in the noise level measurement. The 370-foot reference altitude prescribed for approach noise profiles was adopted in Appendix A of Part 36 because it represents a standard approach altitude at the approach measuring point 1 nautical mile from the runway threshold above a 3 degree slide slope. Thus, it is an appropriate test reference to which measured test data may be corrected. Similar comments regarding other aspects of noise test procedure and conditions were also received. Since those comments involve noise test methodology beyond the scope of Notice No. 75–37, they will be considered with respect to the issues involved in Notice No. 76–21 concerning proposed amendments for Appendix A.

Several comments suggested that separate rules should be adopted for turbojet powered airplanes weighing less than 90,000 pounds and another for transport category large airplanes. The rationale presented was that the noise emission characteristics and noise reduction technologies for those airplanes is distinguishable and should be treated separately from the larger turbojet powered airplanes. Comments also stated that since there has been no recent Part 36 certification experience with propeller-driven large transport category airplanes, the available economic and technological data does not exist to support the proposed noise level reduction rule with regard to those airplanes. The FAA agrees that for some regulatory purposes those classes of aircraft could receive separate treatment. However, the FAA does not agree that the rationale offered in the comments compels separate rules or regulatory action for those classes of aircraft. As previously stated, this amendment reflects a full and careful consideration of the noise emission factors that may tend to distinguish the various airplanes affected by it.

Thus, the noise level standards adopted in this amendment apply to transport category propeller-driven large airplanes, as well as to subsonic turbojet powered airplanes, regardless of category. Although the FAA anticipates that most, if not all, of the aircraft that are certificated under the standards adopted in this amendment will be turbojet (including turbofan) powered, the FAA has concluded that the reductions are also appropriate to the affected propeller-

driven large airplanes. Since the late 1940's the government has conducted its own studies, and funded other independent studies, regarding methodology for controlling propeller and engine noise. The FAA believes that the application of that technology would be as appropriate and as cost effective as that required for the turbojet powered airplanes.

Accordingly, this amendment adopts noise standards for those airplanes that are consistent with the purposes and requirements of the Noise Control Act of 1972. There appears no necessity to adopt two or three separate rules when the appropriate distinctions among those airplanes are accounted for. Similarly, the FAA concludes that the available technology allows manufacturers to design and produce airplanes for specific flight purposes and that the new aircraft design selections should include consideration of currently available technology in the design and construction of engine types and sound attenuation devices for those aircraft. Thus, new type designs must preserve already achieved environmentally beneficial aircraft noise reductions. The means of achieving the required noise reduction is, and should be, left to the designers and manufactuers of airplanes. Accordingly, the FAA concludes that based upon its review of the best available noise reduction technology and the cost impacts of requiring its application on all new type designs, this amendment, including the extent to which it applies to turbojet powered airplanes weighing under 75,000 pounds and to transport category airplanes regardless of the type of engine, is consistent with the purposes and requirements of section 611 of the Act.

VI. Effective Date

Since further rulemaking action is contemplated in the near future regarding certain aspects of the amendments being adopted, the FAA has considered whether this amendment should be promulgated before the regulatory procedures on Notice Nos. 75-37C and 76-22 have been completed. As previously indicated, the FAA has concluded that the benefits that can be achieved under this amendment should not be deferred until that later date. The FAA believes that since this amendment prescribes new standards for new type designs and acoustical changes, its early publication should provide aircraft manufacturers and operators a better opportunity to consider these standards in their design and acoustical change planning. However, the FAA recognizes that while such planning is necessary, its regulatory action must be consistent with its responsibilities under section 611 of the Act. Accordingly, the additional proposed rules under consideration involve amendments which, if adopted, may alter, in certain areas, the stringency of those proposed in Notice Nos. 75-37 and 75-37B and now being issued. Those areas include acoustical change requirements for Stage 2 airplanes, reduced takeoff and sideline noise levels limits for certain Stage 3 airplanes, certain noise measuring point distances under § C36.3, and certain takeoff test conditions under § C36.7, as proposed in Notice No. 75-37C, and the recommended amendments, previously discussed, as proposed by the EPA in Notice No. 76-22, as corrected.

The FAA has concluded that it should—(1) announce, as early as possible, the minimum standards for noise reduction that it has already determined should be adopted (based on Notice Nos. 75-37 and 75-37B), (2) provide itself the opportunity to modify, where appropriate, those type certification and acoustical change requirements that are being adopted, (3) avoid the complexity of different requirements for a short period of time due only to staggered effective dates of the amendments, and (4) provide the aviation community the opportunity to accommodate those subsequent amendments into its plans for new type designs or type design changes. To accomplish those objectives, the effective date of this amendment should be delayed until any supplementary amendments have been issued. Since the FAA expects to complete the regulatory process by October 1977, the effective date for this amendment is stated as October 1, 1977.

VII. Regulatory Evaluation

Under the regulatory reform policies of the Secretary of Transportation and the Administrator, comprehensive evaluation of the impacts of this amendment has been completed. In addition to the regulatory impacts previously discussed, the details of that analysis are shown in the Policy Statement and the EIS, particularly chapters 2 and 4. These analyses considered not only the noise reduction benefit, but also the achievement of other significant national objectives, including energy conservation through improved fuel efficiency, improved engine performance for the aircraft mission, improved engine emission levels, and advantages to the consumer of the more advanced aircraft design and lower operating costs despite the effects of modifications to achieve noise reduction.

Based on forecasted aviation growth, the airport noise problem is expected to increase in the future despite the introduction of quieter aircraft. For example, between 1975 and 1990, annual air carrier operations have been forecast to increase from 10 million to 16 million, creating additional noise exposure events that, without Federal action such as this amendment and FAR Amendment 91-136, could more than offset the reduction of noise resulting from an introduction of quieter airplanes. The recent economic trends have brought into question certain aspects of that long established assumption regarding such a substantial growth in airline traffic. Regardless of the recently adopted requirement to retrofit or retire certain turbojet airplanes by 1985 that have not previously been shown to comply with original Part 36 noise standards, it is unclear the extent to which new aircraft types will be introduced in response to the requirements of FAR Amendment 91-136. However, as stated above, it is hoped that this amendment will create strong incentives for the development of a new generation of airplanes markedly quieter than the noise limits in current Part 36. However, the short term noise reduction will remain small in terms of actual community annoyance as long as the aircraft fleets do not include a significant number of Stage 3 airplanes.

As discussed in Section 4.2 of the EIS, the FAA has compared the noise level limits adopted in this amendment with the measured noise levels for aircraft certificated under current Part 36. That comparison revealed that many aircraft using the best currently available technology already meet the Stage 3 levels. The available technology permits manufacturers to trade off noise and emission requirements against weight, fuel, and other direct operating cost factors with minimal net cost differentials. Thus, the effect of this amendment is to preserve already achieved environmental benefits for existing airplane types and provide the standards and incentives for the introduction of newer and quieter types.

The projected cost impact of a new technology aircraft designed to meet Stage 3 noise limits as compared to the same aircraft designed to meet Stage 2 noise limits is estimated to represent an approximate increase of 0.1 percent in direct operating costs and a 0.4 percent reduction on return of investment. On a per airplane basis those costs would amount to approximately $330,000 for the largest aircraft and proportionately less for lighter, smaller aircraft. The FAA estimates the aggregate cost during the first seven years under this amendment would be less than $63 million. The actual projected costs and offsetting economic benefits analysed in the EIS demonstrate the economic impacts of this amendment. Those impacts have been evaluated in accordance with OMB Circular A-107 and DOT Order 2050.4. It was determined that this amendment would not significantly increase costs to the private sector, to consumers, or to Federal, State, or local governments. Accordingly, the FAA has concluded that the cumulative impact of this amendment is not inflationary in nature.

Authority: Secs. 313(a), 601, 603, and 611 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423, and 1431); section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); title I of the National Environmental Policy Act of 1969 (42 U.S.C 4321 et seq.); and Executive Order 11514, March 5, 1970.

In consideration of the foregoing, Part 36 of the Federal Aviation Regulations (14 CFR Part 36) is amended effective October 1, 1977, as follows:

§ 36.1 [Amended]

1. Section 36.1 is amended as follows:

a. By amending paragraph (c) after the words "the airplane complies with" by substituting the words "the applicable provisions of § 36.7 or § 36.9 of this part" for the words "§ 36.7 of this Part."

b. By amending the section heading and adding a new paragraph (f) to read as follows:

§ 36.1 Applicability and definitions.

* * * * *

(f) For the purpose of showing compliance with this part for transport category large airplanes and turbojet powered airplanes regardless of category, the following terms have the following meanings:

(1) A "Stage 1 noise level" means a takeoff, sideline, or approach noise level greater than the Stage 2 noise limits prescribed in § C36.5(a)(2) of Appendix C of this part.

(2) A "Stage 1 airplane" means an airplane that has not been shown under this part to comply with the takeoff, sideline, and approach noise levels required for Stage 2 or Stage 3 airplanes.

(3) A "Stage 2 noise level" means a noise level at or below the Stage 2 noise limits prescribed in § C36.5(a)(2) of Appendix C of this part but higher than the Stage 3 noise limits prescribed in § C36.5(a)(3) of Appendix C of this part.

(4) A "Stage 2 airplane" means an airplane that has been shown under this part to comply with Stage 2 noise levels prescribed in § C36.5 of Appendix C of this part (including use of the applicable tradeoff provisions) and that does not comply with the requirements for a Stage 3 airplane.

(5) A "Stage 3 noise level" means a noise level at or below the Stage 3 noise limits prescribed in § C36.5(a)(3) of Appendix C of this part.

(6) A "Stage 3 airplane" means an airplane that has been shown under this part to comply with Stage 3 noise levels prescribed in § C36.5 of Appendix C of this part (including use of the applicable tradeoff provisions).

2. Section 36.7 is revised to read as follows:

§ 36.7 Acoustical change: Subsonic transport category large airplanes and subsonic turbojet powered airplanes.

(a) *Applicability.* This section applies to all subsonic transport category large airplanes and subsonic turbojet powered airplanes for which an acoustical change approval is applied for under § 21.93(b) of this chapter.

(b) *General requirements.* Except as otherwise specifically provided, for each airplane covered by this section, the acoustical change approval requirements are as follows:

(1) In showing compliance, noise levels must be measured and evaluated in accordance with the applicable procedures and conditions prescribed in Appendices A and B of this part.

(2) Compliance with the noise limits prescribed in § C36.5 of Appendix C must be shown in accordance with the applicable provisions of §§ C36.7 and C36.9 of Appendix C of this part.

(c) *Stage 1 airplanes.* For each Stage 1 airplane prior to the change in type design, in addition to the provisions of paragraph (b) of this section, the following apply:

(1) If an airplane is a Stage 1 airplane prior to the change in type design, it may not, after the change in type design, exceed the noise levels created prior to the change in type design. The tradeoff provisions of § C36.5(b) of Appendix C of this part may not be used to increase the Stage 1 noise levels.

(2) In addition, for an airplane for which application is made after September 17, 1971—

(i) There may be no reduction in power or thrust below the highest airworthiness approved power or thrust, during the tests conducted before and after the change in type design; and

(ii) During the takeoff and sideline noise tests conducted before the change in type design, the quietest airworthiness approved configuration available for the highest approved takeoff weight must be used.

(d) *Stage 2 airplanes.* If an airplane is a Stage 2 airplane prior to the change in type design, in addition to the provisions of paragraph (b) of this section, the following apply:

(1) *Applications before November 5, 1975.* For an airplane for which an application for acoustical change approval is made before November 5, 1975, the airplane may not be a Stage 1 airplane after the change in type design.

(2) *Applications on or after November 5, 1975.* For an airplane for which an application for acoustical change approval is made on or after November 5, 1975—

(i) The airplane may not be a Stage 1 airplane after the change in type design; and

(ii) During the takeoff and sideline noise tests conducted before the change in type design, the quietest airworthiness approved configuration available for the highest approved takeoff weight must be used.

(e) *Stage 3 airplanes.* If an airplane is a Stage 3 airplane prior to the change in type design, in addition to the provisions of paragraph (b) of this section, the following apply:

(1) *Applications before May 5, 1976.* For an airplane for which an application for acoustical change approval is made before May 5, 1976, the airplane may not be a Stage 1 airplane after the change in the type design.

(2) *Applications on or after May 5, 1976.* For an airplane for which an application for acoustical change approval is made on or after May 5, 1976, the following apply:

(i) If compliance with Stage 3 noise levels is not required before the change in type design, the airplane must—

(A) Be a Stage 2 airplane after the change in type design and compliance must be shown under the provisions of paragraph (d)(2) of this section; or

(B) Remain a Stage 3 airplane after the change in type design and compliance must be shown under the provisions of paragraph (e)(2)(ii) of this section.

(ii) If compliance with Stage 3 noise levels is required before the change in type design, the airplane must be a Stage 3 airplane after the change in type design.

3. The provisions of paragraph (b) of § 36.7 are redesignated as a new § 36.9 entitled "§ 36.9 *Acoustical change: Propeller-driven small airplanes.*" and paragraphs (b)(1), (b)(2), and (b)(3) are redesignated as paragraphs (a), (b), and (c) respectively.

4. Paragraphs (b) and (c) of § 36.201 are revised to read as follows:

§ 36.201 Noise limits.

* * * * *

(b) *Airplanes with high bypass ratio engines.* For airplanes that have turbojet engines with bypass ratios of 2 or more, the noise limit requirements are as follows:

(1) *Applications before January 1, 1967.* If application is made before January 1, 1967, it must be shown that the noise levels of the airplane are no greater than the Stage 2 noise limits prescribed in § C36.5(a)(2) of Appendix C of this part, or are reduced to the lowest levels that are economically reasonable, technologically practicable, and appropriate to the particular type design.

(2) *Applications on or after January 1, 1967, and before November 5, 1975.* If application is made on or after January 1, 1967, and before November 5, 1975, it must be shown that the noise levels of the airplane are no greater than the Stage 2 noise limits prescribed in § C36.5(a)(2) of Appendix C of this part.

(3) *Applications on or after November 5, 1975.* If application is made on or after November 5, 1975, it must be shown that the noise levels of the airplanes are no greater than the Stage 3 noise limits prescribed in § C36.5(a)(3) of Appendix C of this part.

(c) *Airplanes with low bypass ratio engines.* For airplanes that have turbojet engines with bypass ratios of less than 2 (including no bypass ratio), the noise limit requirements are as follows:

(1) *Applications before December 1, 1969.* If application is made before December 1, 1969, it must be shown that the lowest noise levels, reasonably obtainable through the use of procedures and information developed for the flight crew under § 36.1501, are determined;

(2) *Applications on or after December 1, 1969, and before November 5, 1975.* If application is made on or after December 1, 1969, and before November 5, 1975, it must be shown that the noise levels of the airplane are no greater than the Stage 2 noise limits prescribed in § C36.5(a)(2) of Appendix C of this part.

(3) *Applications after November 5, 1975.* If application is made on or after November 5, 1975, it must be shown that the noise levels of the airplane are no greater than the Stage 3 noise limits prescribed in § C36.5(a)(3) of Appendix C of this part.

* * * * *

5. Appendix C of Part 36 is amended as follows:

(a) Paragraph (c) of § C36.3 is revised to read as follows:

Sec. C36.3 *Noise measuring points.*

* * * * *

(c) For the sideline, at the point, on a line parallel to and 0.25 nautical miles from the extended centerline of the runway, where the noise level after liftoff is greatest, except that, for an airplane powered by more

than three turbojet engines this distance must be 0.35 nautical miles for the purpose of showing compliance with Stage 1 or Stage 2 noise limits (as applicable).

(b) Paragraphs (a) and (b) § C36.5 are revised to read as follows:

Sec. C36.5 *Noise levels.*

(a) *Limits.* Except as provided in paragraphs (b) and (c) of this section, it must be shown by flight test that the noise levels of the airplane, at the measuring points described in § C36.3, do not exceed the following (with appropriate interpolation between weights):

(1) Stage 1 noise limits for acoustical changes for airplanes regardless of the number of engines are those noise levels prescribed under § 36.7(c) of this part.

(2) Stage 2 noise limits for airplanes regardless of the number of engines are as follows:

(i) *For takeoff.*—108 EPNdB for maximum weights of 600,000 pounds or more, reduced by 5 EPNdB per halving of the 600,000 pounds maximum weight down to 93 EPNdB for maximum weights of 75,000 pounds and less.

(ii) *For sideline and approach.*—108 EPNdB for maximum weights of 600,000 pounds or more, reduced by 2 EPNdB per halving of the 600,000 pounds maximum weight down to 102 EPNdB for maximum weights of 75,000 pounds and less.

(3) Stage 3 noise limits are as follows:

(i) *For airplanes with more than 3 engines*—

(A) *For takeoff.*—106 EPNdB for maximum weights of 850,000 pounds or more, reduced by 4 EPNdB per halving of the 850,000 pounds maximum weight down to 90 EPNdB for maximum weights of 53,125 pounds or less;

(B) *For sideline.*—103 EPNdB for maximum weights of 850,000 pounds or more, reduced by 2 EPNdB per halving of the 850,000 pounds maximum weight down to 96 EPNdB for maximum weights of 75,130 pounds and less; and

(C) *For approach.*—105 EPNdB for maximum weights of 850,000 pounds or more, reduced by 2 EPNdB per halving of the 850,000 pounds weight down to 98 EPNdB for maximum weights of 75,130 pounds and less.

(ii) *For airplanes with 3 engines*—

(A) *For takeoff.*—104 EPNdB for maximum weights of 850,000 pounds or more, reduced by 4 EPNdB per halving of the 850,000 pounds maximum weight down to 90 EPNdB for maximum weights of 75,130 pounds and less;

(B) *For sideline.*—103 EPNdB for maximum weights of 882,000 pounds or more, reduced by 2.56 EPNdB per halving of the 882,000 pounds maximum weight down to 96 EPNdB for maximum weights of 132,538 pounds and less; and

(C) *For approach.*—105 EPNdB for maximum weights of 850,000 pounds or more, reduced by 2 EPNdB per halving of the 850,000 pounds weight down to 98 EPNdB for maximum weights of 75,130 pounds and less.

(iii) *For airplanes with fewer than 3 engines*—

(A) *For takeoff.*—101 EPNdB for maximum weights of 850,000 pounds or more, reduced by 4 EPNdB per halving of the 850,000 pounds maximum weight down to 89 EPNdB for maximum weights of 106,250 pounds and less;

(B) *For sideline.*—103 EPNdB for maximum weights of 882,000 pounds or more, reduced by 2.56 EPNdB per halving of the 882,000 pounds maximum weight down to 94 EPNdB for maximum weights of 77,120 pounds and less; and

(C) *For approach.*—105 EPNdB for maximum weights of 850,000 pounds or more, reduced by 2 EPNdB per halving of the 850,000 pounds weight down to 98 EPNdB for maximum weights of 75,130 pounds and less.

(b) *Tradeoffs.* Except to the extent limited under § 36.7(c)(1) of this part, the noise level limits prescribed in paragraph (a) of this section may be exceeded at one or two of the measuring points specified in § C36.3 of this appendix, if—

* * * * *

c. Paragraph (a) of § C36.7 is amended to read as follows:

Sec. C36.7 *Takeoff test conditions.*

(a) This section applies to all takeoff noise tests conducted under this appendix in showing compliance with this part.

* * * * *

NOTE.—The Federal Aviation Administration has determined that this document does not require preparation of an inflationary impact statement under Executive Order 11821 and OMB Circular A-107.

Issued in Washington, D.C., on February 25, 1977.

JOHN L. MCLUCAS,
Administrator.

[FR Doc.77-6208 Filed 3-2-77;8:45 am]

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THURSDAY, MARCH 3, 1977

PART IV

COMMODITY FUTURES TRADING COMMISSION

■

CONTRACT MARKETS AND FUTURES COMMISSION MERCHANTS

Reporting Requirements

Title 17—Commodity and Securities Exchanges

CHAPTER I—COMMODITY FUTURES TRADING COMMISSION

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

PART 17—REPORTS BY FUTURES COMMISSION MERCHANTS AND FOREIGN BROKERS

Reporting Requirements

The Commodity Futures Trading Commission ("Commission") has adopted modifications to Parts 1 and 17 of its regulations under the Commodity Exchange Act, as amended ("Act"), 7 U.S.C. 1 et seq. These modifications change the recently adopted amendments to §§ 1.42(b) and 17.03, which were to the effect that the data processing media and/or computer printouts submitted by contract markets and futures commission merchants, respectively, be certified as complete and accurate.[1] As modified today, these sections delete the certification requirement but retain the requirement that the information so submitted be complete and accurate. In addition, § 1.42(b) has been amended to make clear the Commission's intent that only the nature of the information to be provided by contract markets by data processing media or computer printouts need be approved in advance by the Commission, not the information provided. Finally, as previously amended, § 17.03 provided that "an officer" was one of the persons who could certify information submitted by a futures commission merchant. As revised, the section specifies the chief executive officer as the person who is to submit the printout on behalf of a futures commission merchant which is a corporation. The Commission is revising this provision to make clear that the chief executive officer should be responsible for reviewing the material before it is submitted to the Commission.

At the time of its announcement of the previous amendments to these sections, the Commission noted that there had been some objection to the certification requirements as originally proposed. It was contended that information could not be certified as complete and accurate, but only as authentic, i.e., accurate only to the extent of the accuracy of the source records. The Commission adopted the proposals in a form which permitted certification to be made to the best knowledge and belief of the certifying person after making a reasonable inquiry. The Commission has received further comment from one contract market that requiring a reasonable inquiry to be made could delay submission of data to the Commission, since verification of source records could take up to several days. Because the Commission believes it particularly important that it obtain market information as promptly as possible as part of its market surveillance program, it has reconsidered the certification issue and has determined to modify these sections to delete the requirement for certification. However, the Commission wishes to emphasize that it expects the information submitted to be complete and accurate as required by these sections. Of course, the Commission realizes that there may be instances where information submitted may be inaccurate because of inadvertent errors. Nevertheless, the Commission expects affected persons to employ procedures designed to keep such errors to a minimum and to correct all incorrect information by prompt submission to the Commission.

In consideration of the foregoing, the Commission hereby amends Parts 1 and 17 of Chapter I of Title 17 of the Code of Federal Regulations as follows:

1. Section 1.42(b) is revised to read as follows:

§ 1.42 Delivery notice; filing of copy.

* * * * *

(b) Any contract market may provide the required delivery notice information on compatible data processing punched cards, magnetic tapes, magnetic discs, computer printouts, or other means: *Provided*, That the format and coding structure and the nature of the information contained thereon have been approved in writing by the Commission. A complete and accurate computer listing of any information supplied via data processing media must also be provided by an officer of the contract market at the time information via data processing media is supplied.

2. Section 17.03 is revised to read as follows:

§ 17.03 Use of data processing media.

Any futures commission merchant may provide the required series '01 information on compatible data processing punched cards, magnetic tapes, magnetic discs, or updated Commission-supplied computer printouts: *Provided*, That the format and coding structure used thereon have been approved in writing by the Commission. Information provided by means of data processing media must also be accompanied by a complete and accurate printout of the information, which shall be submitted by the futures commission merchant if a sole proprietorship, by a general partner of a futures commission merchant which is a partnership, by the chief executive officer of a futures commission merchant which is a corporation, or by a person designated by the futures commission merchant for such purpose provided such designee has been identified as such in writing to the Commission.

Secs. 4g(1), 4i, 5(b), 8a(5), Commodity Exchange Act, 7 U.S.C. 6g(1), 6i, 7(b), 12a (5) (Supp. V, 1975).)

The foregoing modifications are adopted effective immediately. The Commission finds that the foregoing action relieves a burden heretofore imposed and therefore that the notice and other public procedures called for by 5 U.S.C. 553 are not required.

Issued at Washington, D.C., on February 25, 1977.

By the Commission.

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

[FR Doc.77-6805 Filed 3-2-77;8:45 am]

[1] Those amendments became effective on November 26, 1976. See 41 FR 4811 (November 2, 1976).

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THURSDAY, MARCH 3, 1977

PART V

FEDERAL ELECTION COMMISSION

■

ADVISORY OPINION REQUESTS

FEDERAL ELECTION COMMISSION

[Notice 1977-11, AOR 1977-6 through AOR 1977-8]

ADVISORY OPINION REQUESTS

Pursuant to 2 U.S.C. 437f(c) and the procedures reflected in Part 112 of the Commission's Proposed Regulations, published on August 25, 1976 (41 FR 35954), Advisory Opinion Requests 1977-6, 1977-7, and 1977-8 have been made public at the Commission. Copies of AOR 1977-6 were made available on February 22, 1977, and copies of AOR 1977-7 and 1977-8 were made available on February 23, 1977. These copies of the advisory opinion requests were made available for public inspection and purchase at the Federal Election Commission, Public Records Division, at 1325 K Street, N.W., Washington, D.C. 20463.

Interested persons may submit written comments on any advisory opinion request within ten days after the date the request was made public at the Commission. These comments should be directed to the Office of the General Counsel, Advisory Opinion Section, at the Commission. Persons requiring additional time in which to respond to any advisory opinion requests will normally be granted such time upon written request to the Commission. All timely comments received by the Commission will be considered before the Commission issues an advisory opinion. Comments on pending requests should refer to the specific AOR number of the requests and statutory references should be to the United States Code citations rather than to the Pub. L. citations.

A descriptive listing of each of the requests recently made public as well as the identification of the requesting party follows hereafter:

AOR 1977-6: This request presents several questions regarding the duty of the corporate sponsor of a political committee, receiving contributions by payroll or stock dividend deductions from executives or administrative employees or stockholders of the corporation, to provide payroll withholding for a political committee of a labor organization having members employed by the corporation.—Requested by Anthony L. Hodges, Counsel for the Conoco Employees' Good Government Fund, Houston, Texas.

AOR 1977-7: Would donations under the plan of a holder of Federal office to solicit monetary gifts to defray his "personal financial burdens" be subject to the contribution limits and other provisions of the Federal Election Campaign Act of 1971, as amended.—Requested by Representative George Hansen, U.S. House of Representatives, Washington, D.C. 20515.

AOR 1977-8: May the principal campaign committee of a Senate candidate receive a pro-rata share of the proceeds from a joint fundraiser held with the principal campaign committee of a House candidate without regard to the limits of 2 U.S.C. 441a and would the Senate campaign committee be required to itemize contributions to the joint fundraiser.—Requested by W. Gary Blackburn on behalf of the Sasser for Senate Committee, Nashville, Tennessee.

Dated: February 24, 1977.

VERNON W. THOMSON,
Chairman for the
Federal Election Commission.

[FR Doc.77-6423 Filed 3-2-77;8:45 am]

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THURSDAY, MARCH 3, 1977

PART VI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

■

NATIONAL FLOOD INSURANCE PROGRAM

Areas Eligible for Sale of Insurance; Suspensions

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-2693]

PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Suspension of Community Eligibility

The purpose of this notice is to list communities wherein the sale of flood insurance as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) will be suspended because of noncompliance with the program regulations (24 CFR Part 1909 et seq.).

The Flood Disaster Protection Act of 1973 requires the purchase of flood insurance as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in a flood plain area having special hazards within any community identified by the Secretary of Housing and Urban Development.

The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction in these areas unless the community has entered the program and insurance is purchased. Accordingly, for communities listed under this Part such restriction exists as of the effective date of suspension because insurance, which is required, cannot be purchased.

Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities suspended in this notice no longer meet that statutory requirement. Accordingly, the communities are suspended on the effective date in the list below:

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

Section 1914.6 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The date that appears in the fourth column of the table is provided in order to designate the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.6 List of Eligible Communities.

(24 CFR § 1914.6)

State ***	County ***	Location ***	Effective date of authorization of sale of flood Insurance for area ***		Hazard area Identified ***	Community Number ***
Florida.	Duval.	Jacksonville, Beach, City of.	November 19, 1971. March 15, 1977. April 1, 1977.	Emerg. Reg. Susp.	6-7-74 & 2-6-76	120078A
Georgia.	Fulton.	East Point, City of.	January 28, 1972. March 15, 1977. April 1, 1177.	Emerg. Reg. Susp.	6-28-74 & 1-23-76	130087A

(24 CFR § 1914.6)

State ***	County ***	Location ***	Effective date of authorization of sale of flood Insurance for area ***		Hazard area Identified ***	Community Number ***
New Jersey.	Middlesex.	Dunellen, Borough of.	December 22, 1972. April 1, 1977. April 1, 1977.	Emerg. Reg. Susp.	8-31-73	340259A
Do.	Mercer.	Hightstown, Borough of.	June 9, 1972. March 15, 1977. April 1, 1977.	Emerg. Reg. Susp.	1-9-74	340247B
Do.	Essex.	Livingston, Township of.	November 5, 1971. March 15, 1977. April 1, 1977.	Emerg. Reg. Susp.	6-1-73	340185
Do.	Ocean.	Lakewood, Township of.	August 4, 1972. March 15, 1977. April 1, 1977.	Emerg. Reg. Susp.	1-16-74	340378
Do.	Bergen.	New Milford, Borough of.	February 25, 1972. April 1, 1977. April 1, 1977.	Emerg. Reg. Susp.		340054
Do.	Do.	Ridgefield, Borough of.	January 14, 1972. March 15, 1977. April 1, 1977.	Emerg. Reg. Susp.	6-15-73	340065A
North Carolina.	Carteret.	Cape Carteret, Town of.	December 12, 1973. April 1, 1977. April 1, 1977.	Emerg. Reg. Susp.	5-24-74 & 2-21-75	370046A
Do.	Do.	Emerald Isle, Town of.	June 29, 1973. April 1, 1977. April 1, 1977.	Emerg. Reg. Susp.	6-7-74 & 7-2-76	370047A
Wisconsin.	Waupaca & Outagamie.	New London, City of.	March 10, 1972. March 15, 1977. April 1, 1977.	Emerg. Reg. Susp.	11-9-73	550306
Do.	Sheboygan.	Sheboygan, City of.	April 23, 1971. March 15, 1977. April 1, 1977.	Emerg. Reg. Susp.	6-7-74	550430A

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator (34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974.)

Issued: February 9, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-6177 Filed 3-2-77;8:45 am]

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THURSDAY, MARCH 3, 1977

PART VII

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

■

PRELIMINARY FISHERY MANAGEMENT PLANS

Determination, Preparation, Issuance and Implementation

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

PRELIMINARY FISHERY MANAGEMENT PLANS

Determination, Preparation, Issuance, and Implementation

Notice is hereby given that the notice of determination, preparation, issuance, implementation of Preliminary Fishery Management Plans which appeared at 42 FR 6873 on 4th day of February, 1977, is supplemented as follows:

1. In addition to the foreign nations listed on page 6874 from whom applications for permits to fish have been received, applications have since been received from the Government of Japan.

2. In addition to the Preliminary Fishery Management Plans listed on page 6874, the Associate Administrator for Marine Resources of the National Oceanic and Atmospheric Administration has recently approved a PMP for the Shrimp Fishery of the Eastern Bering Sea and Gulf of Alaska.

A Final Environmental Impact Statement (FEIS) concerning this plan has been filed with the Council on Environmental Quality; the Notice of Availability for the FEIS was published on January 28, 1977 at 42 FR 5392.

The Preliminary Management Plan for the Shrimp Fishery of the Eastern Bering Sea and Gulf of Alaska follows below.

Signed this 25th day of February 1977 at Washington, D.C.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

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1.0 Introduction

The shrimp fishery in Alaska began in southeastern Alaska near Petersburg in 1915. The fishery principally harvested pink shrimp, Pandalus borealis, which were cooked, hand peeled, and frozen for special markets. The fishery gradually expanded, and harvests of 0.8 to 1.4 million pounds (360-640 metric tons) continued until the mid-1950's. In 1957 the mechanical peeling machine was introduced in Wrangell, Alaska. And in 1958 a fishery supported by the mechanical peelers began in Lower Cook Inlet and Kodiak where large stocks of shrimp had been located. The fishery grew rapidly from 7.9 million pounds (3,500 metric tons) in 1958 to 15.1 million pounds (6,900 metric tons) in 1963. Growth slowed when shore plants and the fishing fleet were badly damaged by the 1964 earthquake but then grew rapidly to 120 million pounds (54,000 metric tons) in 1973.

Two separate foreign fisheries have occurred on Alaskan shrimp

stocks. The Japanese conducted a fishery northwest of the Pribilof Islands from 1961 to 1968 which took a total of 95,000 metric tons. By 1968 the stock had been driven to commercial extinction. A Soviet fishery has occurred in waters of the Gulf of Alaska off Cape Mitrofania near the Shumagin Islands and east of Kodiak Island on the north and west sides of Portlock Bank. This fishery grew from 4,000 metric tons in 1964 to 11,400 metric tons in 1967, after which it declined to about 2,000 metric tons. The decline is attributed to enforcement of the U.S. 3-12 mile contiguous fishery zone within which a significant portion of the earlier Soviet catch occurred.

2.0 Preliminary Description of the Fishery

A. Areas and Stocks Involved

The pandalid shrimp stocks of the northeastern Pacific Ocean and Bering Sea are composed of three major species. The pink shrimp, Pandalus borealis, comprises 80 to 90 percent of the catches. Second in importance is the humpy shrimp, Pandalus goniurus, which makes up a substantial element of the catch in shallower and colder waters. Next is the sidestripe shrimp, Pandalopsis dispar, a larger shrimp highly prized by shrimp trawlers. It is found in deeper continental shelf and slope regions. Four other species occur in trawl catches but make up a small proportion of the catch. In order of importance they are the coonstripe shrimp, Pandalus hypsinotus; the spot prawn, Pandalus platyceros; the ocean pink shrimp, Pandalus jordani; and

Pandalus montagui tridens.

The life history of Pandalus borealis has been studied in the northeastern Pacific Ocean and Bering Sea, and since this species probably represents the general life history pattern of other pandalids it will be briefly discussed. The free swimming larvae are released in mid-spring and spend 2 to 3 months feeding on planktonic organisms. By the end of the summer the young shrimp have taken on a semi-benthic existence, spending part of their time feeding in the water column and the remainder on the bottom. The juvenile shrimp develop into males and become sexually active at 2 years. During the third or fourth year the males undergo a sexual transformation and function as females for the remainder of their lives. The result of such a life history is that several age groups must be involved in the breeding population; and this must be considered in management. Spawning takes place in the early fall. Apparently multiple copulations occur and spermataphores, containing the sperm, are attached to the females. The eggs are fertilized as they are extruded from the female and are attached to specialized setae on the abdominal appendages. The eggs are carried for 7 to 8 months before hatching takes place in the spring (Ivanov, 1964; Barr, 1970; Fox, 1972).

B. History of Exploitation

(1) Domestic Shrimp Fishery

Pandalid shrimp have provided a valuable commercial fishery in

the northeastern Pacific Ocean since the late 1800's. In California, Oregon, and Washington the bulk of commercial shrimp landings consists of ocean pink shrimp, Pandalus jordani. In Alaska the pink shrimp, Pandalus borealis, is the major species of commercial importance.

Alaska landings of shrimp increased from 7.9 million pounds (3,500 metric tons) in 1958 to 120.0 million pounds (54,400 metric tons) in 1973 (Table 1).

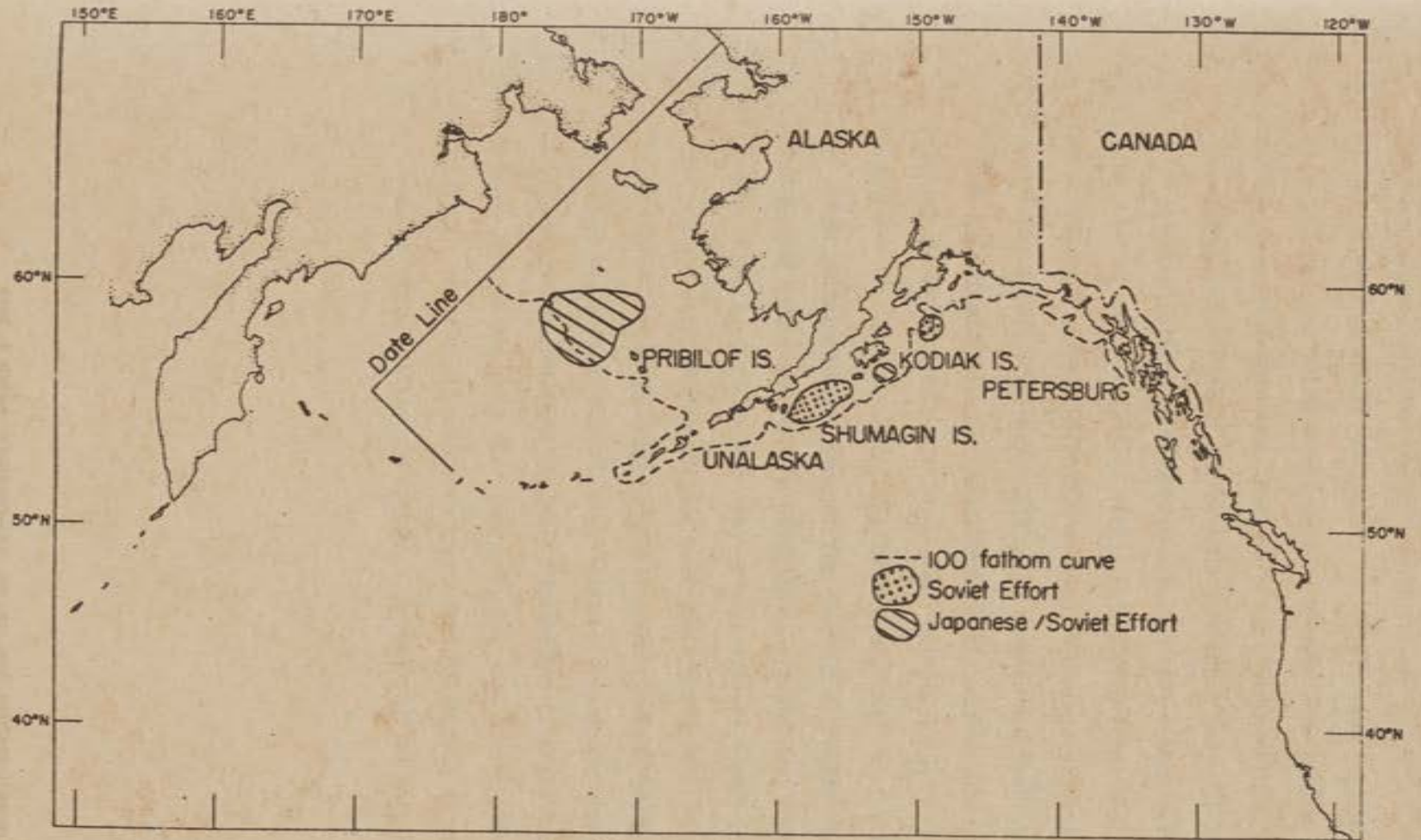
The pandalid shrimp industry of Alaska began in 1915 with the development of a small inshore fishery near Petersburg (Figure 1). Catches in this region gradually increased until 1956 when a peak production of 3.1 million pounds (1,406 metric tons) occurred. In 1957 the mechanical shrimp peeling machine was introduced in Wrangell. In 1958 these machines were introduced in central Alaska and have provided the technological basis for the further expansion of the Alaskan shrimp fishery. In Lower Cook Inlet and near Kodiak Island, catches rapidly increased until catch quotas were implemented by the Alaska Department of Fish and Game in 1972. Since that time catches have remained near 55 million pounds (25,000 metric tons) for these areas. A shrimp fishery started along the Alaska Peninsula in the late 1960's, but landings did not increase substantially until catches in the Kodiak area were limited by quota. Catches from the Alaska Peninsula area have increased from 5.6 million pounds (2,500 metric tons) in 1968 to 47.9 million pounds (21,700 metric tons) in 1974. The fishery has continued to expand to Unalaska Island where catches

Table 1. — Alaska shrimp landings and value to fishermen, 1958–74.

Year	Pounds	U.S. dollars
1958	7,862,366	$ 277,901
1959	13,052,321	505,537
1960	7,426,207	297,499
1961	15,980,500	639,220
1962	16,943,120	731,370
1963	15,126,950	605,080
1964	7,726,750	309,090
1965	16,818,941	756,860
1966	28,192,621	1,287,593
1967	41,812,552	1,700,535
1968	42,023,084	2,299,923
1969	47,850,560	1,908,981
1970	74,256,326	2,979,598
1971	94,891,304	3,909,045
1972	83,830,064	4,493,238
1973	119,963,729	9,341,099
1974	108,274,792	11,044,285

Source: ADF&G Statistical Leaflets

FIGURE I FOREIGN SHRIMP FISHING AREAS OFF ALASKA 1960–1973



have increased to 2,600 metric tons in 1974.

During the early years of the fishery most of the boats in the Alaskan shrimp fleet consisted of "western combination" vessels in the 40 to 85 foot (12 to 26 meters) class. These trawlers were rigged to fish with a single otter trawl. As the fishery grew new West Coast crab-shrimp vessels have entered the fishery. In 1973, Gulf of Mexico style doublerigged (capable of fishing two shrimp trawls simultaneously) shrimp boats also entered the fishery. These newer boats are large modern steel vessels with hold capacities up to a quarter million pounds (113 metric tons).

Conservative estimates of harvest capability of the Gulf of Alaska shrimp fleet can be made using hold capacity. [Using an average of 100,000 pounds (45.4 metric tons) of hold capacity per vessel, 26 trips per year, and the present fleet size of 76 vessels, fleet capacity is at least 90,000 metric tons.]

Gear has evolved to increase efficiency of the shrimping fleet. Shrimp trawlers fish heavily constructed shrimp trawls with recent trends toward larger overall size in both footrope length and height of net openings. With the widespread use of sophisticated depth meters, fishermen are abandoning the broad open gullies in favor of fishing the more productive contour edges. Night fishing has become profitable but still is considerably less so than daylight fishing. Fishing techniques and gear modifications vary among fishermen.

Advances in processing technology have been the primary reason for the expansion of this fishery. During the earlier years catches

were often boiled on the fishing boat itself or delivered to the cannery for cooking. The meats were then handpicked to yield a high quality product with excellent texture and flavor.

In 1957 automatic peeling machines were introduced which provided a more economical method of processing the small shrimp. Although the first machines were introduced in Wrangell in the historic southeastern Alaska shrimp fishery, their application in Kodiak, Seward, and Seldovia in the late 1950's provided the basis for the rapid expansion to the Kodiak-area stocks. The number of peelers in this area grew slowly until the late-1960's, after which it rapidly increased to 66 in 1976.

West of Kodiak Island in 1968 a single processor in the Shumagin Islands operated with three vessels and five peelers. By the 1975 fishing season, 54 peelers were in use in the south Alaska Peninsula area, and the processing capability now rivals that of Kodiak.

Using the number of peelers, we can compute a conservative estimate of current processing capability. In Kodiak, along the Alaska Peninsula, and in Unalaska there is a total of 126 peelers. Again, using a processing figure of 500 pounds per hour per peeler, a 16-hour day, and a 120-day processing year, processing capacity is about 120 million pounds (54,000 metric tons). In 1973 the U.S. processing industry demonstrated it could both process and find markets for this volume of shrimp.

(2) Foreign Shrimp Fishery

The first foreign shrimp fishery off Alaska was that of Japan which began in 1961 in the central Bering Sea and employed 16 trawlers and one factoryship. Japanese effort peaked in 1963 when 38 trawlers and three factoryships caught 27,127 metric tons of shrimp. After 1963, Japanese effort and catch decreased rapidly; and since 1968, shrimp catches have been produced only incidentally to other trawl operations in the eastern Bering Sea (Chitwood, 1969)[1/].

The U.S.S.R. also began fishing shrimp in 1963 near the Pribilof Islands when six factory trawlers operated for 1 month. In 1964 the Soviet effort shifted to the Gulf of Alaska and peaked at 18 freezer trawlers in 1963. The fishery was carried out principally east of the Shumagin Island group and northeast of Kodiak (Figure 1).

Japanese shrimp fishing efforts have been primarily in the eastern Bering Sea during the period 1961 through 1968 (Table 2). In addition, modest effort was expended in the Gulf of Alaska during the period 1966 through 1968 (Table 3). In 1961 the Japanese shrimp catch in the Bering Sea totaled 14,117 metric tons (Table 2), most of which came from stocks northwest of the Pribilof Islands. The catch increased rapidly to 27,127 metric tons in 1963 and then declined to 451 metric tons in 1968. No directed fishery by Japan on the Pribilof stocks occurred in 1969-75.

The Soviets have concentrated their shrimping effort in the central and western Gulf of Alaska. Soviet catches began in 1964 and

Table 2. -- Japanese catches (metric tons) of shrimp from the eastern Bering Sea, 1961-68.

Year	Catch
1961	14,117
1962	18,387
1963	27,127
1964	20,527
1965	8,839
1966	2,984
1967	3,302
1968 1/	451

Source: INPFC Statistical Yearbook - 1972

1/ No directed fishery has occurred since 1968 although small catches are made incidentally to other trawl fisheries.

Table 3. — Total catches (metric tons) of shrimp from the Gulf of Alaska, 1958-73.

Date	Soviet 1/	Japan 2/	U.S.A. 3/
1958			3,566
1959			5,920
1960			3,368
1961			7,249
1962			7,685
1963		654	6,861
1964	4,032	2,370	3,504
1965	6,985	84	7,629
1966	10,478	474	12,788
1967	11,385	254	18,966
1968	2,858	1,317	19,061
1969	5,307		21,704
1970	4,218		33,682
1971	4,717		43,042
1972	2,313		38,025
1973	2,000		54,415

1/ From U.S.-U.S.S.R. data exchanges.

2/ From INPFC Statistical Yearbook - 1971.

3/ From ADF&G Statistical Leaflets.

reached their peak in 1967 when 11,385 metric tons (25.1 million pounds) were landed (Table 3). Since the United States began enforcement of its fishery jurisdiction to 12 nautical miles in 1968, catches have declined to about 2,000 metric tons (4.4 million pounds) per year.

C. Vessels and Gear Types

The Japanese fishery in the eastern Bering Sea was a mothership fishery. The trawlers delivered their catches to the factoryship in baskets where the shrimp were peeled with automatic peeling machines and frozen or canned (Chitwood, 1969).

The development of the Mayak-class freezer trawler was responsible for the expansion of the Soviet distant water shrimping operations. On these vessels the catches are sorted, frozen in the round on the vessel, and delivered to Soviet ports for final processing. In 1966 the trawl fleet was joined by a Zakharov-class factoryship equipped with U.S.-built Laitram shrimp peelers. Complete processing was accomplished on the fishing ground.

D. Impact on Domestic Fishery

(1) Competition for Stocks

Competition for offshore shrimp stocks in the Gulf of Alaska will likely intensify if foreign fishermen are allowed to continue fishing for shrimp. For example, the domestic fleet expanded its operation offshore following the establishment of quotas and

seasonal closures in the Kodiak area. The area now used by U.S. fishermen extends offshore from Marmot Bay to areas near where Soviet shrimp fleets have operated in recent years. With the imposition of harvest limits for inshore fisheries along the Alaska Peninsula, the domestic fleet will probably explore shrimp stocks farther offshore, particularly those in Shumagin Gulley and the Lighthouse Rocks area. Again these areas have been used by Soviet shrimp fleets.

Domestic harvest of the central Bering Sea shrimp stocks does not appear likely at the present time because of the depleted conditions of that resource.

(2) Gear Conflicts

The foreign shrimp fishery in the Gulf of Alaska occurs in areas where U.S. fishermen seek snow (Tanner) crab (Chionoecetes sp). Gear conflicts between foreign shrimp fishermen and domestic snow crab fishermen have not developed even though the domestic snow crab fishery is conducted during the same time period (winter) and in the same general areas as the foreign shrimp fishery.

(3) Non-Target Species Mortality

Small quantities of fish have been reported in the Japanese shrimp catches from the Bering Sea. During 2 years of high catches (1963-64), the incidental Pacific ocean perch (Sebastes alutus) catch was 3-4 percent of the total shrimp catch. Similar incidence rates for other species were: yellow fin sole (Limanda aspera) -- 1.8 percent; Pacific herring (Clupea harengus pallasi) -- 3.6 percent; and walleye (Alaska) pollock (Theragra chalcogramma) -- 1.9 percent. Recent

information from the U.S. foreign fishery observer program suggests that the incidence of Pacific halibut (Hippoglossus stenolepsis) in Japanese shrimp trawls is considerably higher than the incidence in fish trawls.

(4) Economic Interactions

In 1975 the National Shrimp Congress filed a petition with the U.S. International Trade Commission for import relief under provisions of the Trade Act of 1974. An investigation was started by the Commission and the result is summarized in the following excerpt of their report (U.S. International Trade Commission, 1976).

"Thus, the Commission determines that shrimp, fresh, chilled, frozen, prepared, or preserved (including pastes and sauces), ... is being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry catching and landing shrimp."

E. Regulatory History

The Bering Sea shrimp fishery has been unrestricted.

The Gulf of Alaska shrimp fishery, on the other hand, has received a measure of protection from foreign fishing by imposition of the 3-12 mile contiguous fishery zone which forced the Soviet shrimp fleet from productive inshore grounds. Violations listed in Table 4 suggest that "poaching" of inshore stocks may have occurred on an intermittent basis off Cape Mitrofania and in the Lighthouse Rocks areas.

Table 4. — Foreign shrimp fishery violations 1966-76.

1967

March 2 — Soviet freezer trawler

Territorial waters violation -- fishing shrimp 0.5 miles off Mitrofania Island, western Gulf of Alaska, position 55-50N 158-56W. Master fined $5,000.

March 22 — Soviet freezer trawler

Contiguous fishery zone violation — fishing shrimp 5.5 miles off Seal Cape, western Gulf of Alaska, in position 56-02N 158-14W. Master fined $10,000.

1971

February 10 -- Soviet freezer trawler.

Contiguous fishery zone violation — fishing shrimp 9.8 miles off Lighthouse Rocks, western Gulf of Alaska, in position 55-44N 157-42W. Master fined $20,000. Settlement of $30,000 reached in civil suit against the vessel.

1974

February 5 — Soviet freezer trawler

Continguous fishery zone violation — fishing shrimp 9.5 miles off Lighthouse Rocks, western Gulf of Alaska, in position 55-50.5N 157-40.5W. Master fined $25,000. Settlement of $225,000 reached in civil suit against the vessel.

The domestic fishery in the Gulf of Alaska has been regulated by a complicated set of time, area, and harvest level regulations established by the Alaska Board of Fisheries and administered by the Alaska Department of Fish and Game (ADF&G). This system has evolved over a period of years through public participation in Alaska's regulatory process.

F. Cooperative Research and Statistical Exchange

The Soviet research vessel Krill and the NOAA fishery research vessel Oregon conducted a cooperative shrimp resource assessment survey along the Continental Shelf in the Gulf of Alaska from Portlock Bank to Unimak Pass in 1971. Statistical exchanges have continued and provide minimal information on Soviet catches by broadly defined areas.

Information on catch and effort for the Japanese shrimp fishing off Alaska has been obtained from the Japanese government through the International North Pacific Fisheries Commission.

3.0 Status of Stocks

A. Distribution of Exploited Stocks

(1) Bering Sea

Information on pandalid shrimp distribution in the Bering Sea is available from Soviet exploratory fishing operations and from incidental catches of shrimp during United States demersal crab and fish surveys. The major commercial species, P. borealis, is found along the shelf and slope near the 150-meter isobath. There appears

to be a distinct banding of P. goniurus in shallower water well back from the shelf edge. These distributional patterns reflect the temperature requirements of the individual species. P. borealis evidently requires warmer temperatures and as a result is found near the shelf edge where there is an intrusion of warmer oceanic water. P. goniurus, on the other hand, can tolerate sustained low temperatures and is found in shallower shelf waters where residual winter cooling has a greater effect on the water temperature (Figure 2) (Ivanov, 1964; Anderson and Hartsock, 1975). Pandalopsis dispar is found in the Bering Sea at greater depth than the other species of pandalids.

(2) Gulf of Alaska

The distribution of shrimp stocks in the Gulf of Alaska is well known from State and Federal resource assessment efforts and intensive commercial exploitation. The stock structure is extremely complicated and the biological mechanism that results in local concentrations is not understood. But empirical evidence from commercial harvest has demonstrated the local nature of many subpopulations and provided bases for their individual management.

Both Soviet and United States research vessels have conducted extensive and systematic surveys to locate offshore stocks and to delimit the offshore extent of nearshore stocks of shrimp. In general these studies confirm the experience of the commercial fisheries and have not identified any major new stocks.

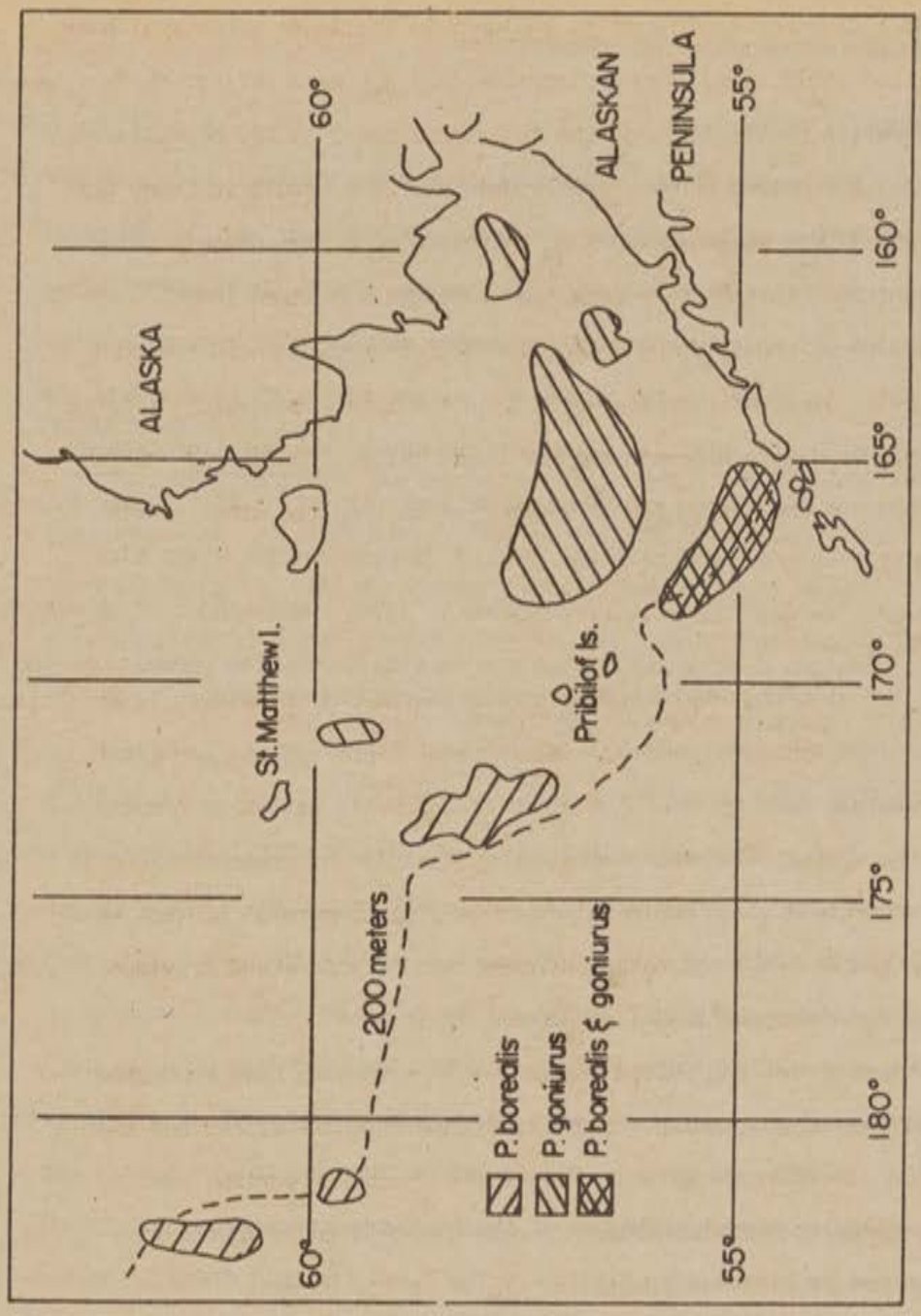


Figure 2: Distribution of pandalids in the eastern Bering Sea, August-November 1975

B. Abundance of Exploited Stocks

(1) Bering Sea

The abundance of the central Bering Sea pandalid shrimp resources must have been high during the early sixties when over 80,000 metric tons of shrimp were harvested in 4 years. Since then catches have fallen off sharply and only incidental catches have been made since 1968. In 1972 a Soviet shrimp survey was conducted to reassess the abundance of shrimp in the area northwest of the Pribilof Islands. That survey yielded an abundance estimate of only a little over 26 metric tons of shrimp in the area of 15 square miles where high densities previously occurred (Ivanov, 1974). This index of abundance is very low and indicates that the central Bering Sea pandalid shrimp stock continues to remain depressed.

(2) Gulf of Alaska

In the offshore regions of the Gulf of Alaska abundance indexes are at a relatively low level. Both NMFS and ADF&G surveys during 1975 and 1976 have shown an almost uniform decline of pandalid shrimp stocks along the Alaska Peninsula and offshore of Kodiak Island. Compared to 1974 these results indicate that the resource, on the average, has declined at least two-thirds (ADF&G, NMFS Cruise Reports, 1975 & 1976). Because a long series of data for this region is not available, the significance of the abundance comparisons and trends cannot be rigorously evaluated. The cause for this dramatic decline in apparent abundance, therefore, is not known.

C.+D.
~~Area~~ Current Status of Stocks and Maximum Sustainable Yield (MSY)

~~Areas~~(1) Bering Sea

Based on information from Ivanov (1974) and the fact that there has been no intensive shrimp fishery in this area for several years, we must assume the stocks are currently at low levels of abundance. Information is inadequate to estimate MSY.

~~Area~~(2) Gulf of Alaska

Stocks throughout this region, especially in the offshore areas, have recently, and apparently dramatically, declined in abundance. Whether this is a temporary anomaly or the beginning of a long-term deterioration in stock condition is not yet known. Because of this dynamic situation, equilibrium yield cannot be estimated.

A MSY of 50,350 metric tons, which includes domestic inshore fishery areas, can be projected from the midpoint harvest levels established by ADF&G. These harvest level values have been established by analyses based on catch and CPUE trends from the commercial fishery and from independent biomass estimates derived from ADF&G and NMFS resource assessment cruises. This estimate compares with an independent NMFS calculation of 52,164 metric tons using virgin biomass estimates and the best estimate of mortality available (Gulland, 1971).

B_o = virgin biomass - 149,040 m.t. (based on NMFS and ADF&G data).

M = annual mortality approximately 0.7 for P. borealis (based on NMFS data on growth for P. borealis).

$MSY = 0.5\ B_oM$

$MSY = 0.5\ (149,040)\ 0.7 = 52,164$ metric tons

4.0 Total Allowable Catches (TAC) and Foreign Allocation

A. Bering Sea

No shrimp fishing should be allowed until it has been demonstrated that stocks have recovered. At that time it is anticipated that the U.S. shrimp fleet will have the capacity to harvest any TAC.

B. Gulf of Alaska

The TAC for this entire region should not exceed 50,000 metric tons[2/], all of this is within the capacity of the domestic fishery to harvest, and there is a dependable domestic market which can utilize the total TAC.

5.0 Conservation and Management Measures Applicable to the Foreign Fishery

A. Bering Sea

No foreign fishery for shrimp will be allowed.

B. Gulf of Alaska

No foreign fishery for shrimp will be allowed.

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7.0 FOOTNOTES

1/ NMFS surveillance and law enforcement personnel have observed three Japanese vessels fishing for shrimp northwest of the Pribilof Islands in July and August of 1976. One of these vessels was boarded and its captain reported that catch rates were in excess of 10 metric tons per day.

2/ The TAC for 1977 may have to be set substantially below the 50,000 metric tons MSY estimate if indications in 1976 of declining abundance are confirmed by further data (page 21 ~~28~~).

[FR Doc. 77-6284 Filed 3-2-77;8:45 am]

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