Vol.42—No.66
4–6–77
PAGES
18269–18386

federal register

WEDNESDAY, APRIL 6, 1977

highlights

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

Reservations for May and June are being accepted for the free weekly workshops on how to use the FEDERAL REGISTER. The sessions are held at 1100 L St. N.W., Washington, D.C. in Room 9409, from 9 to 11:30 a.m.

Each session includes a brief history of the FEDERAL REGISTER, the difference between legislation and regulations, the relationship of the FEDERAL REGISTER to the Code of Federal Regulations, the elements of a typical FEDERAL REGISTER document, and an introduction to the finding aids.

FOR RESERVATIONS call: Dean Smith, 202–523–5282.

OUT OF TOWN WORKSHOPS PREVIOUSLY ANNOUNCED

Dallas, Fort Worth, Waco, and El Paso, Tex., 4–12, 4–13, 4–18.

(Details: 42 FR 14889, 3–17–77.)

Dallas, 4–12. For reservations call: Connie Burke, 214–749–3355.

Fort Worth, 4–12. Call: Chris Horton, 817–334–3285.

Waco, 4–13. Call: Basil Thomson, 817–755–2561.

El Paso, 4–18. Call: Lupe Romero, 915–543–7714.

PART I:

CONTINUED INSIDE

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
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

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

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

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

federal register

Area Code 202 Phone 523-5240

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

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $5.00 per month or $50 per year, payable in advance. The charge for individual copies is 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing **202–523–5240.**

FEDERAL REGISTER, Daily Issue:

Subscriptions and distribution	202–783–3238
"Dial - a - Regulation" (recorded summary of highlighted documents appearing in next day's issue).	202–523–5022
Scheduling of documents for publication.	523–5220
Copies of documents appearing in the Federal Register.	523–5240
Corrections	523–5286
Public Inspection Desk	523–5215
Finding Aids	523–5227
Public Briefings: "How To Use the Federal Register."	523–5282
Code of Federal Regulations (CFR)	523–5266
Finding Aids	523–5227

PRESIDENTIAL PAPERS:

Executive Orders and Proclamations.	523–5233
Weekly Compilation of Presidential Documents.	523–5235
Public Papers of the Presidents	523–5235
Index	523–5235

PUBLIC LAWS:

Public Law dates and numbers	523–5237
Slip Laws	523–5237
U.S. Statutes at Large	523–5237
Index	523–5237
U.S. Government Manual	523–5230
Automation	523–5240
Special Projects	523–5240

HIGHLIGHTS—Continued

contents

list of cfr parts affected in this issue

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

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

3 CFR
MEMORANDUMS:
April 1, 1977 18269

7 CFR
905 18271
944 18271

14 CFR
PROPOSED RULES:
288 18282
399 18282

20 CFR
404 18272
405 18274

26 CFR
7 18275

31 CFR
51 18362

32 CFR
723 18276

42 CFR
122 18279

45 CFR
115 18279
PROPOSED RULES:
115 18282
189 18282
198 18283

47 CFR
73 (2 documents) 18280
PROPOSED RULES:
73 (2 documents) 18286, 18287

50 CFR
PROPOSED RULES:
17 18287

CUMULATIVE LIST OF PARTS AFFECTED DURING APRIL

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

FEDERAL REGISTER PAGES AND DATES—APRIL

Pages	*Date*
17413–17864	Apr. 1
17865–18052	4
18053–18268	5
18269–18386	6

reminders

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

Rules Going Into Effect Today

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

Next Week's Deadlines for Comments On Proposed Rules

AGRICULTURE DEPARTMENT

Farmers Home Administration—

Community facility loans; joint financing with other lenders to supply funds required by one applicant for a project; comments by 4–14–77. 14116; 3–15–77

Forest Service—

Sawtooth National Recreation Area, administration and use of Federal lands; comments by 4–15–77. 14739; 3–16–77

CIVIL AERONAUTICS BOARD

Classification and exemption of Alaskan air carriers; comments by 4–11–77. 11016; 2–25–77

Tariffs of air carriers, overcharges based on proposed fare increase; comments by 4–15–77..... 11843; 3–1–77

Travel agents and tour operators; free and reduced rate transportation; reply comments by 4–12–77..... 8151; 2–9–77

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

Fish fillets; U.S. grade standards; comments by 4–15–77..... 11849; 3–1–77

DEFENSE DEPARTMENT

Air Force Department—

Privacy Act program, review of initial refusals; comments by 4–16–77. 15076; 3–18–77

Defense Communications Agency—

Exemptions, Privacy Act, 1974; comments by 4–15–77..... 14738; 3–16–77

Defense Nuclear Agency—

Exemptions, Privacy Act, 1974; comments by 4–16–77..... 14738; 3–16–77

ENVIRONMENTAL PROTECTION AGENCY

Approval and promulgation of implementation plans; revision to Rules and Regulations in Butte County, Glenn County, Tehama County, and Yuba County, Calif. (4 documents); comments by 4–11–77..... 13307–13309; 3–10–77

Bacillus thuringienis, Berliner; exemption from requirement of tolerance; comments by 4–13–77..... 13841; 3–14–77

Grain elevators; standards of performance; comment period extended to 5–14–77..... 13566; 3–11–77

[First published at 42 FR 2842, Jan. 13, 1977]

Inert ingredients in pesticide formulations; tolerances and exemptions for chemicals in or on raw agricultural commodities; comments by 4–13–77. 13842; 3–14–77

New Hampshire, energy related authority; revocation of compliance date extension; comments by 4–11–77. 13566; 3–11–77

FEDERAL COMMUNICATIONS COMMISSION

Amateur radio stations; inquiry and licensing or operation of complex systems and modification of repeater sub-bands; reply comments by 4–15–77..... 2089; 1–10–77

Change in table assignments, FM broadcast stations in Placerville and Grass Valley, Calif.; comments by 4–11–77. 12896; 3–7–77

Computer inquiry; comments by 4–11–77..... 1278; 1–6–77

[First published at 41 FR 56226, Dec. 27, 1976]

FM broadcast stations in Medford, Oreg.; table of assignments; reply comments by 4–11–77..... 9401; 2–16–77

Maritime services; implementation of inter-governmental consultative organization resolution regarding safety of life at sea convention; comments by 4–11–77..... 8674; 2–11–77

TV Broadcast stations in Maplewood, Georgetown, Celina and Conneaut, Ohio; changes in table of assignments; reply comments by 4–11–77.... 9039; 2–14–77

FEDERAL ENERGY ADMINISTRATION

Lower crude oil produced in Calif. and Alaska; reduction of entitlement obligation; comments by 4–12–77. 15419; 3–22–77

Energy conservation program for appliances; test procedures for room air conditioners; comments by 4–15–77. 16811; 3–30–77

Mandatory petroleum allocation program; new gasoline retail sales outlets; supplier and base period use; comments by 4–15–77..... 15459; 3–22–77

Reevaluation of crude oil buy/sell program; comments by 4–13–77. 14737; 3–16–77

Use of depository systems, registered management companies; extension of comment period to 4–11–77. 14738; 3–16–77

[First published at 42 FR 8666, Feb. 11, 1977]

FEDERAL HOME LOAN BANK BOARD

Federal Savings and Loan System; servicing of loans for certain public housing corporations and not-for-profit organizations; comments by 4–11–77. 13301; 3–10–77

GENERAL SERVICES ADMINISTRATION

Federal Supply Service—

Abandoned and forfeited personal property, utilization, donation or disposal; comments by 4–15–77. 15080; 3–18–77

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Education Office—

Special programs to improve educational opportunities for Indian children, graduate and professional students; comments by 4–15–77. 16258; 3–25–77

Food and Drug Administration—

Milk; use of stabilizers and emulsifiers in lowfat and skim; comments by 4–11–77..... 7966; 2–8–77

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Federal Disaster Assistance Administration—

Federal disaster assistance; temporary housing assistance; comments by 4–12–77..... 13442; 3–10–77

INTERIOR DEPARTMENT

Fish and Wildlife Service—

Endangered and threatened species; fauna, snails, fish and crustaceans; comments by 4–12–77..... 2507; 1–12–77

Land Management Bureau—

Rules for visitor use—other than developed recreation sites; extension of comments to 4–13–77.... 14740; 3–16–77

[First published at 42 FR 5293, Jan. 27, 1977]

Mining Enforcement and Safety Administration—

Surface coal mines and surface work areas of underground coal mines; comments extended to 4–15–77. 11250; 2–28–77

[First published at 42 FR 2800; Jan. 13, 1977]

National Park Service—

Historic preservation certifications pursuant to the Tax Reform Act of 1976; comments by 4–14–77. 14121; 3–15–77

LABOR DEPARTMENT

Employment Standards Administration—

Longshoremen's and Harbor Workers' Compensation Act and Related statutes; procedures for processing applications for fees or other services and other administrative matters; comments by 4–14–77..... 14284; 3–15–77

Employment and Training Administration—

Temporary employment of aliens; comments by 4–15–77..... 16159; 3–25–77

[First published at 42 FR 4670, Jan. 25, 1977]

NUCLEAR REGULATORY COMMISSION

Physical protection of plants and ma-

terials; guard force response to alarm; comments by 4–11–77..... 8382; 2–10–77

PENSION BENEFIT GUARANTY CORPORATION

Multiemployer plans; comments by 4–15–77..... 14945; 3–17–77
[First published at 41 FR 53149, Dec. 3, 1976]

POSTAL SERVICE

Mail order catalogs; ineligibility for air transportation to overseas military post offices; comments by 4–11–77. 13565; 3–11–77

SECURITIES AND EXCHANGE COMMISSION

Beneficial ownership requirements; comments by 4–15–77..... 12355; 3–3–77
Code of behavior governing ex parte communications between persons outside Commission and decisional employees; comments by 4–15–77. 14689; 3–16–77
Life insurance companies, quarterly reporting requirements; comments by 4–15–77..... 13122; 3–9–77
Promotion of reliable financial information, prevention of concealment of questionable illegal corporate payments and practices, and disclosure of involvement of management in specified types of transactions; comments by 4–11–77..... 15921; 3–24–77
[First published at 42 FR 4854, Jan. 26, 1977]
Transfer agents; performance; comments by 4–13–77..... 12191; 3–3–77

SMALL BUSINESS ADMINISTRATION

Compensation increases to officers, directors, and employees of small business investment companies; comments by 4–11–77.... 13561; 3–11–77

TRANSPORTATION DEPARTMENT

Federal Aviation Administration—
Airport and Airway Development Act Amendments of 1976; civil rights provisions; comments by 4–15–77. 15916; 3–24–77
[First published at 42 FR 2850, Jan. 13, 1977]
Designation and alteration of transition areas and/or temporary restricted area at Humboldt, Nebraska, Moberly, Missouri, Orange, Tex., Twentynine Palms, Calif., and Fort Hood, Tex. (5 documents); comments by 4–11–77. 13303–13305; 3–10–77
Kansas and Oklahoma; revocation of VOR airway segment; comments by 4–13–77..... 13838; 3–14–77
National Highway Traffic Safety Administration—
Federal motor vehicle safety standards; improvement of seat belt assemblies; comments by 4–15–77. 54961; 12–16–76
Motor vehicle safety standards; bumper requirements; comments by 4–11–77..... 10862; 2–24–77

TREASURY DEPARTMENT

Internal Revenue Service—
Excise taxes; special provisions for manufacturers and retailers; comments by 4–13–77..... 13840; 3–14–77
International boycott factor, computation; comments by 4–15–77. 11845; 3–1–77

Next Week's Meetings

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—
Distributors' Advisory Committee, Byron, Ga. (open), 4–14–77. 16841; 3–30–77
Forest Service—
Spearfish District Grazing Advisory Board, Spearfish, South Dakota, (open), 4–15–77.. 13570; 3–11–77

CIVIL RIGHTS COMMISSION

District of Columbia Advisory Committee, Washington, D.C. (open), 4–15–77. 16167; 3–25–77
Illinois Advisory Committee, Chicago, Ill. (open), 4–14–77..... 14896; 2–17–77
Iowa Advisory Committee, Fort Dodge, Iowa (open), 4–15–77..... 13039; 3–8–77
Massachusetts Advisory Committee, Boston, Mass. (open), 4–12–77.... 13573; 3–11–77
Vermont Advisory Committee, Montpelier, Vt. (open), 4–11–77.... 16644; 3–29–77
[First published at 42 FR 13574, March 11, 1977]
Virginia Advisory Committee, Richmond, Va. (open), 4–15–77..... 16167; 3–25–77

COMMERCE DEPARTMENT

Census Bureau—
Census Advisory Committee on Housing for the 1980 Census, Suitland, Md. (open), 4–15–77..... 15943; 3–24–77
Domestic and International Business Administration—
Computer Systems Technical Advisory Committee, Foreign Availability Subcommittee, Washington, D.C. (partially closed), 4–12–77. 16462; 3–28–77
Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee, Washington, D.C. (open), 4–12–77..... 16462; 3–28–77
National Oceanic and Atmospheric Administration—
Mid-Atlantic Fishery Management Council, North Linthicum, Md. (open with restrictions), 4–13 and 4–14–77..... 13859; 3–14–77
New England Fishery Management Council, New London, Conn. (open with restrictions), 4–13 and 4–14–77..... 15453; 3–22–77
[First published at 42 FR 13860, Mar. 14, 1977]

DEFENSE DEPARTMENT

Air Force Department—
Scientific Advisory Board Spring General, Vandenberg Air Force Base, Calif. (closed), 4–13 and 4–14–77. 15360; 3–21–77
Scientific Advisory Board Tactical Panel, Nellis Air Force Base, Nev. (closed), 4–15–77..... 15359; 3–21–77
Defense Communications Agency—
Scientific Advisory Group, Arlington, Va. (closed), 4–12 and 4–13–77. 16175; 3–25–77
Domestic and International Business Administration—
Computer Systems Technical Advisory Committee, Hardware Subcommittee, Washington, D.C. (closed), 4–13–77..... 16646; 3–29–77
Computer Systems Technical Advisory Committee, Washington, D.C. (partially closed), 4–14–77..... 16645; 3–29–77
Computer Systems Technical Advisory Committee, Technology Transfer Subcommittee, Washington, D.C. (partially closed), 4–13–77.. 16648; 3–29–77
Office of the Secretary—
Armed Forces Epidemiological Board, Subcommittee on Disease Control, (smallpox), Washington, D.C. (open), 4–15–77..... 15456
Defense Science Board Task Force on Intelligence, Washington, D.C. (closed), 4–13–77..... 16175; 3–25–77
Electron Devices Advisory Group, Working Group B (Mainly Low Power Devices), Nellis AFB, Nev. (closed), 4–13–77..... 16653; 3–29–77
Electron Devices Advisory Group, Working Group C (Mainly Imaging and Display), San Diego, Calif. (closed), 4–14 and 4–15–77. 16653; 3–29–77
Science Board Task Force on Intelligence, Washington, D.C. (closed), 4–13–77..... 15119; 3–18–77
Wage Committee, Washington, D.C. (closed), 4–12–77..... 9200; 2–15–77

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Enhanced Oil Recovery Workshop, Houston, Tex. (open), 4–12 and 4–13–77. 13044; 3–8–77
General Technical Advisory Committee, Arlington, Va. (open), 4–14–77. 14768; 3–16–77

FEDERAL MEDIATION AND CONCILIATION SERVICE

Arbitration Services Advisory Committee, Ontario, Canada (open), 4–16–77. 16468; 3–28–77

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

Meeting, Washington, D.C. (closed), 4–14–77..... 15755; 3–23–77

FEDERAL REGISTER OFFICE

Educational workshops on how to use the Federal Register, Dallas and Fort Worth, Tex. (reservations required), 4–12–77..... 14889; 3–17–77

Educational workshop on how to use the Federal Register, Waco, Tex. (reservations required), 4–13–77. 14889; 3–17–77

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Aging, Federal Council—
- Aging Research and Manpower Committee, Washington, D.C. (open), 4–13 and 4–14–77..... 15970; 3–24–77

Alcohol, Drug Abuse and Mental Health Administration—
- Mental Health and Illness of Elderly Committee, Rockville, Md. (open), 4–15–77..... 17180; 3–31–77 [First published at 42 FR 13157, Mar. 9, 1977]
- Psychology Education Review Committee, Rockville, Md. (open), 4–11 and 4–12–77..... 14787; 3–16–77

Food and Drug Administration—
- Allergenic Extracts Panel, Rockville, Md. (partially closed), 4–15 and 4–16–77..... 14173; 3–15–77
- Antimicrobial Panel, Rockville, Md. (open), 4–15 and 4–16–77. 14175; 3–15–77
- Arthritis Advisory Committee, Subcommittee guidelines, Rockville, Md. (open), 4–11–77..... 16192; 3–25–77
- National Advisory Food and Drug Committee, Rockville, Md. (open), 4–14 and 4–15–77..... 14175; 3–15–77
- Neurological Device Classification Panel, Washington, D.C. (open), 4–15–77..... 14175; 3–15–77
- Oncologic Drugs Advisory Committee, Rockville, Md. (open), 4–12 and 4–13–77..... 16190; 3–25–77
- Oral Cavity Panel, Rockville, Md. (open), 4–12 and 4–13–77. 14175; 3–15–77
- Orthopedic Device Classification Panel, New Orleans, La. (open), 4–14 and 4–15–77..... 14175; 3–15–77
- Radiopharmaceutical Advisory Committee, Rockville, Md. (open), 4–14 and 4–15–77..... 14175; 3–15–77

National Institutes of Health—
- Board of Scientific Counselors, Bethesda, Md. (open with restrictions), 4–15 and 4–16–77.. 10900; 2–24–77
- Breast Cancer Experimental Biology Committee, Bethesda, Md. (open and closed), 4–11–77..... 13604; 3–11–77
- Cancer Immunodiagnosis Committee, Bethesda, Md. (open and closed), 4–11–77..... 13604; 3–11–77
- Cancer Immunotherapy Committee, Bethesda, Md. (open and closed), 4–14–77..... 13604; 3–11–77
- Carcinogenesis Program Scientific Review Committee A, Chantilly, Va. (open and closed), 4–14 and 4–15–77..... 13604; 3–11–77
- Carcinogenesis Program Scientific Review Committee B, Chantilly, Va. (open and closed), 4–13–77. 13604; 3–11–77
- Commission for the Control of Huntington's Disease and Its Consequences, Los Angeles, Calif. (open), 4–15–77..... 10901; 2–24–77
- Commission for Control of Huntington's Disease and Its Consequences, Seattle, Wash. (open), 4–14–77..... 12263; 3–3–77
- Diagnostic Radiology Committee, Bethesda, Md. (open and closed), 4–14–77..... 13604; 3–11–77
- Diagnostic Research Advisory Group, Bethesda, Md. (open and closed), 4–12–77..... 13604; 3–11–77
- Diagnostic Research Advisory Group and Diagnostic Radiology Committee, Bethesda, Md. (open and closed), 4–13–77..... 13604; 3–11–77
- Digestive Diseases National Commission, Bethesda, Md. (open), 4–11–77..... 12927; 3–7–77
- Lipid Metabolism Advisory Committee, Bethesda, Md. (open), 4–11 and 4–12–77..... 12926; 3–7–77
- National Advisory Eye Council, Bethesda, Md. (open), 4–12–77. 13603; 3–11–77
- National Diabetes Advisory Board, Washington, D.C. (open), 4–15–77. 15972; 3–24–77
- President's Cancer Panel, Bethesda, Md. (open), 4–15–77..... 12264; 3–3–77
- Scientific Counselors Board, National Institute of Neurological and Communicative Disorders and Stroke, Bethesda, Md. (partially open), 4–14 and 4–15–77..... 4540; 1–25–77
- Virus Cancer Program Scientific Review Committee B, Bethesda, Md. (open and closed), 4–13 through 4–15–77..... 13604; 3–11–77

INTERIOR DEPARTMENT

National Park Service—
- Chesapeake and Ohio Canal National Historical Park Commission, Washington, D.C. (open with restrictions), 4–14–77..... 15374; 3–21–77

JUSTICE DEPARTMENT

Law Enforcement Assistance Administration—
- Juvenile Justice and Delinquency Prevention National Advisory Committee, Washington, D.C. (open), 4–12 through 4–14–77..... 16195; 3–25–77

LABOR DEPARTMENT

Occupational Safety and Health Administration—
- Occupational Safety and Health National Advisory Committee; Compliance Subgroup, Washington, D.C. (open), 4–15–77..... 16678; 3–29–77
- Standards Advisory Committee on Agriculture, Washington, D.C. (open), 4–12 and 4–13–77. 16198; 3–25–77

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
- Space Program Advisory Council, Physical Sciences Committee; Kennedy Space Center, Fla. (open), 4–14 thru 4–15–77..... 15154; 3–18–77

NATIONAL SCIENCE FOUNDATION
- Advisory Council and Advisory Committee for Research, Washington, D.C. (open), 4–14 and 4–15–77.... 15981; 3–24–77
- Advisory Panel for the Minority Institutions Science Improvement Program (MISIP), Arlington, Va. (closed), 4–13 through 4–16–77.... 15376; 3–21–77
- Division of Policy Research and Analysis Advisory Panel, Washington, D.C. (open), 4–13–77.... 16685; 3–29–77
- Public Understanding of Science Advisory Panel, Washington, D.C. (partially closed), 4–14 and 4–15–77. 15981; 3–24–77
- Undergraduate Research Participation Program, Project Directors, Washington, D.C. (open), 4–15–77.... 15761; 3–23–77

NUCLEAR REGULATORY COMMISSION
- Environmental Subcommittee of the Reactor Safeguards Advisory Committee, Washington, D.C. (open), 4–14 and 4–15–77..... 16492; 3–28–77
- Federal/State Siting Review Efficiency Study Workshops, Chicago, Ill. (open), 4–14 and 4–15–77..... 16506; 3–28–77

SECURITIES AND EXCHANGE COMMISSION
- Advisory Committee on Corporate Disclosure, Washington, D.C. (open), 4–14 and 4–15–77..... 10749; 2–23–77

SMALL BUSINESS ADMINISTRATION
- Louisville District Advisory Council, Slade, Ky. (open), 4–14 and 4–15–77. 5171; 1–27–77
- Montpelier District Advisory Council, Rutland, Vt. (open), 4–13–77.... 12507; 3–4–77
- Oklahoma City District Advisory Council, Oklahoma City, Okla., 4–15–77. 15484; 3–22–77
- Pittsburgh District Advisory Council, Pittsburgh, Pa. (open), 4–13–77. 16011; 3–24–77
- San Antonio District Advisory Council, Laredo, Tex., 4–15–77..... 15484; 3–22–77

STATE DEPARTMENT

Agency for International Development—
- International Food and Agricultural Development Board, Washington, D.C. (open), 4–11–77..... 16012; 3–24–77

Office of the Secretary—
- International Radio Consultative Committee, U.S. National Committee, Study Group FMTT, Washington, D.C. (open with restrictions), 4–13–77..... 14945; 3–17–77
- International Radio Consultative Committee, U.S. National Committee, Study Group 7, Greenbelt, Md. (open), 4–15–77..... 14945; 3–17–77

Music Advisory Panel, Washington, D.C. (open), 4–12 and 4–13–77. 13876; 3–14–77

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea, Washington, D.C. (open), 4–14–77..... 16204; 3–25–77

Shipping Coordinating Committee, Washington, D.C. (open), 4–13–77. 13100; 3–8–77

Study Group 1 of the U.S. National Committee of the International Telegraph and Telephone Consultative Committee, Washington, D.C. (open), 4–14–77..... 16012; 3–24–77

Study Group 5 of the U.S. National Committee of the International Telegraph and Telephone Consultative Committee, Washington, D.C. (open with restrictions), 4–13–77. 16012; 3–24–77

TRANSPORTATION DEPARTMENT

Coast Guard—

Research Advisory Committee, Mobile, Ala. (open), 4–14 through 4–16–77. 13375; 3–10–77

Federal Railroad Administration—

Minority Business Resource Center Advisory Committee, Washington, D.C. (open), 4–15–77..... 16204; 3–25–77

National Highway Traffic Safety Administration—

Highway Safety National Advisory Committee, Truck and Bus Safety Subcommittees, Arlington, Va. (open with restrictions), 4–14 and 4–15–77..... 16507; 3–28–77

National Motor Vehicle Safety Advisory Council, Arlington, Va. (closed), 4–13–77..... 16507; 3–28–77

National Motor Vehicle Safety Advisory Council, Arlington, Va. (open), 4–12 thru 4–14–77..... 14945; 3–17–77

VETERANS ADMINISTRATION

Career Development Committee, Charleston, S.C. (open with restrictions), 4–13 thru 4–15–77..... 8449; 2–10–77

WORKING LIFE PRODUCTIVITY AND QUALITY, NATIONAL CENTER

Meetings of board of directors, Government in Sunshine Act; comments by 4–15–77..... 14736; 3–16–77

Next Week's Public Hearings

ENVIRONMENTAL PROTECTION AGENCY

Environmental radiation protection criteria and standards for radioactive wastes; workshop; Albuquerque, N. Mex., 4–12 through 4–14–77. 15433; 3–22–77

Stage II vapor recovery regulations and test procedures; San Francisco, Calif., hearing on 4–14–77..... 14124; 3–15–77

Water pollution; general pretreatment regulations, Boston, Mass. (open), 4–14–77..... 13843; 3–14–77

FEDERAL ENERGY ADMINISTRATION

Energy conservation program for appliances; test procedures for room air conditioners, Washington, D.C. (open with restrictions), 4–15–77.... 16811; 3–30–77

Energy Supply and Environmental Coordination Act of 1974, Washington, D.C., 4–13–77..... 15320; 3–21–77

Lower tier crude oil produced in Calif. and Alaska; reduction of entitlement obligation, Washington, D.C. (open), 4–14–77; San Francisco, Calif. (open), 4–15–77..... 15419; 3–22–77

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Office of the Secretary—

Protection of Human Subjects National Commission; Institutional Review Board performance, San Francisco, Calif., 4–15–77..... 15468; 3–22–77

[First published at 42 FR 6641; Feb. 3, 1977]

INTERNATIONAL TRADE COMMISSION

Fresh cut flowers, Coral Gables, Fla., 4–14–77..... 15474; 3–22–77

[First published at 42 FR 10347, Feb. 22, 1977]

LIBRARY OF CONGRESS

Copyright Office—

Compulsory License for cable systems; Arlington, Va. (open), 4–12 and 4–13–77..... 15431; 3–22–77

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

presidential documents

Title 3—The President

Memorandum of April 1, 1977

Decision on Non-Rubber Footwear Under Section 202(b) of the Trade Act of 1974

Memorandum for the Special Representative for Trade Negotiations

THE WHITE HOUSE,
Washington, April 1, 1977.

Pursuant to section 202(b) of the Trade Act of 1974 (PL 93-618, 88 Stat. 1978), I have determined the action I will take with respect to the report of the U.S. International Trade Commission (USITC) dated February 8, 1977, concerning the results of its investigation on non-rubber footwear. This investigation was undertaken at the request of the Senate Finance Committee.

I have determined that the import relief remedy recommended by the USITC does not provide a balance among the various interests involved. Therefore, I am directing you to negotiate and conclude the necessary agreements with the appropriate foreign exporting countries to moderate the problems caused to our domestic footwear manufacturers, workers, and communities by rapid shifts in foreign exports of non-rubber footwear to the United States. This should be a short term program sufficient to allow the domestic industry to become more competitive.

In seeking these agreements you should remain mindful of the interests of American consumers and the difficult economic problems faced by a number of our trading partners, in particular the developing country suppliers with serious balance of payments deficits.

I am also asking the Secretaries of Commerce and Labor to work closely with you to ensure effective use of the resources available under existing law for the benefit of the shoe industry and the communities in which shoe plants are located.

In addition, I am ordering a full review of the Government's trade adjustment assistance program and will recommend to the Congress within the next 90 days any legislation which may be warranted. This will coincide with your negotiating effort, and in accordance with the law, I will present a program of relief to the Congress no later than 90 days from today.

This determination is to be published in the FEDERAL REGISTER.

Jimmy Carter

[FR Doc.77-10378 Filed 4-5-77;10:46 am]

EDITORIAL NOTE: The President's statement of Apr. 1, 1977, and his memorandum for the heads of certain departments and agencies, dated Apr. 1, 1977, on import relief for the non-rubber footwear industry, are printed in the Weekly Compilation of Presidential Documents (vol. 13, pp. 478 and 479).

rules and regulations

Title 7—Agriculture

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

[Orange Reg. 75, Amdt. 9; Grapefruit Reg. 77, Amdt. 7]

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

Amendment of Grade Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The amendment for Florida oranges lowers the minimum grade requirements applicable to domestic and export shipments of Murcott Honey oranges during the period April 1 through August 14, 1977. The amendment of the grapefruit regulation lowers the minimum grade requirements for domestic and export shipments of Florida pink seeded grapefruit during the same period. The amendments recognize the supplies of fruit remaining for fresh shipment and the quality of the crops and are designed to permit movement of available supplies of fruit consistent with the interests of producers and consumers.

EFFECTIVE DATE: April 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-3545.

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

(2) These amendments reflect the Department's appraisal of the current and prospective demand for Murcott Honey oranges and grapefruit by domestic and export market outlets. Less restrictive grade requirements for such fruit are consistent with the character of much of the fruit remaining for fresh shipment.

(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 these amendments until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information became available upon which these amendments are based and the time when these amendments must become effective in order to effectuate the declared policy of the act is insufficient; and these amendments relieve restrictions on the handling of Murcott Honey oranges and grapefruit grown in Florida.

Order. 1. The provisions of paragraphs (a)(7) and (b)(7) of § 905.564 (Orange Regulations 75; 41 FR 42177, 49474, 51029, 53007, 54917; 42 FR 5071, 8361, 9663, 10833) are revised to read as follows:

§ 905.564 Orange Regulation 75.

(a) * * *

(7) Any Murcott Honey oranges, grown in the production area, which do not grade at least Florida No. 1 Golden grade for Murcotts: *Provided,* That during the period April 1, 1977, through August 14, 1977, no handler shall ship any Murcott Honey oranges, grown in the production area, which do not grade at least U.S. No. 2 Russet;

* * * * *

(b) * * *

(7) Any Murcott Honey oranges, grown in the production area, which do not grade at least Florida No. 1 Golden grade for Murcotts: *Provided,* That during the period April 1, 1977, through August 14, 1977, no handler shall ship any Murcott Honey oranges, grown in the production area, which do not grade at least U.S. No. 2 Russet;

* * * * *

2. The provisions of § 905.565 (Grapefruit Regulation 77; 41 FR 42177, 49474, 51029, 54917; 42 FR 9663, 10833, 14865) are amended by revising paragraphs (a)(1) and (b)(1) as follows:

§ 905.565 Grapefruit Regulation 77.

(a) * * *

(1) Any seeded grapefruit, grown in the production area, which do not grade at least U.S. No. 1: *Provided,* That during the period April 1, 1977, through August 14, 1977, no handler shall ship any pink seeded grapefruit, grown in the production area, which do not grade at least Improved No. 2 Russet;

* * * * *

(b) * * *

(1) Any seeded grapefruit, grown in the production area, which do not grade at least U.S. No. 1: *Provided,* That during the period April 1, 1977, through August 14, 1977, no handler shall ship any pink seeded grapefruit, grown in the production area, which do not grade at least Improved No. 2 Russet;

* * * * *

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

Dated, April 1, 1977, to become effective April 1, 1977.

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

[FR Doc.77-10180 Filed 4-5-77;8:45 am]

[Grapefruit Reg. 17, Amdt. 5]

PART 944—FRUITS; IMPORT REGULATIONS

Minimum Grade Requirements for Imports of Pink Seeded Grapefruit

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment lowers the minimum grade requirement applicable to imported pink seeded grapefruit from U.S. No. 1 to Improved No. 2 Russet grade to coincide with such requirements being made effective on Florida grapefruit.

EFFECTIVE DATE: April 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250; telephone (202) 447-3545.

SUPPLEMENTARY INFORMATION: This amendment is consistent "with section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This section requires that whenever specified commodities, including grapefruit, are regulated under a federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity. This amendment fixes the same minimum grade requirement on imported pink seeded grapefruit as is effective under Marketing Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida.

Order. In § 944.113 (Grapefruit Regulation 17; 41 FR 42181, 49109; 42 FR 9664, 10835, 14867) the provisions of paragraph (a) are revised to read as follows:

§ 944.113 Grapefruit Regulation 17.

(a) * * *

(1) Seeded grapefruit shall grade at least U.S. No. 1: *Provided*, That during the period April 1, 1977, through August 14, 1977, pink seeded grapefruit shall grade at least Improved No. 2 Russet;

* * * * *

It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective time of this amendment beyond that hereinafter specified (5 U.S.C. 553) in that (a) the requirements of this amended import regulation are imposed pursuant to Section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), which makes such regulation mandatory; (b) this amendment fixes the same requirements for imports of pink seeded grapefruit as are applicable under amended Grapefruit Regulation 77 (§ 905.565) to the shipment of pink seeded grapefruit grown in Florida; and (c) this amendment lowers the minimum grade requirement applicable to imported pink seeded grapefruit.

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

Dated April 1, 1977, to become effective April 1, 1977.

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

[FR Doc.77-10181 Filed 4-5-77;8:45 am]

Title 20—Employee's Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Reg. No. 4]

PART 404—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

Subpart J—Procedures, Payment of Benefits, and Representation of Parties

Subpart O—Interrelationship of Old-Age, Survivors, and Disability Insurance Program With the Railroad Retirement Program

CATEGORIES OF CASES WHERE BENEFITS SHALL BE CERTIFIED TO THE RAILROAD RETIREMENT BOARD

On August 12, 1976, there was published in the FEDERAL REGISTER (41 FR 34060) a notice of proposed rulemaking with proposed amendments to Subparts J and O, Regulations No. 4 of the Social Security Administration. In these amendments, occasioned principally by enactment of the Railroad Retirement Act of 1974 (Pub. L. 93–445), a new § 404.1413 is added in which provisions are made for the certification of certain benefit payments to the Railroad Retirement Board for payment under section 205(i) of the Social Security Act. These provisions apply to an individual who first becomes entitled to benefits under title II of the Social Security Act after 1974, and has completed 10 years of service under the Railroad Retirement Acts of 1937 or of 1974; to the wife or husband of a worker who has completed 10 years of service under these Acts; to the survivor of such a worker if the survivor is entitled, or could upon application become entitled, to an annuity under section 2 of the Railroad Retirement Act of 1974; and to any other person entitled to benefits under section 202 of the Social Security Act on the basis of wages and self-employment income of such a worker (except a survivor of such a worker when the worker did not have a "current connection", as defined in section 1(o) of the Railroad Retirement Act of 1974 with the railroad industry at the time of his death). The amount of the benefits shall be certified to the Railroad Retirement Board for certification of payment to the Secretary of the Treasury together with any benefits payable under the Railroad Retirement Act of 1974 for payment in a single check. The amendments also revise §§ 404.968 and 404.968a to extend the expedited benefit payment procedure, provided under section 205(q) of the Social Security Act, to those benefit payments certified to the Railroad Retirement Board. The amendments revise and update § 404.1410 of the regulations to show the successive benefit bases as determined under section 230 of the Social Security Act, as amended by section 5 of Pub. L. 93–233, enacted December 31, 1973. Revisions have also been made to update cross-references because of enactment of the Railroad Retirement Act of 1974 which, in effect, replaces the Railroad Retirement Act of 1937. In addition, the amendments revise § 404.1412, regarding compensation quarters of coverage, to indicate that the granting of compensation quarters of coverage based on service and earnings will no longer be applicable for periods beginning January 1975, but may continue to be granted for prior periods. Interested persons were given the opportunity to submit, within 90 days, data, views, or arguments with regard to the proposed changes. Because the comment period has expired and no comments were received, the proposed amendments are hereby adopted with changes made only to correct typographical errors, as set forth below, and shall be effective April 6, 1977.

(Secs. 202(1), 205, and 1102 of the Social Security Act; 64 Stat. 482, as amended, 535 Stat. 1368, as amended, and 49 Stat. 647, as amended (42 U.S.C. 402(1), 405, and 1302).)

Effective date: The amendments shall be effective April 6, 1977.

(Catalog of Federal Domestic Assistance Programs Nos. 13.802, Social Security-Disability Insurance and 13.803-4, Social Security Retirement and Survivors Insurance.)

NOTE.—The Social Security 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.

Dated: December 29, 1976.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: March 31, 1977.

JOSEPH A. CALIFANO, JR.,
Secretary of Health, Education, and Welfare.

Part 404 of Chapter III, Title 20, of the Code of Federal Regulations is amended as follows:

1. Sections 404.968 and 404.968a(b) are amended to read as follows:

§ 404.968 Certification of payment.

Determination or decision providing for payment. When a determination or decision has been made under any provision of §§ 404.905 to 404.963, inclusive, to the effect that a payment or payments under title II of the Act should be made to any person, the Social Security Administration shall, except as hereafter provided, certify to the Managing Trustee of the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, as appropriate, the name and address of the person to be paid (see § 404.1601), the amount of the payment or payments from the appropriate Trust Fund, and the time at which such payment or payments should be made. (See also § 404.1413.)

§ 404.968a Expedited benefit payments.

* * * * *

(b) *Applicability of section.* (1) This section applies to monthly benefits payable under title II of the Act, including benefits payable under section 228, except as provided in subparagraph (2) of this paragraph; and to those cases to be certified by the Secretary to the Railroad Retirement Board to the same extent as it does to those cases to be certified by him to the Managing Trustee.

(2) This section does not apply:

* * * * *

2. Section 404.1401 is amended to read as follows:

§ 404.1401 General relationship of Railroad Retirement Act with the old-age, survivors, and disability insurance program of the Social Security Act.

The Railroad Retirement Act sets up a system of benefits for railroad employees, their dependents and survivors, and has been integrated with the Social Security Act to provide a coordinated system of retirement, survivor, dependent, and disability benefits payable on the basis of an individual's work in the railroad industry and in employement and self-employment covered by the Social Security Act. With respect to the coordination between the two programs, the Railroad Retirement Act distinguishes between "career" railroad workers and those individuals who may be considered "casual" railroad workers. The line of demarcation is generally 10 years of service in the railroad industry,

including service prior to 1937. The Railroad Retirement Act transfers to the old-age, survivors, and disability insurance system the compensation records of individuals who at the time of retirement, onset of disability, or death have less than 10 years of service in the railroad industry and meet certain other requirements. Any compensation paid to such individuals for such service after 1936 becomes wages under the Social Security Act (to the extent they do not exceed the annual wage limitations described in § 404.1027(a)). Whatever benefits are payable to them, their dependents, and their survivors are computed on the basis of the combined compensation and social security covered earnings creditable to the individuals' records. The compensation paid to individuals with 10 or more years of railroad service remain under the Railroad Retirement Act, but in certain circumstances, the compensation of such workers who die may be transferred to the old-age, survivors, and disability insurance program (see §§ 404.1402(b) and 404.1407). Under certain circumstances (see § 404.1413), certification of benefits payable under the provisions of the Social Security Act will be made to the Railroad Retirement Board. The Railroad Board will certify such benefits to the Secretary of the Treasury.

3. Section 404.1402 is amended to read as follows:

§ 404.1402 When services in the railroad industry are covered.

Services performed by an individual in the railroad industry which would, but for the provisions of this section, be excepted from "employment" by reason of § 404.1017 shall be considered to be included under "employment" as defined in section 210 of the Social Security Act in the following situations:

(a) For the purpose of determining entitlement to, or the amount of, any monthly benefits or lump-sum death payment on the basis of the wages and self-employment income of an individual where the years of service in the railroad industry are less than 10;

(b) For the purpose of determining entitlement to, or the amount of, any survivor monthly benefit or any lump-sum death payment on the basis of the wages and self-employment income of an individual whose years of service in the railroad industry were 10 or more but a "current connection", as defined in section 1(o) of the Railroad Retirement Act of 1974 (45 U.S.C. 228a), with the railroad industry did not exist at the time of death; (in such cases, survivor benefits are not payable under the Railroad Retirement Act);

(c) For the purpose of determining entitlement to a period of disability (see Subpart B of this part) on the basis of the wages and self-employment income of an individual; or

(d) For the purpose of applying the provisions of section 203 of the Act concerning deductions from benefits under the retirement test (see Subpart E of this part).

4. Paragraph (a) of § 404.1405 is amended to read as follows:

§ 404.1405 When the provisions of § 404.1402 do not apply.

(a) *Awards by the Railroad Retirement Board prior to October 30, 1951.* The provisions of § 404.1402(a) shall not apply with respect to the wages and self-employment income of an individual if, prior to October 30, 1951, the Railroad Retirement Board has awarded under the Railroad Retirement Act a retirement annuity to such individual or a survivor annuity with respect to the death of such individual and such retirement or survivor annuity, as the case may be, was payable at the time an application for benefits is filed under the Social Security Act on the basis of the wages and self-employment income of such individual. A pension payable under section 6 of the Railroad Retirement Act of 1937 as in effect prior to the Railroad Retirement Act of 1974, or an annuity paid in a lump sum equal to its commuted value under section 3(i) of the Railroad Retirement Act in effect prior to the Social Security Act of October 30, 1951, is not a "retirement or survivor annuity" for the purpose of this paragraph.

* * * * *

5. Section 404.1406 is amended to read as follows:

§ 404.1406 Eligibility to railroad retirement benefits as a bar to payment of social security benefits.

Notwithstanding the fact that, pursuant to the preceding provisions of this subpart, services rendered by an individual in the railroad industry are in employment, no lump-sum death payment or survivor monthly benefits shall be paid (except as provided in § 404.1407) under the regulations in this part on the basis of such individual's wages and self-employment income if any person, upon filing application therefor, would be entitled to an annuity under section 2 of the Railroad Retirement Act of 1974 or a lump-sum payment under section 6(b) of such Act with respect to the death of that individual; or for periods prior to 1975, would have been entitled to an annuity under section 5 or a lump-sum payment under section 5(f)(1) of the Railroad Retirement Act of 1937 with respect to the death of that individual.

6. Section 404.1407 is amended to read as follows:

§ 404.1407 When railroad retirement benefits do not bar payment of social security benefits.

The provisions of § 404.1406 shall not operate if:

(a) The survivor is, or upon filing application would be, entitled to a monthly benefit with respect to the death of an insured individual for a month prior to January 1947, if such monthly benefit is greater in amount than the survivor annuity payable to such survivor after 1946 under the Railroad Retirement Act; or

(b) The residual lump-sum payment provided by section 6(c) of the Railroad Retirement Act of 1974 (or section 5(f)(2) of the Railroad Retirement Act of 1937 prior to the 1974 Act) with respect to the death of an insured individual is paid by the Railroad Retirement Board pursuant to an irrevocable election filed with the Board by a widow, widower, or parent of such individual to waive all future annuities or benefits based on the combined record of earnings and compensation to which such widow, widower, or parent might become entitled, but only to the extent that widow's, widower's, or parent's benefits may be payable under the regulations of this part to such widow, widower, or parent, as the case may be, solely on the basis of the wages and self-employment income of such deceased individual and without regard to any compensation which may be treated as wages pursuant to § 404.1408.

7. Section 404.1408 is amended to read as follows:

§ 404.1408 Compensation to be treated as wages.

Where, pursuant to the preceding provisions of this subpart, services rendered by an individual in the railroad industry are considered to be in employment as defined in section 210 of the Social Security Act (see Subpart K of this part) any compensation (as defined in section 1(h) of the Railroad Retirement Act of 1974 or prior to the 1974 Act, section 1(h) of the Railroad Retirement Act of 1937) received by such individual for such services shall constitute wages provided that the provisions of § 404.1406 do not operate to bar the payment of benefits under title II of the Social Security Act; except that any compensation attributable as having been paid during any month on account of military service creditable under section 1 of the Railroad Retirement Act of 1974 (or section 4 of the Railroad Retirement Act of 1937 prior to the 1974 Act) shall not constitute wages for purposes of title II of the Social Security Act if, based on such military service, wages are deemed to have been paid to such individual during such month under the provisions described in § 404.1308 or § 404.1309.

8. Section 404.1410 is amended to read as follows:

§ 404.1410 Presumptions on basis of certified compensation record.

(a) *Years prior to 1975.* Where the Railroad Retirement Board certifies to the Social Security Administration a report of record of compensation, which is treated as wages under § 404.1408, and periods of service which do not identify the months or quarters in which such compensation was paid, the sum of the compensation quarters of coverage (see § 404.1412) will be presumed, in the absence of evidence to the contrary, to represent an equivalent number of quarters of coverage (see §§ 404.103 and 404.104). No more than four quarters of coverage shall be credited to an individual in a single calendar year.

(b) *Years after 1974.* Compensation paid in a calendar year will, in the absence of evidence to the contrary, be presumed to have been paid in equal proportions with respect to all months in the year in which the employee will have been in railroad service. (For years prior to 1975, see § 404.1412.)

(c) *Allocation of compensation to months of service.* If by means of the presumptions in this section an individual does not have an insured status (see Subpart B of this part) on the basis of quarters of coverage with which he is credited, or a deceased individual's primary insurance amount (see § 404.201) may be affected because he attained age 22 after 1936, the Administration may request the Railroad Retirement Board to furnish a report of the months in which such individual rendered service for compensation which is treated as wages under § 404.1408 if it appears the identification of such months may result in an insured status or if it will affect such primary insurance amount.

(d) *Effect of self-employment income and maximum earnings.* However, if such individual also had self-employment income for a taxable year and the sum of such income and wages (including compensation which is treated as wages under § 404.1408) paid to or received by him during such taxable year equals the following amounts, each calendar quarter any part of which falls in such taxable year, shall be a quarter of coverage:

(1) After 1950 and prior to 1955, equals $3,600 of remuneration;

(2) After 1954 and prior to 1959, equals $4,200 of remuneration;

(3) After 1958 and prior to 1966, equals $4,800 of remuneration;

(4) After 1965 and prior to 1968, equals $6,600 of remuneration;

(5) After 1967 and beginning prior to 1972, equals $7,800 of remuneration (including a fiscal year which began in 1971 and ended in 1972);

(6) Beginning after 1971 and prior to 1973, equals $9,000 of remuneration;

(7) Beginning after 1972 and prior to 1974, equals $10,800 of remuneration;

(8) Beginning after 1973 and prior to 1975, equals $13,200 of remuneration;

(9) Beginning after 1974 and prior to 1976, equals $14,100 of remuneration;

(10) Beginning after 1975 and prior to 1977, equals $15,300 of remuneration; or

(11) Beginning after 1976, an amount equal to the contribution and benefit base as determined under Section 230 of the Social Security Act which is effective for such calendar year.

This subsection is an exception to the rule in paragraph (a) of this section concerning a presumption applicable to conversion of railroad compensation into quarters of coverage for years prior to 1975.

§ 404.1411 [Removed]

9. Section 404.1411 is deleted.

10. Section 404.1412 is revised to read as follows:

§ 404.1412 Compensation quarters of coverage.

As used in this subpart, a compensation quarter of coverage is any quarter of coverage computed with respect to compensation paid to an individual for railroad employment after 1936 and prior to 1975 in accordance with the provisions for determining such quarters of coverage as contained in section 5(I)(4) of the Railroad Retirement Act of 1937. (For years beginning 1975, see § 404.1410(b)).

11. A new § 404.1413 is added to read as follows:

§ 404.1413 Certification of payment to Railroad Retirement Board.

Certification of benefits shall be made to the Railroad Retirement Board upon final decision of the Secretary of Health, Education, and Welfare that any person is entitled to any payment or payments under title II and that certification shall include the name and address of the person so entitled to receive such payment or payments, the amount of such payment or payments, and the time at which such payment or payments should be made which shall provide for payment on behalf of the Managing Trustee if:

(a) The claimant will have completed 10 years of service under the Railroad Retirement Act of 1937, the Railroad Retirement Act of 1974, or any combination of service under such Acts; or

(b) The claimant is the wife or husband of an individual who has completed 10 years of service under the Railroad Retirement Act of 1937, the Railroad Retirement Act of 1974, or any combination of service under such Acts; or

(c) The claimant is the survivor of an individual who had completed 10 years of service under the Railroad Retirement Act of 1937, the Railroad Retirement Act of 1974, or any combination of service under such Acts, if such survivor is entitled, or could upon application be entitled to an annuity under section 2 of the Railroad Retirement Act of 1974; or

(d) The claimant is entitled to benefits under section 202 of the Social Security Act on the basis of the wages and self-employment income of an individual who has 10 years of railroad service (except a survivor of such individual if such individual did not have a "current connection", as defined in section 1(o) of the Railroad Retirement Act of 1974 (45 U.S.C. 228a) with the railroad industry at the time of his death).

The applicability limitations identified in paragraphs (a) through (d) of this section affects any claimant who first becomes entitled to benefits under title II of the Social Security Act after 1974. (See also § 404.968.)

[FR Doc.77-10135 Filed 4-5-77;8:45 am]

[Regs. No. 5, further amended]

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Criteria for Determination of Reasonable Charges; Reimbursement for Services of Hospital Interns, Residents, and Supervising Physicians

In the matter of provision to prevent reduction of prevailing charges below Fiscal Year 1975 levels as a result of application of the Economic Index Limitation and to continue the period July 1 through June 30, in lieu of the Federal Fiscal Year, for the purpose of determining medicare reasonable charges.

On June 7, 1976, there was published in the FEDERAL REGISTER (41 FR 22835), a notice of proposed rulemaking with a proposed amendment to Subpart E of Regulations No. 5 (20 CFR Part 405). This amendment implements the statutory mandate contained in section 101 of Pub. L. 94-182 (known as the "no-rollback provision"), which provides that prevailing charge levels for physicians' services for fiscal year 1976 may not, as a result of the application of economic index data, be reduced below fiscal year 1975 levels. It further provides that if the amount paid on any claim previously processed by a carrier is at least $1 less than the amount that is due pursuant to the new legislation, the difference between the amount previously paid and the amount due shall be paid by the carrier within 6 months after December 31, 1975, the date of enactment of Pub. L. 94-182. However, payment shall not be made on any claim where the amount due is less than $1. (Medicare carriers have already been instructed to make the necessary payments in accordance with the above statutory provisions.) In the notice of proposed rulemaking published on June 7, 1976, interested parties were given 30 days in which to submit written comments or suggestions. The single substantive comment which was received suggested that the no-rollback provision erodes the cost containment function of the economic index limitation on increases in prevailing charges.

However, the no-rollback provision was enacted to remove the unintended rollback of prevailing charges below fiscal year 1975 levels due to the initial application of the economic index. In any case, this provision is mandated by law (Pub. L. 94-182 and Pub. L. 94-368) and must, therefore, be implemented.

Since the publication of notice of proposed rulemaking, Pub. L. 94-368 was enacted on July 16, 1976, and mandated the following changes:

1. Section 2—the no-rollback provision is made permanent. This is reflected by the revisions made in § 405.504(a)(3)(ii); and

2. Section 3—where appropriate, references in section 1842(b)(3) of the Social Security Act to the fiscal year are amended to refer to the 12-month period beginning July 1 of each year. This is reflected by the revisions made in §§ 405.504(a)(2) and (a)(3). Section 4 of Pub. L. 94-368 provides that the amendments made by sections 2 and 3 of that law shall be effective with respect to periods beginning after June 30, 1976; except that, for the 12-month period beginning July 1, 1976, the amendments made by section 3 shall be applicable with respect to claims filed with a carrier and processed by such carrier after the appropriate changes were made pursuant to such section 3 in the prevailing charge levels for that 12-month period.

The Secretary finds that another notice of proposed rulemaking is unnecessary for these amendments to regulations since Pub. L. 94-368 merely (1) makes permanent the no-rollback provision of Pub. L. 94-182 which was al-

ready published in a notice of proposed rulemaking and (2) requires certain editorial changes in the regulatory language. Although notice of proposed rulemaking is being dispensed with, consideration will be given to any data, views, or arguments pertaining thereto which are submitted to the Commissioner on or before May 23, 1977. With the changes noted above, the amendments as set forth below are hereby adopted.

For further information contact Paul Riesel, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone 594–9595. Mr. Riesel will respond to questions but any comments must be submitted in writing.

(Secs. 1102, 1842(b)(3), as amended and 1871 of the Social Security Act, 49 Stat. 647, as amended; 79 Stat. 309, as amended, 79 Stat. 331; (42 U.S.C. 1302, 1395u(b)(3), as amended, and 1395hh).)

(Catalog of Federal Domestic Assistance Program No. 13.801, Health Insurance for the Aged—Supplementary Medical Insurance.)

Effective date: The amendments to the regulations, as set forth below, will be effective May 6, 1977.

NOTE.—The Social Security 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.

Dated: February 28, 1977.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: March 31, 1977.

JOSEPH A. CALIFANO, JR.,
Secretary of Health, Education, and Welfare.

Part 405 of Chapter III of Title 20 of the Code of Federal Regulations is amended by amending § 405.5041(a) as follows:

§ 405.504 Determining prevailing charges.

(a) * * *

(2) With respect to claims received by carriers on and after January 1, 1971, no charge may be determined to be reasonable if it exceeds the higher of: (i) The prevailing charge that, on the basis of statistical data and methodology acceptable to the Secretary, would cover 75 percent of the customary charges made for similar services in the same locality during the calendar year preceding the start of the 12-month period (beginning July 1 of each year) in which the claim is submitted or the request for payment is made; or (ii) The prevailing charge for similar services in the same locality in effect on December 31, 1970, provided such prevailing charge had been found acceptable by the Secretary.

(3) (i) In the case of physicians' services, each prevailing charge in each locality may not exceed the prevailing charge determined for the fiscal year ending June 30, 1973 (without reference to the adjustments made pursuant to the economic stabilization program then in effect), except on the basis of appropriate economic index data which demonstrate that such higher prevailing charge is justified by: (A) Changes in general earnings levels of workers that are attributable to factors other than increases in their productivity; and (B) changes in expenses of the kind incurred by physicians in office practice. The office-expense component and the earnings component of such index shall be given the relative weights shown in data on self-employed physicians' gross incomes.

EXAMPLE. The available data indicate the office-expense and earnings components of the index should be given relative weights of 40 percent and 60 percent, respectively, and it is calculated that the aggregate increase in expenses of practice for a particular calendar year was 3 percent over the expenses of practice for calendar year 1971 and the increase in earnings (less increases in workers' productivity) was 5 percent over the earnings for calendar year 1971. The allowable increase in any prevailing charge that could be recognized during the next 12-month period (beginning on July 1) would be 4.2 percent $((.40\times3)+(.60\times5)=4.2)$ above the prevailing charge recognized for fiscal year 1973.

(ii) (A) If the increase in the prevailing charge in a locality for a particular physician service resulting from an aggregate increase in customary charges for that service does not exceed the index determined under paragraph (a)(3)(i) of this section, the increase is permitted and any portion of the allowable increase not used is carried forward and is a basis for justifying increases in that prevailing charge in the future. However, if the increase in the prevailing charge exceeds the allowable increase, the increase will be reduced to the allowable amount. Further increases will be justified only to the degree that they do not exceed further rises in the economic index. (B) Notwithstanding the provisions of paragraphs (a)(3)(i) and (a)(3)(ii)(A) of this section, the prevailing charge in the case of a physician service in a particular locality determined pursuant to paragraphs (a)(2) and (a)(3)(i) of this section for the fiscal year beginning July 1, 1975, and for subsequent 12-month periods beginning July 1 of each year, shall, if lower than the prevailing charge for the fiscal year ending June 30, 1975, by reason of the application of economic index data, be raised to such prevailing charge which was in effect for the fiscal year ending June 30, 1975. (If the amount paid on any claim processed by a carrier after the original reasonable charge update for the fiscal year beginning July 1, 1975, and prior to the adjustments required by the preceding sentence, was at least $1 less than the amount due pursuant to the preceding sentence, the difference between the amount previously paid and the amount due shall be paid within 6 months after December 31, 1975; however, no payment shall be made on any claim where the difference between the amount previously paid and the amount due is less than $1.)

* * * * *

[FR Doc.77-10136 Filed 4-5-77;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7478]

PART 7—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1976

Election to Amortize Certain Costs of Rehabilitating Certified Historic Structures

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides temporary regulations for electing to amortize certain rehabilitation expenditures for certified historic structures. Changes to the applicable tax law were made by the Tax Reform Act of 1976. These regulations affect all persons desiring to amortize rehabilitation expeditures and provide them with the guidance needed to comply with the law.

DATE: The regulations apply to elections for expenses incurred after June 14, 1976, and before June 15, 1981.

FOR FURTHER INFORMATION CONTACT:

H. B. Hartley of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention CC:LR:T), 202-566-3287.

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document provides temporary income tax regulations under section 191 of the Internal Revenue Code of 1954, as added by section 2124(a) of the Tax Reform Act of 1976 (the "Act") (Pub. L. 94-455; 90 Stat. 1916) to provide rules for electing to amortize certain rehabilitation expenditures for certified historic structures. The temporary regulations provided by this document will remain in effect until superseded by final regulations on this subject.

PROVISIONS OF THE REGULATIONS

Under section 191, every person may elect to amortize expenditures incurred in a certified rehabilitation of a certified historic structure over a 60-month period. By reason of section 2124(a)(4) of the Act, this election applies only to additions to capital account made after June 14, 1976, and before June 15, 1981.

The temporary regulations provide the mechanism for electing to amortize the qualified rehabilitation expenses. To elect, the taxpayer attaches a statement to its return for the taxable year in which falls the first month of the amortization period chosen pursuant to section 191(a).

The election may be made after a request has been made for, but prior to, certification of the project by the Department of the Interior. In such a case, proof of certification is to be submitted with the first income tax return filed by the taxpayer after receipt of such certification. If a certification is not submitted within 30 months of the commencement of the amortization period, the taxpayer may be asked to agree to an extension of time for assessment of additional tax for the period in which deductions are claimed.

Once made, the election may be discontinued by filing written notice with the Internal Revenue Service prior to the month in which amortization is to cease.

DRAFTING INFORMATION

The principal author of this regulation was H. B. Hartley 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.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly, the temporary Income Tax Regulations under the Tax Reform Act of 1976 are amended as set forth below:

§ 7.0 [Amended]

PARAGRAPH 1. Paragraph (a) of § 7.0 is amended by striking out the item relating to section 191 (b) of the Code.

PAR. 2. The following new section is added at the appropriate place:

§ 7.191–1 Election to amortize certain rehabilitation expenditures for certified historic structures.

(a) *Time and manner of election of amortization*—(1) *In general.* Under section 191 (b), an election by the taxpayer to claim an amortization deduction with respect to a certified historic structure shall be made by a statement to that effect attached to its return for the taxable year in which fall the first month of the 60-month amortization period selected. The 60-month amortization period shall begin either with the month following the month in which the amortizable basis, as defined by section 191 (d) (2), is acquired, or with the first month of the taxable year succeeding the taxable year in which such amortizable basis is acquired, whichever the taxpayer selects. If a taxpayer elects to begin the 60-month amortization period with the month following the month in which the amortizable basis is acquired, a separate 60-month amortization period will be established for the amortizable basis acquired by the taxpayer in any month for which such an election is made. The statement claiming the deduction shall include the following information:

(i) A description clearly identifying each certified rehabilitation of a certified historic structure for which an amortization deduction is claimed;

(ii) The date on which the amortizable basis, as defined in section 191(d)(2), was acquired;

(iii) The date the amortization period is to begin;

(iv) The total amount of amortizable basis claimed for the rehabilitation of the historic structure, as of the first month for which the amortization deduction provided for by section 191(a) is elected;

(v) Either (A) a statement that the historic structure and rehabilitation have been certified by the Secretary of the Interior as provided for in sections 191 (d)(1) and 191(d)(3) along with the dates of such certifications; or (B), if the historic structure and rehabilitation have not been certified by the Secretary of the Interior, a statement that requests for certification have been made in accordance with procedures established by such Secretary with the dates of such requests.

If paragraph (a)(1)(v)(B) of this section applies, the taxpayer shall submit a statement showing receipt of the certifications required by section 191 and their dates with its first income tax return filed after the receipt by the taxpayer of such certifications.

(2) *Failure to submit required certifications.* If the required certifications are not received within 30 months of the date of the commencement of the 60-month amortization period, the electing taxpayer may be requested to consent to an agreement under section 6501(c)(4) extending the period of assessment for any tax relating to the time in which amortization deductions are claimed.

(3) *Failure to elect as provided by this section.* No method of making the election provided for in section 191(a) other than that prescribed in this section shall be permitted. A taxpayer who does not elect in the manner prescribed in this section to take amortization deductions with respect to the rehabilitation of a certified historic structure shall not be entitled to such deductions.

(b) *Election to discontinue amortization.* An election to discontinue the amortization deduction provided by section 191 (c) shall be made by a statement filed with the district director, or with the director of the internal revenue service center, with whom the return of the taxpayer is required to be filed for its taxable year in which falls the first month for which the election terminates. This statement shall specify the month as of the beginning of which the taxpayer elects to discontinue the amortization deductions, and it must be filed before the beginning of that month. In addition, the statement shall contain a description clearly identifying the certified historic structure and rehabilitation with respect to which the taxpayer elects to discontinue the amortization deduction. If certifications of the structure or rehabilitation have been issued, their dates shall be shown. If, at the time of the election to discontinue amortization deductions, certifications have not been issued, the taxpayer shall file the dates with its next succeeding tax return after their receipt. For purposes of this paragraph, notification to the Secretary or his delegate from the Secretary of the Interior that the historic structure or the rehabilitation no longer meet the requirements for certification shall have the same effect as notice from the taxpayer electing to terminate amortization as of the first day of the month following the month that the structure or rehabilitation ceased to meet the requirements of section 191.

There is a need for immediate guidance with respect to the provisions in this Treasury decision. For this reason 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 (d) of that section.

(Secs. 191(b) and 7805, Internal Revenue Code of 1954 (90 Stat. 1916, 68A Stat. 917; 26 U.S.C. 191(b), 7805).)

WILLIAM E. WILLIAMS,
Acting Commissioner of Internal Revenue.

Approved: March 25, 1977.

LAURENCE N. WOODWORTH,
Assistant Secretary of the Treasury.

[FR Doc.77-10217 Filed 4-5-77;8:45 am]

Title 32—National Defense

CHAPTER VI—DEPARTMENT OF THE NAVY

PART 723—BOARD FOR CORRECTION OF NAVAL RECORDS

Miscellaneous Amendments

AGENCY: Board for Correction of Naval Records, Department of the Navy.

ACTION: Final Rule.

SUMMARY: This rule amends the procedures for the Board for Correction of Naval Records (Board). These amendments are adopted in accordance with a District Court approved settlement, and they are intended to provide more comprehensive guidance for the Board and for those who bring matters before it.

EFFECTIVE DATE: April 1, 1977.

ADDRESSES: Applications for correction of naval records, written comments, or any other correspondence with the Board should be addressed to:

Board for Correction of Naval Records, Department of the Navy, Washington, D.C. 20370.

All written comments received will be available for public inspection during normal business hours at the Law Library of the Office of the Judge Advocate General, room 2527, Navy Arlington Annex (Federal Office Building No. 2), Southgate Road and Columbia Pike, Arlington, Virgina.

FOR FURTHER INFORMATION CONTACT:

John E. Corcoran, Jr., Executive Secretary, Board for Correction of Naval Records, Department of the Navy,

Washington, D.C. 20370. (202) 694-1671

SUPPLEMENTARY INFORMATION: Under the authority of 10 U.S.C. 1552, the Secretary of the Navy amends 32 CFR Part 723. Part 723 is the codification of the Department of the Navy's "Procedures of the Board for Correction of Naval Records" (NAVSO P-473), which was established to review naval records pursuant to 10 U.S.C. 1552. These amendments reflect a revision of NAVSO P-473, which was adopted by the Secretary of the Navy on March 31, 1977, and was approved by the Secretary of Defense on March 31, 1977. These amendments include changes in procedures for handling requests for reconsideration by the Board [§ 723.3(e)(3), and new requirements that when an application or request for further consideration is denied, the applicant and his counsel shall be furnished a brief statement of the grounds for denial, including any advisory staff opinion considered by the Board and any minority opinion; that the applicant and his counsel be informed that the name and final vote of each Board member will be furnished or made available upon request; and that sanitized copies of the Board's findings, conclusions, and recommendations or statements of the grounds for denial of an application, together with the record of votes of Board members and required appendices, be promptly indexed and made available for public inspection and copying at a designated reading room in the Washington, D.C. metropolitan area (§723.3(e) (4) through (7)). The amendments also include changes in the description of record of proceedings (§ 723.6(c)) 7 adds a limited delegation of authority to the Board to take final action for the Secretary of the Navy in certain limited categories of cases (§ 723.6(e)); requires the Secretary to furnish reasons for his actions on Correction Board cases (§ 723.7); adds a list of the specific material which must be made available to the applicant and his counsel following the Board's determination (§ 723.8); eliminates the requirement of semiannual reports from the Chairman of the Board concerning claims paid during the period covered by the report (§ 723.10); and adds the requirement that decisional documents be indexed and made available for public inspection and copying and describes the index to be prepared (§ 723.11). These substantive changes to the procedures for the Board are required under a stipulation of dismissal approved by the U.S. District Court for the District of Columbia on January 31, 1977. The amendments also contain a number of minor, typographical changes.

Since the changes to the "Procedures of the Board for Correction of Naval Records" (NAVSO P-473), upon which these amendments to Part 723 are based, are required by a District Court stipulation of dismissal, it has been determined by the Department of the Navy that invitation of public comment on these amendments prior to adoption would be unnecessary and impracticable, and is therefore not required under the public rule-making provisions in Parts 296 and 701 of 32 CFR. However, interested persons are invited, on a continuing basis, to comment in writing on these amendments and any other provisions contained in Part 723. All written material received will be considered before taking action on any future amendments or revisions to this part or the regulations upon which it is based, and they may be changed in light of comments received.

Accordingly, Part 723 of 32 CFR is amended as follows:

1. Section 723.2 is amended by revising paragraph (b) as follows:

§ 723.2 Establishment, function, and jurisdiction of the Board.

* * * * *

(b) *Function.* The function of the Board is to consider all applications properly before it for the purpose of determining the existence of an error or an injustice, and, when appropriate, to make recommendations to the Secretary.

* * * * *

§ 723.3 [Amended]

2. In paragraph (a)(1) of § 723.3, seventh line, the words, "Naval Records, Washington" are changed to "Naval Records, Department of the Navy, Washington."

3. In paragraph (a)(2) of § 723.3, 11th line, the word "sec." is changed to "Secs.".

4. Section 723.3 is further amended by revising paragraph (e)(3), and adding paragraphs (e)(4), (e)(5), (e)(6), and (e)(7), which provide as follows:

(e) * * *

(3) All requests for further consideration may be initially screened by the staff of the Board to determine whether any evidence or other matter (including, but not limited to, any factual allegations or any arguments why the relief should be granted) has been submitted by the applicant that was not in the record at the time of any prior Board consideration. If such evidence or other matter has been submitted, the request shall be forwarded to the Board for a determination in accordance with paragraph (e)(2) of this section. If no such evidence or other matter has been submitted, the applicant will be informed that his request was not considered by the Board because it did not contain any evidence or other matter that was not in the record at the time of any previous Board consideration.

(4) When an original application or a request for further consideration of a previously denied application is denied without a hearing, the Board's determination shall be made in writing and include a brief statement of the grounds for denial.

(5) The brief statement of the grounds for denial shall include the reasons for the determination that relief should not be granted, including the applicant's claim of constitutional, statutory and/or regulatory violations that were rejected, together with all the essential facts upon which the denial is based, including, if applicable, factors required by regulation to be considered for determination of the character of and reasons for a discharge. Attached to the statement shall be any advisory staff opinion considered by the Board which is not fully set out in the statement, together with any minority opinion.

(6) The brief statement of the grounds for denial, together with all attachments, shall be furnished promptly to applicant and counsel, who shall also be informed that the name and final vote of each Board member will be furnished or made available upon request. Classified or privileged material contained in or attached to the statement of the grounds for denial may be deleted only if a written statement of the basis for the deletion is provided the applicant and counsel.

(7) Documents sent to each applicant in accordance with paragraph (e)(6) of this section, and § 723.8(d), and all other non-boiler-plate statements of findings and conclusions made on final determination of an application by the Board, the Secretary or his designee, together with the record of votes of Board members, and required appendices, will be promptly indexed and made available for public inspection and copying at a designated reading room in the Washington, D.C. metropolitan area. There will be deleted from such documents information which would be a clearly unwarranted invasion of personal privacy Privileged or classified material may be deleted only if a written statement of the basis for deletion is provided applicant and counsel.

5. Section 723.6 is revised as follows:

§ 723.6 Action by the Board.

(a) *Deliberations, findings, conclusions, and recommendations.* (1) Only members of the Board and its staff shall be present during the deliberations of the Board.

(2) Whenever, during the course of its review of the case, it appears to be Board's satisfaction that the facts have not been fully and fairly disclosed by the records or by the testimony and other evidence before the Board, the Board may require the applicant to obtain, or the Board may obtain, such further information as it may consider essential to a compete and impartial determination of the facts and issues.

(3) Following a hearing, or where the Board determines to recommend that the record be corrected without a hearing, the Board will make written findings, conclusions, and recommendations. If denial of relief is recommended following a hearing, such written findings and conclusions will include a statement of the grounds for denial as described in § 723.3(e)(5). The name and final vote of each Board member will be recorded. A majority vote of the members present on any matter before the Board will constitute the action of the Board and shall be so recorded.

(4) Where the Board deems it necessary to submit comments or recommendations to the Secretary of the Navy as to matters arising from but not directly

related to the issues of any case, such comments and recommendations shall be the subject of separate communication.

(b) *Minority report.* In case of a disagreement between members of the Board, a minority report may be submitted, either as to the findings, conclusions or recommendations or to all, including the reasons therefor.

(c) *Record of proceedings.* When the Board has completed its determination, a record thereof shall be prepared. Such record shall indicate whether or not a quorum was present, and the name and vote of each member present. The record shall include the application for relief, a transcript of any testimony, affidavits, papers and documents considered by the Board, briefs and written arguments, advisory opinions, if any, minority reports, if any, the findings, conclusions and recommendations of the Board, where appropriate, and all other papers, documents, and reports necessary to reflect a true and complete history of the proceedings. The record so prepared will be certified by the Chairman or his designee as being true and complete.

(d) *Withdrawal.* The Board may permit an applicant to withdraw his application without prejudice at any time before its proceedings are forwarded to the Secretary of the Navy.

(e) *Delegation of authority to correct certain military or naval records.* (1) The Board for Correction of Naval Records is authorized to take final action on behalf of the Secretary of the Navy, under 10 U.S.C. 1552, in approving the correction of military or naval records, provided

(i) The relief granted is completely in accord with that requested by the applicant, and

(ii) Such action has (A) been recommended by the proper naval authority; (B) is agreed to by the Board; and (C) falls into one of the following categories:

(*1*) Restoration of leave unduly charged to applicants.

(2) Promotion retroactively of applicants who would have been promoted during regular promotion cycles but were inadvertently or improperly excluded from consideration during such cycles; and adjustment of their pay accounts accordingly.

(3) Adjustment of enlisted grades and promotion of applicants to grades held immediately prior to reenlistment who were inadvertently or improperly reenlisted in a lower grade.

(*4*) Awards of basic allowance for subsistence, family separation allowance, dislocation allowance and travel allowance to applicants entitled thereto.

(*5*) Authorizing participation, declination, or modification of an election under the Retired Serviceman's Family Protection Plan and/or the Survivor Benefit Plan where failure to elect to participate, decline to participate, or to make an appropriate election was due to inadvertence, misunderstanding or through no fault of the service member.

(*6*) Placement in a temporary or permanent disability retired status, including appropriate percentage of disability, of applicants who were clearly physically unfit and were inadvertently or improperly separated.

(*7*) Award of variable reenlistment bonus, proficiency pay, enlistment and/or reenlistment bonus to applicants clearly entitled thereto.

(*8*) Change of home of record where upon entry on duty applicants erroneously reported other than actual home.

(*9*) Award of reserve participation credit in computation of years of satisfactory service where such service was improperly or erroneously credited.

(2) The Executive Secretary of the Board, after assuring compliance with the above conditions, will announce the final action on applications processed under this paragraph.

6. Section 723.7 is revised as follows:

§ 723.7 Action by the Secretary.

The record of proceedings of the Board, except in cases finalized by the Board under the authority delegated in paragraph (e) of § 723.6 or those denied by the Board without a hearing, will be forwarded to the Secretary of the Navy who will direct such action in each case as he determines to be appropriate, which may include the return of the record to the Board for further consideration when deemed necessary. Those cases returned for further consideration shall be accompanied by a brief statement setting out the reasons for such action and any specific instructions. If the Secretary's decision is to deny relief, such decision shall be in writing and, unless he expressly adopts in whole or in part the findings, conclusions and recommendation of the Board, shall include a brief statement of the grounds for denial. See paragraph (e) (5) of § 723.3.

7. Section 723.8 is amended by deleting paragraph (e), and revising paragraph (d) as follows:

§ 723.8 Staff action.

* * * * *

(d) Upon receipt of the record of proceedings after final action by the Secretary of the Navy, or by the Board acting under the authority contained in paragraph (e) of § 723.6, the Board shall communicate the decision to the applicant and counsel.

(1) If the recommendation of the Board was to deny relief or if the final decision of the Secretary or the Board was to deny relief, the following material will be made available to the applicant and counsel:

(i) A statement of the findings, conclusions, and recommendations made by the Board;

(ii) Any advisory staff opinions considered by the Board or the reviewing authority;

(iii) Any minority reports; and

(iv) Any material prepared by the Secretary of the Navy as required in § 723.7. Moreover, applicant and counsel shall also be informed that the name and final vote of each Board member will be furnished or made available upon request. To the extent that any of the above material consists of classified or otherwise privileged matters, deletions may be made only if a written statement of the basis therefor is provided the applicant and counsel.

(2) If the final decision was other than to deny relief, the applicant and counsel are entitled, upon request, to receive a copy of the Board's findings, conclusions and recommendations.

8. Section 723.10 is amended by revising paragraph (d) as follows:

§ 723.10 Settlement of claims.

* * * * *

(d) *Report of settlement.* In every case where payment is made, the amount of such payment and the names of the payee or payees shall be reported to the Chairman of the Board.

9. Section 723.11 is amended by adding a new paragraph (e) which provides as follows:

§ 723.11 Miscellaneous.

* * * * *

(e) *Indexing of decisions.* (1) Documents sent to each applicant and counsel in accordance with § 723.3(e)(6) and § 723.8(d), together with the record of the votes of board members and all other statements of findings, conclusions and recommendations made on final determination of an application by the Board or the Secretary of the Navy will be indexed and promptly made available for public inspection and copying at a reading room within the Washington, D.C. metropolitan area.

(2) The index prepared shall be in a usable and concise form so as to indicate the grounds for which the Board and/or Secretary granted or denied relief. This index shall be published quarterly and shall be distributed by sale or otherwise. In addition, it shall be available for inspection and distribution at the reading room in the Washington, D.C. area.

(3) To the extent necessary to prevent a clearly unwarranted invasion of personal privacy, identifying details of the applicant and other persons will be deleted from the documents made available for public inspection and copying. Names, addresses, social security numbers and military service numbers must be deleted. Deletions of other information which may result in a clearly unwarranted invasion of personal privacy or which is privileged or classified may be made only if a written statement of the basis for such deletion is made available for public inspection.

Dated: April 1, 1977.

K. D. LAWRENCE,
Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate, General (Administrative Law).

[FR Doc.77-10230 Filed 4-5-77;8:45 am]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 122—HEALTH SYSTEMS AGENCIES

Subpart C—Grants to Health Systems Agencies

On March 26, 1976, the Secretary published in the FEDERAL REGISTER (41 FR 12812–12834) regulations implementing that portion of Title XV of the Public Health Service Act that relates to entities designated as health systems agencies (42 CFR Part 122, Subpart C). Subsequently, on September 21, 1976, an amendment to these regulations was published (41 FR 41089–41090) which revised the provision of the regulations (§ 122.204(b)) relating to the formula for determining the funding for grants to conditionally designated health systems agencies. The purpose of this amendment is to set forth additional modifications of that provision.

Section 1516(b)(1) of the Act provides the Secretary with broad discretion in determining the amount of grants to be awarded to conditionally designated health systems agencies (HSAs). The formula used for the first award of grants to the health systems agencies, all of whom were designated conditionally, was computed using the statutory formula for fully designated agencies except that, instead of a minimum of $175,000 per agency per year provided in the Act for fully designated agencies, there were three minimum levels, each depending upon the population of the health service area served by the health systems agency. The basis for this approach, as summarized in the preamble to the regulations (41 FR 12823), was the Secretary's view that there is a minimum amount of funds required for all conditionally designated health systems agencies to perform their functions and that this minimum level increases as the population to be served increases. The approach was based also on the need to allocate available funds in the most equitable manner.

When the Second Supplemental Appropriation Act 1976 (Pub. L. 93–303), was signed by the President on June 1, 1976, an additional $12.5 million was made available for HSAs. The funds were intended by Congress to be used for urban, suburban and rural HSAs. The formula was revised by raising two of the three minimum levels so that rural HSAs would share the benefits of the increased appropriation with urban and suburban HSAs.

On September 30, 1976, the President signed the Appropriation Act for FY 1977 (Pub. L. 94–439), which made $97 million available to HSAs for their second year of funding, an addition of $32 million over last year's appropriation. The Senate Committee on Appropriations stated in its Report that the increased amount was specifically for HSAs to raise the per capita rate for 180 agencies and to provide a minimum of $175,000 for the remaining agencies.

The purpose of this amendment is to effecuate this Congressional intent by providing that both conditionally and fully designated agencies will be funded in accordance with the statutory formula, and that all agencies will receive at least $175,000 as long as funds are sufficient to provide $175,000 for all fully designated agencies.

The Secretary published in the FEDERAL REGISTER of August 17, 1976 (41 FR 34811–34812) a policy which requires the submission of a regulations development plan and the publication of a notice of intent for regulations which have a major program significance. Because of the technical nature of this amendment the Secretary has determined that a regulations development plan, notice of intent, and notice of proposed rulemaking are not necessary.

Because immediate action is necessary in order to provide the increased funds to health systems agencies that will be presently applying for renewals of their designation agreements so that their programs for assuming more functions can be properly implemented, the Secretary has concluded that notice, public participation, and delay in effective date with respect to the adoption of this amendment are impracticable and contrary to the public interest and has, therefore, found good cause for their omission.

Accordingly, 42 CFR Part 122 is amended by revising § 122.204(b) thereof as set out below.

For further information, contact Ms. Libby Merrill, Acting Director, Office of Policy Coordination, 301–443–1670.

Effective Date: This amendment shall be effective April 6, 1977.

The Department of Health, Education, and Welfare 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: March 1, 1977.

JAMES F. DICKSON,
Acting Assistant Secretary for Health.

Approved: March 28, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary.

§ 122.204 Grant award.

* * * * *

(b) The amount of any grant under the subpart shall be an amount determined by the Secretary in accordance with the formula set forth in section 1516(b) (1) and (2) of the Act, except that no such grant may be less than $175,000; *Provided*, That: (1) If the total of the amount so computed for any fiscal year exceeds the total of the amounts appropriated for such grants in such year, the amount of the grant for that fiscal year to each agency shall be the greater of:

(i) An amount which bears the same ratio to the amount so computed for that agency for that fiscal year as the total of the amounts appropriated for such grants for such fiscal year bears to the total of the amounts so computed, reduced by an amount necessary to assure that no grant will be less than $175,000, or

(ii) $175,000.

(2) If the amount appropriated for any fiscal year is less than the product of $175,000 times the number of conditionally and fully designated agencies, each fully designated agency shall receive $175,000 and each conditionally designated agency shall receive an equal share of the remainder of the funds appropriated.

(3) If the amount appropriated for any fiscal year is less than the product of $175,000 times the number of fully designated agencies, each fully designated agency shall receive an equal share of the funds appropriated.

* * * * *

[FR Doc.77-9961 Filed 4-5-77;8:45 am]

Title 45—Public Welfare

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

PART 115—ASSISTANCE FOR LOCAL EDUCATIONAL AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITIES AND ARRANGEMENTS FOR EDUCATION OF CHILDREN WHERE LOCAL EDUCATIONAL AGENCIES CANNOT PROVIDE SUITABLE FREE PUBLIC EDUCATION

Final Regulations for Treatment of Payments Under State Equalization Programs; Correction

The following corrections are made in the FEDERAL REGISTER document 77–8032 which was published on March 22, 1977, page 15547.

§ 115.62 General qualifying standard for State Aid programs.

General standard. For the purposes of section 5(d)(2) of the Act, the Commissioner will consider a program of State aid to be designed to equalize expenditures for free public education among local educational agencies in that State if the program—

(a) Is authorized by State law in effect for the fiscal year for which the determination under this subpart is made;

(b) Provides for the apportionment of State aid among local educational agencies in the State in order to carry out the objectives of the program;

(c) Provides that in determining the amount to be apportioned to each local educational agency in the State, the State will take into consideration the relative financial resources available to local educational agencies in that State for the program; and

(d) Meets the standard of either § 115.63, § 115.64 or § 115.65 of this subpart.

(20 U.S.C. 240(d)(2))

Dated: March 28, 1977.

WILLIAM F. PIERCE,
Acting U.S. Commissioner of Education.

[FR Doc.77-10231 Filed 4-5-77; 8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20977; RM-2733]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station in Sulphur Springs, Texas; Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: In response to a petition for rule making, filed by Mr. Galen O. Gilbert, the Commission adopts the Report and Order assigning Channel 240A to Sulphur Springs, Texas, as its first FM assignment.

DATE: Effective May 11, 1977.

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

FOR FURTHER INFORMATION CONTACT:

Victor D. Ines, Policy and Rules Division, Legal Branch, Broadcast Bureau, Federal Communications Commission, Washington, D.C. 20554. (202-632-7792).

Adopted: March 28, 1977.

Released: March 31, 1977.

1. The Commission herein considers the notice of proposed rulemaking, 41 FR 49658 (1976), in the above-captioned proceeding instituted in response to a petition filed by Mr. Galen O. Gilbert (petitioner). The Notice proposed the assignment of Channel 240A to Sulphur Springs, Texas, as its first FM assignment. Petitioner filed supporting comments in which he reaffirmed his intention to apply for the channel if assigned. No other comments were filed.

2. Sulphur Springs, Texas (pop. 10,642),[1] seat of Hopkins County (pop. 20,710), is located in northeast Texas, approximately 80 kilometers (50 miles) south of the Oklahoma state line and approximately 129 kilometers (80 miles) northeast of Dallas, Texas. Sulphur Springs currently has only one local broadcast facility, fulltime Class IV AM Station KSST, 1230 kHz, licensed to Hopkins County Broadcasting Company. The Notice proposed a first FM assignment.

3. After carefully considering items discussed in the Notice and petitioner's comments, the Commission has been persuaded that the public interest would be served by making the amendment proposed. Sulphur Springs appears to be a growing community at the center of its county's economic, social and governmental activities, and we believe the assignment will bring to the county and to Sulphur Springs, its seat, a needed first local FM service.

4. As pointed out in the Notice, petitioner's engineering affidavit had calculated the distance from Sulphur Springs to the co-channel KKTX transmitter in Kilgore, Texas, at approximately 106 kilometers (66 miles). Since a minimum distance of approximately 105 kilometers (65 miles) is required by § 73.207(a) of the Commission's rules, this close spacing situation requires care in the selection of a transmitter site which will meet this spacing requirement.

5. Accordingly, *it is ordered*, That effective May 11, 1977, the FM Table of Assignments [§ 73.202(b)] is amended with respect to the city listed below, as follows:

City	*Channel No.*
Sulphur Springs, Tex.	240A.

6. Authority for the action taken herein is contained in sections 4(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules and regulations.

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

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

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

[FR Doc.77-10184 Filed 4-5-77;8:45 am]

[Docket No. 20809; RM-2651]

PART 73—RADIO BROADCAST SERVICES

TV Broadcast Stations in Cheyenne, Oklahoma; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: TV Channel 12 is assigned to Cheyenne, Oklahoma, for noncommercial educational television service at the request of the Oklahoma Educational Television Authority. This assignment requires a change of carrier frequency offset for one existing station operating on the same channel.

DATE: Effective May 11, 1977.

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

FOR FURTHER INFORMATION CONTACT:

James J. Gross, Policy and Rules Division, Legal Branch, Broadcast Bureau, Federal Communications Commission, Washington, D.C. 20554, 202-632-7792.

Adopted: March 28, 1977.

Released: March 31, 1977.

By the Chief, Broadcast Bureau: 1. The Commission now considers the Notice of Proposed Rule Making, 41 FR 21366, adopted May 13, 1976, in response to a petition filed February 5, 1976, by the Oklahoma Educational Television Authority ("OETA"). The petition proposed the assignment of TV Channel 12 to Cheyenne, Oklahoma, and reservation of that channel for noncommercial educational use. Only the petitioner has commented in this proceeding, reaffirming its support for the proposal, and no reply comments were received.

2. OETA is the Oklahoma state agency responsible for providing educational television service to the residents of that state, and it is the licensee of noncommercial educational television Stations KETA-TV (Channel *13), Oklahoma City, and KOED-TV (Channel *11), Tulsa. OETA was granted a construction permit by the Commission on December 28, 1976, for a new station on Channel *3 at Eufaula, Oklahoma (BPET-544). Cheyenne (1970 pop. 892), the seat of Roger Mills County (1970 pop. 4,452), is located some 32 kilometers (20 miles) from the western border of Oklahoma, and OETA seeks an assignment there to supply educational television service to the western portion of the state.

3. The Notice indicated that the proposed assignment at OETA's suggested transmitter site 3.7 kilometers (2.3 miles) south of Cheyenne, would meet the Commission's minimum separation requirements and other technical criteria, if the carrier frequency offset of one station was changed. The Notice therefore contained a Show Cause Order to Bass Broadcasting Co., licensee of Station KFDW-TV, Clovis, New Mexico, proposing to modify its license specifying a change from Channel 12+ to Channel 12—, and requested a statement of OETA's willingness to reimburse this station. OETA stated in its comments that it is willing to do so and intends to reimburse KFDW-TV for all reasonable expenses that are incurred in modifying its offset. KFDW-TV did not file an objection to the Show Cause Order.

4. There being no objection, the Commission finds that the public interest would be served by adopting the OETA proposal to enable it to provide educational television service to a new segment of the state's population. Accordingly, *It is ordered*, That effective May 11, 1977, the Television Table of Assignments (§ 73.606(b) of the Commission's Rules) is amended, with respect to the cities listed below to read as follows:

City	*Channel No.*
Cheyenne, Oklahoma	*12+
Clovis, New Mexico	12—

5. *It is further ordered*, That effective May 11, 1977, and pursuant to Section 316 of the Communications Act of 1934, as amended, the following outstanding license is modified as follows: Bass Broadcasting Co., KFDW-TV, Clovis, New Mexico, Channel 12—, subject to the following conditions:

(a) The licensee shall inform the Commission in writing no later than May 11, 1977, specifying when they will be able to effectuate the change.

(b) The licensee may continue to operate under its present authorization for one year from the effective date of this *Order* or until 60 days after the grant of a construction permit on Channel *12+ at Cheyenne, Oklahoma, whichever is later, or effect the change

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

sooner if desired. The licensee should coordinate its efforts with the grantee at Cheyenne to minimize the possibilty of fringe area interference. The Commission should be informed of the progress and any problems faced in accomplishing the offset modification.

(c) The licensee shall not commence operation with the newly authorized frequency offset until the Commission specifically authorizes it to do so.

(d) Ten days after commencing operation with the newly authorized frequency offset, the licensee shall submit acceptable data indicating that the frequency tolerance of the visual and aural carriers is being maintained as required by § 73.668 of the Rules.

6. Authority for the action taken herein is found in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules.

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

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

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

[FR Doc.77-10185 Filed 4-5-77;8:45 am]

proposed rules

CIVIL AERONAUTICS BOARD

[14 CFR Parts 288, 399]

[EDR 321A/PSDR-46A Docket No. 29387; Dated: April 4, 1977]

EXEMPTION OF AIR CARRIERS FOR MILITARY TRANSPORTATION; STATEMENTS OF GENERAL POLICY

Minimum Rates; Supplemental Notice of Proposed Rulemaking

AGENCY: Civil Aeronautics Board.

ACTION: Supplemental Notice of Proposed Rulemaking.

SUMMARY: This notice extends for two weeks the filing dates for comments and reply comments in a rulemaking proceeding involving Military Airlift Command rates. This action was requested by World Airways, Inc.

DATES: Initial comments: April 21, 1977; Reply comments: May 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Simon J. Eilenberg, Rules Division, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, 202-673-5442.

SUPPLEMENTARY INFORMATION: By Notice of Proposed Rulemaking EDR-321/PSDR-46, 42 FR 15336, March 21, 1976, the Civil Aeronautics Board gave notice that it had under consideration amendments to Part 288 and 399 of its regulations (14 CFR Parts 288 and 399) concerning air transportation services performed for the Department of Defense and procured by the Military Airlift Command (MAC).

By letter dated April 1, 1977, counsel for World Airways, Inc. (World) has requested an extension of two weeks for the filing of comments and reply comments in response to EDR-321/PSDR-46. In support of his request World's counsel stated that, due to the complexity of the ratemaking proposals contained in the Notice, World and several other MAC carriers will not be able to complete their analyses of the proposals in time to comply with the due dates for filing comments. It was further stated that all known interested parties in the proceeding have been apprised of the request for extension and have no objection to it.

Upon consideration of the foregoing the undersigned finds that good cause has been shown for the granting of the requested extension. No previous extension of time has been granted in this proceeding and it does not appear that an extension of two weeks in the dates for filing comments and reply comments will prejudice any party to this proceeding.

Accordingly, pursuant to authority delegated in § 385.20(d) of the Board's Organization Regulations (14 CFR 385.20(d)) the undersigned hereby extends the time for filing comments to April 21, 1977 and the time for filing reply comments to May 6, 1977.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324.)

SIMON J. EILENBERG,
Associate General Counsel,
Rules Division.

[FR Doc.77-10356 Filed 4-5-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 115]

SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS

Proposed Rulemaking; Correction

The following correction is made in the FEDERAL REGISTER document 77-8031 published on March 22, 1977 on page 15541.

§ 115.62 General qualifying standard for State aid programs.

* * * * *

General standard. * * *

(d) Meets the standards of §§ 115.63, 115.64 or 115.65 of this subpart.

* * * * *

Dated: March 28, 1977.

WILLIAM F. PIERCE,
Acting U.S. Commissioner
of Education.

[FR Doc.77-10232 Filed 4-5-77;8:45 am]

[45 CFR Part 189]

VETERANS' COST-OF-INSTRUCTION PAYMENTS TO INSTITUTIONS OF HIGHER EDUCATION

Proposed Rulemaking

Pursuant to the authority contained in section 420 of the Higher Education Act of 1965, as amended (20 U.S.C. 1070e-1), notice is hereby given that the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, and the Administrator of Veterans' Affairs propose to amend Part 189 of Title 45 of the Code of Federal Regulations to read as set forth below. Part 189 covers the Veterans' Cost-of-Instruction Program (VCIP).

1. Section 420 of the Higher Education Act of 1965 was recently amended by section 126 of the Education Amendments of 1976 (Pub. L. 94-482) to provide that the outreach efforts required of institutions participating in VCIP place a special emphasis on educationally disadvantaged veterans. The Commissioner and the Administrator therefore propose to amend §§ 189.11(b), 189.13(b) and 189.16(b)(1) to incorporate this new statutory requirement.

2. Section 420 of the Higher Education Act of 1965 was further amended to provide that the outreach, recruiting and counseling activities currently required of participating institutions through the use of funds available under federally assisted work-study programs place a special emphasis on the veteran student services program conducted under section 1685 of Title 38 of the United States Code. Accordingly, it is proposed to further amend § 189.13(b) to reflect this additional new statutory requirement.

3. The Commissioner and the Administrator propose to amend §§ 189.14 and 189.21(b)(9) to delete the present requirement that a participating institution have less than 70 undergraduate veteran students in order to qualify for an exemption from the need to comply with all the requirements contained in §§ 189.12 and 189.13. The present cut-off of 70 undergraduate veteran students is not required by statute. Program experience suggests that relaxation of this eligibility standard would make the most dollar efficient use of VCIP awards to institutions with a total enrollment of less than 2,500 students. Currently these institutions which have more than 70 veteran students in attendance are receiving an award that is too small to enable them adequately to carry out all of the requirements imposed by §§ 189.12 and 189.13. It should be noted, however, that the requirement that an institution have less than 2,500 students in order to qualify is one imposed by statute and may not be relaxed by regulation.

Currently, an institution qualifying for the exemption provided in § 189.14 must provide a full-time office of veterans' affairs (which may be staffed by part-time employees who assume the equivalent responsibility of at least one full-time employee) and must carry out the recruitment and counseling activities required by § 189.13(b). A qualifying institution need not, however, carry out the education programs required by § 189.13 (a) and (c), or the outreach activities required by § 189.13(b). Current § 189.14 does not make immediately clear to the reader what the responsibilities of a qualifying institution are. It is therefore proposed to further amend § 189.14 to clarify what is required of institutions which qualify under § 189.14. The requirements themselves are not changed by this proposed amendment.

4. The Commissioner and the Administrator further propose to amend § 189.16(a)(2) to clarify that sound program management by participating institutions is required in order to ensure the delivery of program services to eligible veterans. Current § 189.16(a)(2) is not clear in this regard.

Interested persons are invited to submit written comments and recommendations regarding the proposed regulations to Robert L. Martinez, Veterans' Programs Branch, Division of Student Services and Veterans' Programs, Bureau of Postsecondary Education, U.S. Office of Education, Room 4613, 400 Maryland Avenue SW., Washington, D.C. 20201. Hand delivered comments may be delivered to Room 4613, Regional Office Building No. 3, 7th and D Streets SW., Washington, D.C. Responses to this notice may be inspected by the public at the above office in Regional Office Building No. 3 Monday through Friday between 8:30 a.m. and 4:00 p.m. All comments and suggestions received on or before May 23, 1977, will be considered.

In consideration of the foregoing, it is proposed to amend Part 189 of 45 CFR Chapter I as set forth below.

NOTE: The Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order No. 11821 and OMB Circular A-107.

Dated: February 9, 1977.

WILLIAM F. PIERCE,
Acting U.S. Commissioner of Education.

Approved: February 28, 1977.

A. J. SCHULTZ, Jr.,
Associate Deputy Administrator of Veterans' Affairs.

Approved: March 31, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

(Catalog of Federal Domestic Assistance No. 13.540, Higher Education—Veterans' Cost-of-Instruction Program (VCIP).

1. Section 189.11(b) is amended to read as follows:

§ 189.11 Special definitions.

* * * * *

(b) "Outreach" means an extensive, coordinated, community-wide program of reaching veterans, with special emphasis on educationally disadvantaged veterans, within the institution's normal service area, determining their needs, and making appropriate referral and follow-up arrangements with relevant service agencies.

* * * * *

2. Section 189.13(b) is amended to read as follows:

§ 189.13 Related veterans' services.

* * * * *

(b) Active outreach (which places special emphasis on educationally disadvantaged veterans), recruiting, and counseling activities through the use of other funds such as those available under federally assisted work-study programs, with special emphasis on the veteran-student services program under section 1685 of title 38 of the United States Code; and

* * * * *

3. Section 189.14 is amended to read as follows:

§ 189.14 Institutions with small numbers of students.

An institution with less than 2,500 students in attendance on April 16 (or, where such date falls between academic terms of the institution, the end of the previous academic term) of an academic year during which assistance under this part is sought need provide the services described in § 189.12 only to the extent of maintaining a full time office of veterans' affairs which provides the services required by § 189.13(b) in the areas of recruitment and counseling, but which need not provide the other services described in § 189.13.

4. Section 189.16 (a)(2) and (b)(1) are revised to read as follows:

§ 189.16 Criteria for assessing adequacy of veterans' programs.

* * * * *

(a)(2) The implementation of a mechanism which adequately identifies the number of veterans assisted and the types of services and programs provided to veterans enrolled at the institution.

* * * * *

(a) * * *

(1) Contact with veterans, especially educationally disadvantaged veterans, in the institution's normal service area;

* * * * *

5. Section 189.21(b)(9) is revised to read as follows:

§ 189.21 Submission of application by individual institutions.

* * * * *

(b) * * *

(9) If the institution is seeking a waiver of any of the required activities specified in §§ 189.12 and 189.13 pursuant to § 189.14, information necessary to show that it has less than 2,500 students in attendence on April 16 (or, where such date falls between academic terms of the institution, the end of the previous academic term) of the academic year during which assistance under this part is sought.

[FR Doc.77-1031 Filed 4-5-77;8:45 am]

[45 CFR Part 198]

HIGHER EDUCATION PERSONNEL TRAINING PROGRAM

Proposed Rulemaking

Under the authority contained in section 533 of the Higher Education Act of 1965 (HEA) as enacted by section 153 of Pub. L. 94-482 (20 U.S.C. 1119a-1), the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, proposes to amend Title 45 of the Code of Federal Regulations by adding a new Part 198. In this document the Commissioner proposes, for public comment, regulations concerning the "Higher Education Personnel Training Program," enacted as a part of the Education Amendments of 1976.

The proposed regulations set forth rules and criteria governing grant awards by the Commissioner to institutions of higher education, (1) to assist them in providing specialized training designed to increase the number of professors, administrators, and other personnel serving in institutions of higher education who are from certain disadvantaged backgrounds (Sec. 533(a)(1)(A) of HEA), (2) to prepare persons in institutions of higher education to assist students from such backgrounds (Sec. 533(a)(1)(B) of HEA), and (3) to meet changing personnel needs in institutions of higher education (Sec. 533(a)(2) of HEA). The proposed regulations would apply to all grant awards made with funds appropriated to carry out the "Higher Education Personnel Training Program," section 533 of the Higher Education Act of 1965, as amended.

Reference to "Sec." in the citations of authority following provisions of the proposed regulations refers to sections of the Higher Education Act of 1965. If the citation uses the word "Interprets," the regulation provisions include an interpretation of the cited statutory provision. If the citation uses the word "Implements," the regulation provisions include rules deemed necessary to implement the statute.

I. *Resolution of issues.* The proposed regulations reflect an effort to regulate as little as possible, and do not focus the program on specific training or activities. This permits institutions of higher education maximum flexibility to design programs to meet their own needs. The proposed projects will be competitively judged on the basis of need and quality, as measured by the evaluation criteria set forth in the regulations. The Commissioner particularly seeks comments concerning the following points where regulatory decisions are proposed. In each case the reason for the decision is given.

(a) *Changing personnel needs; national priorities.* Section 533(a)(2) of the Higher Education Act (20 U.S.C. 1119a-1(a)(2)) authorizes training of higher education personnel "* * * to meet the changing personnel needs, such as in areas determined to be national priority areas pursuant to section 532 of this title." The reference to section 532 originated in an earlier version of the amendments to Title V of the Higher Education Act contained in Senate bill 2657. In the Senate bill, the Teacher Centers Program was designated section 531, and section 532 provided for a continuing survey of institutions of higher education and local educational agencies to determine the demand for and availability of qualified teacher and administrative personnel. In the final version of the legislation, the survey dealing with priority areas of need was made an amendment to section 406 (b) of the General Education Provisions Act (GEPA), and the Teacher Centers Program became section 532. The continued reference to section 532 with re-

spect to national priorities in the enacted law is an oversight by the Congress and is treated in this proposed regulation as a reference to section 406(b) of GEPA. Steps are being taken to secure a technical amendment to correct the statutory reference.

Pending completion of the priority personnel needs survey under section 406(b) of GEPA, the Commissioner is not identifying priorities for these projects. Section 198.6 identifies two examples of changing personnel needs and allows applicants to identify and document other categories of personnel needs. The examples described in subparagraphs (1) and (2) of § 198.5(a) relate to the need for personnel from disadvantaged backgrounds and personnel with professional-level bilingual capabilities. An official publication, "Annual Evaluation Report on Programs Administered by the U.S. Office of Education—FY 1975," declares (p. 6) that "* * * the largest Federal thrust over the last ten years has been the attempt to redress inequalities in educational opportunity * * *" and (p. 44) that, in the field of bilingual education, there is "* * * a severe shortage of trained teachers." The shortage of teachers with professional training which enables them to teach through a language other than English is further demonstrated by recent amendments to the Bilingual Education Act and to the Vocational Education Act.

(b) *Limitation to graduate study.* Proposed § 198.3 (a) and (m) limits eligibility for training to persons who are studying at the post-baccalaureate level and preparing to serve in institutions of higher education. Since any school child with an ambition for college teaching could be said to be studying to become a college professor, it is necessary to set a minimum level of attainment for participants in the program. The Commissioner proposes to limit the program to trainees at the post-baccalaureate level because it is at that level where specialized preparation for serving as a college or university professor occurs, and because there are other programs of financial assistance to students from disadvantaged backgrounds who are enrolled at the undergraduate level.

(c) *Justification of specialized training.* Section 198.3 of the proposed regulations does not allow any support of the regular course of study of participating trainees except those who are to receive inservice training to meet changing personnel needs in institutions of higher education under § 198.3(c). This limitation is proposed (1) because the Congress eliminated language in an earlier bill which provided stipends and other direct financial assistance to trainees and (2) to assure that limited program funds will be used only for activities related directly to the purposes of this part.

(d) *Definition of target group.* Definition of the key term "cultural or educational backgrounds which have hindered individuals from achieving success in the field of education" in § 198.2 is a difficult matter on which the Commissioner welcomes additional advice. The history of this legislation reveals that the intent of the Congress is to provide special assistance to members of the minority ethnic groups commonly found to be educationally disadvantaged, e.g., Aleuts, American Indians, Appalachian whites, blacks, Eskimos, Mexican Americans, Puerto Ricans, orientals, and persons with limited English-speaking ability. Many individuals from these groups are eligible for training, although all members of these groups cannot be regarded as being from educationally or culturally disadvantaged backgrounds. Accordingly, and in the light of Title VI of the Civil Rights Act, the proposed definition has been expressed in generic terms which do not draw racial or ethnic classifications. The definition sets forth examples of categories of cultural and educational background without excluding other possible categories.

II. *Response to notice of intent to publish regulations.* The notice of intent to publish regulations for the Higher Education Personnel Training Program, which appeared in the FEDERAL REGISTER on November 22, 1976, elicited very few public comments. In general, the comments addressed program management rather than points which require regulation.

III. *Invitation to comment.* Interested persons are invited to submit written comments and recommendations concerning the proposed regulations to Dr. A. Bruce Gaarder, Regional Office Building 3, Room 5652, 7th and D Streets SW., Washington, D.C. 20202. Telephone (202) 245–9786. All communications received on or before May 23, 1977 will be considered. The proposed provisions contained in this notice may be changed in light of the comments received. All comments submitted will be available for public inspection both before and after the closing date for comments, in Room 5652, Regional Office Building, 3, 7th and D Streets SW., Washington, D.C. between 8:30 a.m. and 4 p.m., Monday through Friday of each week.

NOTE.—The Office of Education 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.

(Catalog of Federal Domestic Assistance No. 13–417 Higher Education Personnel Training Program.)

Dated: March 11, 1977.

WILLIAM F. PIERCE,
Acting U.S. Commissioner of Education.

Approved: March 31, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

It is proposed that Title 45 of the Code of Federal Regulations be amended by adding a new part 198 to read as follows:

PART 198—HIGHER EDUCATION PERSONNEL TRAINING

Sec.
198.1 Scope and purpose.
198.2 Definitions.
198.3 Types of projects; eligible participants.
198.4 Allowable and unallowable project activities and costs.
198.5 Changing personnel needs.
198.6 Application requirements.
198.7 Evaluation criteria.
198.8 Project duration.

AUTHORITY: Sec. 533, Higher Education Act of 1965 as enacted by Pub. L. 94–482 (20 U.S.C. 1119a–1).

§ 198.1 Scope and purpose.

(a) *Scope.* (1) This part applies to the award of grants with funds appropriated to carry out section 533 of Title V of the Higher Education Act of 1965 as enacted by Pub. L. 94–482, which authorizes the higher education personnel training program.

(2) The award of grants under this part is subject to applicable provisions contained in general provisions regulations of the Office of Education (Parts 100, 100a of this chapter), except that the criteria in § 100a.26(b) do not apply to applications under this part.

(Sec. 533, 20 U.S.C. 1119a–1, 1221c, 1232c(b), (3).)

(b) *Purpose.* The purpose of the higher education personnel training program is to provide—

(1) Specialized training to prepare persons from cultural or edcuational backgrounds which have hindered such individuals in achieving success in the field of education to serve in institutions of higher education as teachers, including guidance and counseling personnel, administrative personnel, or education specialists;

(Sec. 533(a)(1)(A), 20 U.S.C. 119a–1(a)(1)(A))

(2) Specialized training to prepare persons to serve in institutions of higher education as teachers, including guidance and counseling personnel, administrative personnel, or education specialists, if they are preparing to serve in educational programs designed to meet the special needs of students from the backgrounds noted in subparagraph (b)(1) of this section; and

(Sec. 533(a)(2), 20 U.S.C. 119a–1(a)(2))(B))

(3) Inservice training for persons serving in institutions of higher education as teachers, including guidance and counseling personnel, administrative personnel, or education specialists to meet changing personnel needs in institutions of higher education.

(Sec. 533(a)(2), 20 U.S.C. 119a–1(a)(2).)

§ 198.2 Definitions.

As used in this part:

"Act" means section 533 of the Higher Education Act of 1965, as enacted by the Education Amendments of 1976, Pub. L. 94–482.

(Sec. 533, 20 U.S.C. 1119a–1)

"Cultural or educational backgrounds which have hindered individuals from achieving success in the field of education" include but are not limited to: (a) Residence in a neighborhood characterized by a high concentration of low-

income families, (b) rural isolation, (c) limited English-speaking ability, as defined in section 703(a)(1) of the Bilingual Education Act (20 U.S.C. 880b–1 (a)(1)), or (d) attendance at a minority group isolated school, as defined for purposes of the Emergency School Aid Act in § 185.02(g) of this chapter.

(Interprets Sec. 533(a), 20 U.S.C. 1119a–1 (a))

"Education specialist" means a person who trains teachers, or performs other professional services closely related to the training of teachers, for service at the higher education level.

(Interprets Sec. 533(a), 20 U.S.C. 1119a–1 (a))

"Institution of higher education" means an institution of higher education in any State as defined under section 1201(a) of the Higher Education Act of 1965, as amended.

(Sec. 1201(a), 20 U.S.C. 1141)

§ 198.3 Types of projects; eligible participants.

The Commissioner funds three types of projects under this part:

(a) *Training for individuals from disadvantaged backgrounds.*

(1) *Eligible participants.* Persons with a baccalaureate degree are eligible to receive training under this paragraph if they are—

(i) Preparing to serve in institutions of higher education as teachers, including guidance and counseling personnel, administrative personnel, or education specialists, and

(ii) From cultural or educational backgrounds which have hindered such persons in achieving success in the field of education. As used in this paragraph, "education" is meant in the general sense, including all academic disciplines.

(2) *Nature of training.* Training under this paragraph may include only specialized training for eligible participants designed to help them successfully complete their studies. Examples of permissible training services include tutoring, counseling, orientation to research methods, training in speed reading, and vocabulary development.

(Interprets and implements Sec. 533 (a)(1)(A), (b), 20 U.S.C. 1119a–1 (a)(1)(A), (b))

(b) *Training for individuals preparing to serve persons from disadvantaged backgrounds.*

(1) *Eligible participants.* Persons with a baccalaureate degree are eligible to receive training under this paragraph if they are:

(i) Preparing to serve in institutions of higher education as teachers, including guidance and counseling personnel, administrative personnel, or education specialists; and

(ii) Preparing to serve in educational programs designed to meet the special needs of college or university students from the cultural or educational backgrounds described in § 198.2.

(2) *Nature of training.* Training under this paragraph may include only specialized training for eligible participants designed to prepare them to provide training or services to meet the special needs of students from the cultural or educational backgrounds described in § 198.2 of this chapter.

(Interprets and implements Sec. 533(a)(1)(B), (b), 20 U.S.C. 1119a–1 (a)(1)(B), (b))

(c) *Training to meet changing personnel needs.* Training under this paragraph may include only inservice training for persons serving in institutions of higher education as teachers, including guidance and counseling personnel, administrative personnel, or education specialists, to prepare them to meet changing personnel needs in institutions of higher education.

(Interprets and implements Sec. 533 (a)(2), (b), 20 U.S.C. 1119a–1 (a)(2), (b))

§ 198.4 Allowable and unallowable project activities and costs.

(a) *Allowable costs.* An institution of higher education may file an application under this part to carry out one or more of the three types of project activities described in § 198.3 of this chapter

(1) Training activities funded under this part may include—

(i) Courses of training or study in academic year institutes;

(ii) Courses of training or study in short-term institutes;

(iii) Symposia; and

(iv) Other inservice training.

(2) Direct and indirect costs incurred by a grantee in carrying out allowable activities described in § 198.3 of this chapter and subparagraph (a)(1) of this section, in accordance with the cost principles in Appendix C to subchapter A of this chapter (Office of Education General Provisions Regulations), are allowable.

(Implements Sec. 533, 20 U.S.C. 1119a–1)

(b) *Unallowable costs.* (1) Stipends and other direct financial assistance to participating trainees are not allowable costs.

(Interprets and implements Sec. 533(b), 20 U.S.C. 1119a–1(b))

(2) Support of the regular, or general, course of study of participating trainees is not an allowable cost in projects described in § 198.3 (a) and (b) of this chapter.

(Interprets and implements Sec. 533 (a)(1), (b), 20 U.S.C. 1119a–1 (a)(1), (b))

(3) The costs of construction and remodeling are not allowable.

(Implements Sec. 533(b), 20 U.S.C. 1119a–1(b))

§ 198.5 Changing personnel needs.

(a) Projects designed to meet changing personnel needs, under § 198.3(c) of this chapter, may address the following areas of need:

(1) The need for more persons from the disadvantaged cultural or educational backgrounds defined in § 198.2 of this chapter to serve in institutions of higher education as teachers, guidance and counseling personnel, administrative personnel, or education specialists. (Sen. Rep. No. 94–882 on S. 2657, p. 37 (1976))

(2) The need for persons with professional capabilities (including a high degree of literacy) in a non-English language to serve in programs of bilingual education.

(3) Such other categories of personnel needs as may be proposed by an applicant, and as supported by evidence of need in the application.

(b) During the first year of operation of the higher education personnel training program and until such time as the national priority areas of need for educational personnel shall have been determined pursuant to section 406(b)(5) of the General Education Provisions Act, the Commissioner funds applications under this section without according priority to particular types of personnel needs, subject to the assignment of extra points under § 198.70(h) of this chapter to projects serving students with the cultural or educational backgrounds described in § 198.2 of this chapter.

(Interprets and implements Sec. 533(a)(2), 20 U.S.C. 1119a–1(a)(2))

§ 198.6 Application requirements.

Each institution of higher education seeking assistance shall submit an application to the Commission.

(a) The application must—

(1) State, in terms of § 198.3 of this chapter, the category or categories of service or training to be provided;

(2) State the need for the services or training in terms that reflect—

(i) In the case of an application under § 198.3(a) of this chapter, the number of students in the category described in § 198.3(a) who are enrolled in the applicant institution, the number of participants in the project, the groups represented by those students, including information documenting the eligibility of those students under § 198.3(a), and the criteria used for their identification and selection for participation in the project;

(ii) In the case of an application under § 198.3(b) of this chapter, the number of persons in the category described in § 198.3(b) who are enrolled or employed by the applicant institution, and the criteria used for their identification; and

(iii) In the case of an application under § 198.3(c) of this chapter, the number of persons employed by the applicant institution with needs addressed by the project, the number to be trained under the project, and the personnel need which the proposed training or study is designed to meet.

(3) Certify, with respect to applications under § 198.3 (a) and (b) of this chapter, that trainees are in fact preparing to serve in institutions of higher education as teachers, including guidance and counseling personnel, administrative personnel, or education specialists.

(4) Describe the program of training or study proposed.

(b) In addition to the requirements in paragraph (a) of this section, if similar training to that proposed is already being

provided by the applicant institution, the application must include—

(1) A description of the current activities and the cost thereof; and

(2) Information to satisfy the Commissioner that Federal funds will be used only to expand or improve the training and study provided without Federal funds.

(c) The application should contain information responding to each applicable criterion in § 198.7 of this chapter in order to permit an evaluation of the application by the Commissioner. Failure of an application to contain information responding to an applicable criterion in § 198.7 of this chapter will deny the applicant of the opportunity to earn points attached to that criterion.

(Implements Sec. 533, 20 U.S.C. 1119a-1)

§ 198.7 Evaluation criteria.

An application for a grant under this part which meets all of the application requirements in § 198.6 of this chapter will be evaluated by the Commissioner on the basis of the following criteria. The maximum number of points which will be assigned to an application for each criterion is indicated in parenthesis next to the criterion. The maximum number of points for all criteria is 100. An application must receive a minimum of 50 points to be considered for funding.

(a) The extent of need for the proposed training, as documented in the application, and the responsiveness of the proposed training to that need. (15 points)

(b) Adequacy of qualifications and experience of personnel designated to carry out the proposed project. (15 points)

(c) Adequacy of facilities and other resources. (10 points)

(d) Reasonableness of estimated cost in relation to anticipated results. (10 points)

(e) Sufficiency of size, scope, and duration of the project so as to secure productive results. (5 points)

(f) Soundness of the proposed plan of operation, including consideration of the extent to which:

(1) The objectives of the proposed project are sharply defined, clearly stated, and capable of being attained by the proposed procedures. (10 points)

(2) Provision is made for adequate evaluation of the effectiveness of the project and for determining the extent to which the objectives are accomplished. (10 points)

(3) Provision is made for disseminating the results of the project and for making materials, techniques, and other outputs resulting therefrom available to the general public and specifically to those concerned with the area of education with which the project is itself concerned. (5 points)

(g) Adequacy of the methods used to determine the eligibility of persons to be served by the project. (5 points)

(Implements Sec. 533, 20 U.S.C. 1119a-1)

(h) The extent to which the persons to be trained are from the cultural or educational backgrounds described in § 198.2 of this chapter. (15 points)

(Sen. Rep. No. 94-882 on S. 2657, p. 37 (1976))

§ 198.8 Project duration.

(a) The Commissioner awards projects under this part for a specified project period which generally will not exceed 36 months, subject to the availability of funds.

(b) The Commissioner may permit applicants for assistance under the Act to project their goals and activities over a period of up to three years. Approval of multi-year projects is intended to offer programs or projects a reasonable degree of stability over time and to facilitate additional long range planning.

(c) Applications proposing multi-year projects must be accompanied by an explanation of the need for multi-year support, an overview of the objectives and activities proposed, and budget estimates to attain these objectives in any proposed subsequent year.

(d) Subject to the availability of funds, applications for assistance to continue a project during the project period will be reviewed on a non-competitive basis to determine:

(1) If the award recipient has complied with the award terms and conditions, the Act, and applicable regulations;

(2) The effectiveness of the project to date in terms of progress toward its goals, or the constructive changes proposed as a result of the ongoing evaluation of the project; and

(3) If continuation of the project would be in the best interest of the Government.

(Implements Sec. 533, 20 U.S.C. 1119a-1)

[FR Doc.77-10134 Filed 4-5-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 20903; RM-2706]

FM BROADCAST STATION, DECATUR, TEXAS

Report and Order Denying Petition for Rulemaking

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Denial of assignment of Channel 244A to Decatur, Texas, because the proposed assignment could not provide the requisite city coverage without causing a short-spacing to an existing station in Fort Worth, Texas.

DATES: Proceeding Terminated.

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

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Legal Branch, Policy and Rules Division, Federal Communications Commission, Washington, D.C. 20554 (202-632-7792).

Adopted: March 28, 1977.

Released: March 31, 1977.

1. The Commission has under consideration the notice of proposed rule making, adopted September 1, 1976, 41 FR 38785, proposing the assignment of FM Channel 244A to Decatur, Texas, as had been proposed in a petition filed by Wise Media, Inc. In order to assign the channel to Decatur it would be necessary to employ a site some 14.5 kilometers (9 miles) north-northwest of the community. This raised a question about the ability to provide a city-grade signal over the entire community from this site. Even so, the Commission decided to explore the matter so that it could consider the possibility of assigning Decatur (pop. 3,240) in Wise County (pop. 19,687)[1] its first local aural service.

2. Petitioner had alleged that, due to sloping of the terrain toward Decatur, a Class A FM station, operating with maximum facilities, would be able to provide a 70 dBu signal over the community. However, based on the Commission's staff analysis of the terrain configuration, such did not appear to be the case. Thus, the Notice requested petitioner to show, with particularity, whether such a station would, in fact, be able to provide the requisite city-grade signal over Decatur.

3. In its comments petitioner attempted to show the station's capability of providing the requisite city-grade signal by selecting a transmitter site about 3 kilometers (1.85 miles) southwest of that specified in its petition. Petitioner asserted that, from this site, the 70 dBu contour would extend 12.7 kilometers (7.9 miles) and would encompass about 52% of the Decatur incorporated area and 38% of the urban area. Even this figure is based on consideration of the terrain roughness factor. However, use of such a factor in the prediction of contours was suspended April 29, 1976, until May 1, 1977. On the presently accepted basis, the 70 dBu contour would extend 12 kilometers (7.5 miles) and encompass about 35% of the incorporated area and only a very small portion of the Decatur urban area, perhaps about 5%. Although petitioner recognizes that the proposed station would not be able to provide the city-grade signal over all of Decatur, it argues that the coverage it would provide is only slightly below the minimum of 70 dBu specified by the rules and that the situation is similar to that of Austin, Texas. There, the only available Class A channel was not able to provide 70 dBu over all of Austin, and substantial portions of the population were outside the projected contour. Petitioner also states that Channel 244A is the only channel that can be assigned to Decatur but adds that, if the Commission decides that the assignment should not be made to Decatur, then it urges that it be assigned to Alvord, Texas. However, it indicates that such an assignment would be less desirable because Alvord is a small commun-

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

ity and most of the support of an FM station would have to come from surrounding communities, primarily Decatur.

4. In opposing comments Capital Cities Communications, Inc. ("Capital"), licensee of Station KSCS–FM (Channel 242), Fort Worth, Texas, contends that the proposed assignment to Decatur conflicts with its plan to relocate the transmitter site of its FM station toward Fort Worth. Capital argues that the proposed Decatur station would not be able to provide the required city coverage to any part of the city of Decatur, with the relevant 70 dBu contour falling over a mile short of the city limits. It asserts that a Channel 244A station located at any alternate site meeting the minimum spacing requirements, would have the same or more serious difficulties in rendering principal city coverage to Decatur. Capital alleges that Decatur and Wise County are not without services from other stations in that, within the 1 mV/m coverage area of the proposed Decatur station, twenty aural services during the day and three to ten aural services at night are available, and it states that the city of Decatur receives three nighttime and nine daytime services.

5. Although we agree that Decatur and Wise County are in need of local service, the spacing limitations which would require the use of a site at least 14.5 kilometers (9 miles) from Decatur, appear to preclude effective use of Channel 244A there. From the required transmitter site, the principal city coverage signal would not reach the urban area of Decatur. This is a matter of considerable significance—see New Castle, Pennsylvania, 32 F.C.C. 2d 131 (1971); Bloomsburg, Pennsylvania, 34 F.C.C. 2d 940 (1972); Batavia, New York, FCC 69–837 (1969). The assignment of a first Class A FM channel to Decatur would be warranted if it could be demonstrated that the assignment would be technically feasible. The channel proposed here, however, would necessitate a derogation of either the minimum distance separation requirements or the required signal intensity over the city. In this regard, the Commission has steadfastly held to the position in FM rule making proceedings that strict enforcement of the mileage distance separation rules is of particular importance to the integrity of the entire FM allocation plan, see e.g., Livingston, Texas, 8 R.R. 2d 1626 (1966) and Lake Geneva, Wisc., 17 F.C.C. 2d 284 (1969). The Commission finds no supporting data or justification which would warrant waiving the requirement that the entire city be provided with at least a 70 dBu signal. The need for such a showing is especially important since no part of the city would be included within the 70 dBu contour from a site where all spacing requirements can be met. Only a serious deviation from these standards would alter the situation, and nothing has been submitted upon which to base such a departure from standards designed to maximize fairness and efficiency. Nor is the Austin case a basis for such action, as that case presented special circumstances which related to the negotiations which led to the U.S.-Mexican FM Broadcasting Agreement.

6. In the event the assignment is not made to Decatur, petitioner has urged the assignment to Alvord, Texas. However, it is noted that there are a number of communities much larger than Alvord and without local aural service, where Channel 244A could be assigned. Without a showing of greater need for Alvord and the availability of other channels to these other communities, the public interest would not appear to be served by assigning the channel to Alvord.

7. After careful consideration of all pertinent facts, the Commission is unable to find that a sufficient showing has been made in the public interest to support the assignment of Channel 244A to Decatur, Texas.

8. Accordingly, *It is ordered*, That the petition filed by Wise Media, Inc., for assignment of FM Channel 244A to Decatur, Texas, is denied.

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

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

[FR Doc.77-10183 Filed 4-5-77;8:45 am]

[47 CFR Part 73]
PRIME TIME ACCESS RULES—TOP 50 MARKETS

Order Extending Time For Filing Comments and Reply Comments

PREAMBLE

AGENCY: Federal Communications Commission.

ACTION: Extension of time for comments and reply comments in rulemaking proceeding (D. 21115).

SUMMARY: On the basis of request by an interested party, the time for comments in Docket 21115, looking toward changing the basis on which the "top 50 markets" are determined for prime time access rule purposes, is extended by three weeks.

DATES: New dates for comments: April 22, 1977 for initial comments; May 23, 1977 for reply comments.

FOR FURTHER INFORMATION CONTACT:

John H. Bass, Jr., Chief, Office of Network Study, Federal Communications Commission, Washington, D.C. 20554 (Area 202–632–6339).

Adopted: March 30, 1977.

Released: March 31, 1977.

In the matter of effect of changes in TV market rank on applicability of prime time access rule (§ 73.658(k)); request of Station WTOL–TV, Toledo, Ohio, for temporary waiver of prime time access rule.

1. This proceeding was begun by Memorandum Opinion and Order and Notice of Proposed Rule Making adopted February 10 and released February 18, 1977, FCC 77–206 (42 FR 10860, February 24, 1977). The dates for comments and reply comments specified therein were April 1 and May 2, 1977 respectively.

2. On March 25, 1977, LIN Broadcasting Corporation, licensee of Station WAVY–TV, Portsmouth, Virginia, filed a request for additional time—an extension of three weeks, or until April 22 and May 23, 1977 respectively. It is stated that the proposed rule, to provide a more stable basis for determining the "top 50 markets" for the purpose of the prime time access rule, will have an important effect upon station operation, and requires review of various aspects of industry program procurement and rating practices, as well as of the consequences of the rule proposed and possible alternatives. It is claimed that, with the necessity for considerable analysis and other commitments of people involved, the rather brief time allowed in the Notice is not sufficient.

3. It appears that good cause exists for the requested extension and that the public interest would be served thereby. Accordingly, *It is ordered*, That the time for filing comments and reply comments in this proceeding is extended to and including April 22 and May 23, 1977 respectively.

4. This action is taken pursuant to authority found in §§ 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934 as amended, and § 0.281 of the Commission's Rules.

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

[FR Doc.77-10203 Filed 4-5-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]
CROCODYLIA

Treatment of 8 Species as Endangered

The Director, U.S. Fish and Wildlife Service, hereby issues a notice of proposed rulemaking which would treat as endangered, under the "Similarity of Appearance" clause of the Endangered Species Act of 1973 (16 U.S.C. 1533(e)), the common caiman (*Caiman (crocodilus) crocodilus*); the brown caiman (*Caiman crocodilus fuscus*); the dwarf caiman (Cuvier's smooth-fronted caiman) (*Paleosuchus palpebrosus*); the smooth-fronted caiman (Schneider's smooth-fronted caiman) (*Paleosuchus trigonatus*); the American crocodile (*Crocodylus acutus*), other than the population in Florida; Johnston's crocodile (*crocodylus johnstoni*); the New Guinea crocodile (*Crocodylus novaeguineae novaeguineae*); and the salt water crocodile (*Crocodylus porosus*). Through such treatment, these eight species (hereinafter referred to as "the eight 'look-

alike' species") would be subject to the provisions of law applicable to listed endangered species.

BACKGROUND

On December 5, 1969, the Endangered Species Conservation Act of 1969 (secs. 1–6, Pub. L. No. 91–135, 83 Stat. 275–278) was signed into law. This Act gave the Secretary of the Interior the power to determine certain species to be threatened with worldwide extinction and to restrict the importation of those species (secs. 2–4, Pub. L. No. 91–135, 83 Stat. 275–276). On June 2, 1970, the Secretary exercised this power and determined the Yacare (Caiman) (*Caiman (crocodylus) yacare*) to be threatened with worldwide extinction (35 FR 8491). On June 2, 1970, the Secretary also determined the Cuban crocodile (*Crocodylus rhombifer*), Morelet's crocodile (*Crocodylus moreletii*), the Nile crocodile (*Crocodylus niloticus*), the Orinoco crocodile (*Crocodylus intermedius*), and the Gavial (Gharial) (*Gavialis gangeticus*) to be threatened with worldwide extinction (35 FR 8491). The importation of the six species was restricted, and they appeared on the U.S. List of Endangered Foreign Fish and Wildlife (secs. 2–4, Pub. L. No. 91–135, 83 Stat. 275–276; 50 CFR 17, Appendix A (1971)).

On December 28, 1973, the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) was signed into law. The 1973 Act redesignates the Yacare (Caiman), the Cuban crocodile, Morelet's crocodile, the Nile crocodile, the Orinoco crocodile, and the Gavial (Gharial) as "endangered species" within the meaning of the Act (16 U.S.C. 1533(c)(3)), and thereby restricts not only their importation, but also their exportation, transportation, sale and taking (16 U.S.C. 1538(a)).

In addition, on September 25, 1975, the Secretary by regulation promulgated pursuant to the Endangered Species Act of 1973 determined that the population of the American crocodile (*Crocodylus actus*) found in Florida was an endangered species (40 FR 44149). And on September 26, 1975, the Secretary determined that the American alligator (*Alligator mississippiensis*), wherever found in the wild, except in Cameron, Vermilion and Calcasieu Parishes in Louisiana, was an endangered species (40 FR 44412). (On January 10, 1977, the Secretary reclassified the wild American alligator from its status as an endangered species to the status of a threatened species in certain parts of its range including all of Florida and certain coastal areas of Georgia, Louisiana, South Carolina, and Texas (42 FR 2071). That reclassification leaves the wild alligator classified as "endangered" throughout the remainder of its range, except for Cameron, Vermilion and Calcasieu Parishes in Louisiana.) Hereinafter, the endangered Yacare (Caiman) (*Caiman yacare*), the Cuban crocodile (*Crocodylus rhombifer*), Morelet's crocodile (*Crocodylus moreletii*), the Nile crocodile (*Crocodylus niloticus*), the Orinoco crocodile (*Crocodylus intermedius*), the Gavial (Gharial) (*Gavialis gangeticus*, the American crocodile (*Crocodylus acutus*) population found in Florida, and the American alligator (*Alligator mississippiensis* shall be referred to as "the eight 'listed' species."

Section 4(e) of the Endangered Species Act of 1973, 16 U.S.C. 1533(e), provides that the Secretary of the Interior may promulgate regulations treating, to the extent he deem advisable, a nonendangered species as an endangered species.

Specifically, the Act provides that:

(e) The Secretary may, by regulation, and to the extent he deems advisable, treat any species as an endangered species or threatened species even though it is not listed pursuant to this section if he finds that—

(A) such species so closely resembles in appearance, at the point in question, a species which has been listed pursuant to such section that enforcement personnel would have substantial difficulty in attempting to differentiate between the listed and unlisted species;

(B) the effect of this substantial difficulty is an additional threat to an endangered or threatened species; and

(C) such treatment of an unlisted species will substantially facilitate the enforcement and further the policy of this chapter (16 U.S.C. 1533(e)).

50 CFR 17.50 (1976) sets forth the manner in which a "similarity of appearance" species is to be denoted, and prescribes additional criteria to be considered in determining whether to treat a species as Endangered or Threatened. Specifically, the section provides that:

(b) In determining whether to treat a species as endangered or threatened due to similarity of appearance, the Director shall consider the following factors in addition to the criteria in section 4(e) of the Act:

(1) The degree of difficulty which law enforcement personnel would have in distinguishing the species in question from an endangered or threatened species especially where: (i) The distinction between the endangered or threatened species and other species is based upon geographical boundaries; (ii) the normal morphological or other differentiating characteristics of the species are minute, or can be easily masked, or would not be apparent when products are processed;

(2) The additional threat posed to the endangered or threatened species by the loss of control occasioned because of the similarity of appearance; and

(3) The amount of control over transactions involving endangered or threatened species to be gained either by: (i) Imposing the same prohibitions on the species which is similar, as apply to the endangered or threatened species, or (ii) providing, where the species is treated as threatened, special rules in Subpart D of this part to distinguish the similar species from the endangered or threatened species.

50 CFR 17.50. By a letter dated May 23, 1975, Professor Frederico Medem of the Institute de Ciencas Naturales, Universidad Nacional de Colombia (Institute of Natural Sciences, National University of Colombia), petitioned the Secretary of the Interior to list seven South American crocodilians (including five of the proposed "look-alike" species and two other species which have since been listed as endangered) as endangered species under section 4(a)(1) of the Act (16 U.S.C. 1532(4), 1533(a)(1)). The Office of Endangered Species is currently undertaking an active investigation into the possibility of such a determination with respect to the five species still not listed. However, Dr. Medem's letter also pointed out the "similarity of appearance" provision of the Endangered Species Act of 1973 and the need for invoking that provision with respect to the above-named South American crocodilians:

In Section 4(e) of the Endangered Species Act of 1973 the Secretary is given the prerogative to treat similar species as Endangered Species. While I believe that each species listed in this petition deserves protection in its own right, it is instructive to point out the great similarity between species proposed here and those already found on the Endangered Species List.

King (1971) in his key to the identification of commercial crocodilian skins groups the following species with the proposed American Crocodile (*Crocodylus acutus*): Cuban crocodile (*Crocodylus rhombifer*), Morelet's crocodile (*Crocodylus moreletii*), Orinoco crocodile (*Crocodylus intermedius*), and the Gavial (*Gavialis gangeticus*). In the same key King groups the Yacare caiman (*Caiman yacare*) under the Spectacled caiman (*Caiman crocodilus*) as a subspecies, but gives no differentiating characteristics. Brazaitis (1974) treats the live crocodilians. In his key the same species are separated only by careful measurement and counting of anatomical features. *It is evident then that the identification and separation of these species is not within the realm of the enforcement personnel.*

Finally, it must be pointed out that the Convention on International Trade in Endangered Species of Wild Fauna and Flora has been ratified by the United States Government and more recently by the necessary ten nations to bring the Conventions rules into effect. The Convention's Appendix I includes the Black Caiman (*Melanosuchus niger*), the Broad Snouted Caiman (*Caiman latirostris*), and another subspecies of the Spectacled Caiman known as the Apaporis River Caiman (*Caiman crocodilus apaporiensis*). This last named caiman is only distinguishable in life from the other subspecies in the Spectacled Caiman group by experts intimately familiar with it cranial characteristics. Furthermore, the hides of this caiman are not distinguishable from the other subspecies. Appendix I also includes all the species similar to the American Crocodile (*Crocodylus acutus*) (see preceding paragraph) plus some others (see King 1974 and 1971). (Emphasis added.)

Professor Medem repeated this suggestion in letter dated August 2, 1975:

Caiman skins from Columbia were not imported into the U.S.A. during the last few years. This, however, has changed in 1975. A quick review of export permits for January 1975, shows that Bogota exported 2,000 bracelets to Florida, and 175 belts to Texas, all made from Spectacled Caiman skins. If identification of entire skins is difficult, identifications of manufactured products is nearly impossible. How could Fish and Wildlife Service Agents distinguish a belt made of Black Caiman hide from one made of Spectacled Caiman hide? *The only practical means of enforcing the law and of protecting the already listed species is to add all South American Crocodilians to the Endangered Species List, by invoking the Similarity of Appearance provisions of the 1973 Endangered Species Act.* Only such a step will stop an incipient import trade of Caiman products into the U.S.A. (Emphasis added.)

In response to the needs of Fish and Wildlife Service enforcement personnel and to Professor Medem's recommendations, the Director has considered the matter and finds as follows:

FINDINGS

(A) THE EIGHT "LOOK-ALIKE" SPECIES SO CLOSELY RESEMBLE IN APPEARANCE EVEN LIVE SPECIMENS OF THE EIGHT "LISTED" SPECIES THAT ENFORCEMENT PERSONNEL HAVE SUBSTANTIAL DIFFICULTY IN ATTEMPTING TO DIFFERENTIATE BETWEEN THE "LOOK-ALIKE" SPECIES AND THE "LISTED" SPECIES

Discussion: Agents of the U.S. Fish and Wildlife Service, Division of Law Enforcement, have uniformly reported that they have substantial difficulty in differentiating between those species of crocodilians listed as endangered species and those not listed.

The agents reported that even though they may have a live crocodilian or a full mounted specimen complete with head there is still a good chance of confusion.

Moreover, three of the crocodilians, *Caiman crocodilus crocodilus*, *Caiman crocodilus fuscus*, and *Crocodylus novaeguineae novaeguineae*, are subspecies of other crocodilians. The Fish and Wildlife agents and biologists in the Office of Endangered Species reported that there are no readily identifiable external characteristics to differentiate between subspecies of protected crocodilians and either unprotected species or other protected subspecies. Subspecies can be distinguished from the species or other subspecies only by cranial bone structure, internal organs or geographical location, and therefore it is extremely difficult for law enforcement personnel to differentiate between the protected species and the unprotected subspecies even though agents may be dealing with a live crocodilan or a full mounted specimen.

Division of Law Enforcement agents have great difficulty distinguishing between endangered crocodilians and nonendangered crocodilians when the sole distinction is based upon geographical boundaries. For example, the population of the American crocodile (*Crocodylus acutus*) in Florida was determined to be endangered by the Secretary on September 25, 1975. All other American crocodiles (*Crocodylus acutus*) wherever found are not endangered and are not protected under the 1973 Act. Inasmuch as there is but one American crocodile and the distinction drawn is solely geographical, agents have great difficulty in differentiating between the protected American crocodile found in Florida and the unprotected American crocodile found elsewhere. Therefore, Fish and Wildlife agents are often powerless to prevent the taking, sale, transportation or exportation of American crocodiles because they are unable to prove definitely that the crocodile in question was the protected American crocodile from Florida and not an unprotected American crocodile from the West Indies or from central or northern South America.

In addition, U.S. Fish and Wildlife Service agents have reported that it is virtually impossible for law enforcement personnel to differentiate between hides, parts and products of crocodilians that are not listed as endangered species and those that are protected by the Act. Concerning crocodilian hides, F. Wayne King, the Curator of Herpetology at the New York Zoological Park and Peter Brazaitis, the Assistant Animal Manager, Department of Herpetology at the New York Zoological Park, wrote in their article "Species Identification of Commercial Crocodilian Skins" that "[when it comes to identifying a species of crocodilian from a commercial hide, however, even a trained herpetologist faces serious difficulty. All commercial skins are grossly alike. All crocodilian leather is related throughout the United States as 'alligator' while in Europe, Africa and Asia the same hides are sold as 'crocodile'."[1]

Furthermore, differentiating between protected and unprotected crocodilian species is practically impossible when the hides have been made into shoes, belts, wallets, handbags or other products. The differentiating characteristics of crocodilians are minute and often depend on scutellation, color, size, the presence of osteoderm buttons or the presence of follicle glands, which are not readily apparent even in full hides. For example, the color of the crocodilian hide is most often altered by preservation, tanning or dyeing. Thus, it would be impossible to determine if the hide of the unprotected Johnston's crocodile (*Crocodylus johnstoni*) or New Guinea crocodile (*Crocodylus novaeguineae novaeguineae*) has been used to manufacture a pair of blue or red crocodilian shoes. Moreover, these identifying characteristics are most often not discernable at all when the hide has been tanned or dyed and manufactured into belts, wallets, handbags, or shoes. Indeed, in the case of finished crocodilian products, expert herpetologists have acknowledged that there is no way to distinguish the endangered crocodilian from the nonendangered crocodilian. Since manufacturers of crocodilian products often use small pieces of crocodilian hide in manufacturing belts, wallets or shoes, the identifying characteristics of many species, such as scutellation, are missing and correct identification by law enforcement personnel is thereby rendered virtually impossible.

In their article, F. Wayne King and Peter Brazaitis underscored the difficulty in differentiating between crocodilian species by writing: "In the past two years, the authors have seen live African slender-snouted crocodiles and South American caimans shipped into the United States from Bangkok, Thailand, as Siamese crocodiles; finished African dwarf crocodile hides enter from a tanner in France who labelled them gavial; and wallets made from South American caimans arrive from an Italian manufacturer who declared they were Nile crocodile"[2]

B. THE SIMULARITY OF APPEARANCE AND THE SUBSTANTIAL DIFFICULTY THAT LAW ENFORCEMENT PERSONNEL HAVE IN DIFFERENTIATING BETWEEN THE EIGHT "LOOK-ALIKE" SPECIES AND THE EIGHT "LISTED" SPECIES POSE ADDITIONAL THREATS TO PROTECTED CROCODILIANS BY PREVENTING PROSECUTION IN MANY CASES AND THEREBY CAUSING A LOSS OF CONTROL OVER TRANSACTIONS INVOLVING ENDANGERED CROCODILIANS.

Discussion. Traffic and commerce in crocodilians and crocodilian parts and products is enormous. In many ports, because of the great difficulty law enforcement agents have in distinguishing the endangered species from the nonendangered species, it is very likely that much of the volume is composed of endangered parts and products. The inability of agents to differentiate correctly endangered crocodilian parts and products from nonendangered crocodilian parts and products encourages importers to harvest endangered crocodilians and import them into the United States, thereby posing an additional threat to the endangered species.

Moreover, it is very likely that commercial hunters experience great difficulty in attempting to distinguish between the endangered crocodilians and the nonendangered crocodilians. As a result, endangered crocodilians may be slaughtered by hunters incorrectly identifying their prey as nonendangered species.

In addition, the difficulty that Fish and Wildlife agents and trained herpetologists have in correctly distinguishing the parts and products of endangered crocodilians from those of nonendangered crocodilian prevents prosecution of importers in many cases, thereby increasing the threat to endangered species. At the present time, when the Government cannot prove that a given item is from an endangered crocodilian rather than a nonprotected species, prosecution for an Endangered Species Act violation is impossible. Yet when the item is in fact from an endangered crocodilian and prosecution is prevented by the similarity of appearance, the loss of control over the endangered species is substantial, for the harm to the endangered species is the same whether or not the item can be distinguished from a similar nonprotected crocodilian item. When this harm is repeated unchecked by prosecution for thousands of items, it poses a very real threat to the endangered species. Thus, the deterrent value of the Endangered Species Act in protecting endangered crocodilians is greatly diminished when prosecution in cases involving such crocodilians is prevented by the inability to distinguish them from the nonendangered species. This loss of deterrence constitutes a threat to the

[1] F. Wayne King and Peter Brazaitis, "Species Identification of Commercial Crocodilian Skins", Zoologica, Vol. 56, Summer 1971, p. 15.

[2] Ibid. p. 18.

endangered crocodilians beyond the threat which initially precipitated their listing.

(C) TREATMENT OF THE EIGHT "LOOK-ALIKE" SPECIES AS ENDANGERED WILL SUBSTANTIALLY FACILITATE ENFORCEMENT OF THE ACT AND FURTHER ITS POLICY OF PROTECTING THE EIGHT "LISTED" SPECIES

Section 9 of the Endangered Species Act of 1973 restricts the taking, possession, importation, exportation, and transportation or sale in interstate or foreign commerce of the endangered Yacare (Caiman) (*Caiman yacare*), Cuban crocodile (*Crocodylus rhomifer*), Morelet's crocodile (*Crocodylus moreletii*), Nile crocodile (*Crocodylus niloticus*), Orinoco crocodile (*crocodylus intermedius*), Gavial (Gharial) (*Gavialis gangeticus*), American crocodile (*Crocodylus acutus*) population in Florida, and the American alligator (*Alligator mississippiensis*), except as provided in 50 CFR 17.42 (16 U.S.C. 1538 and 50 CFR 17.21). If the common caiman *Caiman crocodilus crocodilus*), the brown caiman (*Caiman crocodilus fuscus*), the dwarf caiman (*Paleosuchus palpebrosus*), the smooth-fronted caiman (*Paleosuchus trigonatus*), the American crocodile (*Crocodylus acutus*) other than the population in Florida, Johnston's crocodile (*Crocodylus johnstoni*), the New Guinea crocodile (*Crocodylus novaeguineae novaeguineae*), and the salt water crocodile (*Crocodylus porosus*) are treated as endangered, their taking, possession, importation, exportation, and transportation or sale in interstate or foreign commerce will also be restricted by the requirements of section 9 of the Act. This will substantially facilitate prosecution in cases where an item can be identified as a crocodilian, but cannot be specifically identified as an endangered crocodilian.

As discussed in Findings (A) and (B), it is extremely difficult if not impossible for law enforcement personnel to distinguish between the endangered crocodilians and the nonendangered crocodilians. This is particularly true in the case of crocodilian parts and products, where tanning and dyeing alters the color of the crocodilian hides and where identifying characteristics are destroyed when the hides are manufactured into belts, wallets, handbags or shoes.

The difficulty in differentiating poses a serious threat to the endangered crocodilians. Traffic and commerce in crocodilian hides and products is heavy, and indications are that many of the crocodilians involved are endangered. As discussed in Finding (B), prosecution for Endangered Species Act violations is impossible without proof that the item in question is from an endangered species.

As a result, prosecution for violations involving endangered crocodilians is often prevented by the inability of experts and enforcement personnel to identify the part or product as being from an endangered species of from a nonendangered species. Thus, importation, exportation, transportation and sale of endangered crocodilian parts and products is often unchecked by prosecution under the Endangered Species Act of 1973. Since large scale commercial traffic in parts and products results in large scale taking of crocodilians, and since many of the unidentified crocodilians or crocodilian items imported, exported, transported and sold may in fact be from endangered crocodilians, the effect of the inability to differentiate between species is a serious threat to the survival of the endangered crocodilians.

Treatment of the common caiman, the brown caiman, the dwarf caiman, the smooth-fronted caiman, the American crocodile other than the population in Florida, Johnston's crocodile, the New Guinea crocodile, and the salt water crocodile as endangered to the full extent provided by Title 50, Code of Federal Regulations, §§ 17.51 and 17.52, would facilitate prosecution of violations potentially involving endangered crocodilians and thereby alleviate the threat described in the Discussion to Finding (B). §§ 17.51 and 17.52 would impose upon the common caiman, the brown caiman, the dwarf caiman, the smooth-fronted caiman, the American crocodile other than the population in Florida, Johnston's crocodile, the New Guinea crocodile, and the salt water crocodile virtually the same restrictions on taking, importation, exportation, transportation, and sale as apply to the endangered crocodilians. Thus, successful prosecution would be possible in the numerous cases where the product can be identified as crocodilian, although it cannot be positively identified as endangered crocodilian. This would further the Act's policy of conserving endangered wildlife.

CONCLUSION

For these reasons, it is deemed advisable to treat the common caiman (*Caiman crocodilus crocodilus*), the brown caiman (*Caiman crocodilus fuscus*), the dwarf caiman (*Paleosuchus palpebrosus*), the smooth-fronted caiman (*Paleosuchus trigonatus*), the American crocodile (*Crocodylus acutus*) other than the population in Florida, Johnston's crocodile (*Crocodylus johnstoni*), the New Guinea crocodile (*Crocodylus novaeguineae novaeguineae*), and the salt water crocodile (*Crocodylus porosus*) as endangered species to the full extent provided by §§ 17.51 and 17.52 of Title 50, Code of Federal Regulations.

DESCRIPTION OF PROPOSED REGULATIONS

As indicated above, these regulations would treat the eight "look-alike" species as endangered species under the "similarity of appearance" clause of the Act (16 U.S.C. 1533(e)).

Accordingly, as provided by 50 CFR 17.50, these eight species would appear as endangered species on the List of Endangered and Threatened Wildlife in § 17.11, with the notation "S/A" to indicate that each was placed on the list due to similarity of appearance. Section 17.21 of Title 50, Code of Federal Regulations, sets forth a series of general prohibitions and exceptions which apply to all endangered species. Those regulations are reprinted below for the convenience of the reader:

§ 17.21 *Prohibitions.*

(a) Except as provided in Subpart A of this part, or under permits issued pursuant to § 17.22 or § 17.23, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit or to cause to be committed, any of the acts described in paragraphs (b) through (f) of this section in regard to any endangered wildlife.

(b) *Import or export.* It is unlawful to import or to export any endangered wildlife. Any shipment in transit through the United States is an importation and an exportation, whether or not it has entered the country for customs purposes.

(c) *Take.* (1) It is unlawful to take endangered wildlife within the United States, within the territorial sea of the United States, or upon the high seas. The high seas shall be all waters seaward of the territorial sea of the United States, except waters officially recognized by the United States as the territorial sea of another country, under international law.

(2) Notwithstanding paragraph (c)(1) of this section, any person may take endangered wildlife in defense of his own life or the lives of others.

(3) Notwithstanding paragraph (c)(1) of this section, any employee or agent of the Service, any other Federal land management agency, the National Marine Fisheries Service, or a State conservation agency, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take endangered wildlife without a permit if such action is necessary to:

(i) Aid a sick, injured or orphaned specimen; or

(ii) Dispose of a dead specimen; or

(iii) Salvage a dead specimen which may be useful for scientific study; or

(iv) Remove specimens which constitute a demonstrable but nonimmediate threat to human safety, provided that the taking is done in a humane manner; the taking may involve killing or injuring only if it has not been reasonably possible to eliminate such threat by live-capturing and releasing the specimen unharmed, in a remote area.

(4) Any taking pursuant to paragraphs (c)(2) and (3) of this section must be reported in writing to the United States Fish and Wildlife Service, Division of Law Enforcement, P.O. Box 19183, Washington, D.C. 20036, within 5 days. The specimen may only be retained, disposed of, or salvaged in accordance with directions from the Service.

(d) *Possession and other acts with unlawfully taken wildlife.* (1) It is unlawful to possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any endangered wildlife which was taken in violation of paragraph (c) of this section.

Example. A person captures a whooping crane in Texas and gives it to a second person, who puts it in a closed van and drives thirty miles, to another location in Texas. The second person then gives the whooping crane to a third person, who is apprehended with the bird in his possession. All three have violated the law—the first by illegally taking the whooping crane; the second by transporting an illegally taken whooping crane; and the third by possessing an illegally taken whooping crane.

(2) Notwithstanding paragraph (d)(1) of this section, Federal and State law enforcement officers may possess, deliver, carry, transport or ship any endangered wildlife taken in violation of the Act as necessary in performing their official duties.

(e) *Interstate or foreign commerce.* It is unlawful to deliver, receive, carry, transport,

or ship in interstate or foreign commerce, by any means whatsoever, and in the course of a commercial activity, any endangered wildlife.

(f) *Sale or offer for sale.* (1) It is unlawful to sell or to offer for sale in interstate or foreign commerce any endangered wildlife.

(2) An advertisement for the sale of endangered wildlife which carries a warning to the effect that no sale may be consummated until a permit has been obtained from the United States Fish and Wildlife Service shall not be considered an offer for sale within the

§ 17.51 *Treatment as endangered or threatened.*

(a) Any species listed in § 17.11, pursuant to § 17.50, shall be treated as endangered or threatened, as indicated in the "status" column.

(b) All of the provisions of Subparts C (Endangered Wildlife) and D (Threatened Wildlife) shall apply to any such species of wildlife, as appropriate.

§17.52 *Permits—similarity of appearance.* Upon receipt of a complete application, and unless otherwise indicated in a special rule, the Director may issue permits for any activity otherwise prohibited with a species designated as endangered or threatened due to its similarity of appearance with an endangered or threatened species (see Subpart E—Similarity of appearance).

(a) *Application requirements.* Applications for permits under this section must be submitted to the Director by the person who wishes to engage in the activity with the similar species. Each application must be submitted on an official application form (Form 3-200) provided by the Service, and must include, as an attachment, all of the following information: Documentary evidence, sworn affidavits, or other information to show species identification and the origin of the wildlife (or if born in captivity, the place where born) of the wildlife in question. This information may be in the form of hunting licenses, hide seals, official stamps, export documents, expert opinion, bills of sale, or other appropriate information.

(b) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (a) of this section, the Director will decide whether or not a permit should be issued. In making his decision, the Director shall consider, in addition to the general criteria, in § 13.21(b) of this subchapter, the following factors:

(1) Whether the information submitted by the applicant appears reliable;

(2) Whether the information submitted by the applicant adequately identifies the wildlife in question so as to distinguish it

(c) *Permit conditions.* In addition to the from any endangered or threatened wildlife, general conditions set forth in Part 13 of this subchapter, every permit issued under this section shall be subject to the following special conditions:

(1) If indicated in the permit, a special mark, to be specified in the permit, must be applied to the wildlife, and remain for the time designated in the permit;

(2) A copy of the permit must accompany the wildlife at all times.

(d) *Duration of permits.* The duration of permits issued under this section shall be designated on the face of the permit.

Public Participation

The Director wishes the final regulations treating the common caiman, the brown caiman, the dwarf caiman, the smooth-fronted caiman, the American crocodile other than the population in Florida, Johnston's crocodile, the New Guinea crocodile and the salt water crocodile as endangered species to provide the most effective conservation possible for the already endangered Yacare (Caiman), Cuban crocodile, Morelet's crocodile, Nile crocodile, Orinoco crocodile, Gavial (Gharial), American crocodile population in Florida, and American alligator. The Director therefore invites the public, concerned private interests, and other Government agencies to participate in this rulemaking by submitting written comments on the proposed regulations. Comments should contain file number REG 17-02-21 and be addressed to the Director (FWS/LE), U.S. Fish and Wildlife Service, P.O. Box 19183, Washington, D.C. 20036. All relevant comments received no later than July 6, 1977 will be considered in promulgating the final regulations. Such comments and other information may cause the Director to promulgate final regulations differing from these proposed regulations.

The Service will attempt to acknowledge receipt of comments, but substantive responses to individual comments may not be provided. All comments timely received will be available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, NW., Washington, D.C.

Environmental Assessment

The Service has prepared an Environmental Assessment concerning these regulations.

Authority

This notice of proposed rulemaking is issued under authority of the Endangered Species Act of 1973 (16 U.S.C. 1531-1543, 1533(e)).

Author of Proposed Regulations

These proposed regulations were originated by Peter T. Tonnessen, Branch of Regulations and Penalties, Division of Law Enforcement, Fish and Wildlife Service.

Dated: March 29, 1977.

Lynn A. Greenwalt,
Director, Fish and Wildlife Service.

Accordingly, it is hereby proposed to amend Part 17, Title 50, Code of Federal Regulations, as follows:

§ 17.11 [Amended]

1. Add to the list of endangered species in § 17.11, the following:

Species			Range		Status	When listed	Special rules
Common name	Scientific name	Population	Known distribution	Portion of range where threatened or endangered			
* * *	*	*	*	*	*	*	*
Reptiles:							
* * *							
Caiman, brown	*Caiman crocodilus fuscus*	NA	Central America	Entire	E(S/A)		NA
Caiman, common	*Caiman crocodilus crocodilus*	NA	Northern South America	do	E(S/A)		NA
Caiman, dwarf	*Paleosuchus palpebrosus*	NA	Northern and Central South America.	do	E(S/A)		NA
Caiman, smooth-fronted	*Paleosuchus trigonatus*	NA	do	do	E(S/A)		NA
Crocodile, American	*Crocodylus acutus*	Wherever found except Florida.	West Indies, Central and Northern South America.	do	E(S/A)		NA
Crocodile, Johnston's	*Crocodylus johnstoni*	NA	Northern Australia	do	E(S/A)		NA
Crocodile, New Guinea	*Crocodylus novaeguineae novaeguineae.*	NA	New Guinea	do	E(S/A)		NA
Crocodile, salt water	*Crocodylus porosus*	NA	India and Ceylon, east to Australia and New Guinea.	do	E(S/A)		NA

[FR Doc.77-10049 Filed 4-5-77;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.

ADVISORY COMMITTEE ON FEDERAL PAY

CONTIUATION OF COMMITTEE; PUBLIC INQUIRY

This is to request any expressions from the public as to the desirability of continuation of the Advisory Committee on Federal Pay.

The Advisory Committee on Federal Pay was established by the Federal Pay Comparability Act of 1970. It consists of three experts on pay and labor relations who are Federal employees only for the time that they serve on this Committee. The Committee serves as an independent third party in advising the President on salary adjustments for Federal white-collar employees. In making its recommendations on pay increases for these Federal employees, the Committee considers pay in the private sector, the views of Federal employee organizations, government officials and pay experts.

Any comments should be sent in writing to the Advisory Committee on Federal Pay, Suite 205, 1730 K Street NW., Washington, D.C. 20006, by April 14. Any such communications will be incorporated in the report that the Advisory Committee makes to the Director of the Office of Management and Budget.

JEROME M. ROSOW,
Chairman.

[FR Doc.77-10143 Filed 4-4-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

ADVISORY COMMITTEE ON STATE AND PRIVATE FORESTRY

Meeting

The Advisory Committee on State and Private Forestry will meet in Arlington, Virginia, April 26-27, 1977. The meeting will convene at 8:45 a.m. on April 26 in the Hospitality House, 2000 Jefferson Davis Highway, Arlington, Virginia.

This Committee, comprised of 15 members from a broad spectrum of geographic and interest areas, advises the Secretary of Agriculture and various agencies of the Department on the protection, management and development of the Nation's non-Federal forest land and resources. M. Rupert Cutler, Assistant Secretary designate for Conservation, Research and Education, is Chairman of the Committee. He and representatives of the Forest Service, Farmers Home Administration, Extension Service, Soil Conservation Service, and the Agricultural Stabilization and Conservation Service will attend from the Department of Agriculture.

The meeting is structured to provide members of the Committee ample time for discussion. Included will be an overview of Departmental programs concerned with forestry activities on State and private lands.

The meeting will be open to the public. Persons who wish to attend, should notify the Committee's Executive Secretary, Charles Krebs, USDA-Forest Service, P.O. Box 2417, Washington, D.C. 20013, telephone 202-447-7065. Written statements may be filed with the Committee before or after the meeting.

PHILIP L. THORNTON,
Deputy Chief, Forest Service.

APRIL 1, 1977.

[FR Doc.77-10192 Filed 4-5-77;8:45 am]

BIG GAME HABITAT IMPROVEMENT IN CLEARWATER, IDAHO PANHANDLE AND NEZPERCE NATIONAL FORESTS

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 Big Game Habitat Improvement Burning of Seral Brushfields in the Clearwater, Idaho Panhandle, and Nezperce National Forests, Forest Service Report Number USDA-FS-R1-DES-Adm. R1-77-4.

The environmental statement concerns a proposed resource use Big Game Habitat Improvement.

This final environmental statement was transmitted to CEQ on March 29, 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.

USDA Forest Service, Northern Region, Federal Building, Room 3077, Missoula, Mont. 59801.

USDA Forest Service, Clearwater National Forest, Route No. 4, Ahsahka Road, Orofino, Idaho 83544.

USDA Forest Service, Idaho Panhandle National Forests, P.O. Box 310, Coeur d'Alene, Idaho 83814.

USDA Forest Service, Nezperce National Forest, 319 E. Main, Grangeville, Idaho 83530.

A limited number of single copies are available upon request to Forest Supervisor Kenneth P. Norman, Clearwater National Forest, Rt. 4, Ahsahka Road, Orofino, Idaho 83544.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

USDA, Forest Service, Region One

KENNETH P. NORMAN,
Forest Supervisor, Clearwater National Forest, Northern Region.

MARCH 29, 1977.

[FR Doc.77-10210 Filed 4-5-77;8:45 am]

TIMBER MANAGEMENT PLAN, ELDORADO NATIONAL FOREST

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 proposed revision of the ten-year Timber Management Plan for the Eldorado National Forest, USDA-FS-R5-DES(Adm)-77-03. Portions of the Forest are located in El Dorado, Amador, Placer and Alpine Counties, California.

The environmental statement concerns proposed changes in harvesting timber from the Eldorado National Forest and analyzes the environmental effects of the proposed new plan. The recommended alternative is the harvest of 133.9 million board feet per year.

The draft environmental statement was transmitted to the Council on Environmental Quality (CEQ) on March 30, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Rm 3230, 12th St. and Independence SW., Washington, D.C. 20250.

Eldorado National Forest, Supervisor's Office, 100 Forni Road, Placerville, California 95667.

Placerville Ranger Station, 3491 Carson Court, Placerville, Calif. 95667.

Regional Forester, U.S. Forest Service, Rm 529, 630 Sansome Street, San Francisco, Calif. 94111.

Georgetown Ranger Station, Georgetown, Calif. 95634.

Pacific Ranger Station, Pollock Pines, Calif. 95726.

Amadar Ranger Station, Jackson, Calif. 95642.

A limited number of single copies are available, upon request, from Forest Supervisor Joseph H. Harn, Eldorado National Forest, 100 Forni Road, Placerville, California 95667.

Copies of the environmental statements have been sent to various Federal,

State, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental effects for which comments have not been specifically requested.

Comments concerning the proposed action, and requests for additional information should be addressed to Forest Supervisor Joseph H. Harn, Eldorado National Forest, 100 Forni Road, Placerville, California 95667.

Comments must be received within 90 days after transmittal to CEQ in order to be considered in the preparation of the final environmental statement.

ROBERT W. CERMAK,
Deputy Regional Forester.

MARCH 30, 1977.

[FR Doc.77-10209 Filed 4-5-77;8:45 am]

HUMBOLDT NATIONAL FOREST LIVESTOCK ADVISORY BOARD

Meeting

The Humboldt National Forest Livestock Advisory Board will meet on May 16, 1977 at 10:00 A.M., in Room D at the Stockmen's Motor Hotel, Elko, Nevada.

The meeting is open to the public.

The purpose of the meeting is to:

1. Elect Advisory Board Officers.
2. Discuss Drought Situation.
3. Discuss Pub. L. 94-579 as concerns U.S. Forest Service.
4. Discuss Wildhorse Management.
5. Review grazing problems.

Dated: March 29, 1977.

HAROLD L. GREER,
Acting Forest Supervisor.

[FR Doc.77-10204 Filed 4-5-77;8:45 am]

Soil Conservation Service

NORTH BLACK VERMILLION WATERSHED PROJECT

Availability of Negative Declaration

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for a portion of the North Black Vermillion Watershed Project, Marshall and Nemaha Counties, Kansas.

The environment assessment of this federal action indicates that this portion of the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. Robert K. Griffin, State Conservationist, Soil Conservation Service, has determined that the preparation and review of an environmental impact statement is not needed for this portion of the project.

The project concerns a plan for watershed protection and flood prevention. The planned works of improvement include conservation land treatment supplemented by ten floodwater retarding structures and two combination floodwater retarding-grade stabilization structures.

The negative declaration is being filed with the Council on Environmental Quality and copies are being sent to various federal, state, and local agencies. The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, 760 S. Broadway, Salina, Kansas 67401. A limited number of copies of the negative declaration is available from the same address to fill single copy requests.

No administrative action on implementation on the proposal on or before April 21, 1977.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566, 16 U.S.C. 1001-1008.)

Dated: March 29, 1977.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources.

[FR Doc.77-10201 Filed 4-5-77;8:45 am]

UPPER BLACK VERMILLION WATERSHED PROJECT

Availability of Negative Declaration

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for a portion of the Upper Black Vermillion Watershed Project, Marshall and Nemaha Counties, Kans.

The environmental assessment of this federal action indicates that this portion of the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. Robert K. Griffin, State Conservationist, Soil Conservation Service, has determined that the preparation and review of an environmental impact statement is not needed for this portion of the project.

The project concerns a plan for watershed protection and flood prevention. The planned works of improvement include conservation land treatment supplemented by one floodwater retarding structure, one multipurpose structure, and six combination floodwater retarding-grade stabilization structures.

The negative declaration is being filed with the Council on Environmental Quality and copies are being sent to various federal, state, and local agencies. The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, 760 S. Broadway, Salina, Kansas 67401. A limited number of copies of the negative declaration is available from the same address to fill single copy requests.

No administrative action on implementation on the proposal on or before April 21, 1977.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566, 16 U.S.C. 1001-1008.)

Dated: March 29, 1977.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources.

[FR Doc.77-10202 Filed 4-5-77;8:45 am]

CIVIL AERONAUTICS BOARD

NORTH AMERICAN CENTRAL AIRLINES, INC.

Application for Amendment of Certificate of Public Convenience and Necessity

MARCH 31, 1977.

Notice is hereby given that the Civil Aeronautics Board on March 21, 1977, received an application, Docket 30646, from North Central Airlines, Inc. for amendment of its certificate of public convenience and necessity for route 86 to provide Bismarck/Mandan-Fargo/Moorhead-Twin Cities nonstop and Fargo/Moorhead-Chicago one-stop authority.

The applicant requests that its application be processed under the expedited procedures set forth in Subpart M of Part 302 (14 CFR Part 302).

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-10214 Filed 4-5-77;8:45 am]

[Docket No. 30525, Order No. 77-3-75]

OZARK AIR LINES, INC.

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 31st day of March, 1977.

On February 18, 1977, Ozark Air Lines filed an application, and a petition for issuance of an order to show cause why its certificate of public convenience and necessity for Route 107 should not be amended so as to authorize nonstop services in the following markets: (1) Waterloo, Iowa-Denver, (2) Springfield, Missouri-Denver, (3) Quad Cities [1]-Dallas/ Ft. Worth, (4) Springfield, Missouri-Dallas/Ft. Worth, and (5) Rockford, Illinois-Detroit.

In support of its petition, Ozark stresses: that no other carrier has any authority in the above five markets; that

[1] Moline, Rock Island and East Moline, Illinois, and Davenport, Iowa.

in each of the markets, except the Rockford-Detroit market, the carrier has applied for nonstop authority in its pending route realignment application, Docket 28887, and the answers filed in Ozark's realignment case contained no objection by any carrier to Ozark's proposal for nonstop authority in these markets; and that Ozark intends to file an amendment to its realignment application requesting nonstop authority in the Rockford-Detroit market.

No answers to Ozark's petition have been received.

Upon consideration of the foregoing and all of the relevant facts, we have tentatively concluded: that the public convenience and necessity require the amendment of Ozark's certificate of public convenience and necessity so as to authorize the nonstop operations proposed by the carrier that the application presents no questions of fact or law which require a hearing and that all interested persons should be directed to show cause why the Board's tentative findings and conclusions herein should not be made final.[3]

In support of the above determination, we further find that the amendment proposed herein is consistent with the Board's often reiterated general policy of eliminating or modifying certificate restrictions, the retention of which have been placed in issue, absent an affirmative showing that their continuance is required.[4] The authority requested involves no new stations or equipment for Ozark and will permit the carrier more scheduling and operating flexibility. Moreover, the requested authority plainly falls within those route realignment guidelines presently established by the Board[5]—guidelines which we have specifically held are applicable to Ozark.[6]

We have tentatively determined that the proposed authority would be most efficiently granted by the amendment of condition 13 of the carrier's certificate so that it reads, in its entirety:

(13) Notwithstanding the linear route description in this certificate, the holder may operate nonstop service between: Denver, Colo., on the one hand, and Peoria, Springfield, and Champaign-Urbana, Ill., Waterloo, Iowa, and Springfield, Mo., on the other; Dallas/Ft. Worth, Tex., on the one hand, and Davenport, Iowa-Moline, Ill., and Springfield, Mo., on the other; and Detroit, Mich., on the one hand, and Rockford, Ill., on the other.[6]

Finally, within 30 days of adoption of this order, we will expect Ozark to file with the Board an estimate, with supporting data, of the annual gross transport revenue increase for the first full year of operations to result from the award proposed herein. This data is necessary for the purpose of computing the license fee pursuant to section 389.24 (a) (2) of the Board's Regulations.

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 certificate of public convenience and necessity of Ozark Air Lines, Inc. for Route 107 so as to authorize the carrier to engage in nonstop air transportation in the five markets stated above;

2. 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 adoption of this order, **file with the Board and serve upon all** persons listed in ordering paragraph 6, 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. Answers thereto shall be filed within 15 days thereafter;

3. 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; [7]

4. 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;

5. To the extent not granted in ordering paragraphs 1 through 4, the petition of Ozark Air Lines, Inc. for issuance of an order to show cause be and it hereby is denied; and

6. This order shall be served upon all persons contained in the service list attached to the petition of Ozark Air Lines, Inc. for issuance of an order to show cause.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-10212 Filed 4-5-77;8:45 am]

[Docket Nos. 28405, 30682;
Order No. 77-3-178]

PAN AMERICAN WORLD AIRWAYS, INC.

Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 31st day of March, 1977.

On February 14, 1977, Pan American World Airways filed an application pursuant to section 205.2 of the Board's Economic Regulations, for further postponement of the date of inauguration of service at Chicago, Illinois, and Washington, D.C.-Baltimore, Maryland, on Routes 117 (Mainland-Hawaii) and 130 (Mainland-South Pacific), for a further period of one year.[1]

In support of its application, Pan American alleges, *inter alia*, that: it should not at this time be required to inaugurate Hawaii/South Pacific service at Chicago or Washington-Baltimore because of the lack of traffic support; there would be no public benefit from deletion of Pan American's authority at these points and deletion is not necessary to prevent serious injury to any other carrier; if the Board decides to institute an investigation pursuant to section 401(g), it should consider Pan American's applications for amendment of its certificates which would permit it to combine traffic flows between Chicago and Hawaii with traffic flows between California and Hawaii, permit the carriage of local Chicago-Los Angeles/San Francisco traffic on such flights, and permit such flights to originate or terminate in Hawaii; and if proceedings are instituted Pan American should be permitted to defer the inauguration of service over Routes 117 and 130 at Washington-Baltimore and Chicago during the next year while such proceedings are in progress.

United Air Lines filed an answer to Pan American's application, renewing its request, made in response to the original application for delayed inauguration of service, that the Board institute a proceeding under section 401(g) of the Act for deletion of Chicago and Washington-Baltimore from Pan America's certificates for Routes 117 and 130. United states that the scope of such a proceeding should be strictly limited to the issue of deletion, and that in no event should Pan American's newly filed applications for improved authority at the points be consolidated. Finally, United has no objection to the continued postponement of service at Chicago and Washington-Baltimore pending final Board decision on the deletion question.[2]

Upon consideration of the pleadings and all the relevant facts, we have decided to institute an Investigation of Pan American's Washington/Baltimore/Chicago Service, Routes 117 and 130, Docket 30682 to consider the future of the authority now held but not used by Pan American between Chicago and

---

[3] We further find that Ozark is a citizen of the United States within the meaning of the Act and is fit, willing and able to properly perform the transportation proposed herein and to conform to the provisions of the Act and the Board's rules, regulations, and requirements thereunder.

[4] See e.g., Orders 77-3-13, March 2, 1977, 75-7-15, July 2, 1975; 74-7-63, July 16, 1974, 69-6-87, June 17, 1969.

[5] See Order 76-5-101, May 21, 1976.

[6] Order 76-7-102, July 26, 1976.

[6] Ozark has indicated that its proposal will not result in any substantial increase in air carrier operations. Consequently, we also tentatively find and conclude that the Board action proposed herein will not constitute a "major Federal action significantly affecting the quality of the environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

[7] Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

[1] Pan American is authorized to serve, inter alia, Chicago and Washington, D.C.-Baltimore, Md. on Routes 117 and 130 as a result of the transfer of American Airlines' authority at the points in the American-Pan American Route Exchange Agreement, Docket 26245. By Order 75-11-108, November 26, 1975, the Board authorized Pan American to delay inauguration of service at Chicago until April 1, 1976, and at Washington-Baltimore until November 26, 1976. The former authority was renewed for a one-year period by Order 76-4-7; the latter was renewed until April 1, 1977, by Order 77-2-8.

[2] Pan American filed a reply to United's answer.

Washington-Baltimore, on the one hand, and Hawaii and the South Pacific points on Routes 117 and 130, on the other. Although Pan American has been authorized to serve the two points since 1975 as a result of approval of the American-Pan American Route Exchange Agreement, it has never instituted service at either point on its South Pacific routes. Under the circumstances, we find it is appropriate to consider (a) whether Pan American's present authority to delay the inauguration of service at Chicago and Washington-Baltimore shall be terminated, continued, or altered; and (b) whether, and to what extent, its existing unused authority should be deleted or suspended. The issues in the proceeding will be limited to the questions set out immediately above.[3]

We have also determined to maintain the status quo with respect to Pan American's existing authorization to postpone inauguration of service to Chicago and Washington-Baltimore pending completion of the proceeding instituted herein. On the basis of the renewal application, it appears that the circumstances warranting the previous grants of such authority remain valid at least during the pendency of the proceeding instituted herein and that grant of continued authority to postpone inauguration of service to Pan American pending a full exploration of the issues set forth above on an evidentiary record is in the public interest.

Accordingly, *it is ordered*, That:

1. A proceeding designated as the Investigation of Pan American's Washington/Baltimore/Chicago Service, Routes 117 and 130, be and it hereby is instituted in Docket 30682 and shall be set for hearing before an administrative law judge of the Board at a time and place hereafter designated, as the orderly administration of the Board's docket permits;

2. Said proceeding shall determine (a) whether the existing authorization of Pan American World Airways, Inc., to postpone the inauguration of service at Washington, D.C.-Baltimore, Md., and at Chicago, Ill., should be terminated, continued, or altered; and (b) whether the certificates of Pan American World Airways, Inc., for Routes 117 and 130 should be altered, amended, or modified so as to delete or suspend Washington, D.C.-Baltimore, Md., and/or Chicago, Ill., under section 401(g) of the Act;

3. Pan American World Airways, Inc., be and it hereby is authorized to postpone inauguration of service to Washington, D.C.-Baltimore, Md., and Chicago, Ill., on Routes 117 and 130, until 90 days after final Board decision in the investigation instituted in paragraph 1, above;

4. The authority granted in paragraph 3, above, may be amended or revoked at any time in the discretion of the Board without hearing; and

5. This order shall be served on Pan American World Airways, Inc.; all other certificated carriers; Mayor, City of Baltimore; Mayor, City of Washington, D.C.; Mayor, City of Chicago; Mayor, City of Honolulu; Governor, State of Maryland; Governor, State of Illinois; Governor, State of Hawaii; Airport Manager, Dulles International Airport; Airport Manager, Baltimore-Washington International Airport; Airport Manager, O'Hare International Airport; Airport Manager, Honolulu International Airport; and the Postmaster General.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-10213 Filed 4-5-77;8:45 am]

[3] We will not in the context of the proceeding instituted herein consider Pan American's requests for new authority in Mainland-Hawaii and Mainland markets, which requests present quite separate issues which would completely alter the size and focus of the limited proceeding contemplated.

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

MILTON S. HERSHEY MEDICAL CENTER, PENNSYLVANIA STATE UNIVERSITY AND UNIVERSITY OF TEXAS

Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes 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 301). (See especially § 301.11(e).)

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.

Docket Number: 77-00019. Applicant: The Milton S. Hershey Medical Center of the Pennsylvania State University, Department of Anatomy, 500 University Drive, Hershey, Pennsylvania 17033. Article: Electron Miscroscope, Model EM 400 HM, and High Magnification Goniometer Stage. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used in all of the current on-going research activities of the entire faculty and staff with the Department of Anatomy, as well as ongoing programs within the Divisions of Ophthalmology, Neurology, Neurosurgery and Plastic Surgery. These research programs will include the following:

Histophysiology and Pathogenesis of Diabetes Mellitus Fetal and Infantile Development of Oral Sensory Receptors in Primates: Microscopic and Ultramicroscopic Histology.
The Developmental Histology and Cytology of Mucosal Sensory Receptors of the Larynx, Pharynx and Nose.
Studies of the Etiology and Diabetes Mellitus.
Anatomical Studies of the Internal Ear.
Retinal Zinc: Cellular Location and Visual Function.
The Vertebrate Eye: Studies of Aqueous Outflow.
Ultrastructural Correlates of Myocardial Ischemia.
The Effects of Ethylnitrosourea on Developing Brain.

The article will also be used in the research training programs with the Department of Anatomy in terms of its graduate educational program as well as training of post-doctoral fellows. Application received by Commissioner of Customs: October 9, 1976. Advice submitted by the Department of Health, Education, and Welfare on: February 25, 1977. Article ordered: April 16, 1976.

Docket Number 77-00024. Applicant: The University of Texas Medical Branch, Department of Pathology, Galveston, Texas 77550. Article: Electron Microscope, Model EM 400 with High Magnification Goniometer Stage and Accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for the study of biological materials including liver, gastrointestinal epithelium, heart, lung, and blood vessels of man and animal.

Experiments to be conducted involve changes in the ultrastructure and composition of cells and tissues following exposure to chemicals and bacteria which injure cellular constituents. Many will involve morphologic characterization of changes in configuration of membranes which constitute the cell surface, and its cytoplasmic membraneous constituents such as endoplasmic reticulum. The objectives of the research to be conducted are to determine the effects of toxic chemicals and environmental agents on components of cells and to determine the relationships between altered structures and its altered chemical composition. Medical students, graduate students and post-doctoral fellows who elect courses of study in pathology research and who need the use of this instrument and the types of information it generates will be instructed in its use and the interpretation of the data it generates. Application received by Commissioner of Customs: October 29, 1976. Advice submitted by the Department of Health, Education, and Welfare on: February 25, 1977. Article ordered: May 11, 1976.

Comments: No comments have been received in regard to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used, was being manufactured in the United States at the time the articles were ordered.

Reasons: Each foreign article provides a eucentric goniometer stage with ±30 degree tilt and a guaranteed resolution of 5.0 Angstroms point to point. The Department of Health, Education, and Welfare (HEW) advises in its respec-

tively cited memoranda that the eucentric goniometer stage described above is pertinent to each applicant's intended purposes. HEW further advises that it knows of no domestic instrument which provided the pertinent features of the articles at the time of order.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States at the time the articles were ordered.

(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.77-10145 Filed 4-5-77;8:45 am]

UNIVERSITY OF CALIFORNIA, ET AL.

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of 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). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before April 26, 1977.

Amended regulations issued under cited Act, (15 CFR 301) prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00161. Applicant: University of California—Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, NM 87545. Article: (2) Two Lasers, Tea, CO_2, Model 103-2 and accessories. Manufacturer: Lumonics Research Limited, Canada. Intended use of article: The articles will be used for laser-induced separation of uranium isotopes. Specifically, one laser is to be used to optically pump gas samples to investigate the scalable potential of such a 15.9 micron system. The new molecular systems to be investigated include CF_4, SO_2, CF_2O, and FCN. The other laser will be used to produce a tunable wavelength in the 16 micron region by mixing the CO_2 frequency in a nonlinear crystal. The ultimate goal of the investigations is to demonstrate the scientific and economic feasibility of the separation of uranium isotopes by laser methods. Application received by Commissioner of Customs: March 17, 1977.

Docket Number: 77-00162. Applicant: University of California — Lawrence Berkeley Laboratory, One Cyclotron Road, Berkeley, California 94720. Article: 3 (Three) Amplifier electron tubes, Model TH-515, 200 MHZ R.F. Manufacturer: Compagnie Generale de Telegraphic, France. Intended use of article: The articles are to be used as spares to identical tubes now in service in a proton-deuteron accelerator complex (the Bevatron) to furnish power at approximately 200 MHz for the second of three stages of acceleration, a 50 MeV linear accelerator. Application received by Commissioner of Customs: March 17, 1977.

Docket Number: 77-00163. Applicant: Henry Ford Hospital, 2799 West Grand Blvd., Detroit, MI 48202. Article: Electron Miscroscope, Model EM 201C and accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for studies of a wide variety of biological materials including organs, tissues, cells, cellular products and individual molecules. The overall fine structural details of cells composing various normal organ systems and tissues as well as the alterations accompanying disease states will be studied. The objectives of the investigations will be as follows: (1) Assessment of various potential risk factors for thrombosis in different forms of arthritic and hematologic disorders, (2) exploration of the distribution and type of receptor sites associated with several different cell types that are important in the arthridites, (3) to determine whether or not certain biological crystals are formed inside or outside of cells and (4) to evaluate similar and/or unique ultrastructural details present in normal or abnormal samples of synovial membrane. Application received by Commissioner of Customs: March 18, 1977.

Docket Number: 77-00164. Applicant: St. Francis Hospital, 929 North St. Francis Avenue, Wichita, Kansas 67214. Article: Electron Microscope, Model EM 10A and accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used in the areas of renal biopsies, liver biopsies and tumor pathology. A definitive diagnosis of kidney diseases based on the findings of electron microscopic studies will help determine the modality of treatment for the patients. The projected experiment to be conducted will be in the field of virology, particularly the clinical study of viral hepatitis. Application received by Commissioner of Customs: March 18, 1977.

Docket Number: 77-00165. Applicant: University of Rhode Island, Graduate School of Oceanography, Kingston, RI 02881. Article: Three-Spectrometer Scanning Electron Microprobe, Model JEOL JXA-50A. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in geologic research which will include the following:

(1) Studies on the partitioning of minor and major elements between basaltic melts and crystals.

(2) Mineralogic Petrologic studies of basaltic rocks from the mid-ocean ridges.

(3) Studies of minor element concentrations in calcareous skeletons of marine microorganisms.

In addition, the article will be used for the following educational purposes:

(1) Graduate petrological laboratory course dealing with the utilization and applications of the electron microprobe to petrologic, geologic and oceanographic problems.

(2) Electron microproble analyses of earth material conducted by graduate students, in conjunction with their Ph.D and M.S. thesis research requirements.

(3) Use of teaching materials and information acquired in several courses including Petrology of the Oceanic Crust including Petrology of the Oceanic Crust OCG-645 and Geochemistry OCG-630.

Application received by Commissioner of Customs: March 18, 1977.

Docket Number: 77-00166. Applicant: University of Oregon Health Sciences Center, Department of Ophthalmology, Research Bldg., Room 324, 3181 SW. Sam Jackson Park Road, Portland, Oregon 97201. Article: Ultramicrotome, Model LKB 8800A and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for sectioning eye tissues which have been embedded in hardened epoxy resins. Investigations will include ultrastructural studies on normal and pathologic tissues, cyto- and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, membrane interactions, and subcellular changes in cells induced by changes in their biochemical and physical environments. The objective of these investigations is to further basic knowledge on eye cell and tissue ultrastructure and to reveal, at the ultrastructural level, the enzyme localization and organelle distribution in cells and tissues developing under normal and pathological conditions. Application received by Commissioner of Customs: March 18, 1977.

Docket Number: 77-00167. Applicant: Yale University School of Medicine, Section of Cell Biology, 333 Cedar St., New Haven, Conn. 06510. Article: Scanning Electron Microscope, Model JFSM-30. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for studies of cells and subcellular components; blood vessels. Structural details on membrane surfaces will be investigated to detect surface molecules either directly or after appropriate tagging. The article will be used only by graduate students in training for research or in actual research. Application received by Commissioner of Customs: March 18, 1977.

Docket Number: 77-00618. Applicant: Robert B. Brigham Hospital, 125 Parker Hill Avenue, Boston, Massachusetts 02120. Article: Ultramicrotome, Model

LKB 8800A and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used for the study of biological materials which include tissues, cells and subcellular fractions. The various types of specimens will be embedded in hardened epoxy resins for scetioning. Investigations will include ultrastructural studies on normal cells which have been exposed to various biologically active peptides and proteins, studies on the morphology of subcellular fractions, studies on cell parasite interactions, immunocytochemical studies to localize binding sites of biologically active peptides and studies on the pathologically altered renal glomerulus. The main objective of this research is to elucidate morphologic changes that occur during the inflammatory response, to localize binding sites of small peptides on the surfaces of cells and to study structural alternations seen in allergic reactions. Application received by Commissioner of Customs: March 18, 1977.

Docket Number: 77-00169. Applicant: State University of New York—Upstate Medical Center, 155 Elizabeth Blackwell St., Syracuse, New York 13210. Article: Multiple Inoculator: Repliscan Processor and accessories. Manufacturer: KVL Laboratories, Canada. Intended use of article: The article is intended to be used for the study of gram negative bacilli, gram positive cocci, their identification and biochemical characteristics. Specifically, the system incorporates inoculation of pure test cultures on appropriate agar base media by means of a multiple inoculator thereby achieving simultaneous inoculation of a large number of test organisms on a wide range of agar base products. Application received by Commissioner of Customs: March 18, 1977.

Docket Number: 77-00170. Applicant: Brookhaven National Laboratory Associated Universities, Inc., Upton, New York 11973. Article: Angular Distribution Photoelectron Spectrometer, Model ADES 400 and accessories. Manufacturer: VG Scientific Ltd., United Kingdom. Intended use of article: The article is intended to be used for measurements which give information about the electronic structures of solids-metals and alloys, semiconductors, superconductors and insulators. Specifically, the valence and conduction electrons which give these materials their properties; the energies and spatial characteristics of these electrons are investigated through measurements of their photoelectron spectra. Application received by Commissioner of Cutoms: March 18, 1977.

(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.77-10147 Filed 4-5-77;8:45 am]

UNIVERSITY OF WISCONSIN AND UNIVERSITY OF CALIFORNIA

Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes 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 301). (See especially § 301.11(e).)

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.

Docket Number: 77-00027. Applicant: University of Wisconsion, the McArdle Laboratory, Madison, Wisconsin 53706. Article: Electron Microscope, Model H-500 and Accessories. Manufacturer: Hitachi Perkin-Elmer, Japan. Intended use of article: The article is intended to be used in experimental oncology (cancer research) in the following studies of biological ultrastructure:

(1) Studies involving a structural analysis and map location of SV40 virus-specific RNA's using the "R loop" method and that of chemically coupling ferritin to the ends of RNA molecules as well as direct visualization of RNA molecules with the extremely high resolution capable with this microscope.

(2) Continued molecular mapping of many deletions and other arrangements in the genome, using the heteroduplex mapping technique by electron microscopy. Methods for the localization of various RNA transcripts on the map using electron microscopy of DNA-RNA heteroduplexes will also be undertaken as well as the visualization of various controlling proteins bound to DNA of the virus.

(3) Investigations of the ultrastructure of junctional complexes formed between two hepatocytes in cell culture. Studies of the overall morphology of the cultural cells at extremely low magnification extending up to magnifications in excess of 100,000 times will also be carried out.

(4) Studies undertaken to visualize with this electron microscope the ribosomal precursor RNAs (45s, 41s, 32s, etc.) taken from cells treated with base analogues including 5-azacytidine, 5-fluorouracil, 8-azaquanine and 6-thioguanine.

Application received by Commissioner of Customs: November 5, 1976. Advice submitted by the Department of Health, Education, and Welfare on: February 25, 1977. Article ordered: August 30, 1976.

Docket Number: 77-00035. Applicant: University of California, San Francisco, 1438 South Tenth Street, Richmond, CA 94804. Article: Electron Microscope, Model JEM 100C. Manufacturer: JEOL (West), Inc., Japan. Intended use of article: The article is intended to be used to study the detailed fine structure of a variety of biological tissues which are currently under investigation by the Department of Physiology. Some of the specific experiments to be carried out include:

(1) Immunohistochemical localization of neurosecretory peptides in the brain.

(2) Role of microfilaments and microtubules in secretion from the pancreas.

(3) Role of zymogen granule membrane in secretion from the pancreas.

(4) Insertion of biologically active proteins into artificial phospholipid membranes.

(5) Ultrastructural basis of neuronal "competition" for peripheral fields during development.

(6) Isolation and purification of the synaptic vesicles and toxin binding sites involved in secretion from motor nerves.

(7) Ultrastructural basis of neurosecretion.

(8) Isolation and Chemical characterization of the cholinergic receptor protein from the synapse.

The overall objectives to be pursued in the course of these investigations are to reveal the relationships between the molecular organization and function of cellular and subcellular components of biological systems. The article will also be used to teach graduate students the methods of electron microscopy in the course Physiology 203. At various other times during the year, selected students will be allowed to carry out their Ph.D. research on the article. Application received by Commissioner of Customs: November 9, 1976. Advice submitted by the Department of Health, Education, and Welfare, on: February 25, 1977. Article ordered: August 30, 1976.

Comments: No comments have been received in regard to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used, was being manufactured in the United States at the time the articles were ordered. Reasons: Each foreign article has a specified resolving capability of 3.0 Angstroms. The Department of Health, Education, and Welfare advises in the respectively cited memoranda, that: (1) The additional resolving capability of the foreign articles is pertinent to the purposes for which each of the foreign articles to which the foregoing applications relate is intended to be used, and (2) it knows of no domestic instrument which provided the pertinent feature of the articles at the time of order.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the

United States at the time the articles were ordered.

(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.77-10146 Filed 4-5-77;8:45 am]

National Oceanic and Atmospheric Administration

NEW ENGLAND FISHERY MANAGEMENT COUNCIL'S SCIENTIFIC AND STATISTICAL COMMITTEE

Public Meeting

Notice is hereby given of a meeting of the New England Fishery Management Council's Scientific and Statistical Committee established under section 302(g) of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265).

The Scientific and Statistical Committee assists the Council in the development, collection, and evaluation of such statistical, biological, economic, social and other scientific information as is relevant to the Council's development and amendment of any fishery management plan.

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), the Scientific and Statistical Committee must be legally chartered before it can meet or take action. At this time the Committee does not have an approved charter. This notice is being given on the condition that a charter will be in effect by the meeting date and will only meet if its charter is in effect at the time scheduled for the meeting.

In order to determine whether the charter will be in effect in time for the meeting to take place, interested persons should contact the Council official listed elsewhere in this notice.

The meeting of the Committee will be held April 26, 1977, at the Council's headquarters office located at the Peabody Office Building, One Newbury Street, Peabody, Massachusetts. The meeting will convene at 9:30 a.m. and adjourn at approximately 4:00 p.m.

PROPOSED AGENDA

1. Review of existing Preliminary Management Plan for Atlantic Herring in the Northwest Atlantic.

The meeting will be open to the public with seating for approximately five public members available on a first come, first served basis. Members of the public having an interest in specific items for discussion are also advised that agenda changes are at times made prior to the meetings. To receive information on changes if any, made to the agendas, interested members of the public should contact on or about April 21, 1977:

Mr. Spencer Apollonio, Executive Director, New England Fishery Management Council, 1 Newbury St., Peabody, Mass. 01960; 617-535-5450.

At the discretion of the Committee interested members of the public may be permitted to speak at times which will allow the orderly conduct of Committee business. Interested members of the public who wish to submit written comments should do so by addressing Mr. Spencer Apollonio at the above address. To receive due consideration and facilitate inclusion of those comments in the record of the meetings, typewritten statements should be received within 10 days after the close of the meeting.

Dated: April 1, 1977.

ROBERT SCOTT,
Acting Assistant Director for Scientific and Technical Services.

[FR Doc.77-10220 Filed 4-5-77;8:45 am]

COMMUNITY SERVICES ADMINISTRATION

CONTINUATION OF NATIONAL ADVISORY COUNCIL ON ECONOMIC OPPORTUNITY

Opportunity for Public Comment

The Community Services Administration is conducting a review of Federal advisory committees as directed in the President's letter of February 25, 1977, and OMB Circular No. A-63, Transmittal Memorandum No. 5 of March 7, 1977. In connection with that review, notice is hereby given to provide the public an opportunity to comment on the continuation of the National Advisory Council on Economic Opportunity and its effectiveness in carrying out its purpose as defined in Section 605 of the Community Services Act of 1974. That purpose is (1) to advise the Director of the Community Services Administration with respect to policy matters arising in the administration of the Act, and (2) to review the effectiveness and the operation of programs under this Act and make recommendations concerning, (a) the improvement of such programs, (b) the elimination of duplication of effort, and (c) the coordination of such programs with other Federal programs designed to assist low income individuals and families.

Interested persons may comment on this proposal, including recommendations for modifications of Council policies and practices or for proposals of legislative change for either continuation or termination. Comments should be addressed to the Associate Director for Administration, Community Services Administration, 1200 19th Street NW., Washington, D.C. 20506. As the Office of Management and Budget has set an April 15 deadline for this review, comments must be submitted by April 12.

ROBERT C. CHASE,
Acting Director, Community Services Administration.

[FR Doc.77;10298 Filed 4-5-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 709-7]

AMBIENT AIR MONITORING REFERENCE AND EQUIVALENT METHODS

Receipt of Application for Reference or Equivalent Method Determination

Notice is hereby given that on March 9, 1977, the Environmental Protection Agency received an application from The Bendix Corporation, to determine if its Model 8101C Oxides of Nitrogen Analyzer for the Chemiluminescent Measurement of Nitrogen Dioxide should be designated by the Administrator of the EPA as a reference method under 40 CFR Part 53, promulgated February 18, 1975 (40 FR 7044) as revised December 1, 1976. If, after appropriate technical study, the Administrator determines that this method should be so designated, notice thereof will be given in a subsequent issue of the FEDERAL REGISTER.

C. R. GERBER,
Acting Assistant Administrator for Research and Development.

March 30, 1977.

[FR Doc.77-10142 Filed 4-5-77;8:45 am]

[FRL 709-5]

CONNECTICUT DRINKING WATER

Approval of State Application for Primary Enforcement Responsibility

In accordance with the provisions of Section 1413 of the Safe Drinking Water Act (SDWA), (88 Stat. 1661; 42 U.S.C. 300f et seq.) and 40 CFR 142 (41 FR 2918, January 20, 1976), Dr. Douglas S. Lloyd, Commissioner of the Connecticut Department of Health, has submitted an application to assume primary enforcement responsibility under the SDWA to the Environmental Protection Agency (EPA) for approval.

Notice is hereby given that the Regional Administrator, EPA, Region I, has approved this application for primary enforcement authority, to become effective May 6, 1977. This action is based on a thorough evaluation of the State's water supply supervision program in relation to the requirements of 40 CFR 142.10, including the adoption and implementation of:

(1) State primary drinking water regulations; (2) an inventory of public water systems; (3) a systematic program of sanitary surveys; (4) a State program for certification of laboratories; (5) State laboratory facilities certified by EPA; (6) a plan review program; (7) adequate statutory or regulatory enforcement authority; (8) record-keeping and reporting procedures; (9) a program for issuing variances and exemptions; (10) a plan for providing safe drinking water under emergency circumstances.

This evaluation has shown that the program which will be carried out by the State Health Department's Water Sup-

plies Section fulfills all requirements for obtaining primary enforcement authority.

Any interested person may request a public hearing to consider the Regional Administrator's determination within 30 days of the publication of this notice. If a public hearing is requested and granted, this determination shall not become effective until such time, following the hearing, as the Regional Administrator issues an order affirming or rescinding the determination. Requests for hearing shall be addressed to:

John A. S. McGlennon, Regional Administrator, U.S. Environmental Protection Agency, Room 2203, John F. Kennedy Federal Building, Boston, Massachusetts 02203.

and shall include the following information:

(1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing.

(2) A brief statement of the requesting person's interest in the Regional Administrator's determination and of in formation that the requesting person intends to submit at such hearing.

(3) The signature of the individual making the request; or, if the reguest is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

A complete copy of the State Health Department's application for primary enforcement responsibility is available for public inspection during normal business hours at the Office of the Regional Administrator and at the following location in Connecticut:

State of Connecticut, Department of Health, Water Supplies Section, Room 418, 79 Elm Street, Hartford, Connecticut 06115.

Dated: March 24, 1977.

JOHN A. S. MCGLENNON,
Regional Administrator, Region I.

[FR Doc.77-10141 Filed 4-5-77;8:45 am]

[FRL 709-6; OPP-30000/12]

PESTICIDE PRODUCTS CONTAINING AMITRAZ

Notice of Rebuttable Presumption Against Registration and Continued Registration

The Deputy Assistant Administrator, Office of Pesticide Programs (OPP), Environmental rotection Agency (EPA), has determined that a rebuttable presumption exists against registration and continued registration of all pesticide products containing Amitraz.[1,2]

[1] Amitraz is the common name for N-(2,4-dimethylphenyl)-N - [[(2,4-diemthylphenyl) imino]methyl] -N-methylmethanimidamide. Experimentally it is known as Triazid, U-36059, BTS 27419, RD 27419, Ent 27967 or JA-119. It is registered as a technical grade product under EPA registration number 1023-58. There are no other registered products in the United States. However, an application is pending for the registration of BAAM EC, an emulsifiable concentrate containing 19.9% Amitraz. This notice applies to both Amitraz and BAAM EC.

[2] A position document prepared by the Agency working group on Amitraz is available for public inspection in the Office of Special Pesticides Review (WH-566), Office of Pesticide Programs, Environmental Protection Agency, East Tower, Room 447, 401 M Street, S.W., Washington, D.C. 20460. This position document contains an appendix of references, background information, and other material pertinent to the issuance of this notice of rebuttable presumption. Where appropriate the supporting materials contained in the position document are referenced in this notice.

I. REGULATORY PROVISIONS

A. *General.* EPA promulgated regulations (40 CFR 162) for the registration, reregistration, and classification of pesticides on July 3, 1975 (40 FR 28242). Section 162.11 of the regulations provides that a rebuttable presumption against registration shall arise if it is determined that a pesticide meets or exceeds any of the criteria for risk set forth in Section 162.11 (a)(3). If it is determined that such a presumption against continued registration of a pesticide has arisen, the regulations require that the registrant be notified by certified mail and that the registrant be provided with an opportunity to submit evidence in rebuttal of the presumption. In addition, the Agency has determined that the public should be provided with notice of the presumption in order to solicit comments from interested parties and to obtain any additional information relevant to the presumption.

A notice of rebuttable presumption against registration or continued registration of a pesticide is not to be confused with a notice of intent to cancel the registration of a pesticide, and may or may not lead to cancellation. The notice of rebuttable presumption is issued when the evidence related to risk meets or exceeds any of the Agency's risk criteria. The notice of intent to cancel is issued only after the risks and benefits of a pesticide are carefully considered and it is determined that the pesticide generally may cause unreasonable adverse effects on the environment or poses a substantial question of safety to man or the environment.

Accordingly, all registrants and applicants for registration are invited pursuant to 40 CFR 162.11(a)(4) to submit evidence in rebuttal of the presumptions listed in Part II and, in the case of oncogenicity, to submit information which relates to the assessment of oncogenic risks as set forth in the Interim Procedures and Guidelines for Health Risk and Economic Impact Assessment of Suspected Carcinogens (May 25, 1976; 41 FR 21402). Registrants and other interested parties may submit data on benefits which they believe would justify registration or continued registration in the event that the Agency determines that the risk presumptions have not been completely rebutted. In addition, any registrant may petition the Agency to voluntarily cancel any current registration pursuant to Section 6(a)(1) of FIFRA.

The notice of rebuttable presumption against Amitraz describes scientific studies which suggest that it induces oncogenic effects in test animals. The Agency is soliciting further information and comment to the oncogenicity of Amitraz, as well as on other risk criteria listed in 40 CFR 162.11(a)(3).

B. *Rebuttal Criteria.* Section 162.11(a)(4) provides that a registrant seeking continued registration may rebut the presumption by sustaining the burden of proving:

(1) In the case of a pesticide presumed against pursuant to the chronic toxicity criteria of § 162.11(a)(3)(ii), "that when considered with proposed restrictions on use and widespread and commonly recognized practices of use, the pesticide will not concentrate, persist or accrue to levels in man or the environment likely to result in any significant chronic adverse effects"; or

(2) That "the determination by the Agency that the pesticide meets or exceeds any of the criteria for risk was in error."

II. PRESUMPTIONS

40 CFR 162.11(a)(3) provides that a rebuttable presumption shall arise if a pesticide's ingredient(s), metabolite(s), or degradation product(s) meet or exceed (i) acute toxicity risk criteria relating to hazards to human, domestic animals or wildlife, or (ii) chronic toxicity risk criteria relating to oncogenic, mutagenic, and delayed toxic effects in man and/or test animals, or relating to population reductions in nontarget organisms or fatality to members of endangered species.

Pesticide products containing Amitraz meet or exceed the chronic risk criteria relating to oncogenic effects set forth in 40 CFR 162.11(a)(3)(ii)(A).

A. *Chronic Toxicity: Oncogenic Effects in Test Animals.* 40 CFR 162.11(a)(3)(ii)(A) provides, "A rebuttable presumption shall arise if a pesticide's ingredient(s) * * * [i]nduces oncogenic effects in experimental mammalian species or in man as a result of oral, inhalation or dermal exposure * * *" As a further clarification of this provision, the preamble to the Interim Procedures and Guidelines for Health Risk and Economic Impact Assessment of Suspected Carcinogens (May 25, 1976; 41 FR 21402) states that "a substance will be considered a presumptive cancer risk when it causes a statistically significant excess incidence of benign or malignant tumors in humans or animals." It is emphasized that at the time of issuing this notice of rebuttable presumption, the Agency has not completely assessed the carcinogenic risks associated with the uses of Amitraz. One function of this notice is to solicit information which refutes the evidence presented in this notice, adds to the evidence, or otherwise contributes to the Agency's assessment of the oncogenic risk posed by Amitraz and BAAM EC.

At this time, the only scientific evidence available which, by itself, meets the criterion for oncogenicity is the Boots Chemical Company study entitled "BTS 27419: 80-week Carcinogenesis Study in Mice—Final Report" (Burnett et al. 1976. The Upjohn Co., Kalamazoo, Michigan). Should additional evidence

indicate that the other risk criteria have been exceeded, the position document will be redrafted. This new information will be published in the FEDERAL REGISTER.

Section B, below, contains the findings of EPA as to the evidence in this study which meets the criterion for oncogenic effects cited above. Section C presents methods and results of the Boots' report. Interpretations of the reports by Boots and Upjohn are presented in Section C, and then compared and contrasted with those of EPA's Carcinogen Assessment Group (CAG), EPA consultants, and the Agency.

B. *Summary of EPA Findings.* 1. The dose-response relationship for lymphoreticular (LR) tumors in female mice shows a significantly increasing linear trend ($p<0.02$).

2. The incidences of LR tumors in the high dose (400 ppm) and control (0 ppm) female mice are 0.49 and 0.23, respectively, and are significantly different from each other ($p<0.03$).

3. The dose-response relationship for lung lesions in female mice, whose sample sizes were corrected for survival, shows a significantly increasing linear trend ($p<0.05$).

4. No satisfactory explanation has been presented to account for these relationships other than the oncogenic activity of Amitraz. Thus Amitraz its formulated product, BAAM EC, meet the criterion for oncogenic effects.

C. *Review of the Boots Mouse Study.*— (1) *"80-week Carcinogenicity Study in Mice—Final Report" (Burnett et al. 1976).*

(a) *Methods.* CAG in its "Preliminary Review of Oncogenicity of Amitraz (BAAM)," has summarized the experimental methods employed by Boots as follows (EPA 1977):

CFLP mice (Anglia Laboratories (Carworth)) mice were used in the study. It is an outbred strain not available in the U.S. which was originally derived from the albino Swiss Schofield strain at Imperial Chemical Industries in the 1950's. Since then it was rederived by fostering pups on gnotobiotic CF1 mice.

Male and female mice were received at 21–23 days; after 2 weeks acclimatization, they were divided into groups of 5 animals/cage. Cages were mounted in a rectangular array on the wall in fixed position throughout the study; the 10 cages of sex/treatment groups were in a row. The cage height on the wall was different for each of the 4 treatment groups and in decreasing order was control, lowest-, middle-, and highest-dosage BAAM groups; the sexes were separated.

In most cases same-sex littermates were put into different treatment groups; 2 or more siblings seldom were put into the same treatment group unless the other three treatment groups contained a member of that litter. Littermates were never allocated to the same cage. Very frequently littermates were placed in cages on the wall that were in the same or adjacent column of cages.

Animals received powdered Oxoid breeding diet for 2 weeks. BAAM was then added at 0, 25, 100 and 400 ppm and fed for 80–84 wks. Diets were prepared weekly.

Extra animals, fed identically to those in the original treatment groups were used to replace mice which died or became unthrifty during the first 12 weeks of the study.

After 80 weeks feeding, surviving animals were sacrificed over a 4-week period and examined. Animals dying during the study were handled similarly, when possible. Histopathological examination was not possible on 18 males and 22 females due to autolysis or cannibalism. Animals were observed for clinical signs at least weekly throughout the study. A blood smear was taken from each animal and gross examination of organs and cavities was performed.

Thymus was rarely fixed and examined, and lymph nodes were taken from most but not all animals.

(b) *Results.* The results of the Boots study were as follows.

1. Lymphoreticular tumor incidences showed doserelated increases. They were 0.23, 0.32, 0.34 and 0.49, respectively, in control, low-, middle-, and high-dosage Amitraz-treated female mice.

2. Lesions of the lung (hyperplasia, adenomas, and carcinomas) in female mice whose sample sizes were corrected for survival were 0.26, 0.48, 0.34, and 0.55, respectively, in control, low-, middle-, and high-dosage Amitraz-fed groups.

3. The incidence of all types of liver tumors was higher in five of six Amitraz treatment groups in both males and females than in the controls.

4. Estimated food consumption was greater among high-dose (400 ppm) males than among males in the other dosage groups; females had a greater intake than males throughout the test; and the high-dose (400 ppm) females tended to show greater consumption than the controls (0 ppm), while the low (25 ppm) and medium (100 ppm) females ate less than the controls.

5. Body-weight gain in the high-dose males was 37% less than the control group at the first 40 weeks, but only 16% less at 80 weeks; female body-weights were less adversely affected than males; high-dose females had 18% less body-weight gain than controls at 40 weeks, and only 9% less at 80 weeks.

(2) *Interpretations of the Boots Study.* In interpreting this study, its authors, the Boots consultants, and the Upjohn Company raise four particular issues: (a) the statistics of the tumor incidences, (b) the possibility that the LR tumors arose as a non-specific response to several factors in combination with Amitraz, (c) the potential for viral induction of LR tumors, and (d) the overall interpretation of the results.

(a) *Statistics.* The results of the Boots study are stated in Section II.C. (1)(b). To provide a quantitative basis for an interpretation of the mouse tumor data, the authors of the Boots study conducted various statistical comparisons. They concluded that the only pathological finding of note was the significantly higher incidence of LR tumors in high-dosage females as compared to that in the controls (Burnett et al. 1976). Later, both a Boots' consultant and the Upjohn Company expressed their confirmation of this finding (Roe 1976; Letter 1976a; 1977b).

In addition, CAG found that:

1. The LR tumors in female mice exhibit a significantly increasing linear trend in dose-response relationship ($p<0.02$);

2. Survival-corrected female mice show a significantly increasing linear trend in the dose-response relationship for lung lesions ($p<0.05$(EPA 1977).

The Agency finds that these statistical determinations by Boots, Upjohn and CAG meet the RPAR criterion for oncogenic effects.

(b) *LR Tumor Etiology.* The primary conclusion presented by the authors of the Boots study was that LR tumors could have been a nonspecific response to the combination of several factors and Amitraz. They listed such factors as the mouse strain, endocrinal activity, immunological response and dietary intake.

(i) *Mouse Strain.* Both a consultant for the Boots Company, Dr. F. J. C. Roe, and one of the Boots study authors, Dr. G. T. Turnbull, have asserted that the genetic background of the mice contributed to the incidence of LR tumors in treated females. Dr. Roe stated that the historical incidence of such tumors in these mice was relatively high compared to other mouse strains, while Dr. Turnbull asserted the background incidence was intermediate to that of other strains.

The EPA consultants have commented:

Swiss albino mice are widespread, outbred, and consequently somewhat variable genetically. The isolation of the CFLP strain is likely to have stabilized its genetic variability somewhat, but without inbreeding it cannot be regarded as a strain with homogeneous characteristics. It is not appropriate to compare its spontaneous incidence of tumors quantitatively with that of other Swiss strains. The most precise information available to the review team is that provided in the Upjohn submission. These tabulate observations in untreated mice in 13 experiments completed between 1972 and 1975. With one exception * * * these experiments appear to have been conducted under similar conditions to that with BAAM, and for the same exposure period, and hence should be directly comparable.

In males, the incidence of LR tumors in controls varied between 3% and 20%, mean 12%. None of these incidences falls outside the 95% probability limits for a binomial distribution based on a uniform probability of occurrence of 0.12 * * *. In females the incidence in controls varied between 10% and 31%, mean 19%. None of these incidences falls outside the 90% probability limits for a binomial distribution based on a uniform probability of occurrence of 0.19. In neither sex do the figures for spontaneous incidence show a significant upward or downward trend with time (Parks et al 1977. Report of consultants. Clement Assoc., Inc.).

Generally, then, this analysis shows that the historical incidence of LR tumors in the present Boots study mice falls within the normal range of the incidences in historical studies. Thus, there is insufficient evidence to indicate the LR tumors observed in treated females arose spontaneously.

(ii) *Endocrinal Activity and Immune Response.* The Boots Company and its consultants suggested that the activity or response of the endocrine or immunological systems of the mice contributed

to the induction of the LR tumors. The authors of the Boots study admitted, however, that it had found no evidence to support these suggestions. The Agency agrees.

(iii) *Food Intake.* The Boots study suggests that overfeeding of mice is associated with tumor induction. The authors state that the female mice ate more food per bodyweight than did males; so they concluded that it was likely that food intake accounted for the increase in tumors.

The EPA consultants do not agree:

> [Dr.] Roe points out an association between incidence of lymphosarcomas and food intake. However, in our experience * * * the association is between tumor incidence and condition (body-weight) rather than with food intake per se. In this experiment, the group with the largest tumor incidence was the 400 ppm females, which had an increased food intake but decreased body-weight. In any case, as [Dr.] Roe pointed out, one would have expected the effect to have shown up also in males, in which the effects on food intake and body-weight were proportionately larger (Parks et al. 1977).

Consequently, the Agency finds the food intake argument to be unsupported.

(c) *Viral Induction of LR Tumors.* The Upjohn Company has asserted that the higher incidence of LR tumors in female mice is the result of a horizontal or vertical spread of a leukemia virus.

To support the hypothesis of a horizontal spread of virus, Upjohn claims that the frequency of tumor-bearing females in the lower right quadrant of cages was significantly higher than the frequency of tumor-bearing females in the lower left quadrant. However, Upjohn did not apply a correction for continuity in the chi-square computation. When the appropriate correction is included, the difference is not significant ($p > 0.08$). CAG and the EPA concultants also analyzed the possibility of clustering of LR tumors by litter and cage and found no evidence of clustering (Parks et al. 1977).

Upjohn also discussed vertical spread of a virus by showing that certain litters appeared to be over-represented in the LR tumor group. However, when an analysis was performed by CAG and the EPA consultants there was very good agreement between the number of affected animals observed and those expected, assuming a uniform probability for any animal being affected.

An electron microscope study was initiated to find leukemia virus in the LR tumor tissue of the high dose female mice. Tissues from two such mice were examined. While there was some suggestion of viral particles in the examined tissue, the poor condition of the preserved tissue made impossible a certain determination.

On the basis of the analyses of the CAG and the EPA consultants, the Agency finds no evidence of a vertical or horizontal viral spread.

(d) *Overall Interpretation of the Findings in the Boots Study.* The Boots' consultants, the Upjohn Company, the EPA consultants, and CAG have offered various interpretations of the Boots mouse report data.

The Boots and Upjohn Companies concluded that the Boots mouse test results in no way establish that Amitraz caused tumors. The facts they cited in addition to evidence already discussed included: (1) The lack of LR tumors in male mice, (2) the lack of change in the latency period or overall incidence of tumors, (3) the apparent negative results for rats, (4) the apparent negative results of several mutagenic assays, (5) the lack of teratogenic effects in rats or rabbits, and (6) a lack of significant differences in mortality among groups (Burnett et al. 1976).

On the other hand, the EPA consultants concluded that the Boots mouse test results constituted "substantial evidence" of carcinogenicity in CFLP mice, although the evidence "fell somewhat short of definitive proof" (Parks et al. 1977). They also noted that the study was conducted for only 80 weeks, as opposed to the 24 months recommended by National Cancer Institute guidelines, and concluded that the test was "expected to be insensitive * * * for carcinogenicity." The consultants for EPA also examined the chronic feeding studies for rats and dogs, and assessed the results of the mutagenic assays, but did not report that these studies affected an interpretation of the Boots mouse test results.

CAG also found the mouse study meets the RPAR criterion for oncogenic effects. They stated that this criterion "is a statistically significant excess tumor incidence in a study that cannot be dismissed as invalid."

To reach an overall interpretation of the mouse study in relation to the oncogenic criterion requires an answer to the question, did Amitraz induce any oncogenic effects?

The Boots and the Upjohn companies concluded that the only oncogenic effect was the significantly greater incidence of LR tumor in the female mice, but that this effect was explained away by other evidence. However, the information or explanation proposed by Boots and Upjohn to refute the Boots data have been found by the CAG or the EPA consultants to be unsubstantiated.

A statistically significant increase in LR tumors in treated female mice cannot be explained away by any of the six facts Boots and Upjohn cite above (lack of LR tumors in mice, lack of change in latency period, etc.). These facts similarly do not refute the dose response relationships found in both the LR tumors and lung lesions of treated female mice. Therefore, the Agency finds that the criterion for oncogenic effects has been met.

III. Rebuttable Presumption Criteria for Which the Agency Seeks Additional Information

In order to more adequately assess the oncogenic potential of Amitraz, BAAM or their metabolites or degradation products, the EPA requests:

1. Access to the histological slides generated in the Boots mouse and rat carcinogenicity studies;

2. Further information on the metabolites of Amitraz, especially on the status of 2,4-dimethylaniline;

3. Information on the tumor types and rates in control CFLP mice and Ash-Wistar rats from the supplier of animals in the Boots studies.

The EPA also requests additional information on other risk criteria listed in 40 CFR 162.11(a)(3), in order to assess any other potential risks of Amitraz.

IV. Grounds for Pesticide Review in Addition to Rebuttable Presumption Criteria

The Agency examined other oncogenicity-related effects of Amitraz. Individually these studies presented insufficient evidence to initiate a rebuttable presumption on the basis of oncogenic effects.

A. *2,4-dimethylaniline—A Potential Metabolite.* 2,4-dimethylaniline (BTS 24868) may be a metabolite of Amitraz. The Boots Company has traced the fate of Amitraz in dogs' stomachs and identified BTS 24868 as a breakdown product.

A recent National Cancer Institute study has presented some suggestive evidence that the compound exhibits some oncogenic effects (Homburger et al. 1973. Carcinogenicity of chemicals present in man's environment. Bio-Research Consultants, Inc.). CAG has reviewed this study and found that sarcomas occurred more frequently in treated female mice than in control mice, and treated male rats had a higher incidence of malignancies than did controls.

B. *Effects of Amitraz in Rats.* A two-year feeding study by the Boots Company presented evidence that Amitraz is not carinogenic in rats.

CAG has found no significant differences in tumor rates among treatment groups except for pituitary adenomas. In this case, the ratios of tumor-bearing male rats to the tested populations were 4/40, 9/40, 18/39, and 8/40 in the zero, 15, 50, and 200 ppm Amitraz-treated groups, respectively ($p < 0.05$). To CAG the significance associated with pituitary adenomas was due to the 50 ppm dosage group. CAG found it doubtful that the finding represented a chemically induced effect. The EPA consultants concurred.

C. *Effects of Amitraz in Dogs.* The Boots Company has conducted a long-term feeding study of the effects of Amitraz on dogs. Boots observed no tumors in any of the dogs. The EPA consultants evaluated the study results and concurred. They state, however, that the duration of the test was not adequate for it to be considered as a carcinogenic bioassay.

D. *Structurally Related Compounds.* On September 6, 1976, the Ciba-Geigy and Nor-Am Corporations voluntarily recalled their chlordimeform-containing pesticide products, since preliminary results indicated chlordimeform induced a significant increase of malignant tumors in mice.

In November 1976, the Registration Division of OPP recommended that OSPR review the literature to uncover

the potential of the formamidine class compounds, which included chlordimeform and Amitraz, to cause oncogenic effects.

Soon thereafter, Upjohn submitted to EPA a report of the Boots Company on the relationship of Amitraz to chlordimeform. This study stated that there are no metabolites common to the breakdown pathways of these two chemicals and that there are differences in their molecular structures as well. The report concluded that on this basis no connection could be drawn between the toxicological potential of chlordimeform and that of Amitraz.

The EPA consultants have generally concurred (Parks et al. 1977).

E. *Mutagenic Effects.* The Upjohn Company has submitted to EPA the results of several mutagenicity tests conducted by the Boots Company. These tests were evaluated by Boots as revealing a non-mutagenic response for Amitraz and several of its metabolites, BTS 27271, BTS 27919 and BTS 28369.

The EPA consultants did not validate this mutagenicity report. It lacks detailed description of methods, referring to an outdated paper by Ames and to two unpublished company reports. The studies did not use the more sensitive bacterial strains developed since 1973, used phenobarbitone instead of Aroclor 1254 as an enzyme inducer, and did not use metabolic activation at all for the metabolites. Moreover, the results with positive controls were irregular and lower than those usually obtained in this assay (Parks et al. 1977).

V. Registrations and Products Subject to the Notice

The registrant and applicant for registration listed below are being notified by certified mail of the rebuttable presumption existing against registration and continued registration of their products.

The registrant and applicant for registration of the following products shall have 45 days from the date this notice is sent, or until May 16, 1977, to submit evidence in rebuttal of the presumption. However, the Administrator may, for good cause shown, grant an additional 60 days during which such evidence may be submitted. Notice of such an extension, if granted, will appear in the Federal Register.

EPA Registration No. 1053-58. Amitraz. Upjohn Co., 7171 Portage Road, Kalamazoo, MI, 49001.

EPA File Symbol 1053-LO. BAAM EC. Upjohn Co., 7171 Portage Road, Kalamazoo, MI, 49001.

VI. Duty to Submit Information on Adverse Effects

Registrants are required by law to submit to EPA any additional information regarding any adverse effects on man or the environment which comes to a registrant's attention at any time, pursuant to Section 6(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act and 40 CFR 162.8(d). If the registrant of Amitraz has any published or unpublished information, studies, reports, analyses, or reanalyses regarding any adverse effects in animal species or humans, residues, and claimed or verified accidents to humans, domestic animals, or wildlife, which has not been previously submitted to EPA, the material must be submitted immediately. At the time of response to this notice, the registrant shall submit a written certification to the Agency that all information regarding any adverse effects known to the registrant has been submitted. In addition, the registrant should notify EPA of any studies currently in progress, including the purpose of the study, the protocol, the approximate completion data, and a summary of all results observed to date.

VII. Public Comments

A Position Document, dated March 4, 1977, prepared by an Agency Working Group on Amitraz and containing background information and copies of references to published studies and Agency reports is available for public inspection. During the time allowed for submission of rebuttal evidence, comments on the presumption set forth in the notice and on the material contained in the Position Document are also solicited from the public. In particular, any documented episodes of adverse effects to humans, domestic animals, or wildlife, and information as to any laboratory studies in progress or completed, are requested to be submitted to EPA as soon as possible. Likewise, any studies or comments on the benefits from the use of Amitraz are requested to be submitted.

All comments and information should be sent to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticides Programs, Rm. 401, East Tower, 401 M St., SW., Washington, D.C. 20460. Three copies of the comments or information should be submitted if possible to facilitiate the work of the Agency and others interested in inspecting them. The comments and information should bear the identifying notation "OPP-30000/12." Comments and information received within the specified time limit shall be considered before it is determined whether a notice shall be issued in accordance with 40 CFR 162.11(a)(5)(ii). Comments received after the specified time period will be considered only to the extent feasible consistent with the time limits imposed by 40 CFR 162.11(a)(5)(ii). All written comments and information filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4:00 p.m. during normal working days.

The material contained in the Position Document is available for inspection in the Office of Special Pesticide Reviews, Rm. 447, East Tower, during the same time period.

Dated: March 30, 1977.

Edwin L. Johnson,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.77-10140 Filed 4-5-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

BROADCAST STATIONS AND CABLE TELEVISION SYSTEMS

Minority Ownership Conference

March 31, 1977.

A two-day conference to explore possible methods of improving the extent of minority participation in the ownership of broadcast stations and cable television systems will be held at the Federal Communications Commission April 25 and 26.

Sessions will be held from 9:30 a.m. to 12 noon, and from 2 p.m. to 4:30 p.m. each day in the Commission's meeting room, Room 856.

A plenary session will be held at 9:15 a.m., April 25. FCC Chairman Richard E. Wiley and Commissioner Benjamin L. Hooks will give the opening remarks.

The panel schedule is as follows:

April 25

PANEL A—SOURCES OF FINANCING—9:30 A.M. TO 12 NOON

Problems in financing minority enterprises and whether low-interest government loans or other incentives should be made available to minority applicants.

PANEL B—ACCESS TO AND USE OF PROFESSIONAL HELP—2 TO 4:30 P.M.

The adequacy of professional help e.g., media brokers, lawyers, engineers, etc.; and the available programs and/or personnel from various educational institutions that may assist minority broadcast applicants.

PANEL C—OPERATIONAL PROBLEMS AND BARRIERS TO ENTRY—9:30 A.M. TO 12 NOON

Possible marketplace impediments e.g., media brokers' failure to contact prospective minority applicants regarding available broadcast properties; problems concerning rating services, national advertisers and selected program formats that might discourage minority applicants from becoming interested in station ownership.

PANEL D—PUBLIC POLICY RELATING TO MINORITY OWNERSHIP—2 TO 4:30 P. M.

An analysis of governmental policies that may increase the pool of minority applicants.

The panelists are drawn from both the public and private sector. Following are the panels and their members:

PANEL A—SOURCES OF FINANCING

Moderator

Roderick K. Porter, FCC, legal assistant to Chairman Wiley.

Panelists

Representative, Office of the General Counsel, Small Business Administration.
Michael Finkelstein, attorney, Washington, D.C.
Stuart Hallock, U.S. Office of Education, Department of Health, Education, and Welfare.
Representative, Economic Development Administration, U.S. Department of Commerce.
Ragan Henry, Broadcast Enterprises, Inc., Philadelphia.
Elliott Franks, WOIC-AM, Columbia, S.C.
Jack Gloster, Opportunity Funding Corporation, Washington.
David Davis, Ford Foundation, New York.
Jack O'Connell, Perpetual Corporation, Houston, Tex.

PANEL B—ACCESS TO AND USE OF PROFESSIONAL HELP

Moderator

Patricia Russell, FCC, deputy chief, Industry Equal Employment Opportunity Unit

Panelists

Joseph Sittrick, Blackburn and Company, Washington
George Shapiro of Arent, Fox, Kintner, Plotkin & Kahn, Washington
Patti Grace, Community Affairs Director, National Association of Broadcasters, Washington
Cecil L. Richards, Cecil L. Richards, Inc., Falls Church, Va.
Robert C. Davidson, Jr., financial consultant, Los Angeles
Gloria Walker, Dean, School of Communications, Clark College, Atlanta
Lionel Barrow, Dean, School of Communications, Howard University, Washington
William Kearney, Division of Fine Arts and Humanities, Department of Mass Media Arts, Hampton Institute, Hamtpon, Va.

PANEL C—OPERATIONAL PROBLEMS AS BARRIERS TO ENTRY

Moderator

Clarence McKee, FCC, legal assistant to Commissioner Hooks

Panelists

Skip Finley, WAMO-AM/FM, Pittsburgh
Richard Jones, J. Walter Thompson and Comapny, New York
Peter Roslow, associate director, Pulse, Inc., New York
R. R. Ridgeway, Arbitron Rating Service, New York
Thomas Hardy, Professor, School of Communications, Howard University, Washington
Cathy Liggins, WHUR-FM(ED), Washington
Rene Anselmo, president, Spanish International Network, New York
William Summers, Summers Broadcasting, Inc., Louisville, Ky.
Dan Robinson, WNJR, Union, N.J.
Fransisco Briones, "Activate Channel 44", (public television), Alamo, Tex.

PANEL D—PUBLIC POLICY RELATING TO MINORITY OWNERSHIP

Moderator

J. Clay Smith, Jr., FCC, Associate General Counsel

Panelists

Curtis White, attorney, Hayes and White Law Professional Corporation, Washington
Ronald Davenport, Dean, Duquesne University School of Law, Pittsburgh.
Harry M. Shooshan III, counsel, House Subcommittee on Communications
Martin I. Levy, FCC, Chief, Broadcast Facilities Division, Broadcast Bureau
John Lyons, FCC, attorney adviser, Office of Plans and Policy Representative, Small Business Administration
Ragan Henry, Broadcast Enterprises, Inc., Philadelphia
Joseph Sittrick, Blackburn and Company, Washington
Skip Finley, WAMO-AM/FM, Pittsburgh
Irwin Krasnow, general counsel, Nationcl Association of Broadcasters
Dan Young, Amistod Productions, Inc., Atlanta

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-10182 Filed 4-5-77;8:45 am]

STANDARD BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Adopted: March 21, 1977.

Released: March 24, 1977.

Notice is hereby given, pursuant to § 1.571(c) of the Commission's rules, that on May 10, 1977, the standard broadcast applications listed in the attached Appendix will be considered as ready and available for processing. Pursuant to § 1.227(b)(1) and § 1.591(b) of the Commission's rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on May 9, 1977, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C. by the close of business on May 9, 1977. The attention of prospective applicants is directed to the fact that some contemplated proposals may not be eligible for consideration with an application appearing in the attached Appendix by reason of conflicts between the listed applications and applications appearing in previous notices published pursuant to § 1.571(c) of the Commission's Rules.

The attention of any party in interest desiring to file pleadings concerning any pending standard broadcast applications, pursuant to Section 309(d)(1) of the Communication Act of 1934, as amended, is directed to § 1.580(i) of the Commission's Rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

APPENDIX

BMP-14,129 WVCG, Coral Gables, Fla., Independent Music Broadcasters, Inc., Has Lic: 1080 kHz, 500 W, 10 kW-LS, DA-2, U. Has CP: 1080 kHz, 10 kW, DA-2, U. Req: 1080 kHz, 10 kW, 50 kW-LS, DA-2, U.

BP-19,922 KARV, Russellville, Ark., Horne Industries, Inc. Has: 1490 kHz, 250 W, 1 kW-LS, U. Req: 610 kHz, 500 W, 1 kW-LS, DA-2, U.

BP-20,117 WAMB, Donelson, Tenn., Great Southern Broadcasting Co. Inc. Has: 1190 kHz, 250 W, Day. Req: 1170 kHz, 5 kW (500 W-CH), DA-2, Day.

BP-20,146 WVJP, Caguas, Puerto Rico, Borinquen Broadcasting Co., Has: 1110 kHz, 250 W, U. Req: 1110 kHz, 500 W, 2.5 kW-LS, U.

BP-20,164 KPAX, San Francisco, Calif., Argonant Broadcasting Co. Has: 1100 kHz, 1 kW, 50 kW-LS, DA-Day, S.H. Req: 1100 kHz, 50 kW, DA-2, U.

BP-20,181 WMCL, McLeansboro, Ill., Community Service Broadcasting, Inc. Has: 1060 kHz, 250 W, Day. Req: 1060 kHz, 2.5 kW, DA-Day.

BP-20,202 (new), Ontario, Ohio, GSM Media Corp. Req: 1440 kHz, 1 kW, DA-Day.

BP-20,214 WKYK, Burnsville, N.C., Mark Media, Inc. Has: 1540 kHz, 1 kW, Day. Req: 940 kHz, 250 W, 1 kW-LS, DA-N, U.

BP-20,230 WFSO, Pinellas Park, Fla., Pinellas Radio Corp. Has: 570 kHz, 500 W, DA-Day. Req: 570 kHz, 500 W, DA-2, U.

BP-20,231 WINI, Murphysboro, Ill., Radio Station WINI. Has: 1420 kHz, 500 W, Day. Req: 1420 kHz, 500 W, DA-N, U.

BP-20,240 KAPR, Douglas, Ariz., K.A.P.R., Inc. Has: 930 kHz, 1 kW, Day. Req: 930 kHz, 2.5 kW, Day.

BP-20,241 KKLS, Rapid City, S. Dak., James River Broadcasting Co. Has: 920 kHz, 1 kW, Day. Req: 920 kHz, 5 kW, DA-Day.

BP-20,242 WVSA, Vernon, Ala., Lamar County Broadcasting Co., Has: 1380 kHz, 1 kW, Day. Req: 1380 kHz, 5 kW, Day.

BP-20,244 WAVL, Apollo, Pa., Tri-Borough Broadcasting, Inc. Has: 910 kHz, 1 kW, Day. Req: 910 kHz, 5 kW, DA-Day.

BP-20,245 WXLW, Speedway, Ind., Shirk, Inc. Has: 950 kHz, 5 kW, DA-Day (Indianapolis, Ind.). Req: 950 kHz, 5 kW, DA-2, U (Speedway, Ind.).

BP-20,246 (new), Dobson, N.C., Dobson, Broadcasting Co. Req: 1560 kHz, 2.5 kW (500 W-CH), Day.

BP-20,247 KWBZ, Englewood, Colo., Western Broadcasting Corp. Has: 1150 kHz, 5 kW, Day. Req: 1150 kHz, 1 kW, 5 kW-LS, DA-N, U.

BP-20,248 WRSC, State College, Pa., State College Communications Corp. Has: 1390 kHz, 1 kW, Day. Req: 1390 kHz, 2.5 kW, Day.

BP-20,249 (new), Pearl, Miss., Mid South Media, Inc. Req: 1190 kHz, 1 kW, Day.

BP-20,252 WRNG, North Atlanta, Ga., Ring Radio Co. Has: 680 kHz, 25 kW, Day. Req: 680 kHz, 10kW, 25 kW-LS, DA-N, U.

MP-20,253 KLUC, North Las Vegas, Nev., KLUC Broadcasting Co. Has: 1140 kHz, 10 kW, Day (Las Vegas). Req: 1140 kHz, 2.5 kW, 10 kW-LS, DA-N, U (North Las Vegas).

BP-20,254 WKMC, Roaring Springs, Pa., Cove Broadcasting Co., Inc. Has: 1370 kHz, 1 kW, Day. Req: 1370 kHz, 5 kW, DA-Day.

BP-20,273 WIBR, Baton Rouge, La., Community Broadcasting Co., Inc. Has: 1300 kHz, 1 kW, DA-2, U. Req: 1300 kHz, 1 kW, 5 kW-LS, DA-2, U.

BP-20,550 WCDS, Glasgow, Ky., John M. Barrick. Has: 1440 kHz, 1 kW, Day. Req: 1440 kHz, 5kW, DA-Day.

BP-20,688 KHVH, Honolulu, Hawaii, KHVH, Inc. Has: 1040 kHz, 5 kW, U. Req: 1040 kHz, 10 kW, U.

APPLICATION DELETED FROM PUBLIC NOTICE OF NOVEMBER 22, 1974 (MIMEO 33282)

BP-19730 KVHV, Honolulu, Hawaii, KHVH, Inc. Has: 1040 kHz, 5 kW, U. Req: 1010 kHz, 10 kW, U.
Req: 1010 kHz, 10 kW, U.
(Assigned New File Number BP-20,688).

[FR Doc.77-10186 Filed 4-5-77;8:45 am]

FEDERAL ELECTION COMMISSION

[Notice 1977-22, AOR 1977-15]

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 Request 1977-15 has been made public at the Commission. Copies of AOR 1977-15 were made available on April 1, 1977. These copies of the advisory opinion request were made available for public inspection and purchase at the Federal Election Commission, Public Records Divi-

sion, at 1325 K Street NW., 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 Commisison will be considered before the Commission issues an advisory opinion. Comments on pending requests should refer to the specific AOR number of the requests and statutory references should be to the United States Code citations rather than to the Public Law citations.

A description of the request recently made public as well as the identification of the requesting party follows hereafter:

AOR 1977-15: May a candidate's principal campaign committee accept at this time contributions from family members for the purpose of retiring outstanding debts of the committee without regard to contributions made by those family members before January 29, 1976.—Requested by Richard H. Kimmel, Counsel for the Caputo for Congress Committee, New York, New York.

Dated: April 1, 1977.

VERNON W. THOMSON,
Chairman for the
Federal Election Commission.

[FR Doc.77-10215 Filed 4-5-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

OFFICE OF EXCEPTIONS AND APPEALS

Cases Filed Week of March 11 Through March 18, 1977

Notice is hereby given that during the week of March 11 through March 18, 1977, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Federal Energy Administration's Office of Exceptions and Appeals.

Under the FEA's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the FEA action sought in such cases may file with the FEA written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first.

ERIC J. FYGI,
Acting General Counsel.

MARCH 30, 1977.

APPENDIX.—*List of cases received by the Office of Exceptions and Appeals, week of Mar. 11 through Mar. 18, 1977*

Date	Name and location of applicant	Case No.	Type of submission
Mar. 11, 1977	Baltimore Gas & Electric Co., Baltimore, Md. (If granted: FEA's Jan. 27, 1977, order would be modified to permit the Baltimore Gas & Electric Co. to use an additional quantity of naphtha after Mar. 31, 1977, to complete the testing and preliminary startup operation of both production trains of its Sollers Point, Md., SNG plant.)	FMR-0091	Modification of FEA's Jan. 27, 1977, order.
Mar. 14, 1977	Aminoil U.S.A., Inc., Houston, Tex. (If granted: Aminoil U.S.A., Inc., would receive an extension of the exception relief granted in the FEA's Sept. 17, 1976, decision and order and would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the following natural gas plants: Aline, Fox, Huntington Beach, Talora, and Tioga.)	FXE-3933 FXE-3938	Extension of exception relief granted in Aminoil U.S.A., Inc., 4 FEA par. 83,001 (Sept. 17, 1976).
Do	Getty Oil Co., Los Angeles, Calif. (If granted: Getty Oil Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the following natural gas plants: Bastian Bay, Calumet, Cocodrie, Hollywood, Houma, Katy, Levelland, and Old Ocean.)	FEE-3945 FEE-3952	Price exception (sec. 212.165).
Do	Hunt Industries (Zoller), Dallas, Tex. (If granted: Hunt Industries would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Zoller plant.)	FEE-3939	Do.
Do	John Wight, Inc., Billings, Mont. (If granted: John Wight, Inc., would receive exception relief which would permit the firm to receive an allocation of crude oil to use as feedstock in its refinery located at Shelby, Mont., when such refinery is made operable.)	FEE-3944	Allocation exception (sec. 211.65).
Do	Marathon Oil Co., Findlay, Ohio. (If granted: Marathon Oil Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the following natural gas plants: Camrick, Cotton Valley, Heyser, Indian Basin, Knox, Markham, Jock River, Scipio, South Coles Levee, Stephens, Welder, West Forelands, and West Sidney.)	FEE-3953— FEE-3965	Price exception (sec. 212.165).
Do	Signal Petroleum (Lake Washington), New Orleans, La. (If granted: Signal Petroleum would receive an extension of the exception relief granted in the FEA's Sept. 22, 1976, decision and order and would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Lake Washington plant.)	FXE-3940	Extension of exception relief granted in Signal Petroleum, 4 FEA par. 83,110 (Sept. 22, 1976).
Do	Sun Co., Inc. Dallas, Tex. (If granted: Sun Co., Inc., would receive an extension of the relief granted in the FEA's Sept. 30, 1976, and Oct. 29, 1976, decisions and orders and would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Belle Isle plant, the Sun plant, and the Victoria plant.)	FXE-3941— FXE-3943	Extention of exception relief granted in Sun Oil Co., 4 FEA par. 83,135 (Sept. 30, 1976); Sun Oil Co., 4 FEA par. 83,146 (Oct. 29, 1976).
Do	Texaco, Inc., Tulsa, Okla. (If granted: FEA's Jan. 20, 1977, assignment order would be rescinded and Texaco, Inc., would not be required to supply Ron La Brue, doing business as Lamont Texaco Station, with his annual base period use of motor gasoline.)	FEA-1221	Appeal of the FEA region VI's assignment order dated Jan. 20, 1977.
Do	Wagner Oils, Inc., Fairborn, Ohio (If granted: Wagner Oils, Inc., would be relieved of its obligation to file FEA form P112-M-1 (No. 2 heating oil/price monitoring report).)	FEE-3931	Exception to reporting requirement (sec. 211.-127).
Do	Williams, Paul H., Plainville, Kans. (If granted: Crude oil produced from the South Paradise Creek well located in Rooks County, Kans., would be sold at upper tier ceiling prices.)	FEE-3932	Price exception (sec. 212.73).
Mar. 15, 1977	A. & N. Producing Services, Inc., Jackson, Miss. (If granted: A. & N. Producing Services, Inc., would receive an extension of the exception relief granted in the FEA's Oct. 29, 1976, decision and order and would be permitted to sell crude oil produced from the U.S.A. well No. 2 lease at upper tier ceiling prices.)	FXE-3969	Extension of exception relief granted in A. & N. Producing Services, Inc., 4 FEA par. 83,166 (Oct. 29, 1976).
Do	Barnard, George A., Eureka, Kans. (If granted: George A. Barnard would be granted an exception from the provisions of sec. 211.63 to permit him to retain certain crude oil which he is currently selling to Phillips Petroleum Co. and the Wesco Pipeline.)	FEE-3970	Allocation exception (sec. 211.63).
Do	Boyd Oil Corp., Concord, N.H. (If granted: FEA's Mar. 3, 1977, stay decision would be modified to permit the Boyd Oil Corp. an extension of time in which to comply with the provisions of the Mar. 3 stay which required Boyd to establish an escrow account for funds in dispute.)	FMR-0092	Modification of decision and order in Boyd Oil Corp., 5 FEA par. ——— (Mar. 3, 1977).
Do	Coastal States Gas Corp., Houston, Tex. (If granted: Coastal States Gas Corp. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the following natural gas processing plants: Albany, Bay City, Corpus Christi, Freer, Hidalgo, Mission, and San Antonia.)	FEE-3978— FEE-3984	Price exception (sec. 212.165).
Do	General Distributors, Inc., Snow Hill, Md. (If granted: General Distributors, Inc., would be granted a stay of the requirement specified in the FEA's Feb. 23, 1977, remedial order that it refund alleged overcharges made on sales of propane.)	FES-0078	Stay request.
Do	Grier Oil Co., Aberdeen, Md. (If granted: Grier Oil Co. would receive a stay of the requirements of the FEA's Feb. 18, 1977, remedial order and would not be required to make refunds for overcharges on sales of No. 2 heating oil made during the period Nov. 1, 1973, through Mar. 31, 1974.)	FES-0080	Do.

Date	Name and location of applicant	Case No.	Type of submission
Do.	Gulf Oil Corp., Houston, Tex. (If granted: FEA's Jan. 14, 1977, decision and order issued to the Ashland Oil Co. would be rescinded and the Gulf Oil Corp. would not be required to furnish Ashland with motor gasoline.)	FZA-1222	Appeal of decision and order in Ashland Oil Co., 5 FEA par. ..... (Jan. 14, 1977).
Do.	H. & K. Oil Co., Yankton, S. Dak. (If granted: FEA's Mar. 1, 1977, decision and order would be rescinded and the H. & K. Oil Co. would be granted a stay of the refund requirements specified in FEA region VIII's Jan. 21, 1977, remedial order.)	FMR-0003	Modification of decision and order in H. & K. Oil Co., 5 FEA par. ..... (Mar. 1, 1977).
Do.	Hoxsey, Merwin L., doing business as Hoxsey Shell Service, San Diego, Calif. (If granted: Merwin L. Hoxsey doing business as Hoxsey Shell Service would be granted an exception to sec. 212.93 to permit him to increase the maximum permissible selling price of the motor gasoline which he sells.)	FEE-3067	Price exception (sec. 212.93).
Do.	Mustang Gas Products Co., Oklahoma City, Okla. (If granted: Mustang Gas Products Co. would be permitted to increase its prices for natural gas liquid products produced at the Calumet gas plant to reflect nonproduct increases in excess of $0.005/gal.)	FEE-3071	Price exception (sec. 212.165).
Do.	Oil Development Co. of Texas, Amarillo, Tex. (If granted: Oil Development Co. of Texas would be permitted to determine the prices of crude oil produced from the Cooper-Johnson lease located in Stephens County, Okla., without regard to the property's current cumulative deficiency.)	FEE-3066	Price exception (sec. 212.74).
Do.	Perrault Production Co., Tulsa, Okla. (If granted: FEA's Feb. 25, 1977, decision and order would be rescinded and Perrault Production Co., would be permitted to receive upper tier ceiling prices for the crude oil which it produced and sold from the South Myers waterflood lease and the City Lake lease during the month of February 1976.)	FXA-1223	Appeal of decision and order in Perrault Production Co., 5 FEA par. ..... (Feb. 25, 1977).
Do.	Skelly Oil Co., Tulsa, Okla. (If granted: Skelly Oil Co. would receive a stay of the requirements of the FEA's Dec. 6, 1976, remedial order issued to the firm pending a final determination of Skelly's appeal of the order.)	FES-0079	Stay request.
Do.	Standard Oil Co. of California, San Francisco, Calif. (If granted: Standard Oil Co. of California would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the following natural gas plants: Gaviota, Inglewood, KNDGP 3P, McKittrick, 32-Z, and Torrance.)	FEE-3072—FEE-3077	Price exception (sec. 212.165).
Do.	Standard Oil Co. of California, San Francisco, Calif. (If granted: Standard Oil Co. of California would receive an extension of the exception relief granted in the FEA's Dec. 14, 1976, decision and order and would be permitted to increase its prices to reflect nonproducts cost increases in excess of $0.005/gal for natural gas liquid products produced at the following natural gas processing plants: Carpinteria, Colonia Booster, Greeley System, Marietta, Wilson Creek, and Yates.)	FXE-3085—FXE-3090	Extension of exception relief granted in Standard Oil Co. of California, 5 FEA par. 83,259 (Dec. 14, 1976).
Do.	T. & F. Oil Co., Long Beach, Calif. (If granted: Crude oil produced from the T. & F. Oil Co.'s El Segundo No. 1 well would be sold at upper tier ceiling prices.)	FEE-3068	Price exception (sec. 212.73).
Mar. 16, 1977	Advanced Sales Corp., St. Petersburg, Fla. (If granted: Advanced Sales Corp. would be assigned a new, lower priced supplier of motor gasoline to replace its base period supplier, Gulf Oil Corp.)	FEE-3091	Exception to change base period supplier (sec. 211.9).
Do.	C. & K. Oil Co., Beckley, W. Va. (If granted: C. & K. Oil Co. would be granted an exception to the provisions of sec. 212.93 to permit the firm to increase its maximum permissible selling prices for motor gasoline.)	FEE-3093	Price exception (sec. 212.93).
Do.	Eason Oil Co., Oklahoma City, Okla. (If granted: Crude oil produced from the Eason Oil Co.'s Weiner property located in Madison County, Miss., would be sold at upper tier ceiling prices.)	FEE-3094	Price exception (sec. 212.73).
Mar. 17, 1977	Golden Flame Fuel Co., Uniontown, Pa. (If granted: FEA's Feb. 23, 1977, remedial order would be rescinded and the Golden Flame Fuel Co. would not be required to refund overcharges made on sales of petroleum products during the period November 1973 through April 1975.)	FRA-1226	Appeal of FEA region III's remedial order dated Feb. 23, 1977.
Do.	Grigsby, Jack W., doing business as Grigsby Oil & Gas, Shreveport, La. (If granted: Jack W. Grigsby doing business as Gribsby Oil & Gas would receive a stay of the requirements of the FEA's Mar. 8, 1977, decision and order pending judicial review of the order.)	FES-0082	Stay request.
Mar. 16, 1977	Tenneco Oil Co., Washington, D.C. (If granted: FEA's Feb. 18, 1977, information request denial would be rescinded and the Tenneco Oil Co. would be granted access to certain documents pertaining to FEA case No. NOOAO0304.)	FFA-1225	Appeal of FEA's information request denial dated Feb. 18, 1977.
Do.	Texas Pacific Oil Co., Inc., Dallas, Tex. (If granted: Crude oil produced from the Texas Pacific Oil Co.'s O. L. Wilson lease located in Adams County, Miss., would be sold at upper tier ceiling prices.)	FEE-3092	Price exception (sec. 212.73).
Do.	Uranich Coal & Oil, LaSalle, Ill. (If granted: FEA's Feb. 4, 1977, remedial order would be rescinded and Uranich Coal & Oil would not be required to refund overcharges made in its sales of No. 2 heating oil during the period Nov. 1, 1973, through Dec. 31, 1974.)	FRA-1224	Appeal of FEA region V's remedial order dated Feb. 4, 1977.
Mar. 17, 1977	Donald J. Johnson, Salt Lake City, Utah. (If granted: Donald J. Johnson would be granted an exception to the provisions of sec. 212.76 and to sec. 212.73 to permit the firm to sell crude oil produced from the Roosevelt unit located in Uintah County, Utah, at upper tier ceiling prices.)	FEE-3095	Price exception (sec. 212.73).
Do.	Mar-Low Corp., Lafayette, La. (If granted: FEA's Feb. 24, 1977, decision and order would be modified and the Mar-Low Corp. would be granted additional relief to permit a larger percentage of the crude oil produced from the Maxie Broussard No. 1-D well located in Vermillion Parish, La., for the benefit of the working interest owners to be sold at upper tier ceiling prices.)	FXA-1228	Appeal of decision and order in Mar-Low Corp., 5 FEA par. ..... (Feb. 24, 1977).

Date	Name and location of applicant	Case No.	Type of submission
Do.	Joe E. Sharber, Washington, D.C. (If granted: FEA's Jan. 13, 1977, decision and order would be rescinded and Joe E. Sharber would be permitted to sell crude oil produced from the Rodden No. 1 well located in Seminole County, Okla., at price levels which exceed the applicable maximum lawful ceiling price level.)	FXA-1229	Appeal of decision and order in Joe E. Sharber, 5 FEA par. 83,043 (Jan. 13, 1977).
Do.	Shell Oil Co., Houston, Tex. (If granted: Regional administrator of FEA region VI would be permitted additional time in which to issue a revised remedial order to the Shell Oil Co.)	FEX-0132	Supplemental order.
Do.	Snedigar Flying Service, Inc., Rapid City, S. Dak. (If granted: FEA's Feb. 24, 1977, remedial order would be modified to reflect voluntary remedial price reductions implemented by Snedigar prior to the issuance of the Feb. 27 remedial order.)	FRA-1227 FRS-1227	Appeal of FEA region VIII's remedial order dated Feb. 27, 1977; stay requested.
Do.	Texaco, Inc. (Lignite), Houston, Tex. (If granted: Texaco, Inc., would receive an extension of the exception relief granted in the FEA's Dec. 29, 1976, decision and order and would be permitted to increase its prices for natural gas liquid products produced at the Lignite plant to reflect nonproduct cost increases in excess of $0.005/gal.)	FXE-3906	Extension of exception relief granted in Texaco, Inc., 5 FEA par. 83,031 (Dec. 29, 1976).
Mar. 18, 1977	Air Transport Association of America, Washington, D.C. (If granted: Air Transport Association of America would be permitted to intervene in an appeal of the Getty Oil Co. from a remedial order issued by the FEA to Getty on Aug. 12, 1976.)	FEX-0133	Supplemental to Getty Oil Co. (FEA-0078) and (FRA-1230).

[FR Doc.77-10001 Filed 3-31-77;9:34 am]

PROCEDURES FOR NON-PARTY ATTENDANCE

Procedures in Certain Application for Exception From Refiners' Price Rules Governing Order of Recovery of Increased Nonproduct Costs Prior to February 1, 1976

Notice is hereby provided of the procedures which the Office of Exceptions and Appeals of the Federal Energy Administration intends to follow with respect to personal attendance by nonparties in connection with proceedings conducted with respect to certain pending Applications for Exception filed by the Continental Oil Company (Case No. FEE-3520), Exxon Company, U.S.A. (Case No. FEE-3417) and the Southland Oil Company (Case No. FEE-3448). Each of these firms has requested exception relief from the FEA Regulations governing the order of recovery of increased nonproduct costs by refiners during the period January 1, 1975 through January 31, 1976. In view of the general interest in these proceedings, the FEA has concluded that all hearings and conferences involving this matter in which official stenographic transcripts are maintained shall be open to the general public, except to the extent that such conferences or hearings involve the presentation or discussion of confidential proprietary material which is protected by federal law from public disclosure. In order to inform all interested members of the public of the time and place of such conferences and hearings in the most efficient manner, appropriate notices shall be posted in the Public Docket Room of the Office of Private Grievance and Redress, (Room B-120), 2000 M Street, NW., Washington, D.C.

Issued in Washington, D.C., April 1, 1977.

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

[FR Doc.77-10229 Filed 4-4-77;9:21 am]

FEDERAL MARITIME COMMISSION

NORTH ATLANTIC CONTINENTAL FREIGHT CONFERENCE

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before April 26, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Howard A. Levy, Esquire, Suite 727, 17 Battery Place, New York, New York 10004

Agreement No. 9214-21, among the members of the above-named Freight Conference, amends the basic agreement to authorize absorption of transfer costs between the ports of Amsterdam, Rotterdam and Antwerp.

By Order of the Federal Maritime Commission.

Dated: April 1, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-10188 Filed 4-5-77;8:45 am]

PACIFIC-STRAITS CONFERENCE

Agreement filed; Correction

Correction to notice of agreement filed by:

F. Conger Fawcett, Esq., Graham & James, 1 Maritime Plaza, San Francisco, Calif. 94111.

On March 25, 1977 in Volume 42, No. 58 at page 16182, notice of the filing of "Agreement No. 5680-24" was published in the FEDERAL REGISTER. That notice is corrected to read: "Agreement No. 5680-25."

The purpose of this correction is to state the correct assigned Number to the agreement. The notice is correct in all other respects. Time for comments remains unchanged.

By Order of the Federal Maritime Commission.

Dated: April 1, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-10187 Filed 4-5-77;8:45 am]

U.S. NORTH ATLANTIC SPAIN RATE AGREEMENT

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before April 26, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said

to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

John R. Attanasio, Esq., Billig, Sher & Jones, P.C., Suite 300, 2033 K St., NW., Washington, D.C. 20006.

Agreement No. 10117-3, among the parties of the above-named agreement, amends the basic agreement to establish voting procedures; to provide for new self-policing procedures, increased penalties, and cargo inspection services; and increases the amount of the financial guarantee to be posted and maintained by each party.

By Order of the Federal Maritime Commission.

Dated: March 31, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-10189 Filed 4-5-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket Nos. ER77-216 and ER77-217]

CENTRAL MAINE POWER CO.

Order Accepting for Filing and Suspending Proposed Rate Changes, Granting Intervention and Establishing Procedures

MARCH 30, 1977.

On February 28, 1977, Central Maine Power Company (Company) filed with the Commission (in Docket No. ER77-216) six (6) copies of its Contract to provide new wholesale electric service to Fox Islands Electric Cooperative under the Company's Tariff Schedule W-1 as previously filed with the Commission.[1] The Company stated that it began providing service to the Customer on January 11, 1977 under the Tariff Schedule W-1 and that a formal contract for service was entered into on August 11, 1976.

The Company was of the opinion that the information which the Commission's Regulations require to be submitted with the filing of this contract was contained in the Company's rate filing to revise Tariff Schedule W-1 (i.e. Docket No. ER77-217). To avoid unnecessary duplication of this information, the Company requested that the Commission waive any requirements of § 35.12 with respect to the Customer's Contract (including waiver of notice to permit initiation of service under the present rates to other wholesale customers in Docket No. ER77-217).

Public notice of this filing was issued on March 7, with comments, protests or petitions to intervene due on or before March 21, 1977.

On February 28, 1977, Central Maine Power Company (The Company) also submitted for filing a proposed rate increase of $363,333 for the 12 month period succeeding the proposed effective date of April 1, 1977.[2] The proposed increase is applicable to its four wholesale customers.[3]

Public notice of the filing was issued on March 7, with comments, protests or petitions to intervene due on or before March 21, 1977.

On March 17, 1977, the Commission received a letter of Protest from Kennebunk Light and Power District (Kennebunk). In its letter of Protest, Kennebunk states that the projected rate increase would put Kennebunk's wholesale cost approximately 30% above the Company's retail rates to their industrial customers with the same size load as Kennebunk's retail customers. In addition, Kennebunk states that the proposed rate increase would cause Kennebunk to restructure its retail rates charged to its customers. Consequently, Kennebunk requests a 5 month suspension in order to conduct a rate study.

On March 21, 1977, the Maine Public Utilities Commission filed a Notice of Intervention pursuant to § 1.8 of the rules of practice and procedure of the Federal Power Commission.

Our review indicates that the proposed tariff changes have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. Accordingly, the proposed rates (designated in ER77-217) shall be suspended for one day until April 2, 1977, when they shall go into effect subject to refund. The proposed submittal (Docket No. ER77-216) providing for wholesale electrical service to Fox Island Electric Cooperative shall be accepted and the notice requirement shall be waived to establish an effective date of January 11, 1977 as herein discussed.

The Commission finds: (1) Good cause exists to accept for filing the proposed rates Docket No. ER76-217 and to suspend those rates for one day until April 2, 1977 when they shall become effective subject to refund.

(2) Good cause exists to accept for filing Docket No. ER77-216 and good cause exists to waive the notice requirements to establish an effective date of January 11, 1977 as herein described.

(3) It is necessary and proper in the public interest to aid in the enforcement of the provisions of the Federal Power Act, that the Commission enter upon a hearing to determine the justness and reasonableness of the proposed rates, terms and conditions of service included in the company's FPC Rate Schedule.

(4) Good cause exists to allow Maine Public Utilities Commission to intervene in this proceeding.

The Commission orders: (A) Pursuant to the authority contained under the Federal Power Act, the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act, a public hearing shall be held concerning the justness and reasonableness of the rates, charges, terms and condition of service included in the Company's FPC Electric Rate Schedules.

(B) Pending a hearing and final decision thereon, the Company's filings for rate increases in Docket No. ER77-217 is hereby accepted for filing and suspended for one day, to become effective April 2, 1977, subject to refund.

(C) The submittal (Docket No. ER77-216) providing for new service to Fox Island Electric Cooperative shall be accepted for filing and the notice requirements to establish an effective date of January 11, 1977 is hereby waived as herein discussed.

(D) Maine Public Utilities Commission is hereby permitted to intervene in Docket No. ER77-217, *Provided, however,* That participation by Maine Public Utilities Company shall be limited to matters affecting asserted rights and interests as specifically set forth in its petition to intervene.

(E) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before June 6, 1977. (See Administrative Order No. 157).

(F) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at an initial conference in this proceeding to be held on June 14, 1977, at 10 a.m., in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Said Law Judge is authorized to establish all procedural dates and to rule upon all motions, (except petitions to intervene, motions to consolidate and sever and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(G) Nothing contained herein shall be construed as limiting the rights of parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to § 1.18 of the Commission's rules of practice and procedure.

(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.77-10167 Filed 4-5-77;8:45 am]

[1] This filing is designated as Docket No. ER77-216.

[2] This filing is designated as Docket No. ER77-217.

[3] The 4 wholesale Customers are: (1) Kennebunk & Power District; (2) Canabasset Light & Power Company; (3) Town of Madison; (4) Fox Island Electric Cooperative.

[Docket No. CP77-306]

CITIES SERVICE GAS CO.

Notice of Application

MARCH 29, 1977.

Take notice that on March 21, 1977, Cities Service Gas Company (Applicant), P.O. Box 25128, filed in Docket No. CP77-306 an application pursuant to section 7 of the Natural Gas Act for permission and approval to abandon certain existing facilities and for a certificate of public convenience and necessity authorizing the construction and operation of natural gas pipeline facilities required as a

result of the construction of the Copan Reservoir in Oklahoma and Kansas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it is required to rearrange its facilities because of the construction of the Copan Reservoir on the Little Caney River by the U.S. Army Corps of Engineers. Applicant further states that the Corps of Engineers would reimburse it for the estimated construction costs of $686,100 and reclaim costs of $45,860.

Applicant proposes the following:

Item 1: Construct and operate 2.2 miles of 16-inch gas pipeline and appurtenant facilities to connect the Blackwell-Caney 16-inch pipeline and the Quapaw 16-inch pipeline, Washington County, Oklahoma.

This construction is said to be required to continue the existing flow of natural gas into the Quapaw 16-inch pipeline.

Item 2: Construct and operate 1.78 miles of 4-inch and 6-inch pipeline, Montgomery County, Kansas.

Item 3: Construct and operate measuring, regulating and appurtenant facilities in Sec. 13, T. 35 S., R. 13 E., Montgomery County, Kansas.

Items 2 and 3 are said to be necessary to maintain the sale of natural gas to Union Gas System, Inc., the gas distributor for the city of Caney, Montgomery County, Kansas.

Item 4: Abandon by reclaim approximately 1.03 miles of 16-inch and 18-inch pipeline and appurtenant facilities in the Quapaw 16-inch pipeline, Washington County, Oklahoma.

Item 5: Abandon by reclaim approximately 1.97 miles of 16-inch and 12-inch pipeline and appurtenant facilities in the Blackwell-Caney pipeline, Washington County, Oklahoma, and Chautauqua and Montgomery County, Kansas.

Item 6: Abandon by reclaim approximately 2.02 miles of 12-inch pipeline and appurtenant facilities on the Caney-Wichita pipeline, Chatauqua and Montgomery Counties, Kansas.

Item 7: Abandon by reclaim measuring, regulating and appurtenant facilities currently used for the sale of gas to Union Gas System, Inc., in Sec. 14, T. 35 S., R. 13 E., Montgomery County, Kansas.

Applicant indicates that all facilities proposed for abandonment lie within the reservoir flood plain or would be isolated by flood waters. It is stated that the proposed abandonments will not result in any abandonments of service.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 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 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 and permission and approval for the proposed abandonments are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-10165 Filed 4-5-77;8:45 am]

[Docket No. CP 77-126, etc.]

COLUMBIA GAS TRANSMISSION CORP., ET AL.

Waiving Regulations

MARCH 31, 1977.

In the matter of Columbia Gas Transmission Corporation (Great Lakes Gas Transmission Company), Natural Gas Pipeline Company of America, Trunkline Gas Company (Docket Nos. CP77-126, CP77-305, CP77-312).

On January 18, 1977, the Commission issued its order authorizing Columbia Gas Transmission Corporation (Columbia) in Docket No. CP77-126 to import 15 Bcf of natural gas from Canada pursuant to Section 3 of the Natural Gas Act. On February 20, 1977, the Commission issued its "Order Extending Limited Term Authorization to Import Natural Gas" from Canada by authorizing Columbia to import an additional 12 Bcf over and above the import volumes authorized by the Commission's Order issued on January 18, 1977, in the same proceeding, i.e., Docket No. CP77-126.

The aforementioned import volumes were and are in the process of being delivered to Columbia from the point of receipt on the international border through several jurisdictional pipeline companies. These pipelines have since the date of initial import been transporting this gas to Columbia pursuant to § 157.22 of the Commission's regulations.

On January 19, 1977, Trunkline Gas Company (Trunkline) commenced emergency transportation of 40,000 Mcf per day of this import gas on behalf of Columbia for a period of sixty days pursuant to § 157.22 of the Commission's Regulations. The Commission in the above-noted February 20, 1977, order, not only authorized the import of additional volumes by Columbia, but extended the term of the import for an additional 45 days, i.e., until May 3, 1977. Trunkline on or February 20, 1977, increased its transportation of import volumes on behalf of Columbia up to 90,000 Mcf per day. On March 23, 1977, Trunkline filed a motion requesting a waiver of the provisions of § 157.22 in order to permit it to continue transporting these import volumes for Columbia until May 3, 1977. On March 21, 1977, Natural Gas Pipeline Company of America (Natural) filed a similar request for a waiver of the provisions of § 157.22 in order to enable it to continue the transport of 50,000 Mcf per day on behalf of Columbia beyond the initial 60-day period.

On March 18, 1977, Great Lakes Gas Transmission Company (Great Lakes) filed a notice of intention with the Commission indicating that it had received the import volumes from TransCanada Pipeline Limited through its existing facilities at the international border on behalf of Columbia pursuant to § 157.22 and that it intends to continue such receipt and transport beyond 60 days pursuant to § 157.22(a) unless otherwise required by the Commission. In the latter filing Great Lakes notes the proclamation of a natural gas emergency made by the President on February 20, 1977, and directs the Commission's attention to the following language in § 157.22(a) and § 157.22(d):

Section 157.22(a)

* * * where such acts and operations are limited to a single period of not more than 60 days or in the event a national emergency has been declared by the President, for 6 months or such further period as the Commission may, by order, allow.

Section 157.22(d)

Emergency operations undertaken without certificate authorization pursuant to paragraph (a) of this section shall be discontinued upon the expiration of the 60-day period. In the national emergency, emergency operations shall be discontinued upon the expiration of the 6 months period or any extension thereof ordered by the Commission.

In view of the significantly improved natural gas supply situation over the course of the past thirty days due to warmer than normal weather, it would serve no useful purpose for the Commission at this time and in this proceeding to endeavor to determine whether or not the emergency contemplated under § 157.22(a) would qualify as falling within the scope of the February 20, 1977, proclamation by the President.[1] The resolution of the complex question raised is not required in order to provide a readily expedient means of continuing the flow of the import volumes authorized by the Commission.

[1] It appears to be a debatable question whether the national emergency set forth in § 157.22(a) should encompass the emergency proclamation of the President issued on February 20, 1977. It could be earnestly urged that the latter proclamation was specifically directed toward the provisions of the Emergency National Gas Act of 1977 (Pub. L. 95-2) and not the Natural Gas Act.

The requests of Trunkline and Natural for a waiver of § 157.22 for this purpose up until May 3, 1977, appears to offer a practical and adequate resolution to any difficulties those pipelines transporting import volumes previously authorized for Columbia may be confronted with. The Commission will therefore permit such a waiver in order to permit Trunkline, Natural and any other pipeline that is still in the process of transporting the import gas authorized pursuant to our orders of January 18, 1977, and February 20, 1977, in Docket No. CP77-12 to continue in this endeavor.

The Commission finds: Good cause exists for the Commission, effective on March 20, 1977, to waive § 157.22 of its Regulation in order to permit Trunkline, Natural and any other pipelines to transport Canadian import gas on behalf of Columbia as authorized by orders issued on January 18, 1977, and February 20, 1977, in Docket No. CP77-126, as long as such transportation is terminated by May 3, 1977.

The Commission orders: Effective as of March 20, 1977, the provisions of § 157.22 will be waived in order to permit Trunkline, Natural and other jurisdictional piplines to continue the transportation of import gas on behalf of Columbia as previously authorized in Docket No. CP77-126 by the Commission as long as such transportation is terminated by May 3, 1977.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-10166 Filed 4-5-77;8:45 am]

[Project No. 785]

CONSUMERS POWER CO.

Application for Approval of Conveyance of Interests in Project Lands

MARCH 30, 1977.

Public notice is hereby given that an application was filed on January 24, 1977, under the Federal Power Act, 16 U.S.C. 791a et seq., by Consumers Power Company (correspondence to: Mr. P. A. Perry, Secretary, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201) for Commission approval of a proposed easement and right-of-way that would allow the City of Allegan, Michigan, to use lands and waters of the Calkins Bridge Project, FPC Project No. 785, to extend, construct, and improve certain wastewater collection and treatment facilities. The easement and right-of-way would be located upstream of the dam of Project No. 785, which is in the City of Allegan, Allegan County, Michigan.

In June, 1971, the City of Allegan was ordered by the Michigan Water Resources Commission to improve its sewage treatment facilities, which were releasing unacceptable levels of pollutants into the Kalamazoo River and Lake Michigan. The improvements proposed by the City would be capable of removing a minimum of 80 percent of the total phosphorus content of the untreated sewage and would meet all wastewater treatment quality standards of the State of Michigan.

Easements across project lands and waters would be obtained by the City to allow the installation of three proposed gravity flow, ductile iron sewer mains, as follows:

1. The first easement would be about 1,150 feet long, of which 610 feet would involve project waters. Within the 610-foot segment would be placed two 190-foot, 6-inch diameter pipes converging into one 420-foot, 12-inch diameter pipe. The pipes would be placed in a three-foot wide trench at the bottom of the Kalamazoo River, and covered with stone. The 12-inch main would extend easterly from Park Drive in the City of Allegan to the treatment plant.

2. The second easement would be approximately 2,000 feet long. An 18-inch diameter pipe would be placed in this right-of-way and would approach the treatment plant from the south. Of the total length, about 275 feet would involve project waters. This section of the pipe would also be covered with stone in a three-foot wide trench at the bottom of the river.

3. The third easement would be about 330 feet long. Within it would be placed a 24-inch diameter main that would not enter project waters, but which would be located on lands within the project boundary.

All mains would be centered on 20-foot wide rights-of-way, and would be buried to a minimum depth of three feet, both on project lands and in project waters.

The application is on file with the Commission and is available for public inspection.

The City of Allegan has obtained permits for the proposed construction work in navigable waters from the U.S. Army Corps of Engineers pursuant to section 10 of the River and Harbor Act of 1899, 33 U.S.C. 401, and section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344.

Applicant has requested the shortened procedures set forth in § 1.32(b) of the Commission's rules of practice and procedure, 18 CFR 1.32(b) (1976).

Any person desiring to be heard or to make any protest with reference to said application should on or before May 16, 1977, file with the Federal Power Commission, 825 North Capitol Street, 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 (1976). 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 in any hearing in the proceeding must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by sections 308 and 309 of the Federal Power Act, 16 U.S.C. 825g and 825h, and the Commission's rules of practice and procedure, specifically § 1.32(b), a hearing on this application may be held before this Commission without further notice if no issue of substance is raised by any request to be heard, protest, or petition filed subsequent to this notice within the time required herein. If an issue of substance is so raised, further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised, it will not be necessary for Applicant to appear or be represented at the hearing before the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-10171 Filed 4-5-77;8:45 am]

[Docket No. ER77-262]

INDIANA & MICHIGAN ELECTRIC CO.

Changes in Rates and Charges

MARCH 31, 1977.

Take notice that American Electric Power Service Corporation (AEP) on March 25, 1977, tendered for filing on behalf of its affiliate, Indiana & Michigan Electric Company (Indiana Company), Modification No. 8 dated March 1, 1977 to the Interconnection Agreement dated December 30, 1960 between Indiana & Michigan Electric Company and Indianapolis Power & Light Company, designated Indiana Company Rate Schedule FPC No. 21.

AEP indicates that section 1 of Modification No. 8 provides for an increase in the Demand Charge for Short Term Power from $0.50 to $0.60 per kilowatt per week and from $0.125 to $0.15 per kilowatt per day and section 3 provides for an increase in the Demand Charge for Limited Term Power (Firm) from $2.75 to $3.25 per kilowatt per month. AEP also indicates that section 2 of Modification No. 8 provides for an increase in the transmission charge for third party Short Term Power transactions from $0.125 per kilowatt per week to $0.15 per kilowatt per week and section 4 provides for an increase in the transmission charge for third party Limited Term Power transactions from $0.55 per kilowatt per month to $0.65 per kilowatt per month, both schedules proposed to become effective May 1, 1977.

AEP states that since the use of Short Term and Limited Term Power cannot be accurately estimated, for the twelve months' period succeeding the date of filing, it is impossible to estimate the increase in revenues resulting from this modification for such period. AEP also states that applicants' Exhibit I and II which were included with the filing of this modification, demonstrate that the increase in revenues, which would have resulted had the modification been in effect during the twelve month period ending December 1976, would have been $8,000 (i.e. from $50,609.90 to $58,609.90) for sales and $70,000 (i.e. from $2,049,129.77 to $2,119,129.77) for purchases.

Copies of the filing were served upon Indianapolis Power & Light Company, the Public Service Commission of Indiana

and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 13, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken. 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.77-10168 Filed 4-5-77;8:45 am]

[Project No. 477]

PORTLAND GENERAL ELECTRIC CO.

Application for Major License

MARCH 31, 1977.

Public notice is hereby given that an application for a major license was filed on November 13, 1973, under the Federal Power Act, 16 U.S.C. 791a et seq., by Portland General Electric Company (Applicant) (correspondence to: Mr. Frank M. Warren, President and Director, and H. H. Phillips, Esq., Vice President, Corporate Counsel and Secretary, Portland General Electric Company, Electric Building, Portland, Oregon 97025; and Mr. Lee S. Sherline, Leighton and Sherline, 1701 K Street NW., Washington, D.C. 20006) for its constructed Bull Run Project, FPC No. 477, located on the Sandy, Little Sandy, and Bull Run Rivers in Clackamas County, Oregon. The application was supplemented on October 1, 1976.

Project No. 477 affects lands of the United States administered by the U.S. Forest Service and the Bureau of Land Management. The original project was constructed between 1910 and 1912; various modifications and additions to the project have been accomplished since that time. The Commission issued a minor-part license to Applicant's predecessor on November 17, 1924, for a period ending November 16, 1974. The project is currently being operated and maintained under an annual license.

Project No. 477, the installed capacity of which is 21,000 kW, consists of: (1) Marmot diversion dam, a rock-filled timber crib dam 40 feet high and 345 feet long at the crest, located on the Sandy River with a concrete diversion structure at the right abutment; (2) a flowline, 16,280 feet in length, consisting of concrete lined canals, tunnel sections, and a concrete flume; (3) a concrete box flume crossing the Little Sandy River with a crest length of 94 feet and diverting part of the flow of the river to the box flume; (4) a flowline, approximately 16,810 feet in length, consisting of a treated wood box flume, concrete lined canals, and a tunnel section; (5) Roslyn Lake, the storage reservoir and forebay created by approximately 8,000 feet of homogenous earth-fill dikes, with a usable storage capacity of 928 acre-feet at elevation 650.27 feet USGS datum; (6) two penstocks, each 1400 feet in length, from the outlet structure of the forebay to (7) a powerhouse containing four horizontal turbine generator units, each rated at 5,250 kW; (8) a transformer building adjacent to the powerhouse with two 9,000-kVA, 57/6.6 kV transformer banks; (9) an outdoor switchyard with a single circuit 57-kV transmission line extending approximately 2.8 miles to a switching substation; and (10) appurtenant facilities. The power provided by the project is transmitted through the Licensee's transmission and distribution systems.

Recreational facilities at the project include Lake Roslyn Park, with restrooms, shelters, a small concession building, picnic tables, stone fireplaces, electric stoves, a domestic water supply, a swimming beach, softball diamonds, horseshoe pits, rental boats, and a parking area. Roslyn Lake is used for swimming and unpowered boating during the summer months, and for fishing throughout the year. The Oregon State Department of Game periodically stocks the lake with game fish.

Applicant proposes to spend $54,200 to develop two angler parking areas, with chemical toilets, at the project, and to replace part of the existing park road and parking area.

The application is on file with the Commission and is available for public inspection.

Any person desiring to be heard or to make any protest with reference to this application should on or before June 20, 1977, file with the Federal Power Commission, 825 North Capitol Street, 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 (1976). 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 in any hearing in the proceeding must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-10170 Filed 4-5-77;8:45 am]

[Docket No. ER77-260]

SOUTHERN CALIFORNIA EDISON CO.

Initial Rate Schedule and Request for Waiver

MARCH 31, 1977.

Take notice that on March 25, 1977, Southern California Edison Company (Edison) tendered for filing a December 31, 1976 Agreement with the City of Pasadena providing for the transmission by Edison on an interruptible basis of power purchased on a non-firm basis by Pasadena from sources in the Pacific Northwest from Nevada Power Company from Salt River Project and from others. Edison indicates that it will charge Pasadena for transmission, dispatching and scheduling services, and for losses between the scheduling points of such non-firm energy and Edison's point of interconnection with Pasadena.

Edison states that Pasadena requests that service is initiated at the earliest possible date under this Agreement, and for that reason Edison requests that the notice provisions of the Commission's regulations be waived and the filing be permitted to become effective at the time of acceptance for filing but in no event later than 30 days thereafter.

Any person desiring to be heard or to protest this application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 13, 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.77-10169 Filed 4-5-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institute of Education

STATE DISSEMINATION GRANTS PROGRAM, FY 1977

Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in section 405 to the General Education Provisions Act, as amended, 20 U.S.C. 1221e, and 45 CFR Part 1460, applications are being accepted from State education agencies (SEAs) for grants under the State dissemination grant program.

Awards will be made (i) for new special purpose or capacity building dissemination grants and (ii) for continuation of capacity building grants made in fiscal 1975 and 1976.

Applications for new grants must be received by the National Institute of Education, Proposal Clearinghouse, on or before June 1, 1977, in accordance with the following instructions:

A. Applications sent by mail. An application sent by mail should be addressed as follows: National Institute of Education, Proposal Clearinghouse, Washington, D.C. 20208, Attention: NIE State Dissemination grants program. An application sent by mail will be considered to be received on time by the Clearinghouse if:

(1) The application was sent by registered or certified mail not later than the

fifth calendar day prior to the closing date (or if such calendar day is a Saturday, Sunday or Federal holiday, not later than the next following business day) as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by the mail room in Washington, D.C. of either the Department of Health, Education, and Welfare or the National Institute of Education. (In establishing the date of receipt, the Director of the Institute will rely upon the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department or the Institute.)

B. Hand-delivered applications. An application to be hand delivered must be taken to the Proposal Clearinghouse, 1832 "M" Street, NW, Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 9 a.m. and 4:30 p.m., Washington, D.C. time, except Saturdays, Sundays and Federal holidays. Applications will not be accepted after 4:30 p.m. on the closing date of June 1, 1977. A receipt will be issued upon acceptance of the application package.

Applications for continuation grants are due approximately three months before expiration of the existing capacity building grant.

C. Program information and forms. Information and application forms may be obtained from the Information and Communication Systems Division, Office of Dissemination and Resources, National Institute of Education, Room 711, 1200 19th Street NW., Washington, D.C. 20208, telephone 202-254-7930.

D. Applicable regulations. The regulations applicable to this program include the National Institute of Education General Provisions Regulations (45 CFR Subchapter A) published in the FEDERAL REGISTER on November 4, 1974 at (39 FR 38992) and regulations for the State dissemination grants program published in the FEDERAL REGISTER on June 16, 1975 (40 FR 25454).

(Catalog of Federal Domestic Assistance Program Number 13.950, Educational Research and Development.)

Dated: March 31, 1977.

HAROLD L. HODGKINSON,
Director,
National Institute of Education.

[FR Doc.77-10153 Filed 4-5-77;8:45 am]

Office of Education

VETERANS' COST-OF-INSTRUCTION PROGRAM—PAYMENTS TO INSTRUCTIONS OF HIGHER EDUCATION

Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in section 420 of the Higher Education Act of 1965, as amended by section 126 of Pub. L. 94-482, applications for funds are being accepted from institutions of higher education under the Veterans' Cost-of-Instruction Program.

Applications must be received by the Veterans' Programs Branch, U.S. Office of Education on or before May 17, 1977.

A. *Applications sent by mail.* An application sent by mail should be addressed as follows: Veterans' Programs Branch, U.S. Office of Education, Bureau of Postsecondary Education, 400 Maryland Avenue, SW., Washington, D.C. 20202, Attention 13.540. An application sent by mail will be considered to be received on time by the Veterans' Programs Branch if:

(1) The application was sent by registered or certified mail not later than May 12, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

B. *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education, Veterans' Programs Branch, Room 4613, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. up to and including the closing date.

C. *Program information and forms.* Information and application forms may be obtained from the Veterans' Programs Branch, U.S. Office of Education, Bureau of Postsecondary Education, 400 Maryland Avenue SW., Washington, D.C. 20202, or from the various Regional Offices of the Office of Education.

The addressees in the Regional Offices are as follows:

Mr. Paul McManus, Acting Veterans' Programs Coordinator, Postsecondary Education, Region I, Office of Education, DHEW, John Fitzgerald Kennedy Federal Bldg., Boston, Mass. 02203.

Mr. Ed Feinstein, Veterans' Program Coordinator, Postsecondary Education, Region II, Office of Education, DHEW, 26 Federal Plaza, New York, N.Y. 10007.

Mr. Prince O. Teal, Jr., Veterans' Programs Coordinator, Postsecondary Education, Region III, Office of Education, DHEW, 3535 Market St., Philadelphia, Pa. 19104.

Mr. Merlyn Burton, Veterans' Program Coordinator, Postsecondary Education, Region IV, Office of Education, DHEW, 50 7th St. NE., room 544, Atlanta, Ga. 30323.

Mr. Robert Schmidt, Veterans' Programs Coordinator, Postsecondary Education, Region V, Office of Education, DHEW, 300 South Wacker Dr., Chicago, Ill. 60606.

Mr. Benito Botello, Veterans' Programs Coordinator, Postsecondary Education, Region VI, Office of Education, DHEW, 1200 Main Tower Bldg., suite 1560, Dallas, Tex. 75202.

Mr. Bruce Boggs, Veterans' Programs Coordinator, Postsecondary Education, Region VII, Office of Education, DHEW, 601 East 12th St., Kansas City, Mo. 64106.

Mr. William Hogbin, Veterans' Programs Coordinator, Postsecondary Education, Region VIII, Office of Education, DHEW, Federal Office Bldg., 19th and Stout Sts., Denver, Colo. 80202.

Dr. Albert Piltz, Veterans' Programs Coordinator, Postsecondary Education, Region IX, Office of Education, DHEW, 50 Fulton St., San Francisco, Calif. 94102.

Mr. James Manning, Veterans' Programs Coordinator, Postsecondary Education, Region X, Office of Education, DHEW, Arcade Plaza Bldg., 1321 2nd Ave., Seattle, Wash. 98101.

D. *Applicable regulations.* The regulations applicable to this program appear at 45 CFR Part 189 (40 FR 23301; May 29, 1975).

(20 U.S.C. 1070e-1.)

(Catalog of Federal Domestic Assistance Program Number 13.540; Higher Education—Cost of Veterans' Instruction (VCIP).)

Dated: March 17, 1977.

WILLIAM F. PIERCE,
Acting U.S. Commissioner of Education.

[FR Doc.77-10132 Filed 4-5-77;8:45 am]

Office of the Assistant Secretary for Health

NATIONAL COMMISSION FOR PROTECTION OF HUMAN SUBJECTS OF BIOMEDICAL AND BEHAVIORAL RESEARCH

Addition to Agenda of Announced Meeting

As announced in the FEDERAL REGISTER on March 22, 1977 (42 FR 15468), the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research will meet on April 8 and 9, 1977, in Conference Room 6, C Wing, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland. In addition to the agenda items identified in the Notice of Meeting, dated March 22, 1977, the Commission will also discuss the disclosure of research information, as mandated by the Health Research and Health Services Amendments of 1976 (Pub. L. 94-278).

Dated: March 22, 1977.

MICHAEL S. YESLEY,
Staff Director, National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research.

[FR Doc.77-10352 Filed 4-5-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[S 229]

CALIFORNIA

Partial Termination of Proposed Withdrawal and Reservation of Lands

MARCH 29, 1977.

Notice of a Bureau of Reclamation, U.S. Department of the Interior, application, S 229, for withdrawal and reservations of lands for the planned facilities of the Auburn-Folsom South Unit of the Central Valley Project was published as FR

Doc. No. 67-1721 on page 2902 of the issue for February 15, 1967. The applicant agency has cancelled its application insofar as it affects the following described lands:

MOUNT DIABLO MERIDIAN

T. 13 N., R. 10 E.,
Section 4, Lots 48, 49, 50 and 51. Also patented Small Tract Lot 47
Section 6, Lot 17 and Mineral Lot 57
T. 14 N., R. 10 E.,
Section 12, N½, N½N½S½, S½NW¼SW¼, SW¼SE¼SW¼, S½S½SE¼SE¼SW¼, SE¼NE¼SE¼
Section 25, Lots 10, 11 and 12 (Lot 10 formerly S½NE¼SE¼)
Section 26, Lot 10
Section 34, Lots 3, 4, and portions of N½N½NE¼ and N½N½NE¼NE¼NW¼
Section 36, Lots 6, 7, 8 and 9

The area described contains approximately 643.84 acres.

Therefore, pursuant to the regulations contained in 43 CFR Part 2350, such lands at 10 a.m., on May 9, 1977, will be relieved of the segregative effect of the above mentioned application.

JOAN B. RUSSELL,
Chief, Lands Section Branch of Lands and Minerals Operations.

[FR Doc.77-10199 Filed 4-5-77;8:45 am]

[NM 30235]

NEW MEXICO

Application

MARCH 29, 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), Continental Oil Company has applied for one 4-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 19 S., R. 34 E, Sec. 4, S½SW¼, NE¼SE¼ and SW¼SE¼.

This pipeline will convey natural gas across 0.828 of a mile of national resource land in Lea 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.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-10198 Filed 4-5-77;8:45 am]

[M 141]

NORTH DAKOTA

Transfer of Submarginal Lands, Fort Totten Indian Reservation

MARCH 29, 1977.

1. Pursuant to Pub. L. 94-114 (89 Stat. 577) and Sec. 2 thereof, the land described in paragraph 3 of this notice, together with all minerals underlying this land, whether acquired or otherwise owned by the United States, are hereby declared to be held by the United States in trust for the use and benefit of the Devils Lake Sioux Tribe of North Dakota. The land shall be a part of the established Fort Totten Indian Reservation. These lands were submarginal lands acquired under Title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), the Emergency Relief Appropriation Act of April 8, 1935 (49 Stat. 115), and Sec. 55 of the Act of August 24, 1935 (49 Stat. 750, 781). This notice is issued under the authority delegated to me by Bureau Order No. 701, dated July 23, 1946, as amended.

2. All existing mineral leases, including oil and gas leases, which have been issued on this land will remain in force and effect in accordance with the terms and provisions of the Act under which the leases were issued. The lease files will be transferred to the Office of the Area Director, Bureau of Indian Affairs, Aberdeen, South Dakota.

Future rentals for these leases will be paid to and collected by that office. Jurisdiction of these mineral leases is transferred from the Bureau of Land Management to the Bureau of Indian Affairs in trust for the Devils Lake Sioux Tribe.

3. Fifth Principal Meridian, North Dakota.

T. 152 N., R. 65 W.,
Section. 17, lots 4 and 5, and SW¼NW¼;
Sec. 18, lots 5, 6, 7, 8, 9, and 10, and S½NE¼;
Sec. 19, all;
Sec. 20, SW¼;
Sec. 29, E½NW¼ and NW¼NW¼; and
Sec. 30, E½NW¼.

The area described contains 1,424.45 acres.

KANNON C. RICHARDS,
Acting State Director.

[FR Doc.77-10197 Filed 4-5-77; 8:45 am]

National Park Service

SOUTHWEST REGIONAL ADVISORY COMMITTEE

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Southwest Regional Advisory Committee will be held at 8:30 a.m., C.D.T., May 2 and 3, 1977, in the Auditorium at the Hot Springs National Park Headquarters, Hot Springs, Arkansas.

The Southwest Regional Advisory Committee was established pursuant to Pub. L. 91-383 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advise or other counsel from members of the public on programs and problems pertinent to the Southwest Region of the National Park Service.

The members of the Southwest Regional Advisory Committee are:

Mr. Bob Burleson, Temple, Tex.
Dr. Neil Compton, Bentonville, Ark.
Mr. Ernie C. Deane, Fayetteville, Ark.
Mr. Perry A. Denton, Carlsbad, N. Mex.
Dr. Bertha P. Dutton, Santa Fe, N. Mex.
Mr. Sam R. Powell, Tulsa, Okla. (Chairman).
Mr. J. R. Singleton, Austin, Tex.
Mrs. Roulhac Toledano, New Orleans, La.
Mr. Elo P. Urbanovsky, Lubbock, Tex.

Designated Federal Officer to attend the meeting is John E. Cook, Regional Director, Southwest Region, National Park Service, or his designee.

The matters to be discussed at this meeting include:

1. Management and Operation of Hot Springs National Park.
2. National Park System Proposals for Alaska.
3. Urban Park Concerns of the National Park Service.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come, first-served basis. Any member of the public may appear before the Committee or file with the Committee a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact Frank Mentzer, Assistant to the Regional Director, P.O. Box 728, National Park Service, Southwest Regional Office, Santa Fe, New Mexico 87501, telephone Area Code 505 988-6375. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of the Southwest Region.

Dated: March 30, 1977.

WAYNE B. CONE,
Acting Regional Director, Southwest Region, National Park Service.

[FR Doc.77-10200 Filed 4-5-77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

Lists 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 March 30, 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 Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

UNITED STATES INTERNATIONAL TRADE COMMISSION

Producers questionnaire for cast-iron stoves and parts of cast-iron stoves investigations, single time, producers of cast-iron stoves, Will Sherman, 395-4730.

Importers questionnaire for cast-iron stoves and parts of cast-iron stoves investigation, single time, importers of cast-iron stoves, Will Sherman, 395-4730.

DEPARTMENT OF COMMERCE

Bureau of Census Survey of Migrant Farmworkers: 1977, S-335, S-336, S-337, single time, migrant farmworkers, Gaylord Worden, Strasser, A., 395-4730.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health, vendor ordering office address verification and correction, other (see SF-83), vendors doing business with NIH, Lowry, R. L., 395-3772.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Management, energy consumption data collection form, HUD-52725, single time, selected public housing agencies, Housing, Veterans and Labor Division, Sunderhauf, M. B., 395-3532.

REVISIONS

VETERANS ADMINISTRATION

Application for automobile or other conveyance and adaptive equipment, 21-4502, on occasion, veterans and service persons; Tracey Cole, 395-5870.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control, National Disease Surveillance Program—II Disease Summary, CDCBE0222, CDC 4.457, monthly, State and territorial health departments, Richard Eisinger, 395-6140.

Food and Drug Administration, techniques for improving dietary intake through nutrition labels, FDABF 0925, single time, adult consumers in Denver, Colorado, Sunderhauf, M. B., 395-6140.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration, request for mail list data—REA borrowers, REA 87, annually, REA electric and telepone borrowers, Will Sherman, 395-4730.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control, supervisory effects on worker safety in roofing industry, NIOSH 0718, single time, persons in the roofing industry, Ellett, C. A., 395-5867.

DEPARTMENT OF LABOR

Employment and Training Administration:
Enrollment and departure report, ETA 6-57, on occasion, applicants assigned to job corps centers, Lowry, R. L., 395-3772.
Statement from court or other agency, statement from institution, recommendation for Job Corps, MA6-55, MA6-55A, MA6-55B, on occasion, courts, institutions, or other agencies, Lowry, R. L., 395-3772.
Request for readmission, MA6-60, on occasion Job Corps applicants (disadvantaged youth), Lowry, R. L., 395-3772.
Job Corps—corpsmember allotment determination, MA-6-58, on occasion, Job corps members electing to make allotments, Lowry, R. L., 395-3772.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.77-10309 Filed 4-5-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 9701, 812-4061]

DREYFUS LEVERAGE FUND, INC. AND IRVING TRUST CO.

Filing of Application Exempting Proposed Arrangement

MARCH 31, 1977.

Notice is hereby given that The Dreyfus Leverage Fund, Inc. (the "Fund"), 767 Fifth Avenue, New York, New York 10022, a diversified, open-end investment company registered under the Investment Company Act of 1940 ("Act"), and Irving Trust Company, One Wall Street, New York, New York 10015 (the "Bank," collectively with the Fund referred to as "Applicants"), a commercial bank organized under the laws of the State of New York, filed an application on December 10, 1976, and an amendment thereto on March 29, 1977, for an order pursuant to Section 17(d) of the Act and Rule 17d-1 thereunder permitting the Fund to borrow money from the Bank under a proposed arrangement more fully described below. All interested persons are referred to the aplication which is on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that the Fund was organized to provide interested investors an opportunity to participate in a professionally managed program for capital growth in which speculative investment techniques are utilized, including the unsecured borrowing of money from banks in order to increase its holdings of securities. In accordance with its investment technique of "leverage through borrowing" the Fund has entered into agreements and understandings with four banks which provide that the Fund may borrow up to an aggregate of $90 million under short-term unsecured lines of credit. As of January 31, 1977, $78.5 million of borrowings was outstanding. The Fund is contemplating adding the Bank to the group of lending banks or substituting the Bank in place of one of the banks presently participating in such borrowing arrangements.

Applicants state that the Bank serves as subinvestment adviser to Dreyfus Money Market Instruments, Inc. ("Money Fund"), a Maryland corporation which is also a diversified, open-end investment company registered under the Act. The Dreyfus Corporation ("Dreyfus"), a New York corporation, serves as manager to both the Fund and Money Fund. As subinvestment adviser, the Bank reviews the investment decisions of Money Fund and reports on economic trends and policies pertaining to investment strategy to Dreyfus and Money Fund's Board of Directors. For its services, the Bank is paid by Dreyfus at a rate determined annually by mutual agreement between the Bank and Dreyfus. Prior to November 15, 1976, the Bank served as investment adviser to Money Fund, and Dreyfus Sales Corporation, a wholly-owned subsidiary of Dreyfus, served as Administrator and distributor of Money Fund. Applicants represent that no other material relationships exist between the Bank and Dreyfus or any registered investment company affiliated with Dreyfus.

Section 17(d) of the Act provides, in relevant part, that "it shall be unlawful for any affiliated person of or principal underwriter for a registered investment company * * * or any affiliated person of such a person or principal underwriter, acting as principal to effect any transaction in which such registered company * * * is a joint or a joint and several participant with such person, principal underwriter or affiliated person, in contravention of such rules and regulations as the Commission may prescribe for the purpose of limiting or preventing participation by such registered or controlled company on a basis different from or less advantageous than that of such other participant."

Rule 17d-1 under the Act provides, in relevant part, that "[n]o affiliated person of or principal underwriter for any registered investment company * * * and no affiliated person of such a person * * *, acting as principal, shall participate in, or effect any transaction in connection with, any joint enterprise or other joint arrangement * * * in which any such registered company * * * is a participant * * * unless an application regarding such joint enterprise [or] arrangement * * * has been filed with the Commission and has been granted by an order entered prior to the * * * adoption [of such joint arrangement] * * *. "It is also provided that in passing upon such applications, the Commission will consider whether the participation of such registered company in such joint enterprise or joint arrangement on the basis proposed is consistent with the provisions, policies and purposes of the Act and the extent to which such

participation is on a basis different from or less advantageous than that of other participants. Section 2(a)(3) of the Act defines an "affiliated person" of another person, in relevant part, as "(C) any person directly or indirectly controlling, controlled by or under common control with, such other person; (D) any officer, director, partner, copartner, or employee of such other person; (E) if such other person is an investment company, any investment adviser thereof * * *."

Applicants state that it may be argued that either Dreyfus, as the manager of the Fund, or Money Fund, as a person having the same manager as the Fund and a substantially similar board of directors as the Fund (and which therefore may be deemed to be under common control with the Fund), is an affiliate of the Fund. Moreover, the Bank, as subinvestment adviser of Money Fund, may be deemed an affiliate of Money Fund and Dreyfus. Accordingly, Applicants have filed the instant application for an order pursuant to Rule 17d-1 of the Act exempting the proposed arrangement from the provisions of Section 17(d) of the Act and permitting the Fund to borrow money from the Bank.

It is asserted that as a major New York commercial bank engaged in general banking activities, the making of the loan to the Fund would be in the routine, ordinary business operations of the Bank. Similarly, the borrowing by the Fund would be pursuant to its stated investment objective and investment techniques. The terms of the line of credit would in no event be any more favorable or more advantageous to the Bank than the terms relating to any other similar borrowing arrangement between the Bank and an "unaffiliated" borrower of equal credit standing.

Applicants further represent that in the event the Fund increases the amount of borrowings under such lines of credit and the then current effective rate of interest to be charged by the Bank for such borrowing is greater than the current effective rate of interest to be charged by one or more of the other banks participating in such borrowing arrangements, the Fund intends to borrow such funds from such other bank or banks, except in such unusual situations when such restriction may not be in the best interests of the Fund. In addition, in the event that the then current effective rate of interest to be charged by the Bank for such borrowing is equal to the then current effective rate of interest to be charged by one or more of the other banks participating in such borrowing arrangements, the Fund does not intend to borrow from the Bank an amount greater than the total amount to be borrowed from the Bank and such other bank or banks multiplied by a fraction, the numerator of which is the amount of borrowing available under the outstanding line of credit between the Bank and the Fund and the denominator of which is the total amount of borrowings available under the outstanding lines of credit of the Bank and such other bank or banks, to the extent practicable and in the best interest of the Fund. It is the intention of the Fund that one or more other banks not controlled by, or under common control with, the Bank will continue to participate in such borrowing arrangements.

Notice is further given that any interested person may, not later than April 25, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the addresses stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the matter will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-10208 Filed 4-5-77;8:45 am]

[Rel. No. 9702, 812-3805]

METROPOLITAN LIFE INSURANCE CO.

Application for Exemption

MARCH 31, 1977.

Notice is hereby given that Metropolitan Life Insurance Company, One Madison Avenue, New York, N.Y. 10010, ("Metropolitan"), a New York mutual life insurance company, and Metropolitan Variable Account B of Metropolitan Life Insurance Company ("Account B"), a separate account of Metropolitan registered under the Investment Company Act of 1940 ("Act") as an open-end management investment company (hereinafter collectively referred to as "Applicants"), filed an application on May 9, 1975 and amendments thereto on December 8, 1975, February 22, 1977 and March 30, 1977, pursuant to Section 6(c) of the Act for an order exempting Applicants from the provisions of Sections 22(e), 27(c)(1) and 27(d) of the Act to the extent necessary to permit compliance by Applicants with certain provisions of the Education Code of the State of Texas. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

Account B, a separate account of Metropolitan, was established by Metropolitan pursuant to New York Insurance Law on December 16, 1969. Metropolitan allocates to Account B net purchase payments under individual variable anuity contracts ("contracts") designed to provide retirement payments (i) to employees of public school systems and other tax-exempt organizations under annuity purchase arrangements meeting the requirements of Section 403(b) of the Internal Revenue Code of 1954, as amended ("Code"), and (ii) when purchased for use under Section 408 of the Code. Metropolitan serves as investment adviser to and principal underwriter for Account B.

In 1967, the State of Texas directed the governing boards of all Texas institutions of higher education to make available to certain employees an Optional Retirement Program ("Program"), codified as Subchapter G of Chapter 51 of the Texas Education Code. The statute provides as the funding media for the Program fixed or variable annuity contracts purchased from any insurance or annuity company qualified to do business in Texas. In 1973, the Texas legislature made two amendments in the Program legislation, which amendments became effective on June 14, 1973. The statutory definition of the Program was amended to provide that the benefits of such annuities are to be available only upon termination of employment in the Texas public institutions of higher education, retirement, death or total disability of the participant. The other amendment added a new Section 51.358 to Subchapter G which also provides that the benefits of such annuities will be available only if the participant dies, terminates his employment due to total disability, accepts retirement, or terminates employment in the Texas public institutions of higher education.

Because of uncertainty regarding the effect of these amendments, the University of Texas System ("System") requested the opinion of the Attorney General of Texas with respect to several questions concerning such amendments. The Attornel General rendered an opinion dated February 18, 1975, in response to the System's letter. The Attorney General interpreted 51.358 to prohibit provisions in a variable annuity contract issued in connection with the Program on or after June 14, 1973, which provide for making available the redemption value of such contract prior to the occurrence of one of the conditions specified in the statute, i.e., termination of employment, retirement, death or total disability. Moreover, the opinion further stated that the prohibitions of 51.358 were impliedly in effect upon the establishment of the Program (in 1967) and that notwithstanding any language which may be contained in existing contracts, a participant in the Program has never had the right to redeem his annuity contract otherwise than in accordance with the limitations described above. The opinion did not affect the right of a participant to transfer the

redemption value of his annuity contract from one carrier to another; accordingly, the granting of the relief requested in the application would not affect such right.

SECTIONS 27(c)(1), 22(e) AND 27(d)

Section 27(c)(1) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless such certificate is a redeemable security. Section 2(a)(32) of the Act defines "redeemable security" to mean any security under the terms of which the holder upon its presentation to the issuer or to a person designated by the issuer is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof.

Section 22(e) of the Act provides that no registered investment company shall suspend the right of redemption or postpone the date of payment or satisfaction upon redemption of any redeemable security in accordance with its terms for more than seven days after the tender of such security to the company or its agent designated for that purpose for redemption except in certain prescribed circumstances.

Section 27(d) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless the certificate provides that the holder thereof may surrender the certificates at any time within the first eighteen months after the issuance of the certificate and receive in payment thereof, in cash, the sum of (1) the value of his account, and (2) an amount, from such underwriter or depositor, equal to that part of the excess paid for sales loading which is over 15 per centum of the gross payments made by the certificate holder.

Applicants request exemptions from the provisions of Sections 22(e), 27(c)(1) and 27(d) of the Act to the extent necessary to permit compliance with Section 51.358 as it pertains to redemption values under Contracts issued to participants in the Program subsequent to the date of such exemptive order.

Applications assert that if such exemptions are not granted, persons participating in the Program effectively will be denied an opportunity to select as a funding medium for their retirement benefits one of two funding media (the other being fixed annuity contracts) specifically provided in the Texas statute for such purpose. Additionally, participants will be unable to obtain the State's matching contributions for the purchase of an equity-based retirement vehicle. In this respect, the Attorney General's opinion indicated that these matching contributions will encourage participation in the retirement plan but that unrestricted withdrawals prior to retirement might be detrimental to an effective retirement vehicle. In view of the foregoing, Applicants assert that the Commission should grant the requested exemptions because: (1) the limited restriction on redemption would be voluntarily assumed by participants, i.e., eligible employees are not required to participate in the Program; (2) the restrictions were not formulated nor suggested by Applicants; and (3) participants' relinquishment of the full right of redemption is a reasonable requirement in exchange for the benefits bestowed by the matching contributions of the State of Texas.

Applicants will ensure that appropriate disclosure is made to persons who consider participation in the Program, informing them of the restriction on the availability of redemption values under Contracts to be issued to them. This disclosure will take the form of an appropriate reference in each Prospectus to the restrictions on redemption of these Contracts, as well as requiring each participant, as a part of the determination that the sale of these Contracts is suitable for that participant, to sign a statement indicating that he/she is aware that these restrictions will be placed on his/her Contract when it is issued. In addition, Metropolitan will review all sales literature that is to be used in conjunction with the sales of these contracts for the existence of material representations that are inconsistent with the restrictions to be placed on these contracts and will instruct the salespeople involved in soliciting in this market specifically to bring this restriction to the attention of the potential participants.

Section 6(c) authorizes the Commission to exempt any person, security or transaction or any class or classes of persons, securities or transactions, from the provisions of the Act and Rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than April 25, 1977, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following April 25, 1977, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-10205 Filed 4-5-77;8:45 am]

[Release No. 34-13414; File No. SR-NYSE-77-10]

NEW YORK STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Rescission

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, § 16 (June 4, 1975), notice is hereby given that on March 24, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

TEXT OF AMENDMENT TO ARTICLE XIV, SECTION 18 TO BE RESCINDED

DISAPPROVAL OF BUSINESS CONNECTIONS

Sec. 18. Whenever it shall appear to the Board of Directors that a member or allied member is a partner in a partnership, a stockholder, officer, or director in or employee of a corporation, or has an office or headquarters, or is individually or through any member of his member firm or through any stockholder in his member corporation interested in a partnership, corporation or business, or has any business connection whereby the interest or good repute of the Exchange may suffer, the Board may require the member or allied member to dissolve any such partnership or to sever all connection therewith (whether or not such partnership is a member firm) or require the member or allied member to sever all connection with the corporation (whether or not it is a member corporation) and cease to be a stockholder, officer or director therein or employee thereof or may require the discontinuance of such business, office or headquarters or business connection, as the case may be.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

PURPOSE OF PROPOSED RULE CHANGE

In a letter to the Chairman of the Exchange dated March 2, 1976, the Securities and Exchange Commission described certain types of Exchange rules pertaining to membership and association with members which may not be consistent with particular sections of the Securities Exchange Act of 1934 as amended (the "Act"). Among the rules mentioned was Section 18 of Article XIV of the Exchange Constitution which provides that if the "interest of good repute of the Exchange may suffer" due to the relationship of a member or allied member with any business entity, the Board

of Directors may force the discontinuance of such a relationship or cause the dissolution of the entity if it is a member organization. There are no standards as to what constitutes a business connection which could cause the Exchange's interest or good repute to suffer.

Article XIV, Section 18 is not a threshold requirement for membership but rather more in the nature of a disciplinary provision under Article XIV of the Constitution which is entitled "Expulsion and Suspension from Membership or from Allied Membership—Disciplinary Proceedings". Section 18 gives the Board the absolute and sole authority to impose disciplinary sanction.

Article XIV, Section 14 of the Exchange Constitution provides procedures for disciplinary proceedings which comply with the requirements of Section 6 (d) of the Act (Specific charges, opportunity to defend, a record of proceedings, etc.). Section 18, however, unlike other disciplinary sections of Article XIV, does not require an adjudication in a proceeding. The purpose of rescinding Article XIV, Section 18 is to eliminate an Exchange regulation which appears to be inconsistent with the Act.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

The rescission of Article XIV, section 18 is based on sections 6(b)(1), 6(b)(2), 6(b)(6) and 6(b)(7) of the Act as follows:

(i) The proposed rescission will better enable the Exchange to comply with the Act in regard to the disciplining of members and persons associated with members.

(ii) The proposed rescission would eliminate a potential impediment to remaining a member or allied member of the Exchange caused by an association "whereby the interest or good repute of the Exchange may suffer".

(iii) Inapplicable.

(iv) Inapplicable.

(v) Inapplicable.

(vi) The proposed rescission would eliminate a basis for disciplinary action which may not be appropriate and within the purposes of the Act.

(vii) The proposed rescission will eliminate an Exchange regulation which appears to be inconsistent with Section 6(d)(1) of the Act.

(viii) Inapplicable.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED RULE CHANGE

No comments were solicited or received with respect to the proposed rule change other than the Securities and Exchange Commission's letter to Chairman Needham dated March 2, 1976.

BURDEN ON COMPETITION

Inapplicable.

On or before May 11, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before April 27, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MARCH 30, 1977.

[FR Doc.77-10206 Filed 4-5-77;8:45 am]

[File No. SR-NYSE-77-1]
[Release No. 34-13415]

NEW YORK STOCK EXCHANGE, INC.

Self-Regulatory Organization; Proposed Rule Change

Pusuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, section 16 (June 4, 1975), notice is hereby given that on March 25, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGES

The text of the proposed amendments is attached as Exhibit I-A.

PURPOSE OF THE PROPOSED CONSTITUTIONAL AND RULE CHANGES

The proposed changes would accomplish the following:

(a) Rescind the requirement that members, allied members and employees of member organizations not in a supervisory capacity devote their entire time during business hours to the business of their member organizations.

The purpose of these proposed changes is to assist member organizations in their capital raising efforts. Rescinding the requirement that non-supervisory members and allied members must devote the major portion of their time to their member organization's business will permit those individuals having capital to invest, but who are unwilling or unable to devote all their time to the member organization, to become associated with member organizations, e.g., as general partners in member firms. Furthermore, the elimination of the "time" requirement is consistent with the recent Amendments supported by the membership, adopted by the Board and approved by the Commission aimed at removing restrictions on capital raising by member corporations.

Permitting part-time employment of registered representatives would serve the public interest by allowing member organizations flexibility in servicing a broader spectrum of investors whose business might not generate sufficient revenues to merit the use of full-time sales persons. It would also permit the effective utilization of services of qualified professionals who do not wish to devote their full business day to member organizations, including presently full-time representatives who may wish to broaden their business activities into other fields. Finally, the change would permit member organizations to better compete with non-members, especially since in many cases securities salesmen who are not associated with member organizations are permitted to work part-time.

The Exchange would still require that the competence of any person required to be registered be demonstrated by passing appropriate qualifying examinations.

While these amendments eliminate restriction which may not be consistent with changes in the securities industry, particularly the diversification of activities, certain restrictions on activities of supervisory personnel have been retained. It is proposed that individuals who have supervisory responsibilities should still be required to devote their entire time during business hours to the administration of their duties. Supervisory personnel carry the responsibility of enforcing the provisions of the Act and NYSE rules with regard to the daily operations of member organizations. The Exchange therefore believes that such a provision is necessary for the protection of customers and the public interest.

(b) Rescind the requirement of Exchange approval for all activities, including writing and broadcasting, performed outside the member organization by its employees, and permit member organizations, and their employees to be associated with, compensated by or have a financial interest in any securities or non-securities related business without Exchange approval.

The proposed rule would, however, require the prior approval of the member organization employer, who is best qualified to determine whether any outside association is in its best interest and in the interest of the public it serves, or, on the contrary, constitutes an unacceptable conflict of interest.

(c) Rescind the requirement of Exchange approval for a member's association with, compensation by or financial interest in any securities or non-securities related business, but require Exchange approval for a member's association with a registered broker or dealer. Under the Act a member's association with a registered broker or dealer

bestows membership under the Act on that broker or dealer. Therefore, the Exchange must approve such associations to insure compliance with its responsibilities under the Act.

(d) Institute a requirement that whenever a member or member organization knows, or in the exercise of reasonable care should know, of any person controlling, controlled by or under common control with such member or member organization, written notice shall promptly be given to the Exchange. This would provide the Exchange with information essential to fulfill its regulatory responsibilities under the Act over persons associated with members.

(e) Permit individuals to maintain status as members and allied members in more than one member organization provided that any such person exercises supervisory responsibilities in only one member organization. However, no member could qualify more than one member organization.

(f) Provide that no member, member organization and person associated therewith shall be associated with any person, if they know, or in the exercise of reasonable care should know, that such person is subject to a statutory disqualification as defined in the Act.

(g) Rescind the requirement that the Exchange must approve gratuities in excess of $25 and compensation in excess of $100 paid by members, allied members, member organizations or employees thereof to another member or member organization, financial institution, or financial information media or non-member broker or dealer. With the exception of floor employees, only written consent of the employer is needed for payment of the aforementioned gratuities and compensation. Retaining the requirement for floor employees serves a valid regulatory function because it relates directly to the Exchange's ability to perform a surveillance function regarding the possibility of compensation or gratuity payments being used to influence performance of members' clerks or to buy business from other members.

BASIS UNDER THE ACT

(i) The proposed Amendments requiring (a) members and member organization employees who are in a supervisory capacity to devote their entire time during business hours to their member organization; (b) notice to the Exchange whenever any member or member organization controls, is controlled by or is under common control with any person, other than a member, allied member or employee; and (c) Exchange approval of any member's association with a registered broker or dealer and prohibiting any associations with a person subject to a statutory disqualification are essential for the Exchange to carry out the purposes of the Act and to comply, and to enforce compliance by its members and persons associated therewith, with the Act and the rules and regulations thereunder.

(ii) The proposed amendments permitting less than full-time employment by members and persons associated therewith not in a supervisory capacity, removing restrictions on outside business activities and interests and permitting member and allied member status in more than one member organization are consistent with section 6(b)(2) of the Act in that they enable qualified persons to become members or persons associated with a member.

(iii) Is inapplicable.

(iv) Is inapplicable.

(v) The proposed amendments provide greater flexibility with regard to filed duties and other associations of members, member organizations, and persons associated with members and member organizations. The Exchange submits that, in general, such changes tend to remove impediments to the mechanism of a free and open market and are consistent with section 6(b)(5) of the Act. Furthermore, the proposed amendments relating to supervisory persons, employer consent for outside activities of member organization personnel and the payment of gratuities and compensation in excess of stated amounts are designed to protect investors and the public interest.

(vi) Is inapplicable.

(vii) Is inapplicable.

(viii) Is inapplicable.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED RULE CHANGES

Comments on the proposed amendments were solicited from the Exchange membership and those received are attached as Exhibit I-B.

The substance of comments received is as follows:

Three member organizations and one registered representative fully support the proposals and would like to see them adopted promptly. Three member organizations oppose the amendments which permit or encourage part-time employment for registered representatives and outside activities on the theory that they are a "step backwards", are neither economically sound nor feasible and place a burden on the membership for approving outside activities.

BURDEN ON COMPETITION

The proposed rule changes will not impose any burden on competition.

On or before May 11, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection and copying in the Public Reference Room, 1100 "L" Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before April 27, 1977.

For the Commission by the Division of Market Regulation pursuant to delegated authority.

MARCH 30, 1977.

GEORGE A. FITZSIMMONS,
Secretary.

EXHIBIT 1-A

1. Text of Proposed Amendments. Deleted language in brackets [ ]. New language in italics.

PROPOSED AMENDMENTS TO CONSTITUTION

Article IX

MEMBERSHIP—ALLIED MEMBERSHIP—MEMBER FIRMS MEMBER CORPORATIONS

* * * * *

Sec. 7 Approval of Partnerships, Corporations, Allied Members and Approved Persons.

* * * * *

Conditions of approval of member corporation

* * * * *

[(b)(2) Every member or allied member of the Exchange who is an employee of such corporation (unless he is in active government service or health does not permit) actively engages in its business and devotes the major portion of his time thereto; and]

* * * * *

Connection with former member corporation

[(d) Without the consent of the Board of Directors of the Exchange no member or allied member shall be an officer, director, employee or stockholder of a corporation which, having been a member corporation, has ceased to be such for any reason.]

* * * * *

Connection with more than one member organization

[(f) Except as may be permitted by a Rule adopted by the Board of Directors or otherwise specifically permitted by the Board of Directors, no party may be a member, allied member or approved person in more than one member firm or member corporation.]

* * * * *

List of non-members owning 5% or more of voting stock

[(i) The chief executive officer of each member corporation shall submit to the Exchange at such time as the Exchange may require an affidavit listing, to the best of his knowledge and belief, the name of each non-member beneficially owning 5% or more of its outstanding voting stock.]

PROPOSED RULE CHANGES

Rule 317

Rule 317. [(a) Except as provided in (c) below, no party shall be a member or allied member in more than one member organization.

(b) No person who is a member or allied member in any member firm, or a director, member, or allied member in any member, corporation, or any individual Exchange member, may beneficially own any stock of any other member corporation, except in connection with a merger into, or acquisition of assets, or other takeover by, or of, such other member corporation, or except as otherwise specifically approved by the Exchange; and no individual member or member organization may own beneficially any stock of any other member corporation, except:

1. In connection with any such merger, acquisition or other takeover;

2. In connection with an underwriting of such stock;

3. In connection with his or its activity as a market maker in such stock, in which event the member or member organization shall be required to be registered with the Exchange as a market maker in such stock; or

4. As provided in (c) or (d) below.

(c) One or more member organizations may, with the approval of the Board of Directors, own all of the voting stock of another member corporation, except for qualifying shares of voting stock held by members, allied members or directors of such controlled member corporation, and members, and allied members in such parent member organization(s) may be approved as members and allied members in such controlled member corporation; but no member shall qualify more than one organization for membership.

(d) Any member or member organization or any member, allied member, director or employee of a member organization may own less than 5% of the stock of another member corporation. Under appropriate circumstances the Exchange may treat as a single holding stock which is nominally held by different persons or organizations.

* * * Supplementary Material

.10 For the purposes of this Rule, the term "market maker" means a member or member organization which, with respect to a particular stock of another member corporation, holds itself out (by entering indications of interest in purchasing and selling in an inter-dealer quotations system or otherwise) as being willing to buy and sell for his or its own account on a continuous basis.

In order to become registered as a market maker for the purposes of this Rule with respect to the stock of any member corporation, a member or member organization must file such application with the Exchange as it may require, must have and maintain minimum net capital as defined in Rule 325 of $50,000 plus $5,000 for each such stock in excess of five in respect of which such member or member organization is registered as a maker under this Rule, and must except when such activity is unlawful, meet all of the following conditions with respect to such stock:

(i) Such member or member organization publishes bona fide competitive bid and offer quotations in a recognized inter-dealer quotations system;

(ii) Such member or member organization furnishes bona fide competitive bid and offer quotations to other brokers and dealers on request;

(iii) Such member or member organizations is ready, willing and able to effect transactions in reasonable amounts and at his or its quoted prices with other brokers or dealers; and

(iv) Such member or member organization has a satisfactory rate of inventory turn-over.]

Rule 318

(a) * * *

[(b) Unless otherwise permitted by the Exchange every individual member must be actively engaged in the securities business and devote the major portion of his time thereto, and every member and allied member in a member organization must be actively engaged in the business of his organization and devote the major portion of his time thereto.

Without prior approval of the Exchange, no individual member and no member or allied member in a member organization shall become:

(1) A partner in any non-member business organization;

(2) An officer or employee of any non-member business corporation, firm or association;

(3) An employee of any firm or individual engaged in business; or

(4) Associated with any outside securities, financial or kindred business.

* * * Supplementary Material

.10 The Board of Directors has determined upon the following permissible exceptions:

(1) Director of corporation not in the securities business;

(2) Chairman of a Board of Directors of a corporation not in the securities business;

(3) Officer of personal holding company not publicly owned;

(4) Officer of operating company not in the securities business, if duties are nominal and not operational;

(5) Officer of an investment trust, open end or closed, if it is not self-managed and self-distributing;

(6) Officer, for a reasonable period, of an operating company whose securities the firm under wrote, distributed or sponsored; and

(7) Affiliations of members and allied member existing on December 31, 1956.

In respect of item (4) of Rule 318, above, the Board has determined that a financial interest in a securities or financial or kindred business, whether through stock ownership, or bonds, or loans of any nature, would constitute an "association", unless the ownership was nominal—not exceeding 5%—and the other securities or financial or kindred business were publicly owned.

The Exchange may treat as a single holding stock nominally held by different persons or organizations.

The Board has determined that an individual member is "actively engaged in the securities business", as the phrase is used in Rule 318, when he is active as a Floor trader, specialist, so-called two dollar broker, or associated odd lot broker, or engaged in business with the public by servicing customers' accounts and introducing them to another member organization.]

EMPLOYEE-REGISTRATION, APPROVAL, RECORDS, DISCIPLINE

Rule 345

* * * * *

* * * Supplementary Material

* * * * *

.16 Agreements.

* * * * *

Further, each registered representative, in consideration of the Exchange's approving his application, shall sign the following statements:

* * * * *

(H) I agree that I will not take, accept, or receive, directly or indirectly, from any person, firm, corporation or association, other than my employer, compensation of any nature, as a bonus, commission, fee, gratuity or other consideration, in connection with any securities, commodities or insurance transaction or transactions, except with the prior written consent of [the Exchange] *my employer.*

Fixed Duties and Other Associations of Members and Member Organizations

Members, Member Organizations, and Persons Associated with Members and Member Organizations

Rule 346 as amended

(a) Unless otherwise permitted by the Exchange every member not associated with a member organization must be actively engaged in the securities business and every member, allied member, registered representative and officer of a member or member organization who is assigned or delegated any responsibility or authority pursuant to Rule 342 shall devote his entire time during business hours to the business of such member or member organization.

(b) No member, allied member or employee of a member or member organization shall at any time be engaged in any other business; or be employed or compensated by any other person; or serve as an officer, director, partner or employee of another business organization; or own any stock or have, directly or indirectly, any financial interest in any other organization engaged in any securities, financial or kindred business without the prior written consent of his member or member organization employer. (See also requirements of Rule 311 and 350.)

(c) No member shall be associated with any broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 without the prior approval of the Exchange.

(d) Prompt written notice shall be given the Exchange whenever any member or member organization knows, or in the exercise of reasonable care should know, that any person, other than a member, allied member or employee, directly or indirectly, controls, is controlled by or is under common control with such member or member organization.

(e) Any member or allied member may become a partner, officer, director or employee in one or more organizations provided that such member or allied member may have supervisory responsibilities pursuant to Rule 342 in only one member organization. No member shall qualify more than one member organization for membership.

(f) Except as otherwise permitted by the Exchange:

1. No member or member organization shall have as a person associated with such member or member organization, any person who is known, or in the exercise of reasonable care should be known, to be subject to any "statutory disqualification" defined in the Securities Exchange Act of 1934; and

2. No allied member, approved person, employee or any person directly or indirectly controlling, controlled by or under common control with a member or member organization shall have associated with him any person who is known, or in the exercise of reasonable care should be known, to be subject to any "statutory disqualification" defined in Section 3(a)(39) (A), (B), or (C) of the Securities Exchange Act of 1934.

** * * Supplementary Material*

.10 The Board has determined that a member not associated with a member organization is "actively engaged in the se-

curities business", as the phrase is used in Rule 346, when he is active as a Floor trader, specialist, so-called two dollar broker, associated odd lot broker or odd lot dealer, or engaged in business with the public by servicing customers' accounts and introducing them to another member organization.

.11 For the purpose of this rule, control is defined in Rule 2.

.12 For the purposes of this rule, the term associated with a member or member organization shall have the same meaning as the term "associated with a member" is defined in Section 3(a)(21) of the Securities Exchange Act of 1934; the term "associated with a broker or dealer" shall have the same meaning as defined in Section 3(a)(18) of that Act.

.20 Under the appropriate circumstances the Exchange may treat as a single holding stock which is nominally held by different persons or organizations.

[¶ 2346

Employees—Fixed Duties

Rule 346. Every registered representative or officer of a member or member organization shall devote his entire time during business hours to the business of the member or member organization employing him, and shall not at any time be engaged in any other business or be employed by any other corporation, firm or individual, or serve as an officer or director of another corporation, or own any stock, or have, directly or indirectly, any financial interest in any other member organization or any non-member organization engaged in any securities, financial or kindred business without the prior written approval of the Exchange, or except as otherwise permitted by the Rules of the Board of Directors.

No non-registered employee, without the prior approval of the Exchange, shall be engaged at any time in any other financial or securities or kindred business, or be connected by employment or otherwise (in any but a purely part-time clerical capacity which does not conflict with his normal duties and full-time hours of employment with his regular member organization employer) with any other corporation, firm or individual engaged in such business. For the purpose of this Rule, investment companies, investment trust management companies and investment advisors shall be considered to be engaged in the securities business. (See ¶ 2350)

Amendment, March 26, 1970

* * * Supplementary Material.

.10 Writing and Broadcasting.—Consent of the Exchange will not be required for outside writing or broadcasting activities by members, allied members and employees of member organizations, when all of the following conditions are met:

(1) The total number of articles or appearances by any one such person published or broadcast in any calendar year does not exceed four, or the media is in the nature of a trade publication addressed primarily to persons or groups within the securities industry (such as the Analysis Journal or the Bulletin of the Association of Customers' Brokers).

(2) The subject is in the field of finance, any compensation is nominal, and the activity does not interfere with the performance of fulltime duties for the member organization.

(3) A member or member organization approves the activity and assumes responsibility for adherence to Exchange standards in articles or broadcasting scripts prepared by personnel of that organization, and for information supplied for such articles or broadcasts; a member, allied member or competent authorized delegate approves material prepared by an employee in advance of publication or broadcast.

(4) The author is identified with the material, and it is made clear that the author is associated with a securities firm.

(5) The article or broadcast is broadly educational.

The term "outside writing and broadcasting activities" refers to activities other than those engaged in by the member, allied member or employee of the member organization in the conduct of his or its securities business.

Amendment, March 26, 1970

.11 Permission for Writing and Broadcasting Activities. The Exchange may grant permission in individual cases for outside writing or broadcasting activities not meeting all conditions in ¶ 2346.10 above, upon application, where conditions in subparagraphs (2), (3) and (4) of ¶ 2346.10 are met, plus the following:

(1) The Exchange is satisfied that the nature of the commentary, the media and the audience are such that the author or broadcaster will continue to be identified in the public eye primarily as a member of the securities community, and will not become generally identified as a writer or broadcaster;

(2) In cases where the nature of the writing or broadcasting ceases to be broadly educational and tends more toward current commentary:

(a) In the case of broadcasts, no recommendations are made to buy, sell, switch or retain investments, whether labeled as such or not;

(b) In the case of articles, where recommendations may be made, they are clearly identified as those of the author or of the author's member organization, whose name shall be stated in that case;

(c) The Exchange is satisfied with the general format and purpose of the article or broadcast.

.12 Speaking and Teaching Activities.—Approval of the Exchange will not be required for single talks, courses or lecture series on investment subjects given by members, allied members and other member organization personnel as outside speaking activities before community groups and institutions, when all of the following conditions are met:

(1) Consent for each such talk or lecture has been given by a member, allied member or competent authorized delegate.

(2) The member organization assumes responsibility for the general content of each talk or lecture and the speaker's educational approach;

(3) In the case of talks and lectures, no more than $25.00 is to be charged as admission, registration or tuition, or is to be paid to the speaker as a total fee by the sponsoring organization; in the case of courses at accredited colleges or universities, the charges and payment to the teacher are not more than the educational institution's normal fees and payments.

The term "outside speaking activities" refers to activities other than those engaged in by the member, allied member or employee of the organization in the conduct of his or its securities business.

Amendment, March 26, 1970

.13 Permission for Speaking Activities.—In individual cases of outside speaking activities where fees may be greater than specified in sub-paragraph (3) of paragraph above, specific approval of the Exchange will be required.

.14 Standards and Guideposts.—All outside writing, broadcasting or speaking activities by members, allied members and other member organization personnel, whether requiring specific Exchange approval or not, must comply with standards established in Rules 471, 472 and 473 and in Supplementary Material to these Rules. Copy and clippings for articles, radio-TV scripts, and a log of all speaking engagements must be retained by the member or member organization for three years for delivery to the Exchange on request.

.15 Director or Officer.—Consent of the Exchange will not be required for the following activities, provided the member or member organization employer wishes to have the employee so serve and the activities do not interfere with the performance of full-time duties of the registered representative.

(1) Director of up to three corporations not in the securities business, including chairman of the board of directors of one corporation if not chief executive officer.

(2) Director of a bank or trust company in compliance with state and federal banking laws.

(3) Officer or an operating company not in the securities business, if duties are nominal and non-operational.

The Exchange will consider on their individual circumstances any requests for outside activities which do not conform with the above conditions.

.16 Leave of Absence.—Consent of the Exchange will not be required for leave of absence, provided all of the following conditions are met:

(1) The member or member organization employer retains a written record of the leave.

(2) The registered representative is not physically present at any office of his employer, and does not act as a registered representative of his employer.

(3) The registered representative does not use the leave to engage in any other business, or be employed by any other corporation, firm or individual, or serve as a partner, officer or director of any other partnership or corporation.

(4) The total time on leave of absence does not exceed one year.

(5) The registered representative receives no compensation from the firm other than maintenance of fringe benefits such as medical insurance, etc.

The Exchange will consider on their individual circumstances any requests for leave of absence which do not conform with the above conditions.]

Compensation or Gratuities to Employees of Others

Rule 350

(a) No member, allied member, member organization or employee thereof shall:

(1) Employ or compensate for services rendered, except as specified below or with the prior written consent of the employer and *in the case of floor employees prior written consent of the employer and* the Exchange, or

(2) give any gratuity in excess of $25 per person per year to any principal, officer, or employee of the Exchange or its subsidiaries, another member or member organization, financial institution, news or financial information media, or non-member broker or dealer in securities, commodities, or money instruments.

A gift of any kind is considered a gratuity.

(b) Compensation for services rendered of up to $100 per person per year may be paid with the prior written consent of the employer, but not of the Exchange, to operations employees of the following types:

(1) A telephone clerk on the NYSE Floor who provides courtesy telephone relief to a member's clerk, or handles such a member's orders over the member's own wire.

(2) Employees who make out commission bills or prepare Exchange reports for members.

(3) A specialist's Floor clerk who maintains records for a specialist other than his employer, or provides courtesy relief to another specialist's clerk.

(4) When the service rendered by the employee exceeds that which the primary employer is obligated to furnish.

(a) A telephone clerk who handles a member's orders transmitted over the wire of the clerk's employer.

(b) Odd-lot clerks assigned to assist an Associate Odd-lot Broker.

(c) A telephone clerk who handles orders directly by the clerk's employer to the member who receives them.

[(d) Operations employees of a carrying or clearing firm assigned by their employer to give a major amount of service to a member or member organization introducing accounts to, clearing through, corresponding with, or making an office with the employer firm.]

(c) Records shall be retained for at least three years of all such gratuities and compensation for inspection by Exchange examiners.

* * * Supplementary Materials

10. When close relatives work in different financial organizations, gifts arising from the family relationship are not considered subject to Rule 350.

Employment of or gratuities to personnel working on the Floor of other exchanges and approved by the other exchange under a rule similar to Rule 350 are not considered subject to Rule 350.

Requests for Exchange consent under Section a(1) of this Rule should be addressed as follows, and sent at least 10 days in advance of the proposed date of employment:

(A) Exchange employees—Attention: Personnel Department.

(B) Floor employees of other members or member organizations—Attention: [Market Surveillance Division] *Market Operations Division.*

[(C) All Others—Attention: Regulation & Surveillance].

Consents under a (1) or (b), above, should include name and position of proposed employee, amount of proposed compensation, name and title of person giving consent for employer, and nature of proposed duties of employee. Approvals under a (1) will not be given in December.

Requests for exceptions to section a(2) above will be considered only under very unusual circumstances.

In general, approval to employ an Exchange employee outside of the hours of regular employment by the Exchange will be limited to employment of a routine or clerical nature. Approval will not be given for the employment of an Exchange employee in an advisory or professional capacity with reference to Exchange operations or policies.

When the Exchange has granted permission for part-time employment of an employee of the Exchange or of another member or member organization no approval is required for a subsequent gratuity or bonus to such person provided it is in proportion to gratuities given full-time employees of the employing organization.

[FR Doc.77-10207 Filed 4-5-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 15; Amdt. 3]

ASSISTANT ADMINISTRATOR FOR ADMINISTRATION

Audit and Investigation Authority; Rescission

Delegation of Authority No. 15 (37 FR 20753), as amended (39 FR 1898 and 40 FR 18054), is hereby further amended to rescind audit and investigation authority previously given to the Assistant Administrator for Administration. This function is now being performed in the Administrator's Office.

Section E of Delegation of Authority No. 15, as amended, is hereby rescinded in its entirety.

Effective date: April 6, 1977.

Dated: March 31, 1977.

ROGER H. JONES,
Acting Administrator.

[FR Doc.77-10155 Filed 4-5-77;8:45 am]

[Colorado Equity Capital Corporation Application No. 08/08-5040]

COLORADO EQUITY CAPITAL CORP.

Application for License to Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), has been filed by Colorado Equity Capital Corporation (applicant), with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1976).

The officers and directors of the applicant are as follows:

Edward R. Lucero, President, General Manager, Director, 10370 West 18th Pl., Lakewood, Colo. 80215.

Roger C. Cohen, Secretary, Legal Counsel, 4949 South Birch St., Littleton, Colo. 80121.

Darl C. Hobson, Director, 1130 South Fenton St., Denver, Colo. 80226.

The applicant, a Colorado corporation, with its principal place of business located at 1108 Fifteenth Street, Suite 713, Denver, Colorado 80202, will begin operations with $300,000 of paid-in capital and paid-in surplus, derived from the sale of 3,000 shares of common stock to approximately 15 private investors including five local banks and other business concerns. No stockholder will hold 10 percent or more of the applicant's voting stock. The applicant will conduct its operations within the State of Colorado.

Applicant intends to provide assistance to all qualified socially or economically disadvantaged small business concerns as the opportunity to profitably assist such concerns is presented.

As a small business investment company under Section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and SBA Rules and Regulations.

Any person may, not later than 15 days from the date of publication of this notice, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Denver, Colorado.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: March 30, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-10154 Filed 4-5-77;8:45 am]

DEPARTMENT OF STATE

[Public Notice CM-7/53]

ADVISORY COMMITTEE ON THE LAW OF THE SEA

Change of Date for April Meeting

Notice is hereby given that due to exigencies imposed by intersessional consultations preparatory to the 1977 Third United Nations Conference on the Law of the Sea, the Advisory Committee on the Law of the Sea, which, according to 51 FR 14798 of March 16, 1977 was to meet in both an open and closed session on Thursday, April 28 and Friday, April 29 will not meet in a closed session on Monday, April 25 and in a partially closed session on Tuesday, April 26, 1977. The basis for the closed meeting is as originally stated in the FEDERAL REGISTER cited above.

The open session of the meeting will convene on Tuesday, April 26, 1977 at 2:30 p.m. in the Dean Acheson Auditorium, U.S. Department of State, 22nd and C Streets NW., Washington, D.C. The closed session will commence on Monday, April 26 at 9 a.m. in the Main Lounge, Constitution Hall, 18th and C Streets NW., and on Tuesday, April 26, 1977 at 9 a.m. in the Dean Acheson Auditorium. Attendees should use the Diplomatic Entrance to the Department of State at 22nd and C Streets NW.

Dated: March 28, 1977.

FRANK HODSOLL,
Director, Office of the Law of the Sea Negotiations.

[FR Doc.77-10194 Filed 4-5-77;8:45 am]

[Public Notice CM-7/51]

SHIPPING COORDINATING COMMITTEE, SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The working group on fire protection of the Subcommittee on Safety of Life at Sea, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting on Tuesday, April 26, 1977, at 9:30 a.m. in Room 8236 of the Department of Transportation, 400 Seventh Street SW., Washington, D.C.

The purpose of the meeting will be to:

Discuss fire safety measures for tank vessels;

Prepare documents for submittal to the 20th Session of the Intergovernmental Maritime Consultative Organization (IMCO) Subcommittee on Fire Protection, scheduled to be held July 4–8, 1977;

Review recently submitted documents by other delegations to determine if a response is appropriate or required.

Requests for further information on the meeting should be directed to Mr. Daniel F. Sheehan, United States Coast Guard. He may be reached by telephone on (area code 202) 426–2197.

The Chairman will entertain comments from the public as time permits.

RICHARD K. BANK,
Chairman,
Shipping Coordinating Committee.

MARCH 28, 1977.

[FR Doc.77-10195 Filed 4-5-77;8:45 am]

[Public Notice CM-7/54]

SHIPPING COORDINATING COMMITTEE, SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The working group on subdivision and stability's panel on bulk cargoes of the Subcommittee on Safety of Life at Sea, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 10:00 a.m. on Wednesday, April 28, 1977, in Suite 2757, One World Trade Center, New York, New York.

The purpose of the meeting will be to:

Discuss items on the agenda for the 18th Session of the Subcommittee on Containers and Cargoes of the Intergovernmental Maritime Consultative Organization (IMCO) pertaining to bulk cargoes scheduled to be held July 11–15, 1977, in London;

Review the work statements on sampling procedures and shifting angle; and

Discuss paper on securing of cants as an addendum to Code of Safe Practice for Timber Deck Cargoes.

Requests for further information on the meeting should be directed to either Mr. Edward H. Middleton, United States Coast Guard (202/426–2170) or Capt. S. Fraser Sammis, National Cargo Bureau, Inc. (212–432–1280).

The Chairman will entertain comments from the public as time permits.

RICHARD K. BANK,
Chairman,
Shipping Coordinating Committee.

MARCH 28, 1977.

[FR Doc.77-10193 Filed 4-5-77;8:45 am]

[Public Notice CM-7/50]

STUDY GROUPS 10 AND 11 OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

Meeting

The Department of State announces that Study Groups 10 and 11 of the U.S. National Committee for the International Radio Consultative Committee (CCIR) will meet jointly on April 28, 1977, under the chairmanship of Mr. Neal K. McNaughton. The meeting will convene at 9:30 a.m. in Room A–110, Federal Communications Commission Annex, 1229 20th Street NW., Washington, D.C.

Study Group 10 deals with questions relating to sound broadcasting; Study Group 11 deals with questions relating to television broadcasting. The purpose of the meeting on April 28 will be to review the proposed contributions to the international meetings of Study Groups 10 and 11 in October 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: March 30, 1977.

GORDON L. HUFFCUTT,
Chairman,
U.S. CCIR National Committee.

[FR Doc.77-10196 Filed 4-5-77;8:45 am]

DEPARTMENT OF THE TREASURY

[Treasury Dept. Order No. 248]

SOUTHERN RHODESIA

Delegation of Authority Relating to Embargo

By virtue of the authority vested in me as Secretary of the Treasury by Pub. L. 95–12 of March 18, 1977; Executive Order 11322, January 5, 1967; Executive Order 11419, July 29, 1968; Executive Order 11978, March 18, 1977; and Reorganization Plan No. 26 of 1950:

I hereby delegate to the Director of the Office of Foreign Assets Control all authority vested in me as Secretary of the Treasury by Pub. L. 95–12. All actions taken by him prior to this delegation to implement Pub. L. 95–12 are hereby ratified and confirmed.

Dated: March 31, 1977.

ANTHONY M. SOLOMON,
Acting Secretary of the Treasury.

[FR Doc.77-10211 Filed 4-5-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 362]

ASSIGNMENT OF HEARINGS

APRIL 1, 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 114211 Sub 281, Warren Transport, Inc. now assigned April 7, 1977 at Salt Lake City, Utah is cancelled.

MC 120472 (Sub-2), Gollot & Sons Transfer & Storage, Inc., now assigned May 9, 1977 at New Orleans, Louisiana, is cancelled and reassigned May 9, 1977 at Biloxi, Mississippi, in a hearing room to be later designated.

MC 117068 (Sub-No. 71), Midwest Specialized Transportation, Inc. now assigned May 3, 1977, at Minneapolis, Minnesota will be held in Room B–44, Federal Building, 110 4th Street.

MC 133095 (Sub-No. 114), Texas Continental Express, Inc., now assigned May 4, 1977, at Minneapolis, Minnesota, will be held in Room B–44, Federal Building, 110 South 4th Street.

MC 720 (Sub-No. 17), Bird Trucking Co., Inc., now assigned May 5, 1977, at Minneapolis, Minnesota, will be held in Room B–44, Federal Building, 110 South 4th Street.

MC 114211 (Sub-No. 279), Warren Transport, Inc., and MC 118806 (Sub-No. 49), Arnold Bros. Transport, LTD, now assigned May 9, 1977, at Minneapolis, Minnesota will be held in Room B–44, Federal Building, 110 South 4th Street.

MC 109397 Sub 344, Tri-State Motor Transit Co. now assigned May 26, 1977 at Atlanta, Georgia and will be held in Room 556, Federal Office Building, 275 Peachtree Street.

MC 139468 Sub 4, International Contract Carrier, Inc. now assigned May 24, 1977 at Atlanta, Georgia and will be held in Room 556, Federal Office Building, 275 Peachtree Street.

MC 139495 Sub 171, National Carriers, Inc. now assigned May 23, 1977 at Atlanta, Georgia and will be held in Room 556, Federal Office Building, 275 Peachtree Street.

MC 99161 Sub 6, Alabama Freight, Inc. now assigned May 19, 1977 at Atlanta, Georgia and will be held in Room 526, U.S. Courthouse, 56 Forsyth Street.

MC 108393 Sub 109, Signal Delivery Service, Inc. now assigned May 17, 1977 at Atlanta, Georgia and will be held in Room 526, U.S. Courthouse, 56 Forsyth Street.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-10223 Filed 4-5-77;8:45 am]

[Ex Parte No. 278 [1]]

EQUAL OPPORTUNITY IN SURFACE TRANSPORTATION

Decided: February 3, 1977.

Upon investigation into (a) the employment practices of, and minority participation within, the surface transportation industry subject to economic regulation by this Commission pursuant to the provisions of the Interstate Commerce Act, (b) that industry's compliance with applicable civil rights statutes and Executive Orders, and (c) the proper role to be assumed by this Commission in regard to these matters, found:

(1) That unlawful discriminatory employment practices do exist in the surface transportation industry subject to our jurisdiction as in other industries not within the purview of our regulatory authority, but visible efforts are being made by the industry itself to correct these problems.

(2) That the Interstate Commerce Commission is bound by the principles set forth in "NAACP v. FPC," 44 USLW 4659 (U.S. May 19, 1976) and therefore, has jurisdiction (a) to disallow any quantifiable costs demonstrably the product of discriminatory employment practices as unnecessary costs which may not be included as justification for rate increases; and direct the Bureau of Accounts to advise all carriers as soon as practicable of the appropriate accounting for such costs, and (b) to consider the consequences of employment discrimination, as a factor, in licensing fitness, and other areas, but only if the discriminating activity impacts on the regulatee's regulated activities.

(3) That this Commission's range of concern in the area of employment discrimination involves more than specifically quantifiable costs, but does not extend beyond the scope of the regulatee's regulated activity.

(4) That the Commission's existing rules and regulations appear adequate, at this time, for the bringing of matters involving employment discrimination relevant to our proceedings to the Commission's attention for appropriate consideration and, therefore, neither the adoption of those proposed rules which are within our power to adopt, nor the promulgation of any new rules is necessary.

(5) That the Commission will handle issues involving employment discrimination on a case-by-case basis until we gain the experience and a need for additional rules presents itself.

(6) That the Commission should continue to assist and participate in programs designed to enhance and encourage greater female, minority, and small business concerns participation in surface transportation subject to our jurisdiction.

(7) That the petition proceeding in No. MC–C–7255 should be dismissed.

(8) That since no new rules are adopted herein or any other good cause shown why this proceeding should be held open for further comment, the proceeding should be discontinued.

(9) That this decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-10228 Filed 4-5-77;8:45 am]

[1] This report also embraces No. MC–C–7255, Petition for Rulemaking Proceeding Relative to Employment Practices of Motor Carriers.

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY-ELIMINATION OF GATEWAY LETTER NOTICES

APRIL 1, 1977.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR Part 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before April 18, 1977. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC–1647 (Sub-No. E4), filed June 4, 1974. Applicant: READDING VAN & STORAGE CO. INC., 1725 Pine Avenue, Vineland, N.J. 08360. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue, NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Household goods* as defined by the Commission, between points in New Jersey, on the one hand, and, on the other, points in Florida. The purpose of this filing is to eliminate the gateway of points in Cape May County, N.J. within 20 miles of Egg Harbor City, N.J.

No. MC–1647 (Sub-No. E5), filed June 4, 1974. Applicant: READDING VAN & STORAGE CO. INC., 1725 Pine Avenue, Vineland, N.J. 08360. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue, NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Household goods* as defined by the Commission, between points in New Jersey, on the one hand, and, on the other, points in Georgia. The purpose of this filing is to eliminate the gateway of points in Cape May County, N.J. within 20 miles of Egg Harbor City, N.J.

No. MC–1647 (Sub-No. E6), filed June 4, 1974. Applicant: READDING VAN & STORAGE CO. INC., 1725 Pine Avenue, Vineland, N.J. 08360. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue, NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Household goods* as defined by the Commission, between points in New Jersey, on the one hand, and, on the other, points in North Carolina. The purpose of this filing is to eliminate the gateway of points in Cap May County, N.J. within 20 miles of Egg Harbor City, N.J.

No. MC–1647 (Sub-No. E7), filed June 4, 1974. Applicant: READDING VAN & STORAGE CO. INC., 1725 Pine Avenue, Vineland, N.J. 08360. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue, NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Household goods* as defined by the Commission, between points in New Jersey, on the one hand, and, on the other, points in South Carolina. The purpose of this filing is to eliminate the gateway of points in Cape May County, N.J. within 20 miles of Egg Harbor City, N.J.

No. MC–1647 (Sub-No. E18), Filed June 4, 1974. Applicant: READDING VAN & STORAGE CO. INC., 1725 Pine Avenue, Vineland, N.J. 08360. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue, NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicele, over irregular routes, transporting: *Household goods* as defined by the Commission, between points in Kent County, Delaware, and points in Delaware on and north of Kent County, on the one hand, and, on the other, points in Florida on and east of Interstate Highway 75. The purpose of this filing is to eliminate the gateway of points in Cape May County, N.J. within 20 miles of Egg Harbor City, N.J.

No. MC–1647 (Sub-No. E19), filed June 4, 1974. Applicant: READDING VAN & STORAGE CO. INC., 1725 Pine Avenue, Vineland, N.J. 08360. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue, NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Rhode Island, on the one hand, and, on the other, points in Maryland, Delaware, and the District of Columbia. The purpose of this filing is to eliminate the gateway of points in Cape May County, N.J. within 20 miles of Egg Harbor City, N.J.

No. MC 105045 (Sub-No. E157), filed November 28, 1975. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, 1020 Pennsylvania Street, Evansville, Ind. 47701. Applicant's representative: George H. Veech (same

as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum* and *aluminum articles* (except commodites in bulk), which, because of their size or weight, require the use of special equipment, except 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; *Machinery, materials, equipment* and *supplies* used in, or in connection with, the construction, operation, repair, picking up of pipe except the stringing or picking up of pipe in connection with main or trunk pipe lines, from points in Michigan on and south of a line beginning at Holland, Michigan, on Lake Michigan, and extending along Michigan Highway 21, thence along Michigan Highway 21 to Port Huron, Michigan, at Lake Huron, to points in Minnesota.

The purpose of this filing is to eliminate the gateway of the facilities of Amax Aluminum Mill Products, Inc., in Grundy County, Ill.

No. MC 105045 (Sub-No. E158), filed November 28, 1975. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, 1020 Pennsylvania Street, Evansville, Ind. 47701. Applicant's representative: George H. Veech (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum* and *aluminum articles* (except commodities in bulk) which, because of their size or weight, require the use of special equipment, except 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; *Machinery, materials, equipment*, and *supplies* used in, or in connection with, the construction, operation, repair, picking up of pipe except the stringing or picking up of pipe in connection with main or trunk pipe lines, from points in Missouri on and east of a line beginning at the Missouri-Illinois state line, and extending along Interstate Highway 55, thence along Interstate Highway 55 to the Missouri-Arkansas state line, to those points in Minnesota on and north of a line beginning at the Minnesota-Wisconsin state line, and extending along U.S. Highway 12, thence along U.S. Highway 12, to the Minnesota-South Dakota state line.

The purpose of this filing is to eliminate the gateway of the facilities of Amax Aluminum Mill Products, Inc., in Grundy County, Ill.

No. MC 105045 (Sub-No. E159), filed November 28, 1975. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, 1020 Pennsylvania Street, Evansville, Ind. 47701. Applicant's representative: George H. Veech (same as above). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Aluminum* and *aluminum articles* (except commodities in bulk) which, because of their size or weight, require the use of special equipment, except 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; *Machinery, materials, equipment*, and *supplies* used in, or in connection with, the construction, operation, repair, picking up of pipe except the stringing or picking up of pipe in connection with main or trunk pipelines, from points in Louisiana, on and south and east of a line beginning at the Louisiana-Mississippi state line, and extending along U.S. Highway 80, to junction U.S. Highway 165, to junction U.S. Highway 167, thence along U.S. Highway 167 to Abbeville, La., at or near Vermillion Bay, to those points in Minnesota on and north of a line beginning at the Minnesota-Wisconsin state line, and extending along U.S. Highway 12, thence along U.S. Highway 12 to the Minnesota-South Dakota state line.

The purpose of this filing is to eliminate the gateway of the facilities of Amax Aluminum Mill Products, Inc., in Grundy County, Ill.

No. MC 105045 (Sub-No. E160), filed November 28, 1975. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, 1020 Pennsylvania Street, Evansville, Ind. 47701. Applicant's representative: George H. Veech (same as above). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Aluminum* and *aluminum articles* (except commodities in bulk) which, because of their size or weight, require the use of special equipment, except 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 proudcts and by-products; *Machinery, materials, equipment*, and *supplies* used in, or in connection with, the construction, operation, repair, picking up of pipe except the stringing or picking up of pipe in connection with main or trunk pipelines, from points in Arkansas, on and east of a line beginning at the Arkansas-Tennessee state line, and extending along U.S. Highway 79 to junction U.S. Highway 65, thence along U.S. Highway 65 to the Arkansas-Louisiana state line, to those points in Minnesota on and north and east of a line beginning at the Minnesota-Wisconsin state line, and extending along U.S. Highway 12, to junction Minnesota Highway 15, to junction Interstate Highway 94, to junction U.S. Highway 10, thence along U.S. Highway 10 to the Minnesota-North Dakota state line.

The purpose of this filing is to eliminate the gateway of the facilities of Amax Aluminum Mill Products, Inc., in Grundy County, Ill.

No. MC 105045 (Sub-No. E161), filed November 28, 1975. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, 1020 Pennsylvania Street, Evansville, Ind. 47701. Applicant's representative: George H. Veech (same as above). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Aluminum* and *aluminum articles* (except commodities in bulk) which, because of their size or weight, require the use of special equipment, except 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; *Machinery, materials, equipment*, and *supplies* used in, or in connection with, the construction, operation, repair, picking up of pipe except the stringing or picking up of pipe in connection with main or trunk pipe lines, from points in Florida and Georgia, to those points in Iowa, on and north of a line beginning at the Iowa-Illinois state line, and extending along U.S. Highway 61, to junction Interstate Highway 80, thence along Interstate Highway 80, to the Iowa-Nebraska state line.

The purpose of this filing is to eliminate the gateway of the facilities of Amax Aluminum Mill Products, Inc., in Grundy County, Ill.

No. MC 105045 (Sub-No. E162), filed November 28, 1975. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, 1020 Pennsylvania Street, Evansville, Ind. 47701. Applicant's representative: George H. Veech (same as above). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Aluminum* and *aluminum articles* (except commodities in bulk) which, because of their size or weight, require the use of special equipment, except 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; *Machinery, materials, equipment*, and *supplies* used in, or in connection with, the construction, operation, repair, picking up of pipe except the stringing or picking up of pipe in connection with main or trunk pipe lines, between points in Alabama on and east of a line beginning at the Alabama-Tennessee state line, and extending along Interstate Highway 65 to junction U.S. Highway 331, to junction U.S. Highway 29, to junction Alabama Highway 137, thence along Alabama Highway 137 to the Alabama-Florida state line, on the one hand, and, on the other, those points in Iowa on and north of a line beginning at the Iowa-Illinois state line, and extending along U.S. Highway 61 to junction Interstate Highway 80, thence along Interstate Highway 80 to the Iowa-Nebraska state line.

The purpose of this filing is to eliminate the gateway of the facilities of Amax Aluminum Mill Products, Inc., in Grundy County, Ill.

No. MC 105045 (Sub-No. E163), filed November 28, 1975. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, 1020 Pennsylvania Street, Evansville, Ind. 47701. Applicant's representative: George H. Veech (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum* and *aluminum articles* (except commodities in bulk) which, because of their size or weight, require the use of special equipment, except machinery, equipment, materials, and suppiles 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; *Machinery, materials, equipment* and *supplies* used in, or in connection with, the construction, operation, repair, picking up of pipe except the stringing or picking up of pipe in connection with main or trunk line pipe lines, between points in Iowa, on the one hand, and, on the other, those points in Michigan on and south of a line beginning at Lake Michigan and extending along Michigan Highway 32, thence along Michigan Highway 32 to Lake Huron.

The purpose of this filing is to eliminate the gateway of the facilities of Amax Aluminum Mill Products, Inc., in Grundy County, Ill.

No. MC 105045 (Sub-No. E164), filed November 28, 1975. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, 1020 Pennsylvania Street, Evansville, Ind. 47701. Applicant's representative: George H. Veech (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum* and *aluminum articles* (except commodities in bulk) which, because of their size or weight, require the use of special equipment, except machinery, equipment, materials, and supplies used in, or in conncetion with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products; *Machinery, materials, equipment*, and *supplies* used in, or in connection with, the construction, operation, repair, picking up of pipe, except the stringing or picking up of pipe in connection with main or trunk pipe lines, from points in Nebraska, to points in the Lower Peninsula of Michigan.

The purpose of this filing is to eliminate the gateway of the facilities of Amax Aluminum Mill Products, Inc., in Grundy County, Ill.

No. MC 105045 (Sub-No. E165), filed November 28, 1975. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, Evansville, Ind. 47701. Applicant's representative: George H. Veech, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* (except commodities in bulk) which, because of their size or weight, require the use of special equipment, except 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; *Machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, picking up of pipe except the stringing or picking up of pipe in connection with main or trunk pipe lines, between points in Missouri on the one hand, and, on the other, points in the Lower Peninsula of Michigan.

The purpose of this filing is to eliminate the gateway of the facilities of Amax Aluminum Mill Products, Inc., in Grundy County, Ill.

No. MC 105045 (Sub-No. E166, filed November 28, 1975. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, Evansville, Ind. 47701. Applicant's representative: George H. Veech (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* (except commodities in bulk) which, because of their size or weight, require the use of special equipment, except 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; *Machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, picking up of pipe except the stringing or picking up of pipe in connection with main or trunk pipe lines, from pointst in Kansas, Oklahoma, Texas, Iouisiana, Arkansas and Mississippi to points in the Lower Peninsula of Michigan.

The purpose of this filing is to eliminate the gateway of the facilities of Amax Aluminum Mill Products, Inc., in Grundy County, Ill.

No. MC–105045 (Sub-No. E167), filed November 28, 1975. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, Evansville, Ind. 47701. Applicant's representative: George H. Veech (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* (except commodities in bulk) which, because of their size or weight, require the use of special equipment, except 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; *Machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, picking up of pipe except the stringing or picking up of pipe in connection with main or trunk pipe lines, from points in Alabama on and south of a line beginning at the Alabama-Mississippi State line, and extending along U.S. Highway 84, thence along U.S. Highway 84 to the Alabama-Georgia State line, to those points in Michigan on and west of a line beginning at the Michigan-Indiana State line, and extending along U.S. Highway 27 to junction Interstate Highway 75, thence along Interstate Highway 75 to Mackinaw City, Mich., and all points in the Upper Peninsula of Michigan. The purpose of this filing is to eliminate the gateway of the facilities of Amax Aluminum Mill Products, Inc., in Grundy County, Ill.

No. MC–105045 (Sub-No. E168), filed November 28, 1975. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, Evansville, Ind. 47701. Applicant's representative: George H. Veech (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* (except commodities in bulk) which, because of their size or weight, require the use of special equipment, except 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; *Machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, picking up of pipe except the stringing or picking up of pipe in connection with main or trunk pipe lines, between points in Wisconsin on and south of a line beginning at the Wisconsin-Iowa State line, and extending along U.S. Highway 18, thence along U.S. Highway 18 to Lake Michigan, on the one hand, and, on the other, those points in Michigan on and south of a line beginning at Lake Michigan, at Holland, Mich., and extending along Michigan Highway 21, thence along Michigan Highway 21 to Lake Huron. The purpose of this filing is to eliminate the gateway of the facilities of the Amax Aluminum Mill Products, Inc., in Grundy County, Ill.

No. MC–105045 (Sub-No. E169), filed November 28, 1975. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, Evansville, Ind. 47701. Applicant's representative: George H. Veech (same as above), Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* (except commodities in bulk), which, because of their size or weight, require the use of special equipment, except 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; *Machinery, materials, equipment, and supplies* used in, or in connection with, the construction, op-

eration, repair, picking up up of pipe except the stringing or picking up of pipe in connection with main or trunk pipe lines, from points in Iowa, Nebraska, Kansas, Oklahoma, Texas, and Missouri, to points in New Jersey and New York. The purpose of this filing is to eliminate the gateway of the facilities of Amax Aluminum Mill Products, Inc., in Grundy County, Ill.

No. MC–105045 (Sub-No. E170), filed November 28, 1975. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, Evansville, Ind. 47701. Applicant's representative: George H. Veech (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* (except commodities in bulk) which, because of their size or weight, require the use of special equipment, except 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; *Machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, picking up of pipe except the stringing or picking up of pipe in connection with main or trunk pipe lines, from points in Arkansas to points in New York. The purpose of this filing is to eliminate the gateway of the facilities of Amax Aluminum Mill Products, Inc., in Grundy County, Ill.

No. MC–105045 (Sub-No. E171), filed November 28, 1975. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, Evansville, Ind. 47701. Applicant's representative: George H. Veech (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* (except commodities in bulk) which, because of their size or weight, require the use of special equipment, except 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; *Machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, picking up of pipe except the stringing or picking up of pipe in connection with main or trunk pipe lines, from points in Arkansas, on and north of a line beginning at the Arkansas-Mississippi State line, and extending along U.S. Highway 82, to junction U.S. Highway 167, thence along U.S. Highway 167 to the Arkansas-Louisiana State line, to points in New Jersey. The purpose of this filing is to eliminate the gateway of the facilities of Amax Aluminum Mill Products, Inc., in Grundy County, Ill.

No. MC–105045 (Sub-No. E172), filed November 28, 1975. Applicant: R. L. JEFFRIES TRUCKINK CO., INC., P.O. Box 3277, Evansville, Ind. 47701. Applicant's representative: George H. Veech (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* (except commodities in bulk) which, because of their size or weight, require the use of special equipment, except 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; *Machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, picking up of pipe except the stringing or picking up of pipe in connection with main or trunk pipe lines, from points in Wisconsin to points in New Jersey and New York. The purpose of this filing is to eliminate the gateway of the facilities of Amax Aluminum Mill Products, Inc., in Grundy County, Ill.

No. MC–105045 (Sub-No. E173), filed November 28, 1975. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, Evansville, Ind. 47701. Applicant's representative: George H. Veech (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* (except commodities in bulk) which, because of their size or weight, require the use of special equipment, except 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; *Machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, picking up of pipe except the stringing or picking up of pipe in connection with main or trunk pipe lines, from points in Wisconsin, Iowa, Nebraska, Kansas, and Oklahoma, to points in Delaware. The purpose of this filing is to eliminate the gateway of the facilities of Amax Aluminum Mill Products, Inc., in Grundy County, Ill.

No. MC–105045 (Sub-No. E174), filed November 28, 1975. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, Evansville, Ind. 47701. Applicant's representative: George H. Veech (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* (except commodities in bulk), which, because of their size or weight, require the use of special equipment, except 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; *Machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, picking up of pipe except the stringing or picking up of pipe in connection with main or trunk pipe lines, from points in Missouri to points in Delaware. The purpose of this filing is to eliminate the gateway of the facilities of Amax Aluminum Mill Products, Inc., in Grundy County, Ill.

No. MC–105045 (Sub-No. E175), filed November 28, 1975. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, Evansville, Ind. 47701. Applicant's representative: George H. Veech (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* (except commodities in bulk) which, because of their size or weight, require the use of special equipment, except 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; *Machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, picking up of pipe except the stringing or picking up of pipe in connection with main or trunk pipe lines, from points in Wisconsin, Nebraska, Kansas, Missouri, Oklahoma, Texas and Arkansas, to points in Maine, Vermont, New Hampshire, Massachusetts, Connecticut, and Rhode Island. The purpose of this filing is to eliminate the gateway of the facilities of Amax Aluminum Mill Products, Inc., in Grundy County, Ill.

No. MC–105045 (Sub-No. E176), filed November 28, 1975. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, Evansville, Ind 47701. Applicant's representative: George H. Veech (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* (except commodities in bulk) which, because of their size or weight, require the use of special equipment, except 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; *Machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, picking up of pipe except the stringing or picking up of pipe in connection with main or trunk pipe lines, between points in Louisiana on and north and west of a line beginning at the Gulf of Mexico, and extending along Louisiana Highway 82, to junction U.S. Highway 167, to junction Louisiana Highway 28, to junction U.S. Highway 84, to junction U.S. Highway 65, thence along U.S. Highway 65 to the Louisiana-Arkansas State line, on the one hand, and, on the other, points in Maine, Vermont, New Hampshire, Massachusetts, Connecticut, and Rhode Island. The purpose of this filing is to eliminate the gateway of the facilities of Amax Alumi-

num Mill Products, Inc., in Grundy County, Ill.

No. MC–108449 (Sub-No. E36), filed May 17, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minn. 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from Winona, Minn., to points in Iowa within 150 miles of La Crosse, Wis. The purpose of this filing is to eliminate the gateway of La Crosse, Wis.

No. MC–108449 (Sub-No. E223), filed May 16, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minn. 55113. Applicant's representative: W. A. Myllenbeck (same as above) Authority sought to opearte as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, as described in Appendix XIII to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209, in bulk, in tank vehicles, from Lemont and Lockport, Ill., to points in Iowa on, west, and north of a line beginning at the Iowa-Minnesota state line and extending along U.S. Highway 65, to junction U.S. Highway 18, thence along U.S. Highway 18 to junction U.S. Highway 75, thence along U.S. Highway 75 to junction Iowa Highway 3, thence along Iowa Highway 3 to the Iowa-South Dakota state line. The purpose of this filing is to eliminate the gateways of La Crosse, Wis., the site of the pipeline terminal of American Oil Company at or near Spring Valley, Minn., and the Williams Brothers Pipe Line Company terminal located at or near Spirit Lake, Iowa.

No. MC–108449 (Sub-No. E224), filed May 16, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minn. 55113. Applicant's representative: W. A. Myllenbeck (same as above), Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from Lemont and Lockport, Ill., to points in Wisconsin on, south, and west of a line beginning at the Wisconsin-Minnesota State line at or near Houlton, Wis., and extending along Wisconsin Highway 64 to junction Wisconsin Highway 178, thence along Wisconsin Highway 178 to junction U.S. Highway 53, thence along U.S. Highway 53 to junction Wisconsin Highway 35, thence along Wisconsin Highway 35 to the Wisconsin-Minnesota State line (except Chippewa Falls, Menomonie, New Richmond, Eu Claire, Durand, Independence, Mondovi, Osseo, Whitehall, and Arcadia, Wis., and points in the town of Dodge, Trempealeau County, Wis.). The purpose of this filing is to eliminate the gateways of La Crosse, Wis. and Winona, Minn.

No. MC–108449 (Sub-No. E225), filed May 16, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minn. 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from Lemont and Lockport, Ill., to points in Wisconsin on and west of a line beginning at Superior, Wisc. and extending along Wisconsin Highway 35 to the Wisconsin-Minnesota state line at or near Danbury, Wisc. The purpose of this filing is to eliminate the gateways of La Crosse, Wisc. and St. Paul, Minn.

No. MC–108449 (Sub-No. E228), filed May 29, 1974. Applicant: INDIANHEAD TRUCK LINES, INC., 1947 West County Road C, St. Paul, Minn. 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petoleum gas*, in bulk, in tank vehicles, from the port of entry on the International Boundary line between the United States and the Province of Manitoba, Canada, located in Cavalier County, North Dakota, to points in Montana, (except Glacier, Toole, Liberty, Hill, Blaine, Phillips, Valley, Daniels, Sheridan, Roosevelt, Mc Cone, Richland, Dawson, Wibaux, Prairie, Custer, Fallon, Powder River, and Carter counties). Limitation: The authority granted herein shall be of no further force and effect after December 6, 1977.

The purpose of this filing is to eliminate the gateway of the terminal facilities of the Kaneb Pipe Line Company located at or near Jamestown, N. Dak.

No. MC–108676 (Sub-No. E10), filed June 4, 1974. Part I, Sec. O & P. Applicant: A. J. METLER HAULING & RIGGING, 117 Chicamauga Avenue, Knoxville, Tennessee 37917. Applicant's representative: A. J. Metler (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, consisting of *contractors' equipment*, and *coal and coke mining equipment; Iron and steel articles*, consisting of *construction equipment*, and *parts, accessories*, and *attachments therefor* (not including contractors' equipment), *maintenance equipment*, and *parts, accessories*, and *attachements*, therefor (not including contractors' equipment), *power distribution equipment*, and *parts, accessories*, and *attachements* therefor (not including contractors' equipment), and *plant equipment*, and *parts, accessories* and *attachments* therefor (not including contractors' equipment); *Iron and steel articles*, consisting of *signs, sign poles* and *parts and accessories*, Q(1) Between points in North Carolina in, east, or southeast of Gaston, Lincoln, Catawba, and Alexander Counties, in or south of Alexander, Iredell, Davie, and Davidson Counties, and in or east of Guilford and Rockingham Counties, on the one hand, and, on the other, points in Kentucky in or west of Pendleton, Harrison, Bourbon, Clark, Madison, Rock Castle, Laurel, Knox, and Bell Counties; (2) Between points in North Carolina in, southeast, or south of Scotland, Hoke, Cumberland, Sampson, and Duplin Counties, and in or east of Lenior, Pitt, Edgecombe, Halifax, and Northampton Counties, on the one hand, and, on the other, points in Kentucky in or southwest of Campbell, Pendleton, Harrison, Bourbon, Clark, Powell, Wolfe, and Breathitt Counties, and in or west of Breathitt, Owsley, Jackson, Laurel, and McCreary Counties; (3) Between points in North Carolina excluding those located in or north of Watauga, Wilkes, Yadkin, Forsyth, Guilford, Alamance, Caswell, Person, Granville, Vance, Warren, and Halifax Counties, and in, north, northeast of Bertie County, on the one hand, and, on the other, points in Kentucky in or west of Mason, Fleming, Bath, Menifee, Powell, Estill, Jackson, Laurel, and Whitley Counties; (4) Between points in North Carolina, on the one hand, and, on the other, points in Kentucky in or west of Campbell, Pendleton, Harrison, Bourbon, Clark, Powell, Estill, Jackson, Laurel and Whitley Counties. P(1) Between points in North Carolina in or west of Warren, Halifax, Edgecombe, Wilson, Wayne, Sampson, Cumberland, and Robeson Counties, on the one hand, and, on the other, points in Tennessee excluding those in Hawkins County and the western half of Sullivan County; (2) Between points in North Carolina in or west of Warren, Franklin, Wake, Harnett, Cumberland and Robeson Counties, on the one hand, and, on the other, points in Tennessee; (3) Between points in North Carolina, on the one hand, and, on the other, points in Tennessee in or west of Claiborne, Grainger, Hamblen, and Cocke Counties. The purpose of this filing is to eliminate the gateway of Knoxville, Tenn.

No. MC–108676 (Sub-No. E11), filed June 4, 1974. Part I, Sec. Q & R. Applicant: A. J. METLER HAULING & RIGGING, 117 Chicamauga Avenue, Knoxville, Tennessee 37917. Applicant's representative: A. J. Metler (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, consisting of *contractors' equipment*, and *coal and coke mining equipment; Iron and steel articles*, consisting of *construction equipment*, and *parts, accessories* and *attachments*, therefor (not including contractors' equipment), *maintenance equipment*, and *parts, accessories and attachements*, therefore (not including contractors' equipment), *power distribution equipment*, and *parts, accessories and attachments*, therefor (not including contractors' equipment), and *plant equipment*, and *parts, accessories and attachments* therefor (not including contractors' equipment); *Iron and steel articles*, consisting of *signs, sign*

poles and *parts and accessories*, Q(1) between Cheriton, Virginia, on the one hand, and, on the other, points in Kentucky in or west of Campbell, Pendleton, Harrison, Bourbon, Clark, Powell, and Wolfe Counties, west of Kentucky Highway 15 from Wolfe-Breathitt County line to Breathitt-Perry County line, and in or West of Owsley, Clay, and Bell Counties; (2) between points in Virginia in or East of Henry, Franklin, and Roanoke Counties, in or South of Bedford (including Lynchburg), Campbell, Appomattox, Prince Edward, Nottoway, Dinwiddie, Prince George, James City, Gloucester, Mathews, and Northampton Counties, on the one hand, and, on the other, points in Kentucky in or west of Campbell, Pendleton, Harrison, Bourbon, Clark, Estill, Jackson, Clay, and Bell counties; (3) Between points in Virginia in, southwest, or south of Giles, Montgomery, Roanoke, Bedford (including Lynchburg), Campbell, Appomatox, Prince Edward, Amelia, Chesterfield, Henrico, Charles City, James City, Gloucester, Mathews and Northampton Counties, on the one hand, and, on the other, points in Kentucky in or west of Carroll, Henry, Franklin, Anderson, Mercer, Garrard, Rock Castle, Laurel, Knox and Bell Counties; (4) Between points in Virginia, in, south, or southeast of Craig, Botetourt, Bedford (including Lynchburg) and Campbell Counties, and in, east, or southeast of Appomatox, Buckingham, Fluvanna, Louisa, Orange, Culpeper, Fauquier, and Loudoun Counties, on the one hand, and, on the other, points in Kentucky in or west of Jefferson, Bullitt, Nelson, Washington, and Casey Counties, and in or south of Pulaski and Laurel counties, and in or west of Knox and Bell Counties;

(5) Between points in Virginia, on the one hand, and, on the other, points in Kentucky, in, west, or southwest of Hardin and Larue Counties, in or south of Marion, Casey, Pulaski, and Laurel Counties, and in or east of Knox and Bell Counties; (6) Between points in Virginia in or west of Buchanan, Russell, and Washington Counties, on the one hand, and, on the other, points in Kentucky in, east, or southeast of Mason, Robertson, Nicholas, Bourbon, and Fayette Counties, and in or northeast of Clark, Estill, Lee, Breathitt, Perry, and Letcher Counties; (7) Between points in Virginia in or north of Lee, Scott, Washington, Smyth, Wythe, and Pulaski Counties and in or southwest of Giles and Montgomery Counties, on the one hand, and, on the other, points in Kentucky in or east of Mason, Fleming, Rowan, Morgan, Wolfe, Breathitt, Perry and Letcher Counties; (8) Between points in Virginia in or east of Carroll, Floyd, Roanoke, Botetourt, and Rockbridge Counties, in or southwest of Bath and Rockbridge Counties, on the one hand, and, on the other points in Kentucky in or east of Boyd, Lawrence, Johnson, Magoffin, Breathitt, Perry, and Letcher Counties; (9) Between points in Virginia in or West of Henry, Franklin, Roanoke, Botetourt, and Rockbridge Counties, in or southwest of Bath and Rockbridge Counties, on the one hand, and, on the other, points in Kentucky in or east of Boyd, Lawrence, Johnson, Floyd, Knott, Perry, and Letcher Counties; (10) Between Lynchburg, Virginia, on the one hand, and, on the other, points in Virginia in or west of Henry, Franklin, Bedford, and Rockbridge Counties and in or southwest of Augusta and Highland Counties, and Ashland, Kentucky; R(1) Between points in Virginia in, southwest, or south of Bath, Rockbridge, Nelson, Buckingham, and Cumberland Counties and in or west of Amelia, Nottoway, Lunenburg, and Mecklenburg Counties, on the one hand, and, on the other, points in Tennessee; and (2) Between points in Virginia, on the one hand, and, on the other, points in Tennessee in or west of Scott, Anderson, Knox and Blount Counties.

The purpose of this filing is to eliminate the gateway of Knoxville, Tennessee.

No. MC 108676 (Sub-No. E14), filed June 4, 1974. Applicant: A. J. METLER HAULING & RIGGING, 117 Chicamauga Avenue, Knoxville, Tennessee 37917. Applicant's representative: A. J. Metler (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal and coke mining machinery, equipment and vehicles and mine cars*, consisting of *maintenance machinery* and *equipment and parts, accessories and attachment* therefor (not including contractors' machinery and equipment), *Iron or steel conveying, dredging, dumping or hoisting buckets, dippers, or skips*, consisting of *construction machinery, tools*, and *equipment*, and *parts, accessories* and *attachments* therefor (not including contractors' machinery and equipment), *maintenance machinery, tools* and *equipment* and *parts, accessories* and *attachments* therefor (not including contractors' machinery and equipment), *power distribution machinery, tools and equipment*, and *parts, accessories*, and *attachments* therefor (not including contractors' machinery and equipment), and *plant machinery, tools* and *equipment*, and *parts, accessories*, and *attachments* therefor (not including contractors' machinery and equipment), C(1) Between points in Alabama excluding those in Barbour, Dale, Henry, Geneva, and Houston Counties, on the one hand, and, on the other, points in North Carolina excluding those in or south of Scotland, Hoke, Cumberland, Sampson, Duplin, and Onslow Counties; (2) Between points in Alabama excluding those in Henry, Dale, Geneva and Houston Counties, on the one hand, and, on the other, points in North Carolina excluding those in or south of Scotland, Hoke, Cumberland, Sampson, and Pender Counties; D(1) Between points in Alabama, on the one hand, and, on the other points in Virginia.

The purpose of this filing is to eliminate the gateway of Knoxville, Tenn., and points within 75 miles thereof.

No. MC 108676 (Sub-No. E15), filed June 4, 1974. Applicant: A. J. METLER HAULING & RIGGING, 117 Chicamauga Avenue, Knoxville, Tennessee 37917. Applicant's representative: A. J. Metler (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal and coke mining machinery, equipment* and *vehicles* and *mine cars*, consisting of *maintenance machinery* and *equipment*, and *parts, accessories* and *attachments* therefor (not including contractors' machinery and equipment), *Iron or steel conveying, dredging, dumping, or hoisting buckets, dippers, or skips*, consisting of *construction machinery, tools*, and *equipment*, and *parts, accessories* and *attachments* therefor (not including contractors' machinery and equipment), *maintenance machinery, tools and equipment*, and *parts, accessories*, and *attachments* therefor (not including contractors' machinery and equipment), *power distribution machinery, tools* and *equipment* and *parts, accessories*, and *attachments* therefor (not including contractors' machinery and equipment), and *plant machinery, tools* and *equipment*, and *parts, accessories*, and *attachments* therefor (not including contractors' machinery and equipment). **E (1)** Between points in Alabama in or east of Barbour, Dale, and Geneva Counties, on the one hand, and, on the other, points in Kentucky; (2) Between points in Alabama in or south of Leburne, Calhoun, Clay, Tallapoosa, Macon, Bullock, Pike, Coffee, Covington, Escambia, Baldwin, and Mobile Counties, on the one hand, and, on the other, points in Kentucky north of Crittenden, Caldwell, Christian, Todd, Logan, Warren, and Allen Counties; (3) Between points in Alabama in or south of Leburne, Calhoun, Talladega, Coosa, Elmore, Montgomery, Butler, Monroe, Clarke, and Choctaw Counties, on the one hand, and, on the other, points in Kentucky in or south of Daviess and Breckinridge and in or east of Ohio, Butler, Edmonson, Barren, and Allen Counties; (4) Between points in Alabama, on the one hand, and, on the other, points in Kentucky in or east of Meade, Hardin, Hart, Metcalf, and Monroe Counties. **F** (1) Between points in Alabama in Barbour County, on the one hand, and, on the other, points in Tennessee on and east of a line beginning at the Tennessee-Kentucky state line, and extending along U.S. Highway 41 to junction U.S. Highway 231, thence along U.S. Highway 231 to the Tennessee-Alabama state line; (2) Between points in Alabama in or south of Barbour, Dale, and Geneva Counties, on the one hand, and, on the other, points in Tennessee on and east of a line beginning at the Tennessee-Kentucky state line, and extending along U.S. Highway 41, thence along U.S. Highway 41 to the Tennessee-Georgia state line; (3) Between points in Alabama in or south of Barbour, Pike, Crenshaw, Butler, Conecuh, Escambia, Baldwin, and Mobile Counties, on the one hand, and, on the other, points in Tennessee on and east of a line beginning at the Tennessee-Kentucky state line, and extending along Tennessee Highway 56, thence along Tennessee Highway 56 to the Tennessee-Alabama state line; (4) Between points in Alabama in or south of Barbour, Pike, Crenshaw, Butler, Monroe, Clarke, and Washington

Counties, on the one hand, and, on the other, points in Tennessee in or east of Clay, Jackson, Putnam, White, Van Buren, Dequatchie, and Hamilton Counties; and (5) Between points in Alabama, on the one hand, and, on the other, points in Tennessee in or east of Clay, Jackson, Putnam, White, Van Buren, Bledsoe, Rhea, Meigs and Bradley Counties.

The purpose of this filing is to eliminate the gateway of Knoxville, Tenn., and points within 75 miles thereof.

No. MC 108676 (Sub-No. E16), filed June 4, 1974. Applicant: A. J. METLER HAULING & RIGGING, 117 Chicamauga Avenue, Knoxville, Tennessee 37917. Applicant's representative: A. J. Metler (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal and coke mining machinery, equipment* and *vehicles* and *mine cars*, consisting of *maintenance machinery* and *equipment*, and *parts, accessories* and *attachments*, therefor, (not including contractors' machinery and equipment), *Iron or steel conveying, dredging, dumping or hoisting buckets, dippers, or skips*, consisting of *construction machinery, tools*, and *equipment*, and *parts, accessories* and *attachments* therefor (not including contractors' machinery and equipment), *maintenance machinery, tools*, and *equipment*, and *parts, accessories* and *attachments* therefor (not including contractors' machinery and equipment), *power distribution machinery, tools* and *equipment*, and *parts, accessories* and *attachments* therefor (not including contractors' machinery and equipment), and *plant machinery, tools* and *equipment*, and *parts, accessories* and *attachments* therefor (not including contractors' machinery and equipment), G (1) Between points in Georgia in or north of Union, Gilmer, Pickens, Bartow, and Floyd Counties, on the one hand, and, on the other, points in South Carolina on and west of a line beginning at the North Carolina-South Carolina state line, and extending along Interstate Highway 26 to junction South Carolina Highway 72, thence along South Carolina Highway 72 to the South Carolina-Georgia state line, thence from Georgia-South Carolina state line, extending along U.S. Highway 378 to junction U.S. Highway 178, thence along U.S. Highway 178 to the Atlantic Ocean; (2) Between points in Georgia in or north of Polk, Bartow, Cherokee, Dawson, Lumpkin and Union Counties, on the one hand, and, on the other, points in South Carolina on and west of a line beginning at the South Carolina-North Carolina state line, and extending along Interstate Highway 26, thence along Interstate Highway 26 to the Atlantic Ocean; (3) Between points in Georgia on and west of a line beginning at the North Carolina-Georgia state line, and extending along U.S. Highway 23, to junction Georgia Highway 120, thence along Georgia Highway 120 to the Georgia-Alabama state line, on the one hand, and, on the other, points in Horry County, S.C.

H(1) Between points in Georgia on and west of a line beginning at the Georgia-North Carolina state line and extending along U.S. Highway 23 to junction U.S. Highway 78, thence along U.S. Highway 78 to the Georgia-Alabama state line, on the one hand, and, on the other, points in North Carolina; (2) Between points in Georgia on and north of a line beginning at the Georgia-South Carolina state line, and extending along U.S. Highway 378 to junction U.S. Highway 78, thence along U.S. Highway 78 to the Georgia-Alabama state line, and in or west of Clayton, Fayette, Coweta, Merriwether, Talbott, and Chattahooche Counties, from Atlanta to Chattahooche-Steward County line, on the one hand, and, on the other, points in North Carolina excluding those in or south of Richmond, Scotland, Hoke, Cumberland, Sampson, Duplin, and Onslow Counties; (3) Between points in Georgia on and north of a line beginning at the Georgia-South Carolina state line and extending along U.S. Highway 378, to junction U.S Highway 78, thence along U.S. Highway 78 to the Georgia-Alabama state line, and points in or west of Clarke, Oconee, Morgan, Jasper, Jones, Twiggs, Houston, Dooly Crisp Turner Tift Colquitt and Thomas Counties, on the one hand, and, on the other, points in North Carolina in or west or north of Cleveland, Lincoln, Iredell, Rowan, Davidson, Randolph, Chatham, Wake, Nash, Wilson Edgecombe Martin, Washington, Tyrrell, and Dare Counties; (4) Between points in Georgia on and north of a line beginning at the Georgia-South Carolina state line, and extending along Interstate Highway 20, thence along Interstate Highway 20 to the Georgia-Alabama state line, and those points on and west of Clarke, Oconee, Morgan, Jasper, Jones, Twiggs, Houston, Dooly, Crisp, Turner, Tift, Colquitt and Thomas Counties, on the one hand, and, on the other, points in North Carolina in, west or north of Cleveland, Lincoln, Iredell, Rowan, Davidson, Randolph, Chatham, Durham, and Granville Counties; (5) Between points in Georgia excluding those in or south of Chatham, Bryan, Evans, Tattnall, Tombs, Montgomery, Wheeler, and Dodge Counties and those in or east of Pulaski, Wilcox, Ben Hill, Irwin, Berrien, Cooke, and Brooks Counties, on the one hand, and, on the other, points in North Carolina in or west of Surry, Yadkin, Iredell, Lincoln, and Cleveland Counties; (6) Between points in Georgia excluding those in McIntosh, Glynn, and Camden Counties, on the one hand, and, on the other, points in North Carolina in or east of Wilkes, Caldwell, Burke, and Rutherford Counties; (7) Between points in Georgia, on the one hand, and, on the other, points in North Carolina in or east of Yancey, Buncombe, and Henderson Counties.

The purpose of this filing is to eliminate the gateway of Knoxville, Tenn., and points within 75 miles thereof.

No. MC–116014 (Sub-No. E9), filed June 15, 1975. Applicant: OLIVER TRUCKING COMPANY, INC., P.O. Box 53, Winchester, Ky. 40391. 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: *Wooden pallets, skids, bases, boxes, crating, veneer, baskets, staves, nails*, and *metal banding*, from points in Illinois, Indiana, Ohio and Wheeling, Parkersburg, and Huntington, W. Va., to points in Georgia. The purpose of this filing is to eliminate the gateways of Powell and Adair Counties, Ky.

No. MC–116014 (Sub-No. E10), filed June 15, 1975. Applicant: OLIVER TRUCKING COMPANY, INC., P.O. Box 53, Winchester, Ky. 40391. 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: *Lumber*, from points in that part of Kentucky west and north of a line beginning at the West Virginia-Kentucky state line, thence along U.S. Highway 23 to its junction with U.S. Highway 460, to junction Kentucky U.S. Highway 30, to junction Interstate Highway 75, to the Kentucky-Tennessee state line, to points in that part of Virginia, on, north, and east of a line beginning at the West Virginia-Virginia state line, thence along U.S. Highway 60 to junction Interstate Highway 64, to junction U.S. Highway 220, to the Virginia-North Carolina state line. The purpose of this filing is to eliminate the gateway of points in Kentucky.

No. MC–112070 (Sub-No. E100), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (a) between points in Ohio, on the one hand, and, on the other, those points in New Mexico on and west of a line beginning at the New Mexico-Colorado state line and extending along U.S. Highway 85 to junction Interstate Highway 25, thence along Interstate Highway 25 to the New Mexico-Texas state line; (b) between points in Ashtabula, Lake, Geauga, and Trumbull counties, Ohio, on the one hand, and, on the other, points in New Mexico except Curry, Roosevelt, Lea and Eddy counties, N. Mex.; (c) between points in Ohio on and north of a line beginning at the Ohio-West Virginia state line, and extending along U.S. Highway 22 to junction Ohio Highway 7, to junction U.S. Highway 36, to junction U.S. Highway 33, to junction Ohio Highway 29, thence along Ohio Highway 29 to the Ohio-Indiana state line, on the one hand, and, on the other, those points in New Mexico on and west of a line beginning at the New Mexico-Colorado state line, and extending along U.S. Highway 85, to junction U.S. Highway 285, to junction New Mexico Highway 3,

to junction U.S. Highway 54, thence along U.S. Highway 54 to the New Mexico-Texas state line. The purpose of this filing is to eliminate the gateways of points in Illinois, Missouri, and Denver, Colo., and points within 10 miles thereof.

No. MC–112070 (Sub-No. E101), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (a) between points in New York on and north and west of a line beginning at or near the Vermont-New York state line, and extending along New York Highway 29, to junction Interstate Highway 90, thence along Interstate Highway 90 to junction Interstate Highway 81, thence along Interstate Highway 81 to the New York-Pennsylvania state line, on the one hand, and, on the other, points in New Mexico; (b) between points in New York, on the one hand, and, on the other, points in New Mexico, except Roosevelt, Lea, Curry, and Quea counties, N. Mex.; (c) between points in New York, on the one hand, and, on the other, points in Utah. The purpose of this filing is to eliminate the gateways of points in Illinois, Missouri, and Denver, Colo., and points within 10 miles thereof.

No. MC–112070 (Sub-No. E102), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Tennessee, on the one hand, and, on the other, points in San Juan County, N. Mex. The purpose of this filing is to eliminate the gateways of points in Missouri and Denver, Colo., and points within 10 miles thereof.

No. MC–112070 (Sub-No. E103), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (a) between points in Kentucky, on and north of a line beginning at the West Virginia-Kentucky state line, and extending along Interstate Highway 64, thence along Interstate Highway 64 to the Kentucky-Indiana state line, on the one hand, and, on the other, points in New Mexico on and west of the Rio Grande River; (b) between points in Kentucky, on the one hand, and, on the other, points in Utah. The purpose of this filing is to eliminate the gateways of points in Missouri, and Denver, Colo., and points within 10 miles thereof.

No. MC–123407 (Sub-No. E284), filed March 30, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel articles* used as building materials, from Hancock County, Ill., to points in Brunswick, Chowan, Perquimans, Pasquotank, Camden, and Currituck counties, N.C. The purpose of this filing is to eliminate the gateways of Warren, Ill. and New Castle, Ind.

No. MC–123407 (Sub-No. E285), filed March 30, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel articles* used as building materials, from Boone County, Ill., to points in South Carolina, points in North Carolina in and east of Yancey, Buncombe, Jackson, and Henderson counties, N.C., points in Georgia in and east of Rabun, Habersham, Banks, Madison, Clarke, Oconee, Morgan, Putnam, Jones, Bibb, Houston, Dooly, Crisp, Worth, Colquitt, and Thomas counties, Ga. The purpose of this filing is to eliminate the gateways of Warren, Ill., and New Castle, Ind.

No. MC–123407 (Sub-No. E286), filed March 30, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel articles* used as building materials, from Marshall County, Ill., to points in Brunswick and New Hanover counties, N.C. and to points in Horry County, S.C. The purpose of this filing is to eliminate the gateways of Warren, Ill. and New Castle, Inc.

No. MC–123407 (Sub-No. E293), filed March 30, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel articles* used as building materials, from Lee County, Ill., to points in North Carolina, and South Carolina, and to points in Georgia in and east of Rabun, Habersham, Stephens, Banks, Madison, Oglethorpe, Taliaferro, Warren, Glascock, Jefferson, Emanuel, Treutlen, Wheeler, Telfair, Ben Hill, Turner, Worth, Mitchell and Decatur counties Ga. The purpose of this filing is to eliminate the gateways at Warren, Ill. and New Castle, Ind.

No. MC–123407 (Sub-No. E294), filed March 30, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel articles* used as building materials, from Henry County, Ill., to points in Chatham County, Ga., to points in North Carolina in and east of Vance, Franklin, Wake, Chatham, Randolph, Davidson, Rowan, Iredell, and Mecklenburg counties, N.C., and to points in South Carolina (except Oconee, Pickens, Greenville and Spartanburg counties, S.C.). The purpose of this filing is to eliminate the gateways at Warren, Ill. and New Castle, Ind.

No. MC–123407 (Sub-No. E295), filed March 30, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* used as building materials, from DeKalb County, Ill., to points in Long, Liberty, McIntosh and Chatham counties, Ga., to points in Brunswick, New Hanover, Pasquotank, Camden and Currituck counties, N.C., and to points in South Carolina in and east of Dillon, Florence, Clarendon, Berkeley, Dorchester, Bamberg, and Allendale counties, S.C. The purpose of this filing is to eliminate the gateways at Warren, Ill., and New Castle, Ind.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-10224 Filed 4-5-77;8:45 am]

[Ex Parte No. MC-43]

LEASE AND INTERCHANGE OF VEHICLES BY MOTOR CARRIERS

Order. At a session of the Interstate Commerce Commission, Division 1, Acting as an Appellate Division, held at its office in Washington, D.C. on the 28th day of March 1977.

It appearing, That by joint petition filed January 28, 1977, Ligon Specialized Hauler, Inc., Cherokee Hauling and Rigging, Inc., Virginia Hauling Company and Horne Heavy Hauling, Inc., seek reconsideration of the order of the Commission, Motor Carrier Leasing Board, of December 20, 1976, denying the petitioners' request for waiver of 49 CFR 1057.4(a)(3) and (c).

It further appearing, that no convincing evidence has been presented which would support a vacation of the said order of December 20, 1976.

It is ordered, that the said petition be and it is hereby denied.

By the Commission, Division 1, Acting as an Appellate Division.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-10227 Filed 4-5-77;8:45 am]

[Notice No. 44]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MARCH 28, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 200 (Sub-No. 287TA), filed March 17, 1977. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Ave., P.O. Box 2809, Kansas City, Mo. 64142. Applicant's representative: Ivan E. Moody (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration (except commodities in bulk), from the plantsite and/or storage facilities of Kraft, Inc., at Champaign, Ill., to points in Maine, New Hampshire, Vermont, New York, Massachusetts, Rhode Island, Connecticut, Pennsylvania, New Jersey, Delaware, Virginia, Maryland 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: Kraft, Inc., 500 Peshtigo Court, Chicago, Ill. 60690. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 2202 (Sub-No. 532TA), filed March 16, 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 Ave., 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, livestock, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), serving the plantsite of Sun City Fashions, Inc. located at or near Midlothian, Tex., as an off-route point in connection with carrier's regular route operations. Applicant intends to tack its existing authority with MC 2202 and subs thereto and will effect interchange at all points served. Applicant also intends to interline an all points of interchange, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Sun City Fashions, Inc., Highway 67 S., P.O. Box 397, Midlothian, Tex. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Bldg., 1240 E. Ninth St., Cleveland, Ohio 44199.

No. MC 31389 (Sub-No. 225TA), filed March 18, 1977. Applicant: McLEAN TRUCKING COMPANY, 617 Waughtown Street, Winston-Salem, N.C. 27107. Applicant's representative: David F. Eshelman, P.O. Box 213, Winston-Salem, N.C. 27102. 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 distribution facilities of Bridgeton Dyeing and Finishing Corp., a subsidiary of Stevcoknit Inc., located at or near Bridgeton, N.J., as an off-route point in conjunction with applicant's regular route operations, restricted to shipments moving to or from points in North Carolina or South Carolina, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Jantzen, Inc., P.O. Box 3001, Portland, Oreg. 97208. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd Rm. CC516, Mart Office Building, Charlotte, N.C. 28205.

No. MC 36556 (Sub-No. 39TA), filed March 21, 1977. Applicant: BLACKMON TRUCKING, INC., P.O. Box 186, 1111 120th Ave., Somers, Wis. 53171. Applicant's representative: Fred H. Figge (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and/or preserved foodstuffs*, from Coleman and Gillet, Wis., to points in Indiana, Michigan and Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Country Gardens Foods, 660 N. Second St., New Richmond, Wis. 54017. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Bldg., and Courthouse, 517 E. Wisconsin Ave, Room 619, Milwaukee, Wis. 53202.

No. MC 68483 (Sub-No. 5TA), filed March 21, 1977. Applicant: MARVIN ROSENDAHL, doing business as MARVIN ROSENDAHL, 215 9th St., N.W., Mason City, Iowa 50401. Applicant's representative: Clayton L. Wornson, 626 Brick & Tile Bldg., Mason City, Iowa 50401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick and tile and drain tile*, between Rockford, Iowa, on the one hand, and on the other, points in Minnesota, for 180 days. Supporting shipper: Rockford Brick & Tile Co., Rockford, Iowa 50468. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 102616 (Sub-No. 928TA), filed March 17, 1977. Applicant: COASTAL TANK LINES, INC., 250 N. Cleveland-Massillon Road, P.O. Box 5555, Akron, Ohio 44313. Applicant's representative: David F. McAllister (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 Lake County, Ohio, to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Pennsylvania, West Virginia and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Petrolane, Inc., P.O. Box 410, St. Charles, Ill. 60174. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Bldg., 1240 E. Ninth St., Cleveland, Ohio 44199.

No. MC 107515 (Sub-No. 1068TA), filed March 17, 1977. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, 3901 Jonesboro Road SE., Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, 3379 Peachtree Road NE., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, in vehicles equipped with mechanical refrigeration, from the plantsite and warehouse facilities of Spencer Foods, Inc., at Spencer, Hartley and Ft. Dodge, Iowa, and Fremont and Schuyler, Nebr., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, 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: Spencer Foods, Inc., P.O. Box 1228, Spencer, Iowa 51301. Send protests to: Sara K.

Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St. NW., Room 546, Atlanta, Ga. 30309.

No. MC 107544 (Sub-No. 133TA), filed March 21, 1977. Applicant: LEMMON TRANSPORT COMPANY, INCORPORATED, P.O. Box 580, Marion, Va. 24354. Applicant's representative: Daryl J. Henry (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products* (except petrochemicals), in bulk, in tank vehicles, from Knoxville, Tenn., to points in Kentucky, for 180 days. Supporting shipper: Exxon Company, U.S.A., P.O. Box 367, Memphis, Tenn. 38101. Send protests to: Danny R. Beeler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 210, Roanoke, Va. 24011.

No. MC 108393 (Sub-No. 116TA), filed March 18, 1977. Applicant: SIGNAL DELIVERY SERVICE, INC., 201 E. Ogden Avenue, Hinsdale, Ill. 60521. Applicant's representative: Thomas B. Hill, (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by mail order houses and retail department stores, and equipment, materials and supplies used in the conduct of such business, restricted against transportation of commodities in bulk, from Findlay, Ohio, on the one hand, to Elizabeth and Maywood, N.J., and Buffalo and Farmingdale, N.Y., on the other, under a continuing contract or contracts with Sears, Roebuck and Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Sears, Roebuck and Co., Thomas J. McCormac, Eastern Territorial Traffic Manager, 4640 Roosevelt Boulevard, Philadelphia, Pa. 19132. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 108676 (Sub-No. 101TA), filed March 21, 1977. Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chicamauga Ave., Knoxville, Tenn. 37917. Applicant's representative: William T. McManus (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Limestone products* (except commodities in bulk), from Luttrell (Union County), Tenn., to points in Alabama, Arkansas, Georgia, Indiana, Illinois, Kentucky, Mississippi, Missouri, North Carolina, Ohio, South Carolina, Virginia, West 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: Luttrell Mining Company, P.O. Box 12009, Knoxville, Tenn. 37912. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A–422, U.S. Courthouse, 801 Broadway, Nashville, Tenn. 37203.

No. MC 108676 (Sub-No. 102TA), filed March 21, 1977. Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chicamauga Ave., Knoxville, Tenn. 37917. Applicant's representative: William T. McManus (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Uncrated flat glass*, from the points of entry between the United States and Canada located at Detroit, Mich., and Niagara Falls, N.Y., to points in Connecticut, Delaware, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, West Virginia, and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Pilkington Brothers (Canada) Limited, 101 Richmond St., West, Toronto, Ontario M5H 1V9. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A–422, U.S. Courthouse, 801 Broadway, Nashville, Tenn. 37203.

No. MC 109443 (Sub-No. 24TA), filed March 18, 1977. Applicant: SEABOARD TANK LINES, INC., Monahan Ave., Dunmore, Pa. 18512. Applicant's representative: Joseph F. Hoary, 121 S. Main St., Taylor, Pa. 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Litharge*, dry, in bulk, from Dunmore, Pa., to points in Ohio, for 180 days. Supporting shipper: Gould, Inc., Metals Division, Dunham Drive, Dunmore, Pa. 18512. Send protests to: Paul J. Kenworthy, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 314 U.S. Post Office Bldg., Scranton, Pa. 18503.

No. MC 111375 (Sub-No. 86TA), filed March 17, 1977. Applicant: PIRKLE REFRIGERATED FREIGHT LINES, INC., P.O. Box 3358, Madison, Wis. 53704. Applicant's representative: Charles E. Dye (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Burley, Idaho and points in its Commercial zone, to points in Wisconsin, for 180 days. Supporting shipper: ORE–IDA Foods, Inc., P.O. Box 10, Boise, Idaho 83707. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 139 W. Wilson St., Room 202, Madison, Wis. 53703.

No. 111729 (Sub-No. 694TA), filed March 17, 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 *common carrier*, by motor vehicle, over irregular routes, transporting: *Blood; whole human blood; blood components; blood plasma; blood derivatives; and business papers* moving therewith, from airports serving Miami, Ft. Lauderdale, Jacksonville, Orlando, and Tampa, to points in Florida, restricted to the transportation of shipments having an immediately prior movement by air, for 180 days. Supporting shipper: Tidewater Regional Red Cross Blood Program, 415 W. York St., Norfolk, Va. 23510. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 111812 (Sub-No. 529TA), filed March 18, 1977. Applicant: MIDWEST COAST TRANSPORT, INC., 900 West Delaware, P.O. Box 1233, Sioux Falls, S. Dak. 57104. Applicant's representative: David Peterson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery*, from the plantsite and storage facilities of Blum's of San Francisco, Inc., at or near Jackson, Minn., to Harrisburg, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Blum's of San Francisco, Inc., Industrial Parkway, Jackson, Minn. 56143, David E. Rowland, Vice President- Production. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 112822 (Sub-No. 415TA), filed March 21, 1977. Applicant: BRAY LINES, INC., 1401 N. Little St., P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Charles D. Midkiff (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except in bulk), from the plantsite of Stouffer Food Corporation, at or near Solon, Ohio and the warehouse facilities utilized by Stouffer Food Corporation, at Cleveland, Ohio, to points in Arizona, California, Colorado, Arkansas, Nevada, Oklahoma, Oregon, West Tennessee, Texas, Utah, and Washington, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Stouffer Food Corporation, 5750 Harper Road, Solon, Ohio 44139. Send protests to: Joe Green, District Supervisor, Room 240 Old Post Office Bldg., 215 NW. Third St., Oklahoma City, Okla. 73102.

No. MC 113362 (Sub-No. 307TA), filed March 18, 1977. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 E. Broadway, Eagle Grove, Iowa 50533. Applicant's representative: Milton D. Adams, P.O. Box 429, Austin, Minn. 55912. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meat, meat products, meat by-products, articles distributed by meat packing plants and foodstuffs* (except hides and commodities in bulk), from the plantsite and/or warehouse facilities utilized by Geo. A. Hormel & Co., at or near Knoxville, Iowa, to points Illinois, Indiana,

Michigan, Minnesota, Nebraska, New York, Ohio, and Pennsylvania, restricted to traffic originating at named origin and destined to named states; and (2) *Meat, meat products, meat by-products, articles distributed by meat packing plants, foodstuffs, packing plant materials, equipment and supplies* (except hides and commodities in bulk), from points in Illinois, Indiana, Kansas, Michigan, Minnesota, Nebraska, New York, Ohio, and Pennsylvania, to the plantsite and/or warehouse facilities utilized by Geo. A. Hormel & Co., at or near Knoxville, Iowa, restricted to traffic originating at named origins and destined to named destination, for 180 days. Supporting shippers: Geo. A. Hormel & Co., P.O. Box 800, Austin, Minn., 55912. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 113651 (Sub-No. 215TA), filed March 16, 1977. Applicant: INDIANA REFRIGERATOR LINES, INC., 2404 N. Broadway, Muncie, Ind. 47303. Applicant's representative: George E. Batty (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy, confectionery products, and foodstuffs*, when in shipments with candy and/or confectionery products in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from the plantsite and storage facilities of Standard Brands, confectionery division of Standards Brands, Inc., at or near Chicago, Ill., to points in Florida, Georgia, Louisiana, North Carolina, South Carolina, and Cincinnati, Ohio, restricted to traffic originating at the named origins and destined to the named destinations, for 180 days. Supporting shipper: Standard Brands Confectionery Division of Standard Brands, Inc., 3401 Mt. Prospect Road, Franklin Park, Ill. 60131. 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 113651 (Sub-No. 216TA), filed March 21, 1977. Applicant: INDIANA REFRIGERATOR LINES, INC., 2404 N. Broadway, Muncie, Ind. 47303. Applicant's representative: Daniel C. Sullivan, 327 S. LaSalle St., Chicago, Ill. 60604. Authority sought to operate at 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 Lexington, Ky., to Jacksonville, Hilaleah and Tampa, Fla.; Atlanta, Ga.; Chicago and Rockford, Ill.; Pennville, Ind.; Baltimore, Md.; Boston and Waltham, Mass.; Detroit, and Grand Rapids, Mich; Columbus, Bellfontaine, St. Marys and Cincinnati, Ohio; Folcroft, Philadelphia, and Scranton, Pa.; Nashville, Memphis, and Knoxville, Tenn.; New London, Green Bay, Butler, and Milwaukee, Wis.; and Gulfport, Miss., for 180 days. Supporting shipper: Elmhill Packing Co., Inc., P.O. Box 496, Lexington, Ky. 40501. 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 113666 (Sub-No. 114TA), filed March 16, 1977. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, Pa. 16229. Applicant's representative: Daniel R. Smetanick (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Saltcake*, in bulk, in tank vehicles, from Petrolia, Pa., to Chillicothe, Ohio and Elmira, N.Y., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Prior Chemical Corporation, 420 Lexington Ave., New York, N.Y. 10017. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Bldg., 1000 Liberty Ave., Pittsburgh, Pa. 15222.

No. MC 113843 (Sub-No. 239TA), filed March 21, 1977. Applicant: REFRIGERATED FOOD EXPRESS INC., 316 Summer St., Boston, Bass. 02210. Applicant's representative: Lawrence T. Sheils (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), from Oneida, N.Y., to points in Connecticut, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, and West Virginia, for 180 days. Supporting shipper: GolPak Corporation, Stone St., Oneida, NY. 13421. Send protests to: D. W. Hammons, District Supervisor, Interstate Commerce Commission, 159 Causeway St., Room 501, Boston, Mass. 02114.

No. MC 114822 (Sub-No. 13TA), filed March 21, 1977. Applicant: RUDOLPH PAFFRATH, WILLIAM PAFFRATH AND THOMAS PAFFRATH, doing business as PAFFROTH BROS., 1415 Clinton St., Linden, N.J. 07036. Applicant's representative: Charles J. Williams, 1815 Front St., Scotch Plains, N.J. 07076. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metals*, from New York, N.Y., to Coatesville, Pa., for 180 days. Supporting shipper: Luria Brothers & Co., Inc., P.O. Box 6548, Cleveland, Ohio 44101. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 114896 (Sub-No. 47TA), filed March 17, 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: *Coin, currency, and securities*, between New Orleans, La., on the one hand, and on the other, points in Alabama, Florida and Mississippi, under a continuing contract with Federal Reserve Bank of Atlanta, for 180 days. Supporting shipper: Federal Reserve Bank of Atlanta, New Orleans Branch, 525 St. Charles Ave., New Orleans, La. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 115860 (Sub-No. 14TA), filed March 7, 1977. Applicant: DALBY TRANSFER AND STORAGE, INC., P.O. Box 7187, Colorado Springs, Colo. 80933. Applicant's representative: John P. Thompson, 450 Capitol Life Center, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural sprinkler systems, parts and supplies*, from points in El Paso County, Colo., to points in South Carolina. Restriction: Against (a) the transportation of commodities which because of size or weight require the use of special equipment; (b) earth drilling machinery; and (c) pipe incidental to and used in connection with the construction, repairing or dismantling of pipelines, for 180 days. Supporting shipper: Higromatic Division, Butler Manufacturing Company, P.O. Box 7406, Colorado Springs, Colo. 80933. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 721 19th St., Denver, Colo. 80202.

No. MC 116014 (Sub-No. 80TA), filed March 16, 1977. Applicant: OLIVER TRUCKING CO., INC., P.O. Box 53, Lexington Road, Winchester, Ky. 40391. Applicant's representative: Louis J. Amato, Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Propane;* (1) from Painesville, Ohio, to Winchester, Nicholasville, Mt. Sterling, and Georgetown, Ky.; (2) from Lemont, Ill., to Winchester and Mt. Sterling, Ky.; (3) from Middletown, Ohio, to Mt. Sterling, Ky.; and (4) from Hutchinson, McPherson, and Conway Springs, Kans., and Mont Belvieu, Tex., to Winchester and Mt. Sterling, Ky., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Support shippers: There are approximately 5 statements of support attached to the application, which may be examined at Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: H. C. Morrison, Sr., District Supervisor, Interstate Commerce Commission, Room 216 Bakhaus Bldg., 1500 W. Main St., Lexington, Ky. 40505.

No. MC 117119 (Sub-No. 616TA), filed March 18, 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: *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, as decribed 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 Land O'Frost, Inc., at Searcy, Ark., to points in Colorado, Idaho, Nevada, Oregon, Utah, and Washington, for 180 days. Supporting shipper: Land O'Frost, Inc., 16850 Chicago Ave., Lansing, Ill. 60438. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 W. Capitol, Little Rock, Ark. 72201.

No. MC 120954 (Sub-No. 2TA), filed March 18, 1977. Applicant: FAST FREIGHT, INC., 226 42nd St., P.O. Box 216, Moline, Ill. 61265. Applicant's representative: Joseph M. Scanlan, 111 W. Washington St., Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic or plastic articles N.O.J.*, from the plantsite and its warehouse of Amoco Plastic Products Company of Seymour, Ind., to points in Michigan and Wisconsin, and from points in Michigan and Wisconsin, to Seymour, Ind., for 180 days. Supporting shipper: Amoco Plastic Products Company, C. W. Brock, Traffic and Warehouse Supervisor, Seymour, Ind. 47274. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 123778 (Sub-No. 34TA), filed March 16, 1977. Applicant: JALT CORP., doing business as UNITED NEWSPAPER DELIVERY SERVICE, 75 Cutters Dock Road, Woodbridge, N.J. 07095. Applicant's representative: Morton E. Kiel, 5 World Trade Center, Suite 6193, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Magazines and advertising matter*, from Woodbridge, N.J., to Wilmington, Del.; Baltimore, Md., the District of Columbia and points in New Jersey, points in that part of Pennsylvania on and east of U.S. Highway 15, and points in that part of New York on and east of New York Highway 14, under a continuing contract with News Times, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: News Times, 1 Park Ave., New York, N.Y. 10016. Send protests to: Robert S. H. Vance, District Supervisor, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 125010 (Sub-No. 15TA), filed March 18, 1977. Applicant: GIBCO MOTOR EXPRESS, INC., 3405 North 33rd St., P.O. Box 312, Terre Haute, Ind. 47808. Applicant's representative: Michael V. Gooch, 777 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Ferro alloys*, from Calvert City, Ky., to Flat Rock, Mich. and Defiance, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Airco Alloys, Division of Airco, Inc., 3801 Highland Avenue, Niagara Falls, N.Y. 14305. Send protests to: William S. Ennis, District Supervisor, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, Ind. 46204.

No. MC 128030 (Sub-No. 114TA), filed March 18, 1977. Applicant: THE STOUT TRUCKING CO., INC., P.O. Box 177, R.R. No. 1, Urbana, Ill. 61801. Applicant's representative: James R. Madler, 120 W. Madison, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food and foodstuffs*, in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from the plant and warehouse facilities of Kraft, Inc., at Champaign, Ill., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia and the District of Columbia, restricted to traffic originating at the named origin and destined to the named destination points, for 180 days. Supporting shipper: A. P. Stefanisin, Transportation Analyst, Kraft, Inc., 500 Peshtigo Court, Chicago, Ill. 60690. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett Mckinley Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 129600 (Sub-No. 29TA), filed March 21, 1977. Applicant: POLAR TRANSPORT, INC., 176 King St., P.O. Box 44, Hanover, Mass. 02339. Applicant's representative: Frank J. Weiner, 15 Court Sq., Boston, Mass. 02108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lecithin*, in bulk, from Gibson City, Ill., to Monroe, N.C., under a continuing contract with Central Soya Company, Inc., for 180 days. Supporting shipper: Central Soya Company, Inc., 1300 Fort Wayne National Bank Bldg., Fort Wayne, Ind. 46802. Send protests to: Max Gorenstein, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 150 Causeway St., Boston, Mass. 02114.

No. MC 129624 (Sub-No. 9TA), filed March 18, 1977. Applicant: ROUTE MESSENGERS OF PENNSYLVANIA, INC., 2425 Bainbridge Street, Philadelphia, Pa. 19146. Applicants 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: *Business forms and materials* used in accounting systems, no single parcel or package to exceed 50 pounds, in weight, between the facilities of Safeguard Business Systems, Inc., located at or near Lansdale, Pa., on the one hand, and, on the other, Camden, N.J.

NOTE.—Carrier intends to interline at Camden, N.J., with New York and New Jersey Freightways, Inc., for 180 days.

Supporting shipper(s): Safeguard Business Systems, Inc., Church Road, North Wales, Pa. 19454. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 133377 (Sub-No. 10TA), filed March 17, 1977. Applicant: COMMERCIAL SERVICES, INC., 114 Memorial Road, Storm Lake, Iowa 50588. Applicant's representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meat, meat products, meat by-products, articles distributed by meat packinghouses and foodstuffs* (except hides and commodities in bulk), from the plantsite and/or warehouse facilities of Geo. A. Hormel & Co., at or noear Knoxville, Iowa, to points in Illinois, Minnesota and Nebraska, restricted to traffic orginiating at named origin and destined to named states; and (2) *Meat, meat products, meat by-products, articles dstributed by meat packing plants, foodstuffs, packing plant materials, equipment and supplies* (expect hides and commodities in bulk), from points Illinois, Minnesota and Nebraska, to the plantsite and/or warehouse facilities utilized by Geo. A. Hormel & Co., at or near Knoxville, Iowa, restricted to traffic originating at named origins and destined to the named destinations, for 180 days. Supporting shipper: Geo. A. Hormel & Company, P.O. Box 800, Austin, Minn. 55912. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 135797 (Sub-No. 70TA), filed March 18, 1977. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, U.S. Highway 71, Lowell, Ark. 72745. Applicant's representative: Don Garrison, 204 Highway 71 North, Suite 3, Springdale, Ark. 72764. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Petroleum sorbents, padding and cushioning materials;* (b) *Wallboard, insulation and insulating materials;* (c) *Mulch;* and (d) *Equipment, materials and accessories* used in the installation of application of commodities named in (b) and (c) above, from the plantsite and warehouse facilities of or used by Conwed Corporation, Cloquet, Minn., to points in Connecticut, Delaware, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia and the District of Columbia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Sup-

porting shipper: Conwed Corporation, Cloquet, Minn. 55720. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 W. Capitol, Little Rock, Ark. 72201.

No. MC 135881 (Sub-No. 3 TA), filed March 18, 1977. Applicant: CURTIS R. LUNNEY, Westfield, Maine 04787. Applicant's representative: Curtis R. Lunney (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Beer, malt beverages and wine*, in containers, from Fulton and Syracuse, N.Y.., and Cranston, R.I., to Caribou, Maine, restricted to a transportation service performed under a continuing contract with William J. Anderson d/b/a Anderson Beverage Co., Caribou, Maine, for 180 days. Supporting shipper: William J. Anderson, d/b/a Anderson Beverage Co., Caribou, Maine 04736. Send protests to: Donald G. Weiler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 307, 76 Pearl St., Portland, Maine 04111.

No. MC 138126 (Sub-No. 12TA), filed March 17, 1977. Applicant: WILLIAMS REFRIGERATED EXPRESS, INC., P.O. Box 47, Old Denton Road, Federalsburg, Md. 21632. Applicant's representative: Chester A. Zyblut, 1030 15th St., NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods and 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 Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, Ohio, Michigan 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: Charles A. Cleveland, Director of Sales, Empire Freezers of Syracuse, Inc., P.O. Box 770, Syracuse, N.Y. 13201. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814-B Federal Bldg., Baltimore, Md. 21201.

No. MC 138126 (Sub-No. 13TA), filed March 17, 1977. Applicant: WILLIAMS REFRIGERATED EXPRESS, INC., P.O. Box 47, Old Denton Road, Federalsburg, Md. 21632. Applicant's representative: Chester A. Zyblut, 1030 15th St., NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Ridgely, Md., to points in Florida, North Carolina, South Carolina and Virginia, for 180 days. Supporting shipper: Darryl B. Jopp, Traffic Manager, Saulsbury Bros., Inc., Railroad Ave., Ridgely, Md. 21660. Send protests to: William H. Hughes, District Supervisor, Interstate Commerce Commission, 814-B Federal Bldg., Baltimore, Md. 21201.

No. MC 138126 (Sub-No. 14TA), filed March 17, 1977. Applicant: WILLIAMS REFRIGERATED EXPRESS, INC., P.O. Box 47, Old Denton Road, Federalsburg, Md. 21632. Applicant's representative: Chester A. Zyblut, 1030 15th St., NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs*, from Salisbury, Md., to points in Kentucky, for 180 days. Supporting shipper: Donald R. Loring, Manager of Transportation, Campbell Soup Company, P.O. Box 1618, Salisbury, Md. 21801. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814-B Federal Bldg., Baltimore, Md. 21201.

No. MC 138304 (Sub-No. 11TA), filed March 21, 1977. Applicant: NATIONAL PACKERS EXPRESS, INC., 3445 Patterson Plank Road, P.O. Box 162, North Bergen, N.J. 07047. Applicant's representative: Graig B. Sherman, 1108 Kane Concourse, Bay Harbor Islands, Fla. 33154. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* (except commodities in bulk), from Chicago, Ill., to points in New York, New Jersey, Pennsylvania, Maryland and the District of Columbia, for 180 days. Supporting shipper: Peter Hand Brewing Co., Inc., 1000 W. North Ave., Chicago, Ill. Send protests to: Robert E. Johnson, District Supervisor, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 139335 (Sub-No. 3TA), filed March 18, 1977. Applicant: JACKSON TRANSFER, INC., 1803 W. Washington Street, Bloomington, Ill. 61701. Applicant's representative: Wesley Becker (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum sheet and zinc wire rods* in packages (except commodities which because of size or weight require specialized transportation equipment), from La Salle, Ill., to Jackson, Tenn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Matthiessen & Hegeler, Michael Grubick, Traffic Manager, 9th and Sterling Streets, La Salle, Ill. 60301. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 139495 (Sub-No. 212TA), filed March 16, 1977. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, 1501 E. 8th St., Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1819 H St., NW., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lamps;* (1) from St. Marys, Pa., to points in Arkansas, Arizona, California, Colorado, Idaho, Illinois, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin and Wyoming; and (2) from Versailles, Ky., and Dyersburg, Tenn., to points in Arkansas (except points on and south of Interstate Highway 40), Arizona, California, Colorado, Idaho, Iowa (except Davenport, Cliton and Council Bluffs, and points in their respective commercial zones), Kansas (except Topake), Minnesota (except Minneapolis and points in its commercial zone), Missouri (except St. Louis and points in its commercial zone and Kansas City), Montana, Nebraska (except Omaha, Lincoln and Hastings), Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas (except points on and east of Interstate Highway 35), Utah, Washington, Wisconsin (except Milwaukee), Wyoming, and points in Jo-Daviess, Stephenson, Winnebago, Boone, Carroll, Ogle, DeKalb, Whiteside and Lee Counties, Ill., and Elk Grove Village, Ill., for 180 days. Supporting shipper: GTE Sylvania Lighting Products Group, 100 Endicott St., Danvers, Mass. 01923. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Suite 101 Litwin Bldg., 110 N. Market, Wichita, Kans. 67202.

No. MC 139495 (Sub-No. 213TA), filed March 17, 1977. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, 1501 E. 8th St., Liberal, Kans. 67901. Applicant's representative: Hebert Alan Dubin, 1819 H St., N.W., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery and confectionery products*, from the plantsite and storage facilities of M & M Mars, Division of Mars, Inc., at or near Chicago, Ill., and its commercial zone, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont and the District of Columbia, for 180 days. Supporting shipper: M & M/Mars, High St., Hackettstown, N.J. 07840. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Suite 101 Litwin Bldg., 110 N. Market, Wichita, Kans. 67202.

No. MC 140605 (Sub-No. 3TA), filed March 18, 1977. Applicant: OHIO OIL GATHERING CORPORATION, Chilton Building, Suite 400, 201 King of Prussia Road, Radnor, Pa. 19087. Applicant's representative: Walter R. Hall, II, 2107 The Fidelity Building, Philadelphia, Pa. 19109. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum* in bulk, from points in Belmont, Harrison, Jefferson and Monroe Counties, Ohio, to points in Carroll, Coshocton, Fairfield, Hocking, Holmes, Knox, Licking, Morgan, Muskingum, Perry, Stark, Washington and Wayne Counties, Ohio, for continuing contract, or contracts, transported by pipeline, rail or water to points in Pennsylvania and West Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to

90 days of operating authority. Supporting shipper(s): Ohio Oil Gathering Corporation II, Chilton Building, Suite 400, 201 King of Prussia Road, Radnor, Pa. 19087. Send protests to: Monroe A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 141776 (Sub-No. 8TA), filed March 17, 1977. Applicant: FOOD-TRAIN, INC., Spring and South Center Sts., Ringtown, Pa. 17967. Applicant's representative: L. Agnew Myers, Suite 407 Walker Bldg., 734 15th St., N.W., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food and foodstuffs*, in vehicles equipped with mechanical refrigeration, (except commodities in bulk, in tank vehicles), from the plant and warehouse facilities of Kraft, Inc., at Champaign, Ill., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, 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: Kraft, Inc., 500 Peshtigo Court, Chicago, Ill. 60690. Send protests to: Paul J. Kenworthy, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 314 U.S. Post Office Bldg., Scranton, Pa. 18503.

No. MC 142254 (Sub-No. 2TA), filed February 21, 1977. Applicant: FRIEDL FUEL & CARTAGE, INC., 417 W. Whitewater St., Whitewater, Wis. 53190. Applicant's representative: Wayne W. Wilson, P.O. Box 8004, Madison, Wis. 53708. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Castings, foundry products, and fasteners*, from Palmyra and Whitewater, Wis., to points in Illinois (except Chicago and its commercial zone and points within 50 miles of Marengo, Ill.), Indiana, Iowa, Michigan and Ohio; (2) *materials, equipment and supplies* used or useful in the manufacture, sale, installation, or distribution of the commodities named in Part (1) above, from points in Illinois (except Chicago and its commercial zone and points within 50 miles of Marengo, Ill.), Indiana, Iowa, Michigan, and Ohio, to Palmyra and Whitewater, Wis., for 180 days. Supporting shipper(s): Alpha-Cast, Inc., 520 N. Jefferson St., Whitewater, Wis. 53190, (Gordon L. Sass). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 142274 (Sub-No. 2TA), filed March 16, 1977. Applicant: ADMIRAL DELIVERY SYSTEM, INC., 2436 Hamilton Ave., Cleveland, Ohio 44144. Applicant's representative: Robert E. McFarland, 999 W. Big Beaver Road, Suite 1002, Troy, Mich. 48084. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, limited to individual articles, not exceeding 100 pounds in weight, moving in shipments not exceeding 500 pounds in weight from one consignor to one consignee in a single day on bills of lading of surface, interstate freight forwarders, between points in Williams, Defiance, Paulding, Van Wert, Allen, Putnam, Henry, Fulton, Lucas, Ottawa, Wood, Hancock, Hardin, Wyandot, Seneca, Sandusky, Erie, Lorain, Cuyahoga, Huron, Medina, Ashland, Richland, Crawford, Wayne, Stark, Summit, Lake, Ashtabula, Trumbull, Geauga, Portage, Mahoning, Columbiana, Carroll, Jefferson, Tuscarawas, Harrison and Belmont Counties, Ohio; Hancock, Brooke, Ohio, Marshall, Wetzel, Marion, and Monogalia Counties, W. Va.; Monroe County, Mich.; Lawrence County, Pa.; and Steuben and Allen Counties, Ind. Applicant intends to interline with various other freight forwarder agents at numerous points, including, but not limited to, Celeveland, Ohio; Monroe County, Mich.; Lawrence County, Pa., and Steuben and Allen Counties, Ind., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: American Delivery Systems, Inc., 300 E. Seven Mile Road, Detroit, Mich. 48203. Send protests to: James Johnson, District Supervisor, Bureau of Operations, 181 Federal Office Bldg., 1240 E. Minth St., Cleveland, Ohio 44199.

No. MC 142810 (Sub-No. 3TA), filed March 17, 1977. Applicant: LEWIS TRANSPORT, INC., 114 N. Reed St., Columbia, Ky. 42728. Applicant's representative: Rudy Yessin, 314 Wilkinson St., Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from (1) points in Floyd and Clark Counties, Inc., to points in Mercer, Anderson, Woodford, Jessamine, Boyle, and Pulaski Counties, Ky.; and (2) from Louisville, Ky., to points in Floyd and Clark Counties, Ind., for 180 days. Supporting shipper: William L. Jessie, Operations, Manager, Remote Services, Inc., 981 S. 3rd St., Louisville, Ky. Send protests to: Elbert Brown, Jr., District Supervisor, Interstate Commerce Commission, 426 Post Office Bldg., Louisville, Ky. 40202.

No. MC 142941 (Sub-No. 1TA), filed March 17, 1977. Applicant: SCARBOROUGH TRUCK LINES, 1313 N. 25th Ave., Phoenix, Ariz. 85009. Applicant's representative: Lewis P. Ames, 10th Floor, 111 W. Monroe, Phoenix, Ariz. 85003. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Alcoholic beverages*, from Frankfort, Lawrenceburg, Bardstown and Louisville, Ky.; Lawrenceburg, Ind.; St. Louis, Mo.; Peoria and Chicago, Ill.; and Relay, Md.; to Phoenix, Tucson, Flagstaff, and Yuma, Ariz.; (2) *Wine and alcoholic beverages*, from Madera, Menlo Park, San Jose, and Rutherford, Calif., to Phoenix, Tucson, Flagstaff, and Yuma, Ariz.; and (3) *Malt beverages*, from Azusa and Irvine, Calif.; to Phoenix, Tucson, Casa Grande, Globe, Flagstaff, and Holbrook, Ariz., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: All American Distributing Co., 490 E. Pima St., Phoenix, Ariz. 85004. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 3427 Federal Bldg., 230 N. First Ave., Phoenix, Ariz. 85025.

No. MC 143029TA, filed March 16, 1977. Applicant: MC-MOR-HAN TRUCKING CO., INC., P.O. Box 368, Shullsburg, Wis. 53586. Applicant's representative: Donald B. Levine, 39 S. La Salle St., Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (a) *Ore and mine rock*, from Grant and Lafayette Counties, Wis., to the Eagle-Picher Industries, Inc., Graham Mill, at or near Galena, Ill.; (b) *Ore concentrates*, from the Eagle-Pitcher Industries, Inc., Graham Mill., at or near Galena, Ill., to Galena, Ill., and Dubuque, Iowa; and (c) *Mine tailings*, from the Eagle-Picher Industries, Inc., Graham Mill, at or near Galena, Ill., to points in Grant and Lafayette Counties, Wis., under a continuing with Eagle-Picher Industries, Inc., for 180 days. Supporting shipper: Eagle-Picher Industries, Inc., P.O. Box 1869, Reno, Nev. 89505. Send protests to: Ronald Morken, District Supervisor, Interstate Commerce Commission, 139 W. Wilson St., Room 202, Madison, Wis. 53703.

No. MC 143044TA, filed March 21, 1977. Applicant: EQUIPMENT EXPRESS LIMITED, 8105 Don Mills Road, Markham, Ontario, Canada L3R 2P1. Applicant's representative: Thomas E. Acey, Jr., 1660 L St. NW., Suite 1100, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prescast prestressed reinforced concrete wall, roof and floor slabs, structural forms or shapes, girders and beams, and materials and supplies* used in the erection thereof, from ports of entry on the International Boundary line between the United States and Canada located at Buffalo, Niagara Falls, Lewiston, N.Y., to Syracuse, Rochester, and Buffalo, N.Y., restricted to shipments originating at the plantsites of Pre-Con Company, in Ontario, Canada, for 180 days. Supporting shipper: Pre-Con Company, 35 Rutherford Road, Brampton, Ontario, Canada. Send protests to: George M. Parker, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 910 Federal Bldg., 111 W. Huron St., Buffalo, N.Y. 14202.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-10225 Filed 4-5-77;8:45 am]

[Notice No. 46]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

APRIL 1, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protects 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 protect 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 53965 (Sub-No. 130TA), filed March 22, 1977. Applicant: GRAVES TRUCK LINE, INC., 2130 S. Ohio, P.O. Box 1387, Salina, Kans. 67401. Applicant's representative: Larry E. Gregg, 641 Harrison, Topeka, Kans. 66603. 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 commodities requiring special equipment), serving the construction site and plant of the Phillips Petroleum Company, located 13 miles south of Guymon, Okla., in Hansford County, Tex., as an off-route point in connection with carrier's presently authorized regular route operation. Applicant intends to interline at Amarillo, Tex.; Wichita, Kans.; Kansas City, Kansas-Missouri Commercial zone, Oklahoma City, Okla.; Denver, Colo., and Omaha, Nebr., for 180 days. Supporting shipper: Phillips Petroleum Company, P.O. Drawer K, Borger, Tex. 79007. Send protests to: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 234 Federal Bldg., Topeka, Kans. 66603.

No. MC 66129 (Sub-No. 9TA), filed March 22, 1977. Applicant: HUGHES BROS. TRANSPORTATION CO., INC., 113 Metropolitan Ave., Brooklyn, N.Y. 11211. Applicant's representative: Piken & Piken, One Lefrak City Plaza, Flushing, N.Y. 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ink*, in bulk, from the plantsite of Inmont Corporation, at Lodi, N.J., to Depew, N.Y.; and *returned, refused or rejected shipments*, in the reverse direction, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Inmont Corporation, 1133 Avenue of the Americas, New York, N.Y. 10036. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 103051 (Sub-No. 391TA), filed March 23, 1977. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Ave., North, P.O. Box 90408, Nashville, Tenn. 37209. Applicant's representative: David L. Morgan (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Activated carbon*, in bulk, in tank or hopper type vehicles, from Romeo, Fla., to points in Kentucky, New Jersey, Ohio and Pennsylvania, for 180 days. Supporting shipper: Husky Industries, 62 Perimiter Circle East, Atlanta, Ga. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422 U.S. Courthouse, 801 Broadway, Nashville, Tenn. 37203.

No. MC 103051 (Sub-No. 392TA), filed March 25, 1977. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Ave., North, P.O. Box 90408, Nashville, Tenn. 37209. Applicant's representative: Russell E. Stone (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour*, in bulk, in tank or hopper type vehicles, from Newton, N.C., to Johnson City, Tenn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Midstate Mills, Inc., P.O. Box 349, Newton, N.C. 28658. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422 U.S. Courthouse, 801 Broadway, Nashville, Tenn. 37203.

No. MC 103051 (Sub-No. 393TA), filed March 23, 1977. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Ave., North, P.O. Box 90408, Nashville, Tenn. 37209. Applicant's representative: Russell E. Stone (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils and blends thereof*, in bulk, in tank vehicles, from Chattanooga, Tenn., to Louisville, Ky., for 180 days. Supporting shipper: Central Soya Company, Inc., 1300 Fort Wayne Bank Bldg., Fort Wayne, Ind. 46802. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422 U.S. Courthouse, 801 Broadway, Nashville, Tenn. 37203.

No. MC 106398 (Sub-No. 772TA), filed March 22, 1977. Applicant: NATIONAL TRAILER CONVOY, INC., 525 S. Main, P.O. Box 3329, Tulsa, Okla. 74101. Applicant's representative: Irvin Tull (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from Hampshire, Tenn., to points in Louisiana, Alabama, Kentucky, Georgia, Arkansas, Oklahoma and Florida, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Office Master, Inc., P.O. Box 8, Hampshire, Tenn. 38461. Send protests to: Joe Green, District Supervisor, Room 240 Old Post Office Bldg., 215 NW. Third St., Oklahoma City, Okla. 73102.

No. MC 107496 (Sub-No. 1071TA), filed March 23, 1977. Applicant: RUAN TRANSPORT CORPORATION, 3200 Ruan Center, 666 Grand Ave., Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hydrogran peroxide, liquid*, in bulk, from Woodstock, Tenn., to Irigary Mine site, located 93 miles north of Casper, Wyo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Van Waters & Rogers, 4300 Holly St., Denver, Colo. 80216. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 109689 (Sub-No. 308TA), filed March 21, 1977. Applicant: W. S. HATCH CO., 643 South 800 West, Woods Cross, Utah 84087. Applicant's representative: Mark K. Boyle, 345 S. State St., Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crude oil*, in bulk, in tank vehicles, from Railroad Valley Oil Field, near Currant, Nev., to Bakersfield, Calif., and points within 10 miles, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Husky Oil Company, 333 W. Center St., North Salt Lake, Utah 84054. Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Bldg., 125 S. State St., Salt Lake City, Utah 84138.

No. MC 111274 (Sub-No. 19TA), filed March 18, 1977. Applicant: ELMER C. SCHMIDGALL AND BENJAMIN G. SEHMIDGALL doing business as

SCHMIDGALL TRANSFER, Box 249, Tremont, Ill. 61568. Applicant's representative: Frederick C. Schmidgall, Rt. 98, P.O. Box 356, Morton, Ill. 61550. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Materials and components* used in the manufacture and construction of pole buildings. Restriction: All materials will have a subsequent motor carrier movement in either interstate of intrastate commerce. from points in Indiana, Michigan, Missouri, Ohio, Wisconsin, Iowa, Minnesota, Nebraska, North Dakota, South Dakota, Kansas, Kentucky, Tennessee and Mississippi, to the plantsite of Morton Buildings, Inc., at or near Morton, Ill., under a continuing contract with Morton Buildings, Inc., for 180 days. Supporting shipper: Morton Buildings, Inc., Lyle Malinowski, Plant Manager, 252 W. Adams, Morton, Ill. 61550. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1385, Chicago, Ill. 60604.

No. MC 113382 (Sub-No. 17TA), filed March 23, 1977. Applicant: NELSON BROS., INC., P.O. Box 613, Nebraska City, Nebr. 68410. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Tires and tubes, from* Batesville, Miss., and Memphis, Tenn., to Lincoln, Nebr., under a continuing contract with T. O. Hass Tire Company, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Randy Hass, Vice President, T. O. Hass Tire Company, Inc., 640 W. "O" St., Lincoln, Nebr. 68528. Send protests to: Max H. Johnston, District Supervisor, Room 285 Federal Bldg., and Courthouse, 100 Centennial Mall North, Lincoln, Nebr. 68508.

No. MC 114632 (Sub-No. 105TA), filed March 23, 1977. Applicant: APPLE LINES, INC., 212 S.W., Second St., Madison, S. Dak. 57042. Applicant's representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *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 Denver, Colo., to points in New York and Detroit, Mich.; Philadelphia, Pa.; Salem, Ohio; Newark, N.J.; Boston and Springfield, Mass.; Hartford, Conn.; Chicago, Ill.; Baltimore, Md.; Greensburg, Ind., and Milwaukee and Eau Claire, Wis., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Flavorland Industries, Inc., P.O. Box 16345, Denver, Colo. 80216. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Bldg., Pierre, S. Dak. 57501.

No. MC 115322 (Sub-No. 128TA), filed March 21, 1977. Applicant: REDWING REFRIGERATED, INC., P.O. Box 10177, Taft, Fla. 32809. Applicant's representative: J. V. McCoy, P.O. Box 426, Tampa, Fla. 33601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, canned or preserved, other than frozen (except commodities in bulk), from the plantsite and storage facilities of Pfeiffer Foods, Inc., Division International Salt Company, at Wilson and Lockport, N.Y., to points in Pennsylvania, New Jersey, Maryland, Delaware, West Virginia, Virginia, North Carolina, Tennessee, South Carolina, Georgia, Alabama, Louisiana, Mississippi and Florida, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Pfeiffer's Foods, Inc., 5820 Main St., Williamsville, N.Y. 14221. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 W. Bay St., Jacksonville, Fla. 32202.

No. MC 115231 (Sub-No. 420TA), filed March 22, 1977. Applicant: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, St. Louis, Mo. 63131. Applicant's representative: J. R. Ferris, 230 St. Clair Ave., E. St. Louis, Mo. 62201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer and fertilizer ingredients*, in bulk, from Springfield, Ill., to points in Missouri, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Agrico Chemical Company, Box 3166, Tulsa, Okla. 74101. Send protests to: J. P. Werthmann, District Supervisor, Interstate Commerce Commission, Room 1465, 210 N. 12th St., St. Louis, Mo. 63101.

No. MC 116763 (Sub-No. 374TA), filed March 23, 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: *Frozen potatoes and potato products*, from Minneapolis, Minn., to points in Alabama, Florida, Georgia, North Carolina, South Carolina and Tennessee, for 180 days. Supporting shipper: Parke A. Heffern, Sales Manager, Northern Star Company, 3171 5th St., S.E., Minneapolis, Minn. 55414. Send protests to: Paul J. Lowrey, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5514-B Federal Bldg., 550 Main St., Cincinnati, Ohio 45202.

No. MC 117088 (Sub-No. 4TA), filed March 23, 1977. Applicant: ASPHALT TRANSPORT, INC., P.O. Box 10416, 3000 Airline Hwy., New Orleans, La. 70121. Applicant's representative: Edward A. Winter, 235 Rosewood Drive, Metairie, La. 70005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt*, in bulk, in insulated tank vehicles, from the plantsite of Gulf States Asphalt Company, Inc., located at or near Beaumont, Tex., to Harvey, Marrero and Westwego, La., for 180 days. Supporting shipper: Gulf States Asphalt Co., Inc., 601 Jefferson, Suite 535, Houston, Tex. 77002. Send protests to: Ray C. Armstrong, Jr., District Supervisor, 9038 Federal Bldg., 701 Loyola Ave., New Orleans, La. 70113.

No. MC 123061 (Sub-No. 86TA), filed March 21, 1977. Applicant: LEATHAM BROTHERS, INC., 46 Orange St., Salt Lake City, Utah 84104. Applicant's representative: Harry D. Pugsley, 310 S. Main St., P.O. Box 780, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Diatomaceous earth*, from Storey and Pershing Counties, Nev., to points in Washington, Oregon, Idaho, Wyoming, Utah, Colorado, and Montana, for 180 days. Supporting shipper: Eagle-Pincher Industries, Inc., P.O. Box 1869, Reno, Nev. 89505. Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Bldg., 125 S. State St., Salt Lake City, Utah 84138.

No. MC 123534 (Sub-No. 5TA), filed March 23, 1977. Applicant: ADDIEVILLE TRUCKING COMPANY, INC., 1315 W. 4th Ave., Belleville, Ill. 62221. Applicant's representative: Gregory M. Rebman, Suite 1230 Marquette Bldg., 314 N. Broadway, St. Louis, Mo. 63102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Milk*, from St. Louis, Mo., to Hammond and Westville, Ind.; (2) *Ice cream*, from Peoria, Ill., and Huntington, Ind., to St. Louis, Mo.; and (3) *Foodstuff*, from Champaign, Ill.; and *Foodstuff*, from Kraft, Inc., plantsites in these locations, in mechanically refrigerated equipment (except shipments in bulk tank trucks), under a continuing contract with Kraft, Inc., for 180 days. Supporting shipper: Paul J. Fiske, District Dist. Manager, Kraft, Inc., 2001 Chestnut St., St. Louis, Mo. 63103. Send Protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 124735 (Sub-No. 18TA), filed March 23, 1977. Applicant: R. C. KERCHEVAL, JR., 2201 Sixth Ave., South, Seattle, Wash. 98134. Applicant's representative: George R. LaBissoniere, 1100 Norton Bldg., Seattle, Wash. 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregualr routes, transporting: *Foundry supplies and materials*, from points in New York, Ohio, Indiana, Illinois, Pennsylvania, New Jersey, Michigan and Missouri, to points in Idaho, Oregon and Washington, under a continuing contract with R. A. Barnes, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: R. A.

Barnes, Inc., 151 S. Michigan St., Seattle, Wash. 98108. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Bldg., Seattle, Wash. 98174.

No. MC 126243 (Sub-No. 22TA), filed March 23, 1977. Applicant: ROBERTS TRUCKING CO., INC., U.S. Highway 271 South, Drawer G, Poteau, Okla. 74953. Applicant's representative: Prentiss Shelley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid latex*, in shipper owned tank trailers, from Uniroyal Scotts Bluff Plant, at or near Baton Rouge, La., to Poteau, Wilburton, Anadarko and Pawhuska, Okla., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Textile Rubber & Chemical Co., P.O. Box 850, Poteau, Okla. 74953. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 W. Capitol, Little Rock, Ark. 72201.

No. MC 129712 (Sub-No. 11TA), filed March 22, 1977. Applicant: GEORGE BENNETT MOTOR EXPRESS, INC., P.O. Box 954, McDonough, Ga. 30253. Applicant's representative: Frank D. Hall, 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: *Buildings, metal*, knocked down, *and component parts thereof; electrical conduits; electric wire and moldings; pipe and pipe fittings; metal tubing; asphalt*, solid or liquid, in packages; *and supplies, equipment and materials* used in the installation and maintenance of the foregoing named commodities; and, *advertising material*, printed, from the plantsite of Walker-Parkersburg, a Division of Textron, Inc., at or near Parkersburg, W. Va., to the warehouses, distribution points, and dealers of Walker-Parkersburg, a Division of Textron, Inc., located at Phoenix, Ariz.; Birmingham, Ala.; Little Rock, Ark.; Cerritos, Los Angeles and San Francisco, Calif.; Englewood, Colo.; East Hartford, Conn.; District of Columbia; Miami and Orlando, Fla.; Atlanta, Ga.; Chicago, Rockford and Lyons, Ill.; Indianapolis, Ind.; Des Moines, Iowa; Kansas City, Kans.; Covington and Louisville, Ky.; New Orleans, La.; Minneapolis, Minn.; St. Louis, Kansas City and Overland, Mo.; Detroit and Cedar Rapids, Mich.; Baltimore and Wheaton, Md.; Boston, Mass.; Jackson, Miss.; Omaha, Nebr.; Buffalo and New York City, N.Y.; Charlotte, N.C.; Cleveland and Columbus, Ohio; Oklahoma City, Okla.; Portland, Oreg.; Lansdale, Pa.; Memphis and Nashville, Tenn.; Dallas, Houston and Hubbock, Tex.; Salt Lake City, Utah; Richmond, Va.; Seattle, Wash.; and Wauwatosa, Wis., under a continuing contract with Walker-Parkersburg, a Division of Textron, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Walker-Parkersburg, a Division of Textron, Inc., 620 Depot St., Parkersburg, W. Va., 26101. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St., N.W., Room 546, Atlanta, Ga. 30309.

No. MC 133689 (Sub-No. 115TA), filed March 23, 1977. Applicant: OVERLAND EXPRESS, INC., 719 First St., S.W., New Brighton, Minn. 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, W. St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Floor coverings and materials and supplies* used in the installation, manufacture, packaging and sale of floor coverings when moving in mixed shipments with floor coverings (except commodities in bulk), from Lylerly, Ga., and Greenville and Landrum, S.C., to points in Iowa, Minnesota, Nebraska, North Dakota, and South Dakota, for 180 days. Supporting shipper: Bigelow-Sanford, Inc., Box 3089, Greenville, S.C. 29602. 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 134060 (Sub-No. 16TA), filed March 23, 1977. Applicant: DAVINDER FREIGHTWAYS LTD., 435 Truck Road, Duncan, British Columbia, Canada V9L 2P8. Applicant's representative: James T. Johnson, 1610 IBM Bldg., Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Waste paper*, from points in Oregon and Washington lying on and west of U.S. Highway 97, to the Ports of Entry on the United States-Canada Boundary, at or near Blaine and Sumas, Wash., for 180 days. Supporting shipper: Belkin Packaging Ltd., P.O. Box 8930, Vancouver, B.C., Canada. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Bldg., Seattle, Wash. 98174.

No. MC 13863 (Sub-No. 35TA), filed March 21, 1977. Applicant: CAROLINA WESTERN EXPRESS, INC., 1511 K St. NW., Suite 712, Washington, D.C. 20005. Applicant's representative: Eric Meierhoefer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Uncrated wood slat products* (including but not limited to shades, draperies, dividers, and doors), *and materials and supplies* used in the manufacture, marketing, and sales thereof, from Westminster, Calif., to Athens, Ga., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Del Mar Loomcrafted Woven Wood, 7130 Fenwick Lane, Westminster, Calif. 92683. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Bldg., Charlotte, N.C. 28205.

No. MC 139193 (Sub-No. 62TA), filed March 22, 1977. Applicant: ROBERTS & OAKE, INC., 527 E. 52nd St., North P.O. Box 1356, Sioux Falls, S. Dak. 57101. Applicant's representative: Jacob P. Billig, 2033 K St. NW., Suite 300, Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as defined by the Commission Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except liquid commodities in bulk), from the facilities of John Morrell & Co., at Memphis, Tenn., to points in Alabama, Arkansas, California, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, South Dakota, Texas, Virginia, and West Virginia; and (2) *Such commodities* as are used by meat packers in the conudct of their business (except liquid commodities in bulk), from the above-mentioned destination points to the above-described origin points, under a continuing contract with John Morrell & Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: John Morrell & Co., 208 S. LaSalle St., Chicago, Ill. 60604. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Bldg., Pierre, S. Dak. 57501.

No. MC 139196 (Sub-No. 14TA), filed March 22, 1977. Applicant: RAY WAGNER & SON TRUCKING CO., INC., Box 117, Owen, Wis. 54460. Applicant's representative: Ray Wagner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed*, from Abbotsford and New Holstein, Wis., to points in North Dakota, South Dakota, and Nebraska, for 180 days. Supporting shippers: Wisco Frozen Foods, Inc., Box 10, Abbotsford, Wis. 54405 and Milk Specialties Co., a division of Cudahy Co., Box 119, New Holstein, Wis. 53061. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 139 W. Wilson St., Room 202, Madison, Wis. 53703.

No. MC 139495 (Sub-No. 215TA), filed March 23, 1977. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, 1501 East 8th St., Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1819 H St. NW., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irrgeular routes, transporting: *Toilet preparations, buffing and polishing compounds, sweetening compounds, and foodstuffs* (except commodities in bulk, in tank vehicles), from the faciilties of Alberto-Culver Company, located at or near Reno, Nev., to Portland, Oreg., and Seattle, Wash., for 180 days. Supporting shipper: Alberto-Culver Company, 2525 Armitage Ave., Melrose Park, Il. Send protests to: M. E.

Taylor, District Supervisor, Interstate Commerce Commission, Suite 101 Litwin Bldg., 110 N. Market, Wichita, Kans. 67202.

No. MC 140363 (Sub-No. 6TA), filed March 21, 1977. Applicant: CHAMP'S TRUCK SERVICE, INC., P.O. Box 1233, Meraux, La. 70075. Applicant's representative: Edward A. Winter, 235 Rosewood Dr., Metairie, La. 70005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Coke, in bulk, in dump trucks, from Purvis, Miss., to Alcoa, Tenn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kaiser Aluminum & Chemical Corp., 4948 Chef Menteur, New Orleans, La. 70126. Send protests to: Ray C. Armstrong, Jr., District Supervisor, 9038 U.S. Federal Bldg., 701 Loyola Ave., New Orleans, La. 70113.

No. MC 140756 (Sub-No. 1TA), filed March 18, 1977. Applicant: FANN McKELVEY, doing business as McKELVEY TRUCKING, 5420 West Missouri, Glendale, Ariz. 85301. Applicant's representative: A. Michael Bernstein, 1441 East Thomas Rd., Phoenix, Ariz. 85014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from the counties of Jackson, Josephine, Curry, Klamath, Coos, Douglas, Lane, Yamhill, Benton, Clackamas, Hood River, Linn, Marion, Multnomah, Polk, Washington, Tillamook, Deschutes, Columbia, Union, Lake, Umatilla, Crook, Lincoln, Wasco, Jefferson, Wallowa, Chemult, Crescent, and Gilchrist, Oreg., to points in Arizona, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: American Forest Products, 3601 N. 34th Ave., Phoenix, Ariz. 85017. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 3427 Federal Bldg., 230 N. First Ave., Phoenix, Ariz. 85025.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-10226 Filed 4-5-77;8:45 am]

[Ex Parte No. 241; Rule 19, 2nd Rev. Exemption No. 133]

MISSOURI PACIFIC RAILROAD CO.

Exemption Under Mandatory Car Service Rules

To: *All Railroads.*

It appearing, That there are substantial shortages of fifty-foot plain boxcars on the lines of the Missouri Pacific Railroad Company (MP); that there is an available supply of such cars on the National Railways of Mexico (NDM); that the NDM has consented to use by the MP of certain of these cars; and the MP has secured clearance from the United States Customs Service for use of these cars provided they are interchanged from and to the NDM exclusively by the MP; and that use of these cars by the MP will substantially relieve boxcar shortages on the MP.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars owned by the National Railways of Mexico (NDM) identified herein may be used by the Missouri Pacific Railroad Company (MP) without regard to the requirements of Car Service Rules 1 and 2.

It is further ordered, That NDM plain boxcars identified herein available empty on lines other than the MP must be returned to the MP either loaded or empty and may not be returned to the NDM by any line other than the MP, regardless of the requirements of Car Service Rules 1 and 2; and

It is further ordered, That this exemption is applicable to freight cars owned by the NDM identified in Appendix A hereto.

Effective March 25, 1977, and continuing in effect until further order of the Commission.

Issued at Washington, D.C., March 25, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

APPENDIX A TO 3/25/77
SECOND REVISED EXEMPTION NO. 133
REPORTING MARKS NDM

100020	100022	100027	100030	100041	100049	100067	100081	100098	100103
100113	100115	100117	100121	100126	100127	100132	100146	100152	100156
100158	100162	100180	100182	100190	100200	100204	100220	100222	100234
100235	100260	100263	100299	100301	100302	100315	100317	100324	100331
100339	100342	100359	100362	100371	100377	100383	100389	100396	100397
100400	100403	100406	100427	100430	100449	100453	100458	100474	100478
100481	100483	100486	100488	100492	100498	100520	100526	100530	100541
100540	100551	100570	100583	100592	100595	100606	100618	100619	100628
100649	100657	100660	100662	100670	100674	100693	100703	100708	100721
100726	100728	100729	100732	100738	100744	100750	100762	100766	100773
100778	100781	100786	100790	100801	100805	100814	100819	100823	100831
100836	100853	100859	100867	100869	100884	100891	100894	100897	100909
100916	100925	100930	100932	100945	100949	100955	100967	100970	100973
101009	101029	101030	101035	101040	101055	101056	101065	101066	101072
101073	101084	101096	101110	101131	101143	101166	101178	101181	101187
101195	101196	101206	101214	101220	101234	101236	101241	101249	101251
101261	101265	101270	101280	101282	101284	101291	101301	101309	101314
101316	101326	101329	101336	101340	101341	101346	101354	101359	101368
101369	101372	101376	101377	101381	101388	101394	101397	101402	101403
101404	101409	101422	101432	101436	101464	101468	101471	101477	101494
101497	101501	101502	101507	101510	101513	101514	101516	101565	101571
101588	101598	101605	101609	101621	101636	101665	101672	101675	101682
101686	101708	101712	101721	101727	101733	101736	101739	101772	101779
101797	101808	101827	101828	101830	101840	101849	101852	101865	101878
101884	101885	101888	101889	101890	101902	101911	101913	101917	101919
101921	101931	101941	101951	101959	101961	101978	101983	101994	101997
104002	104010	104012	104022	104023	104024	104030	104031	104036	104038
104039	104041	104045	104047	104053	104055	104057	104060	104062	104064
104067	104072	104073	104074	104079	104081	104085	104086	104090	104092
104100	104102	104103	104106	104108	104109	104110	104115	104118	104122
104125	104127	104129	104130	104132	104134	104138	104140	104147	104148
104152	104153	104154	104164	104166	104168	104169	104174	104177	104180
104181	104183	104184	104185	104188	104196	104198	104200	104208	104211
104220	104222	104223	104226	104227	104230	104231	104241	104242	104245
104248	104249	104251	104260	104262	104267	104274	104275	104276	104286
104289	104291	104296	104300	104301	104303	104307	104311	104312	104315
104318	104319	104321	104322	104326	104331	104332	104334	104338	104348
104350	104354	104356	104363	104364	104365	104367	104368	104371	104373
104377	104379	104380	104384	104388	104395	104396	104397	104398	104401
104402	104405	104407	104412	104416	104417	104420	104422	104428	104433
104440	104444	104448	104452	104456	104462	104472	104474	104475	104479
104480	104481	104482	104487	104489	104490	104492	104499	104500	104501
104503	104504	104514	104516	104519	104532	104537	104547	104548	104551
104556	104559	104560	104561	104562	104563	104568	104573	104576	104578
104582	104584	104588	104591	104598	104599	104601	104604	104605	104606
104615	104624	104631	104635	104636	104643	104648	104651	104652	104654
104658	104660	104662	104670	104674	104676	104679	104681	104683	104688
104694	104699	104703	104709	104721	104725	104726	104727	104728	104730
104736	104737	104738	104744	104745	104748	104749	104753	104755	104756
104757	104760	104761	104762	104767	104768	104769	104772	104775	104778
104780	104784	104788	104792	104794	104799	104804	104810	104814	104818
104819	104824	104827	104829	104832	104833	104835	104837	104842	104843
104847	104848	104849	104850	104852	104858	104860	104861	104866	104873
104876	104878	104883	104885	104887	104905	104907	104908	104910	104911
104912	104915	104916	104926	104929	104934	104935	104943	104949	104950
104951	104952	104956	104958	104959	104967	104974	104976	104977	104978
104981	104984	104989	104990	104995	104998	104999			

TOTAL=0567

[FR Doc.77-10118 Filed 4-5-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409), 5 U.S.C. 552b(e)(3).

CONTENTS

1

AGENCY HOLDING THE MEETING: Civil Aeronautics Board.

TIME AND DATE: 10:00 a.m.–April 7, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT: 1. Briefing by the Bureau of Enforcement-Activities and Plans. 2. Briefing by the Bureau of Enforcement-Pending and Proposed Court Cases.

STATUS: Item 1—Open; Item 2—Closed.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202–673–5068.

SUPPLEMENTARY INFORMATION: The following Members have voted that the discussion of Item 2 will be closed to public observation:

Chairman John E. Robson, Vice Chairman Richard J. O'Melia, Member R. Tenney Johnson.

Member G. Joseph Minetti and Member Lee R. West abstained from voting.

EXPLANATION OF THE CLOSING OF ITEM 2

Item 2, the Bureau of Enforcement "Briefing-Pending and Proposed Court Cases, will concern a variety of issues involved in the enforcement of the Federal Aviation Act and the Board's regulations. Disclosure of areas of increased or decreased enforcement activity, reports of on-going investigations, and proposed court actions, particularly to those persons who might be engaged in suspect practices, could lead to violations of the law, destruction of evidence, or behavior designed to frustrate BOE activity and could interfere with enforcement proceedings. Disclosure of the strengths, weaknesses, and negotiating positions in cases which might be settled, particularly to those who are or might be engaged in settlement discussions, could significantly frustrate the ability of BOE and the Board to achieve a settlement in the best interests of the public. Disclosure of the strategy, goals, and legal theories regarding pending or shortly-to-be-initiated court cases, particularly to those against whom the cases are being brought, would hinder the Board's efforts in these cases and might violate the attorney-client privilege between the Board and its staff. Accordingly, the Board finds that public observation of the discussion of Item 2 would be likely to disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, and would interfere with enforcement proceedings; be likely to significantly frustrate implementation of proposed agency action, and would be likely to specifically concern the Board's participation in civil actions or proceedings within the meaning of the exemptions provided under 5 U.S.C. 552b (c) (7) (A), (9) (B), and (10) respectively and 14 CFR 310b.5 (7) (A), (9) (B), and (10) respectively and that the discussion of Item 2 will be closed.

PERSONS EXPECTED TO ATTEND

BOARD MEMBERS

Chairman John E. Robson
Vice Chairman Richard J. O'Melia
Member G. Joseph Minetti
Member Lee R. West
Member R. Tenney Johnson

ASSISTANTS TO BOARD MEMBERS

Mr. Howard A. Cohen
Mr. Elias C. Rodriquez
Mr. Frederic D. Houghteling
Mr. Charles M. Palmer
Mr. Robert E. Cohn
Mr. John R. Hancock
Mr. Charles E. Rains
Mr. James L. Casey

OFFICE OF THE MANAGING DIRECTOR

Dr. Norma Maine Loeser

BUREAU OF ENFORCEMENT

Mr. Thomas F. McBride
Mr. T. Christopher Browne
Mr. James W. Tello
Mr. John T. Golden
Mr. Joseph H. Hermosillo
Mr. Paul Bessel

OFFICE OF THE GENERAL COUNSEL

Mr. Jerome Nelson
Ms. Carol Light

OFFICE OF THE SECRETARY

Mrs. Phyllis T. Kaylor
Mrs. Deborah A. Lee

OTHER

Alderson Reporting Company:
Ms. Rose Basiliko
Mr. Paul Bultman

GENERAL COUNSEL CERTIFICATION

I certify that this meeting may be closed to the public under 5 U.S.C. 552b (c) (7) (A), (9) (B), and (10) and 14 CFR 310b.5 (7) (A), (9) (B) and (10).

JAMES C. SCHULTZ,
General Counsel.

MARCH 31, 1977.

[S-90-77 Filed 4-1-77;4:20 pm]

2

AGENCY HOLDING THE MEETING: Federal Power Commission.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552f:

TIME AND DATE: April 7, 1977 2:00 p.m.

PLACE: 825 North Capitol Street, Room 9306, Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: (Agenda.) Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, Telephone 202–275–4166.

This is a list of the matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information.

POWER AGENDA
7575TH MEETING—APRIL 7, 1977
REGULAR MEETING—PART I (2:00 P.M.)

P-1 Docket No. ER76-320, Connecticut Light & Power Company.
P-2 Project No. 2727, Bangor Hydro-Electric Company.

POWER AGENDA
7575TH MEETING—APRIL 7, 1977
REGULAR MEETING—PART II

CP-1 Docket No. ER77-136, Black Hills Power & Light Company.
CP-2 Docket No. ER76-728, Tucson Gas & Electric Company.
CP-3 Docket No. ER77-192, Montaup Electric Company.
CP-4 Docket No. ES77-7, El Paso Electric Company.
CP-5 Docket No. ES77-18, Delmarva Power & Light Company.
CP-6 Docket No. ES77-21, Interstate Power Company.
CP-7 Docket No. ES77-22, Iowa Southern Utilities Company.
CP-8 Docket No. ID-1802, Richard L. Johnson.
CP-9 Project No. 2769, Allegheny Electric Corporative, Inc., Pennsylvania Electric Company.
CP-10 Project No. 1759, Wisconsin Michigan Power Company.
CP-11 Project No. 2082, Pacific Power & Light Company.
CP-12 Project No. 2538, Beebe Island Corporation.
CP-13 Project No. 2113, Wisconsin Valley Improvement Company.
CP-14 Project No. 2232, Duke Power Company.
CP-15 Project No. 2280, Pennsylvania Electric Company and the Cleveland Electric Illuminating Company.

CP-16 Docket No. DA-15-Alabama U.S. Forest Service.
CP-17 (A) *Appalachian Power Company* v. *F.P.C.*, D.C. Cir. No. 77-1232. (B) *City of Cleveland, Ohio* v. *F.P.C.*, D.C. Cir. No. 77-1230.

MISCELLANEOUS AGENDA
7575TH MEETING—APRIL 7, 1977
REGULAR MEETING—PART II

CM-1 Bangor Hydro-Electric Company.
CM-2 Michigan Power Company.
CM-3 Commission Minutes.

GAS AGENDA
7575TH MEETING—APRIL 7, 1977
REGULAR MEETING—PART I

G-1 Docket No. RP77-33, Transcontinental Gas Pipe Line Corporation (Janney Cylinder Company).
G-2A Docket No. R-425, Area Rate Proceeding (Rocky Mountain Area).
G-2B Docket No. AR70-1, Area Rate Proceeding (Permiam Basin Area III).
G-3 FPC Gas Rate Schedule No. 7, The Superior Oil Company.
G-4 Docket No. R177-47, Imperial Oil Company, Charter Oil Company, Inc., Columbus Company and Jack Rouse, Western Oil Producers, Inc., Clark Fuel Producing Company, Inc., and W. Earl Griffin.
G-5 Docket Nos. C175-626 and C175-656, Bill J. Graham and Permian Corporation.
G-6 Docket Nos. C176-633 and C176-644, Tenneco Exploration, Ltd., Docket No. C176-678, Tenneco Oil Company, Docket Nos. C176-722 and C176-784, Texaco Inc.
G-7 Docket No. CP74-299, Kansas-Nebraska Natural Gas Company, Inc.
G-8 Docket No. CP65-393, Florida Gas Transmission Company, Docket Nos. C165-584, C177-80, C177-81, Amoco Production Company, a subsidiary of Standard Oil Company of Indiana, Docket C173-70 and CP77-31, Columbia Gulf Transmission Company, Docket No. CP73-157, Natural Gas Pipeline Company of America, Docket No. CP77-31, Tennessee Gas Pipeline Company, a division of Tenneco Inc., Docket No. CP77-37, Sea Robin Pipeline Company.
G-9 Docket No. CP76-208, Mid-Continental Gas Storage Company, Docket No. CP76-276, Iowa-Illinois Gas and Electric Company, Docket No. G-10632, Northern Illinois Gas Company.
G-10 Docket Nos. CP73-258, et al., El Paso Eastern Company, et al., Docket No. CP77-269, El Paso LNG Terminal Company, Docket No. CP77-270, El Paso Eastern Company, Docket No. CP77-271, United Gas Pipe Line Company, Docket No. CP77-272, United LNG Company.
G-11 Docket No. CP76-313, National Fuel Gas Supply Corporation, Docket No. CP76-381, Transcontinental Gas Pipe Line Corporation, Docket No. CP76-536, Columbia Gas Transmission Corporation and National Fuel Gas Supply Corporation, Docket No. RP76-____, National Fuel Gas Distribution Corporation.
G-12 Docket No. CP76-448, National Fuel Gas Distribution Corporation.
G-13 Docket No. CP77-234, United Gas Pipeline Company.
G-14 Docket No. CP70-289, Inter-City Minnesota Pipelines Ltd, Inc.
G-15 Docket No. CP76-455, Transcontinental Gas Pipe Line Corporation, Florida Gas Transmission Company, Sea Robin Pipeline Company.

MISCELLANEOUS AGENDA
7575TH MEETING—APRIL 7, 1977
REGULAR MEETING—PART I

M-1 Docket No. RM77-13, National rates for jurisdictional sales of natural gas from wells commenced on or after January 1, 1977, for the period January 1, 1977, to December 31, 1978.

GAS AGENDA
7575TH MEETING—APRIL 7, 1977
REGULAR MEETING—PART II

CG-1 Docket No. RP73-32, (PGA No. 77-2), Raton Natural Gas Company.
CG-2 Docket No. RP73-8, North Penn Gas Company.
CG-3 Docket No. RP72-149, (PGA Nos. 77-5A and 77-6A), Mississippi River Transmission Corporation.
CG-4 Docket Nos. CP76-529 and RP76-84, United Gas Pipe Line Company.
CG-5 Docket Nos. RP72-136 and RP74-19, et al., Florida Gas Transmission Company.
CG-6 Docket No. RP72-156, et al., Texas Gas Transmission Corporation.
CG-7 Docket Nos. AR61-2, AR69-1 and RP73-65, Columbia Gas Transmission Corporation.
CG-8 Docket Nos. AR64-1, et al., and RP73-36, Panhandle Eastern Pipe Line Company.
CG-9 Colorado Interstate Gas Company.
CG-10 Docket No. CI76-341, Ladd Petroleum Corporation.
CG-11 Docket No. CP76-387, Sea Robin Pipe Line Company and Transcontinental Gas Pipe Line Corporation.
CG-12 Docket No. CP76-304, Transcontinental Gas Pipe Line Corporation.
CG-13 Docket No. CP72-182, Transcontinental Gas Pipe Line Corporation and Texas Gas Transmission Corporation.
CG-14 Docket No. CP76-322, Tennessee Gas Pipeline Company.
CG-15 Docket No. CP77-219, Colorado Interstate Gas Company.
CG-16 Docket No. CP73-232, Florida Gas Transmission Company and United Gas Pipe Line Company, Docket No. CI75-243, Mapco Inc., Docket No. CI75-244, Florida Gas Exploration Company.
CG-17 Docket No. CP73-219, Natural Gas Pipeline Company of America.
CG-18 Docket No. CP77-130, Northern Natural Gas Company.
CG-19 Docket No. CP77-207, Texas Gas Transmission Corporation.
CG-20 Docket No. RP77-18, El Paso Natural Gas Company.
CG-21 Docket No. RP77-31, Southern Natural Gas Company.
CG-22 Docket No. RP77-32, South Georgia Natural Gas Company.
CG-23 Docket No. CP76-511, Natural Gas Pipeline Company of America.

KENNETH F. PLUMB,
Secretary.

[S-88-77 Filed 4-1-77;2:12 pm]

3

AGENCY HOLDING THE MEETING: Federal Reserve System.

On Friday, April 8, 1977, at 10:00 a.m. a meeting of the Board of Governors of the Federal Reserve System will be held at the Board's offices at 20th Street and Constitution Avenue NW., Washington, D.C., to consider the following items of official Board business:

1. A major equipment purchase by a Federal Reserve Bank.
2. A major equipment purchase by a Federal Reserve Bank.
3. A possible amendment to the Board's rules of Employee Responsibilities and Conduct with respect to filing statements of employment and financial interests.
4. Any agenda items carried forward from a previously announced closed meeting.

This meeting will be closed to public observation because the items fall under exemptions contained in the Government in the Sunshine Act (5 U.S.C. 552b(c)). Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at (202) 452-3204.

Board of Governors of the Federal Reserve System, April 1, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-89-77 Filed 4-1-77;2:12 pm]

4

AGENCY HOLDING THE MEETING: Renegotiation Board.

CHANGE IN PUBLIC ANNOUNCEMENT

Pursuant to RBR 1482.3(b) of its regulations, the Renegotiation Board hereby announces that the date of its meeting originally scheduled for March 15, 1977, as announced in the FEDERAL REGISTER of March 9, 1977 (42 FR 13167-8), and subsequently changed to April 5, 1977, as announced in the FEDERAL REGISTER of March 28, 1977 (42 FR 16547), is further changed to April 26, 1977.

Dated: April 1, 1977.

GOODWIN CHASE,
Chairman.

[S-87-77-Filed 4-1-77;2:06 pm]

5

AGENCY HOLDING THE MEETING: Federal Deposit Insurance Corporation.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 17227.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11:00 a.m., April 5, 1977.

CHANGES IN THE MEETING: Because of the need for additional staff consideration of the proposal, the memorandum and resolution proposing the publication for comment of a new Part 340 of the Corporation's rules and regulations, to be entitled "Minimum Offering Circular Requirements for Public Distribution of Bank Securities," have been removed from the agenda.

[S-91-77 Filed 4-4-77;9:15 am]

federal register

WEDNESDAY, APRIL 6, 1977

PART II

DEPARTMENT OF THE TREASURY

Office of Revenue Sharing

■

FISCAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS

Interim Regulations

Title 31—Money and Finance

CHAPTER I—MONETARY OFFICES, DEPARTMENT OF THE TREASURY

PART 51—FISCAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS

Interim Regulations

AGENCY: Office of Revenue Sharing, Office of the Secretary.

ACTION: Interim Regulations.

SUMMARY: This notice amends subparts A, E and G of the Office of Revenue Sharing regulations. These amendments are required to conform the current regulations with the changes made by the State and Local Fiscal Assistance Amendments. The purpose of these Amendments is to provide necessary guidance to the recipient governments, and to inform other interested persons of the changes necessitated by the amendments to the General Revenue Sharing Program.

EFFECTIVE DATE: Immediately upon filing in the FEDERAL REGISTER.

FOR FURTHER INFORMATION CONTACT:

William H. Sager, Chief Counsel, Office of Revenue Sharing (202) 634-5182.

SUPPLEMENTARY INFORMATION

SUBPART A

In 31 CFR, Part 51, Subpart A, § 51.0 is being amended to include the State and Local Fiscal Assistance Amendments of 1976 (Pub. L. 94-488) within the scope and application of the regulations. Section 51.2 amends or adds definitions. The definition of entitlement period, § 51.2(f) is amended to include entitlement periods beginning January 1, 1977 and ending September 30, 1980. A new definition of "generally accepted auditing standards" is added to § 51.2(h). Section 51.2 (l) adds a definition of lobbying to reflect a new prohibition on the expenditure of entitlement funds. The definition of recipient governments in § 51.2(m) is amended to include the Louisiana office of the separate law enforcement officers. The definition of unit of local government in § 51.2(p) is amended to remove the reference to "other units of government below the State."

Section 51.3 has been amended by the addition of a new subsection (a) which provides that the time limits for the conduct of an investigation or a compliance review set forth in §§ 51.60 and 51.61 of subpart E shall also apply to investigations and compliance reviews of allegations of violations of the remaining subparts. Section 51.4, extension of time, is deleted. Section 51.5, transfer of funds to secondary recipients, has been redesignated § 51.4.

SUBPART E

The nondiscrimination provisions of 31 CFR, Part 51, Subpart E have been expanded to reflect the changes contained in section 122 of the Revenue Sharing Amendments. Subpart E is retitled nondiscrimination by recipient governments receiving entitlement funds because the provisions of Subpart E have been made applicable to all programs and activities of a recipient government unless such government proves by clear and convincing evidence that entitlement funds were not expended in a particular program or activity.

Section 51.50 is amended to include among the prohibited forms of discrimination, discrimination on the basis of age under the Age Discrimination Act of 1975, handicapped status under section 504 or the Vocational Rehabilitation Act of 1974 and religion, limited by exemptions under the Civil Rights Acts of 1964 and 1968. Section 51.51 is amended by the addition of definitions for age discrimination, finding, handicapped status discrimination, holding, and religious discrimination.

Section 51.52 is amended to include discrimination on the basis of age, handicapped status and religion among the prohibited forms of discrimination. Section 51.52(b) is amended to clarify to which prohibited specific discriminatory practices the prohibited grounds of discrimination apply, particularly the newly added categories of age, handicapped status and religion. To this end, the subsections have been reorganized to group related discriminatory practices together. Section 51.52 is further amended by the addition of a new paragraph (c) which sets forth the situations in which the prohibitions of § 51.52 do not apply. Section 51.52(c)(1) provides that the prohibitions set forth in subsections (a) and (b) of § 51.52 shall not apply where a recipient government can prove by clear and convincing evidence that entitlement funds were not expended, in whole or in part, in a particular program or activity.

Section 51.52(c)(2) provides that the prohibition against discrimination on the basis of handicapped status shall not apply to construction projects commencing prior to January 1, 1977. The commencement of a construction project is defined as the obligation of the recipient government by contract for the physical construction of the project or a portion thereof.

Section 51.53(a) is amended to add age discrimination, discrimination on the basis of handicapped status, and religious discrimination to the prohibited forms of discrimination. A new § 51.53(c) has been added concerning recruitment practices of a recipient government. Current § 51.53(c) has been redesignated § 51.53(d). Section 51.53(e) is amended to provide that employment compliance reviews will be conducted in accordance with the Standards of Title VII of the Civil Rights Act of 1964.

Section 51.54(d)(2) has been amended because of the recent Supreme Court decision in *General Electric* v. *Gilbert* (45 Law Week 4031) which holds that it is not sex-based discrimination under Title VII of the Civil Rights Act of 1964 for an employer to exclude pregnancy-related disabilities from a disability insurance plan which provides general coverage. The amended section now provides that recipient government shall not have an employment policy which treats temporary disabilities caused by pregnancy in a different manner with respect to commencement or duration of employment or leave.

Section 51.56 provides that the Office of Revenue Sharing will follow the EEOC guidelines on discrimination on the basis of national origin. The EEOC guidelines are set forth in § 51.56 in their entirety. Section 51.57 provides that the exemption from discrimination on the basis of religion contained in the Civil Rights Act of 1964 and 1968 also apply to programs and activities funded by recipient governments which receive entitlement funds under the Act. The purpose of the exemption is to assure that recipient governments will not be charged with discrimination on the basis of religion through the support of programs and activities of religious institutions. Section 51.57(b) provides that the Office of Revenue Sharing will follow the EEOC guidelines of discrimination on the basis of religion which guidelines are set forth in § 51.57 in their entirety. Current § 51.55 redesignated § 51.58 and is amended to provide that the chief executive officer of a recipient government is required to assure that in the event a Federal or State court or Federal administrative agency makes a holding against the recipient government, a certified copy of the holding will be forwarded to the Director within 10 days of receipt by the recipient government.

Current § 51.56 is redesignated § 51.59. Section 51.59(a) is amended to provide that where information required of a recipient government is in the exclusive possession of another who refuses to furnish the Office of Revenue Sharing or its authorized representatives with such information, it shall be the sole responsibility of the recipient government to provide the information. Mere certification of the failure to acquire the information is no longer sufficient. Section 51.59(b) is amended to include data concerning age and handicapped status among the data on which a recipient government must keep records. Current § 51.58 is redesignated § 51.60. Section 51.60(a), compliance reviews, is amended to provide that such reviews shall be completed within 180 days of initiation. Section 51.60(b) is amended to provide that a recipient government determined to have violated the provisions of this subpart shall take such action as approved by the Director to achieve compliance. A new § 51.60(c) sets forth the adoption of the Equal Employment Opportunity Coordinating Counsel's policy statements on affirmative action programs for State and local government agencies (41 F.R. 38814), which appears in this section in its entirety.

Current § 51.57 is redesignated § 51.61 and is retitled "administrative complaints and investigations." Section 51.61 (b)(1) requires the Director to advise a recipient government of an administrative complaint received against it within 30 days of the receipt of the complaint. Section 51.61(b)(2) provides that an investigation will be made by the Office of

Revenue Sharing within 60 days of the receipt of the complaint if the Director has reason to believe that the recipient government has failed to comply. Section 51.61(b)(3) provides that 90 days after the filing of a complaint the Director shall make a finding. Section 51.61(b)(4) provides that the agreements between agencies will be used to the maximum extent feasible to facilitate enforcement of the provisions of Subpart E.

Section 51.62 defines the term "finding" and describes the effect of a finding of noncompliance upon a recipient government. Section 51.62(b) provides that a finding based upon an administrative complaint shall be made within 90 days of the filing of an administrative complaint with the Director. The recipient government shall be notified of a finding of noncompliance made against it within ten days. Section 51.62(c) provides that a finding of noncompliance may result from a holding by a State or local administrative agency. Section 51.62(b) provides that a finding of noncompliance with the provisions of subpart E need not result from an administrative complaint.

Section 51.63 provides that upon written request a complainant may be advised by the Director as to the status of investigations of administrative complaints. Further, the Director shall notify the complainant of the nature of a finding ten days after the finding is made.

Section 51.65(a) provides that the Director, upon making a finding of noncompliance, shall notify the recipient government that it has 30 days within which to demonstrate compliance or enter into a compliance agreement. By the 30th day the Director shall issue a determination as to whether a recipient government has failed to comply with the provisions of Subpart E. Section 51.65(b) provides that upon making a determination that a reicipient government is in noncompliance with the provisions of subpart E, the Director shall notify the government that failure to enter compliance or to request a hearing within 10 days will result in the suspension of further payments of entitlement funds to the government.

Section 51.66(a) provides that where a recipient government requests a hearing it shall be held before an administrative law judge and shall commence within 30 days of the request. Section 51.66(b) provides that where an administrative law judge issues a preliminary finding that the recipient government has failed to comply with the provisions of subpart E, the Director shall suspend temporarily further payment of entitlement funds to the recipient government pending completion of the hearing and final adjudication by the administrative law judge. Upon the completion of a hearing on the merits, if the administrative law judge issues a determination that the recipient government is in noncompliance, the Director shall, upon the initial decision and order of the administrative law judge, suspend further payment of entitlement funds, continue the temporary suspension previously invoked, or terminate the payment of entitlement funds, unless the recipient government enters into compliance before the 31st day after such determination. Section 51.66(c) provides that where the administrative law judge makes a preliminary determination that the recipient government has not failed to comply with the provisions of Subpart E, any temporary suspension of funds will be terminated and the Director will promptly pay over entitlement funds, if any, temporarily suspended.

Section 51.67(a) provides that upon receipt of a holding by a Federal court, State court, or Federal administrative law judge, the Director shall notify the recipient government of the noncompliance. Section 51.67(b) provides that the holding by an administrative law judge shall have been preceded by notice and opportunity for a hearing conducted pursuant to the provisions of the Administrative Procedure Act (5 U.S.C. 556).

Section 51.67(c) provides that within 30 days of notification by the Director that the recipient government is in noncompliance, pursuant to the holding of a State or Federal court or a Federal administrative law judge, the recipient government shall have the opportunity to informally present evidence only as to whether the noncompliance was in a program or activity funded in whole or in part with entitlement funds. The holding of noncompliance shall be treated as conclusive. Section 51.67(d) provides that where a holding is reversed, any proceedings on the basis of that holding by the Director including the termination or suspension of entitlement funds, shall be discontinued and entitlement funds temporarily withheld, if any, shall be repaid.

Section 51.68(a) provides that the Director shall issue a determination of noncompliance within 30 days after notifying the recipient government of its noncompliance unless a compliance agreement is entered into with the government. Section 51.68(b) provides that upon making a determination of noncompliance the Director shall notify the recipient government that it has ten days to come into compliance or request a hearing before an administrative law judge, or further entitlement payments to the recipient government shall be suspended. A hearing requested by the recipient government shall commence within 30 days of receipt of the request. The administrative law judge, within 30 days of the commencement of a hearing, shall issue a preliminary finding as to whether the particular program or activity was funded with entitlement funds. If there is a finding of noncompliance, entitlement funds will immediately be suspended by the Director pending final decision of the administrative law judge unless a compliance agreement between the Director and the recipient government is entered into.

Section 51.68(c) provides that after a hearing on the merits the administrative law judge shall make his initial findings and decision (not to be confused with the preliminary decision) based upon the evidence of the whole record, that the recipient government has failed to comply with the provisions of subpart E. The Director shall, within 31 days after such findings and decision indefinitely suspend payment of entitlement funds, continue the suspension invoked earlier or terminate the payment of entitlement funds, unless a compliance agreement is entered into between the recipient government and the Director within that time period.

Section 51.69(a) provides that the initial decision of the administrative law judge, (not to be confused with the preliminary decision) made after the conclusion of the hearing on the merits, shall be based upon the findings of fact and the conclusions of law and shall consist of an order either to suspend, terminate, or resume payment of entitlement funds to recipient governments. Section 51.69(b) defines suspension of entitlement funds. Section 51.69(c) defines termination of entitlement funds.

Section 51.70 sets forth the steps which must be taken in order to resume entitlement payments which have been suspended. Section 51.70(a) provides that payments may be resumed when the recipient government enters into a compliance agreement with the Director and complies with the provisions thereof. Section 51.70(b) provides that payments suspended pursuant to a preliminary decision by the administrative law judge may be resumed when the administrative law judge holds that the recipient government is in compliance with the provisions of subpart E. Section 51.70(c) provides that payments may be resumed where the recipient government complies fully with a dispositive order of the court or an administrative law judge. Section 51.70(d) provides that payments may be resumed where a court or administrative law judge, upon rehearing of a proceeding, finds that the recipient government was in compliance. Section 51.70(c) provides for resumption of suspended entitlement funds where an appellate court reverses the holding of noncompliance by a lower court or an administrative law judge upon which the Director's suspension of entitlement funds was based.

Section 51.71(a) defines a compliance agreement entered into between the Federal or State agency responsible for prosecuting the claim and the chief executive officer of the recipient government against whom discrimination is alleged. The section further makes it discretionary with the Director as to whether or not he will accept such agreement. Section 51.71(b) sets forth the requirements of a compliance agreement negotiated between the Director and the chief executive officer of the recipient government. Section 51.71(c) provides that the Director shall submit copies of the compliance agreement to the complainant within 15 days of the execution or approval of the agreement.

Section 51.72 provides that any hearing shall be conducted pursuant to section 7 of the Administrative Procedure

Act (5 U.S.C. 556) and the applicable provisions of Subpart G of the regulations.

Current § 51.61 is redesignated § 51.73 and further amended to provide certain clarifying definitions. Section 51.73(a) sets forth a new requirement that recipient governments maintain separate records of real and tangible personal property having a value in excess of $1,000. This paragraph further provides that upon outright transfer of bona fide sale of the property, the provisions of § 51.73 will no longer be applicable.

Current § 51.62 is redesignated § 51.74 and retitled Agreements Between Agencies. Section 51.74(a) sets forth the purposes for which cooperative agreements are to be formed. Section 51.74(b) sets forth the content of such agreements. Section 51.74(c) provides that the Director may not delegate, pursuant to any agreement, the authority to review the preliminary and initial decisions of an administrative law judge.

A new § 51.75 provides that the Attorney General of the United States may bring civil action against any State or unit of local government which he has reason to believe has engaged in or is engaging in a pattern and practice of discrimination. Section 51.75(b) sets forth the relief a court may grant upon holding that a State or unit of local government is engaging in a pattern or practice of discrimination.

SUBPART G

Amendments to 31 CFR Part 51, subpart G are minimal. They primarily consist of redesignations and the change of references from the Secretary to the Director. Sections 51.80 to 51.105 are redesignated §§ 51.200 to 51.225 (see 42 FR 2422, January 11, 1977). Section 51.200 is amended to specifically remove subpart E from the scope of this subpart where provision is otherwise made.

OTHER PROVISIONS

Amendments to subpart B or title 31, CFR, part 51 (relating to Assurances, Reports, Public Participation and Public Hearings) were published in the FEDERAL REGISTER as interim regulations on January 10, 1977 (42 FR 2196).

Amendments to subpart F of title 31, CFR, part 51, relating to Fiscal Procedures and Auditing, were published in the FEDERAL REGISTER as interim regulations on January 11, 1977 (42 FR 2422).

NEED FOR IMMEDIATE GUIDANCE

Because these interim regulations are necessary to provide immediate guidance to recipient governments it is found impractical to issue these interim regulations with the notice and public procedure thereon under 5 U.S.C. 553(b) or subject to the effective date limitations of 5 U.S.C. 553(d).

WRITTEN-COMMENTS SOLICITED

Consideration will be given to any written comments or suggestions pertaining to these amendments to subparts A, E and G which are received on or before June 6, 1977. Written comments shall be addressed to the Director, Office of Revenue Sharing (Symbols CC), Department of the Treasury, Washington, D.C. 20226. Written comments submitted in response to this solicitation will be available to the public upon request unless the comments are exempt from disclosure under the Freedom of Information Act, (5 U.S.C. 552) and the Department invokes the applicable exemption. A file of all written comments will be indexed and logged with the Treasury Library.

These amendments and interim regulations are issued under the authority of the State and Local Fiscal Assistance Act of 1972, as amended, Title I, Pub. L. 92-512 and the State and Local Fiscal Assistance Amendments of 1972, Pub. L. 94-488, (31 U.S.C. 1221-1263) and Treasury Department Order No. 224, dated January 26, 1973 (38 FR 3342).

The Department of the Treasury has determined that these amendments and interim regulations do not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Orders 11821 and 11949, and OMB Circular A-107.

Dated: March 31, 1977.

ANTHONY M. SOLOMON,
Under Secretary for Monetary Affairs.

Subpart A—General Information

AUTHORITY: State and Local Assistance Act of 1972, as amended, Title I, Pub. L. 92-512; State and Local Fiscal Assistance Amendments of 1972, Pub. L. 94-488 (31 U.S.C. 1221-1263); Treasury Department Order No. 224, dated January 26, 1973 (38 FR 3342).

Subpart A—General Information

§ 51.0 Scope and application of regulations.

(a) *In general.* The rules and regulations in this subpart are prescribed for carrying into effect the State and Local Fiscal Assistance Act of 1972 (Pub. L. 92-512) applicable to entitlement periods beginning January 1, 1973 and the State and Local Fiscal Assistance Amendments of 1976 (Pub. L. 94-488) applicable to entitlement periods beginning January 1, 1977. Subpart A sets forth general information and definitions of terms used in this part. Subpart B of this part prescribes reports required under this part and publicity and public hearings concomitant thereto. Subpart C of this part contains rules regarding the computation, allocation and adjustment of entitlements. Subpart D of this part prescribes prohibitions and restrictions on the use of funds. Subpart E of this part contains the nondiscrimination provisions applicable to programs funded with revenue sharing funds. Subpart F of this part prescribes fiscal procedures and auditing requirements. Subpart G of this part contains rules relating to procedure and practice requirements where a recipient government has failed to comply with any provision of this part.

(b) *Saving clause.* Any cause of action arising out of noncompliance with the interim regulations covering payments made for the first and second entitlement periods (January 1, 1972, through June 30, 1972, and July 1, 1972, through December 31, 1972) shall continue to be covered by such regulations and any proceeding commenced thereon shall be governed by the procedures set forth in Subpart G of this part. Any cause of action arising out of the expenditure of entitlement payments in violation of the prohibitions and restrictions of subparts D, E and F of this part prior to January 1, 1977 shall be covered by regulations in effect on December 31, 1976 and any proceedings commenced thereon shall be governed by the procedures set forth in Subpart G of this part.

§ 51.1 Establishment of Office of Revenue Sharing.

There is established in the Office of the Secretary of the Treasury the Office of Revenue Sharing. The office shall be headed by a Director who shall be appointed by the Secretary of the Treasury. The Director shall perform the functions, exercise the powers and carry out the duties vested in the Secretary of the Treasury by the State and Local Fiscal Assistance Act of 1972, Title I, Pub. L. 92-512 and the State and Local Fiscal Assistance Amendments of 1976, Pub. L. 94-488. A reference to the Director in the masculine gender shall not be construed to exclude the feminine gender.

§ 51.2 Definitions.

As used in this part (except where the context clearly indicates otherwise, or where the term is defined elsewhere in this part) the following definitions shall apply:

(a) "Act" means the State and Local Fiscal Assistance Act of 1972, Title I of Public Law 92-512, approved October 20, 1972 as amended by the State and local Fiscal Assistance Amendments of 1976, Pub. L. 94-488, approved October 13, 1976. (31 U.S.C. 1221, et seq. as amended).

(b) "Chief executive officer" of a unit of local government means the elected official, or the legally designated official, who has the primary responsibility for the conduct of that unit's governmental affairs. Examples of the "chief executive officer" of a unit of local government may be: The elected mayor of a municipality, the elected county executive of a county, the chairman of a county commission or board in a county that has no elected county executive, the township supervisor, trustee, first selectman, chairman, city manager, or such other official as may be designated pursuant to law by the duly elected governing body of the unit of local government; or the chairman, governor, chief or president (as the case may be) of an Indian tribe or Alaskan native village.

(c) "Department" means the Department of the Treasury.

(d) "Director" means the Director of the Office of Revenue Sharing.

(e) "Entitlement" means the amount of payment to which a State government or unit of local government is entitled as determined by the Director pursuant to an allocation formula contained in the Act and as established by regulation under this part.

(f) "Entitlement funds" means the amount of funds paid or payable to a State government or unit of local government for the entitlement period.

(g) "Entitlement period" means one of the following periods of time:

(1) The 6-month period beginning January 1, 1973, and ending June 30, 1973.

(2) The fiscal year beginning July 1, 1973, and ending June 30, 1974.

(3) The fiscal year beginning July 1, 1974, and ending June 30, 1975.

(4) The fiscal year beginning July 1, 1975, and ending June 30, 1976.

(5) The 6-month period beginning July 1, 1976, and ending December 31, 1976.

(6) Entitlement Period Eight is the 9-month period beginning January 1, 1977, and ending September 30, 1977.

(7) Entitlement Period Nine is the fiscal year beginning October 1, 1977, and ending September 30, 1978.

(8) Entitlement Period Ten is the fiscal year beginning October 1, 1978, and ending September 30, 1979.

(9) Entitlement Period Eleven is the fiscal year beginning October 1, 1979, and ending September 30, 1980.

(h) Generally accepted auditing standards means those auditing standards pronounced by the American Institute of Certified Public Accountants and incorporated in its Statements on Audit Standards, and further included in summary form in the Standards for Audit of Governmental Organizations, Programs, Activities, and Functions as reissued in 1974 by the Comptroller General of the United States.

(i) "Governor" means the Governor of any of the 50 States or the Mayor of the District of Columbia.

(j) "Independent public accountants" means independent certified public accountants, and licensed public accountants licensed on or before December 31, 1970, certified or licensed by a regulatory authority of a State or other political subdivision of the United States.

(k) "Indian tribes and Alaskan native villages" means those Indian tribes and Alaskan native villages which have a recognized governing body and which perform substantial governmental functions. Certification to the Director by the Secretary of the Interior (or by the Governor of a State in the case of a State affiliated tribe) that an Indian tribe or an Alaskan native village has a recognized governing body and performs substantial governmental functions, shall constitute prima facie evidence of that fact.

(l) "Lobbying." See § 51.44 for definition of this term.

(m) "Recipient government" means a State government or unit of local government as defined in this section, or the office of the separate law enforcement officer for any parish in the State of Louisiana other than the Parish of Orleans.

(n) "Secretary" means the Secretary of the Treasury.

(o) "State government" means the government of any of the 50 States or the District of Columbia.

(p) "Unit of local government" means the government of a county, municipality, or township, which is a unit of general government and which shall be determined on the basis of the same principles as used by the Bureau of the Census for general statistical purposes. The term "unit of local government" shall also include the recognized governing body of an Indian tribe or Alaskan native village which performs substantial governmental functions. The District of Columbia, in addition to being treated as a State, shall also be treated as a county area which has no units of local government (other than itself) within its geographic area.

§ 51.3 Procedure for effecting compliance.

(a) *In general.* Whenever the Director receives an administrative complaint, audit report, or other information alleging violation of any provision of this part, other than subpart E, he shall employ the time limits for the conduct of an investigation or a compliance review set forth in §§ 51.60 and 51.61 of subpart E of this part.

(b) *Determination of noncompliance.* If the Director determines that a recipient government has failed to comply substantially with any provision of this part, other than subpart E, and after giving reasonable notice and opportunity for a hearing to the Governor of the State or the chief executive officer of the unit of local government pursuant to subpart G of this part, the Director shall notify the recipient government that if it fails to take corrective action within 60 days from the date of receipt of such notification further payments to it will be withheld for the remainder of the entitlement period and for any subsequent entitlement period until such time as the Director is satisfied that appropriate corrective action has been taken and that there will no longer be any failure to comply. Until he is satisfied, the Director shall make no further payments of such amounts.

(c) *Determination to delay payment.* Whenever the Director determines that a recipient government has failed to comply with the reporting or assurance requirements of subpart B, he may delay payment of entitlement funds to such recipient. A determination to delay payment of entitlement funds shall not be subject to the procedure set forth in paragraph (a) of this section and shall be in effect only for such time as is necessary to effect compliance.

§ 51.4 Transfer of funds to secondary recipients.

Those prohibitions and restrictions set forth in Subparts D, E, and F of this part which are applicable to a recipient government's entitlement funds continue to be applicable to such funds if they are transferred to another governmental unit or private organization. A violation of Subparts D, E, and F of this part by a secondary recipient shall constitute a violation by the recipient government and the applicable penalty shall be imposed on the recipient government.

Subpart E—Nondiscrimination by Recipient Governments Receiving Entitlement Funds

Sec.

AUTHORITY: State and Local Assistance Act of 1972 as amended, Title I, Pub. L. 92-512; State and Local Fiscal Assistance Amendments of 1972, Pub. L. 94-480 (31 U.S.C. 1221-1263); Treasury Department order No. 224, dated January 26, 1973 (38 FR 3342).

Subpart E—Nondiscrimination by Recipient Governments Receiving Entitlement Funds

§ 51.50 Purpose.

The purpose of this subpart is to effectuate section 122 of the Act to the end that no person in the United States shall, on the ground of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity of a recipient government, which government receives funds made available under subpart A. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provied in Section 504 of individual as provided in section 504 of prohibition against discrimination on the basis of religion as well as any exemption from such prohibition, as pro-

vided in the Civil Rights Act of 1964 or the Civil Rights Act of 1968, shall also apply to any such program or activity.

§ 51.51 Definitions.

Unless the context requires otherwise, as used in this subpart, the term:

(a) "Age discrimination" refers to any discrimination on the basis of age under the Age Discrimination Act of 1975.

(b) "Compliance review" means a review of a recipient's selected employment practices, facilities, or delivery of services for compliance with the provisions of this part.

(c) "Facility" includes all or any part of structures, equipment, or other real or personal property or interests therein.

(d) "Finding"—See § 51.62 for meaning of this term.

(e) "Funded" means funds have been made available for expenditure in a designated program or activity through legislative action.

(f) "Handicapped status discrimination" refers to discrimination with respect to an otherwise qualified handicapped individual under § 504 of the Rehabilitation Act of 1973.

(g) "Holding"—See § 51.67 for meaning of this term.

(h) "Investigation" includes both fact-finding efforts and attempts to secure the voluntary resolution of complaints.

(i) "Program or activity" means any function conducted by an agency or department of the recipient government which government has received or is receiving entitlement funds, or by any other unit of government or private contractor which has received or is receiving entitlement funds from the recipient government.

(j) "Religious discrimination" refers to any prohibition against discrimination on the basis of religion as well as any exemption from such prohibition as provided in the Civil Rights Act of 1964 or the Civil Rights Act of 1968.

§ 51.52 Discrimination prohibited.

(a) *In general.* No person in the United States shall, on the ground of race, color, national origin, or sex, be excluded from participation under, denied the benefits of, or be subjected to discrimination under any program or activity of a recipient government which government receives funds made available under Subtitle A of the Act. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 (hereinafter referred to as discrimination on the basis of age) or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973, (hereinafter referred to as discrimination on the basis of handicapped status) or any prohibition against discrimination on the basis of religion, as well as any exemption from such prohibition as provided in the Civil Rights Act of 1964 or the Civil Rights Act of 1968 (hereinafter referred to as discrimination on the basis of religion) shall also apply to any such program or activity.

(b) *Specific discriminatory actions prohibited.* (1) A recipient government shall not, on the ground of race, color, national origin, or sex:

(i) Deny any service or other benefit provided.

(ii) Provide any service or other benefit which is different, or is provided in a different form from that provided to others.

(iii) Subject any person to segregated or separate treatment in any facility or in any matter or process related to receipt of any service or benefit.

(iv) Restrict in any way the enjoyment of any advantage or privilege enjoyed by others receiving any service or benefit.

(v) Treat an individual differently from others in determining whether the individual satisfies any admission, enrollment, eligibility, membership, or other requirement or condition which individuals must meet in order to be provided any service or other benefit.

(2) A recipient government shall not on the ground of race, color, national origin, sex, handicapped status, age or religion:

(i) Deny any person an opportunity to participate in a program or activity as an employee.

(ii) Deny any person an equal opportunity to participate as appointed members of planning or advisory bodies in connection with the disposition of entitlement funds.

(3) In areas of employment, a recipient government may not utilize criteria or methods of administration which have the effect of:

(i) Subjecting individuals to discrimination on the basis of race, color, national origin, sex, age, handicapped status, or religion.

(ii) Perpetuating the results of past discriminatory practices.

(iii) Defeating or substantially impairing the accomplishment of the objectives of the program or activities with respect to individuals of a particular race, color, national origin, sex, age, handicapped status, or religion.

(4) A recipient government may not on the ground of race, color, national origin, or sex make selections of site or location of facilities which have the effect of:

(i) Excluding individuals from such facilities.

(ii) Denying the individuals the benefits of such facilities.

(iii) Subjecting individuals using the facilities to discrimination.

(5) Recipient governments are encouraged to take action with entitlement funds to ameliorate an imbalance in services or facilities provided to any geographic area or specific group in order to overcome the effects of prior discriminatory practice or usage. If a recipient government funds a program or activity which is found to provide an imbalance of services or facilities to persons protected by this subpart, then such imbalance shall be ameliorated.

(6) The enumeration of specific forms of prohibited discrimination in this paragraph does not limit the generality of the prohibition in paragraph (a) of this section.

(c) *Exemptions.* The provisions of paragraphs (a) and (b) shall not apply:

(1) Where a recipient government demonstrates by clear and convincing evidence that a program or activity, with respect to which discrimination is alleged, is not funded in whole or in part with entitlement funds.

(2) To construction projects commenced prior to January 1, 1977, with respect to discrimination on the basis of handicapped status. A construction project shall be deemed to have commenced when the recipient government has obligated itself by contract for the physical construction of the project or any portion of the project.

§ 51.53 Employment discrimination.

(a) *Employment practices.* In general, employment practices mean all terms and conditions of employment including recruitment, recruitment advertising, hiring, layoff, termination, upgrading, demotion, transfer, rates of pay, fringe benefits, training, or other forms of compensation, use of facilities, and other terms and conditions of employment. A recipient government which receives entitlement funds may not (through contractual or other arrangements) subject any individual to employment discrimination on the ground of race, color, national origin, sex, age, handicapped status, or religion.

(b) *Employee selection procedures.* The Equal Employment Opportunity Commission, in carrying out its responsibilities in ensuring compliance with title VII of the Civil Rights Act of 1964, has published Guidelines on Employee Selection Procedures (29 CFR Part 1607) to assist in establishing and maintaining equal employment opportunities. Among other things, these Guidelines forbid the use of employee selection practices, procedures, and devices (such as tests, minimum educational levels, and the like) which disqualify a disproportionate number of minority individuals or women for employment and which are not related to job performance. Recipient governments using selection procedures which are not in conformity with the EEOC Guidelines shall, upon request of the Director, set forth the reasons for any such nonconformity.

(c) *Recruitment practices of recipient governments.* Recruitment practices of recipient governments should be analyzed to determine whether they are making information about job opportunities equally available to minority groups and women. Where racial, ethnic or sex groups are being or have been denied employment opportunities, or are underutilized in a job classification or classifications, the use of recruiting procedures designed to attract members of racial, ethnic or sex groups which have been denied employment opportunities is permissible and may be required to comply with these regulations.

(d) *Self-evaluation.* Recipient governments are expected to conduct a continuing program of self-evaluation to as-

certain whether any of their recruitment, employee selection, or promotional policies (or lack thereof) directly or indirectly have the effect of denying equal employment opportunities to minorities or women.

(e) *Employment compliance reviews.* Compliance reviews of recipient governments will be scheduled by the Office of Revenue Sharing, giving priority to any recipient government receiving entitlement funds which shows a significant disparity between the percentage of minorities or women in the relevant work force and the percentage of minority or women employees in the applicable government. On such reviews the standards of Title VII of the Civil Rights Act of 1964 shall apply.

§ 51.54 Discrimination on the basis of sex.

(a) *General.* No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in recruitment, hiring, or employment, whether full-time or part-time, under any program or activity funded in whole or in part by a recipient government which receives entitlement funds.

(b) *Recruitment and advertisement.* (1) Recipient governments engaged in recruiting activity shall recruit employees of both sexes for all jobs.

(2) Advertisements in newspapers and other media for employment shall not express a sex preference. The placement of an advertisement in columns headed "Male" or "Female" will be considered to be a discriminatory limitation.

(3) A recipient government shall not recruit primarily or exclusively at entities which furnish as applicants only or predominantly members of one sex if such recruitment has the effect of discriminating on the basis of sex.

(c) *Job policies and practices.* (1) Employees of both sexes shall have an equal opportunity to any available job that he or she is qualified to perform.

(2) Recipient governments shall not make any distinction based upon sex in employment opportunities, wages, hours or other conditions of employment. It shall be an unlawful employment practice for an employer to have a pension or retirement plan which establishes different optional or compulsory retirement ages based on sex. It shall be an unlawful employment practice for an employer to provide for both unequal benefits and unequal contributions in the areas of insurance, pension or retirement plans, welfare or other fringe benefit programs. Further, if shall be an unlawful employment practice for an employer to provide for either unequal benefits or unequal contributions in such areas unless such unequal benefits or unequal contributions are directly related to actuarial differences. Proof of such actuarial differences shall be provided by the recipient government upon the request of the director. In the areas of insurance, pensions, welfare programs and other fringe benefits, it shall be an unlawful employment practice for a recipient government to make available benefits for the wives of male employees which are not made available for female employees; or to make available benefits to the husbands of female employees, which are not made available for male employees.

(3) Any distinction between married males and married females and any distinction between unmarried males and unmarried females will be considered to be a distinction made on the basis of sex. Similarly, a recipient government must not deny employment to women with young children unless it has the same exclusionary policies for men; or terminate an employee of one sex in a particular job classification upon reaching a certain age unless the same rule is applicable to persons of the opposite sex.

(4) A recipient government may not refuse to hire men or women, or deny men or women a particular job because there are no separate restrooms or other separate facilities. The recipient government's policies and practices shall assure that appropriate facilities are available for use by both sexes.

(5) Recipient governments may not deny any employee the right to any job, which the employee is qualifield to perform, in reliance upon a State "protective" law that does not apply equally to both sexes.

(6) A recipient government shall not:

(i) Classify a job as being for males or for females;

(ii) Maintain or establish separate lines of progression, seniority lists, career ladders, tenure, systems, position descriptions or job requirements which are based on sex or which classify persons on the basis of sex unless such procedure is dictated by the provisions of an Affirmative Action Program.

(d) *Marital or parental status.* In any program or activity funded in whole or in part by a recipient government which receive entitlement funds:

(1) *Family status.* A recipient government shall not treat an employee or applicant for employment differently on the basis of sex in any employment action or policy because of the employee's or applicant's marital status or status as a parent.

(2) *Pregnancy as a basis for employment action.* A recipient government shall not have a written or unwritten policy which results in different treatment of temporary disabilities caused by pregnancy with respect to the commencement or duration of employment or leave.

(3) *Sex as a bona fide occupational qualification.* Nothing in these regulations shall prohibit the hiring of employees of one sex if sex is a bona fide occupational qualification. A bona fide occupational qualification is only allowed where there is a reasonable factual basis to believe that all, or substantially all, of one sex are unable to perform the job in question. Further, the burden of demonstrating that sex is a bona fide occupational qualification for a given job rests on the recipient government.

§ 51.55 [Reserved]

§ 51.56 Discrimination on the basis of national origin.

The Equal Employment Opportunity Commission has adopted guidelines on discrimination on the basis of national origin. These guidelines provide practical assistance to enable recipient governments to bring themselves into compliance with Federal law. Recipient governments using selection procedures which are not in conformity with the E.E.O.C. Guidelines shall, upon the request of the Director set forth the reasons for such nonconformity. The Equal Employment Opportunity Commission guidelines are as follows:

§ 1606.1 *Guidelines on discrimination because of national origin.*

(a) The Commission is aware of the widespread practices of discrimination on the basis of national origin, and intends to apply the full force of law to eliminate such discrimination. The bona fide occupational qualification exception as it pertains to national origin cases shall be strictly construed.

(b) Title VII is intended to eliminate covert as well as the overt practices of discrimination, and the Commission will, therefore, examine with particular concern cases where persons within the jurisdiction of the Commission have been denied equal employment opportunity for reasons which are grounded in national origin considerations. Examples of cases of this character which have come to the attention of the Commission include: The use of tests in the English language where the individual tested came from circumstances where English was not that person's first language or mother tongue, and where English language skill is not a requirement of the work to be performed; denial of equal opportunity to persons of a specific national origin; denial of equal opportunity because of membership in lawful organizations identified with or seeking to promote the interests of national groups; denial of equal opportunity because of attendance at schools or churches commonly utilized by persons of a given national origin; denial of equal opportunity because their name or that of their spouse reflects a certain national origin; and denial of equal opportunity to persons who as a class of persons tend to fall outside national norms for height and weight where such height and weight specifications are not necessary for the performance of the work involved.

(c) Title VII of the Civil Rights Act of 1964 protects all individuals, both citizens and noncitizens, domiciled or residing in the United States, against discrimination on the basis of race, color, religion, sex, or national origin.

(d) Where discrimination on the basis of citizenship against a lawfully immigrated alien residing in the United States has the purpose or effect of discrimination against persons of a particular national origin, such person may not be discriminated against on the basis of citizenship, except that it is not an unlawful employment practice for an employer pursuant to section 703(g), to refuse to employ any person who does not fulfill the requirements imposed in the interests of national security pursuant to any statute of the United States or any Executive Order of the President respecting the particular position or the particular premises in question.

(e) In addition, some states have enacted laws prohibiting the employment of noncitizens. Where such laws have the purpose

of effect of discrimination on the basis of national origin, they are in conflict with and are, therefore, superseded by Title VII of the Civil Rights Act of 1964, as amended. (Sec. 713(a), 78 Stat. 265; 42 U.S.C. 2000e-12) (35 FR 421, Jan. 13, 1970; 39 FR 10123, Mar. 18, 1974.)

§ 51.57 Discrimination on the basis of religion.

(a) *In general.* Any prohibition against discrimination on the basis of religion, or any exemption from such discrimination, as provided in the Civil Rights Act of 1964 or title VIII of the Act of April 16, 1968, hereafter referred to as the Civil Rights Act of 1968, shall apply to any program or activity of a recipient government which receives entitlement funds under the Act.

(b) *EEOC guidelines.* The Equal Employment Opportunity Commission has adopted guidelines on discrimination on the basis of religion. These guidelines provide practical assistance to enable recipient governments to bring themselves into compliance with Federal law and recipient governments using selection procedures which are not in conformity with the E.E.O.C. Guidelines shall upon the request of the Director, set forth the reasons for such nonconformity. The E.E.O.C. guidelines are as follows:

§ 1605.1 *Observation of the Sabbath and other religious holidays.*

(a) Several complaints filed with the Commission have raised the question whether it is discrimination on account of religion to discharge or refuse to hire employees who regularly observe Friday evening and Saturday, or some other day of the week, as the Sabbath or who observe certain special religious holidays during the year and, as a consequence, do not work on such days.

(b) The Commission believes that the duty not to discriminate on religious grounds, required by section 703(a)(1) of the Civil Rights Act of 1964, includes an obligation on the part of the employer to make reasonable accommodations to the religious employees where such accommodations can be made without undue hardship on the conduct of the employer's business. Such undue hardship, for example, may exist where the employee's needed work cannot be performed by another employee of substantially similar qualifications during the period of absence of the Sabbath observer.

(c) Because of the particularly sensitive nature of discharging or refusing to hire an employee or applicant on account of his religious beliefs, the employer has the burden of proving that an undue hardship rends the required accommodations to the religious needs of the employee unreasonable.

(d) The Commission will review each case on an individual basis in an effort to seek an equitable application of these guidelines to the variety of situations which arise due to the varied religious practices of the American people. (Sec. 713(a), 78 Stat. 265; 42 U.S.C. 2000e-12) (32 FR 10298, July 13, 1967.)

§ 51.58 Assurances required.

(a) *General.* In order to qualify for any payment of entitlement funds for any entitlement period, each Governor of a State or each chief executive officer of a unit of local government shall, prior to the beginning of each entitlement period, executive to the satisfaction of the Director an assurance that all programs and activities of a recipient government will be conducted in compliance with the requirements of this subpart. The chief executive officer is also required to assure that in the event a Federal or State court or Federal administrative law judge makes a holding as defined in § 51.67 of this subpart against the recipient government, such recipient government will forward a certified copy of the holding to the Director within 10 days of receipt by the recipient government. Assurances required under this paragraph shall be submitted pursuant to § 51.10(b) and shall be in such form and detail as prescribed by the Director.

(b) *Failure to comply.* Any recipient government which fails to comply with paragraph (a) of this section shall have its entitlement payments withheld for the applicable entitlement period and shall be entitled to notice and opportunity for hearing. However, notwithstanding § 51.65 no payments shall be made for the applicable entitlement period pending the outcome of such hearing.

§ 51.59 Compliance information and reports.

(a) *Access to sources of information.* Each recipient government shall permit access by authorized representatives of the Office of Revenue Sharing and the Department of Justice during normal business hours to such of its facilities, books, records, accounts, personnel, and other sources of information as may be relevant to a determination of whether the recipient government is complying with this subpart. Where any information required of a recipient government is in the exclusive possession of any other agency, institution, or person, and such agency, institution, or person fails or refuses to furnish this information to the Office of Revenue Sharing or its authorized representatives, the responsibility for providing such information shall remain solely with the recipient government.

(b) *Compliance reports.* Each recipient government shall keep such records and submit on request of the Director timely, complete and accurate compliance reports at such times, in such form, and containing such information, as the Director may determine to be necessary or useful to enable the Office of Revenue Sharing to ascertain whether the recipient government has complied or is complying with the requirements of this subpart. Recipient governments shall make available on request of Office of Revenue Sharing officials, racial, ethnic, male/female, and national origin data showing the extent to which minorities and females will be beneficiaries of entitlement funds. The recipient government shall also make available on request similar data concerning aged and handicapped status. In the case of any program under which a primary recipient government extends or will extend entitlement funds to any other secondary recipient, such secondary recipient shall submit such compliance reports to the primary recipient as may be necessary or useful to enable the primary recipient to carry out its obligations as a recipient government under this subpart. Each recipient government shall identify, on request of the Office of Revenue Sharing, any State or local agency which has been legally authorized to monitor its civil rights compliance activities.

§ 51.60 Compliance reviews and affirmative action.

(a) *Compliance reviews.* The Director shall monitor and determine compliance of recipient governments with the requirements of this subpart and of the Act. Compliance reviews will be undertaken from time to time, as appropriate and feasible, at the discretion of the Director. Such reviews shall be completed within 180 days of initiation by the Director.

(b) *Affirmative action.* Any recipient government which has been determined to be in violation of any provisions of this subpart shall take such action as approved by the Director in order to remove or overcome the consequences of such discrimination.

(c) *Equal Employment Opportunity Coordinating Council Policy Statement on Affirmative Action Programs for State and Local Government Agencies.* The Equal Employment Opportunity Coordinating Council has issued a policy statement on Affirmative Action Programs for State and Local Government Agencies. This Statement which has been adopted by the Department of the Treasury (41 FR 38814) provides additional guidance to States and local governments in meeting their affirmative action requirements. The EEOC policy statement is as follows:

EQUAL EMPLOYMENT OPPORTUNITY COORDINATING COUNCIL

AFFIRMATIVE ACTION PROGRAMS FOR STATE AND LOCAL GOVERNMENT AGENCIES POLICY STATEMENT

The Equal Employment Opportunity Coordinating Council was established by Act of Congress in 1972, and charged with responsibility for developing and implementing agreements and policies designed, among other things, to eliminate conflict and inconsistency among the agencies of the Federal government responsible for administering Federal law prohibiting discrimination on grounds of race, color, sex, religion, and national origin. This statement is issued as an initial response to the requests of a number of State and local officials for clarification of the Government's policies concerning the role of affirmative action in the overall Equal Employment Opportunity program. While the Coordinating Council's adoption of this statement expresses only the views of the signatory agehcies concerning this important subject, the principles set forth below should serve as policy guidance for other Federal agencies as well.

1. Equal employment opportunity is the law of the land. In the public sector of our society this means that all persons, regardless of race, color, religion, sex, or national origin shall have equal access to positions in the public service limited only by their ability to do the job. There is ample evidence in all sectors of our society that such equal access frequently has been denied to members of certain groups because of their sex, racial, or ethnic characteristics. The remedy for

such past and present discrimination is twofold.

On the one hand, vigorous enforcement of the laws against discrimination is essential. But equally, and perhaps even more important are affirmative, voluntary efforts on the part of public employers to assure that positions in the public service are genuinely and equally accessible to qualified persons, without regard to their sex, racial, or ethnic characteristics. Without such efforts equal employment opportunity is no more than a wish. The importance of voluntary affirmative action on the part of employers is underscored by Title VII of the Civil Rights Act of 1964, Executive Order 11246, and related laws and regulations—all of which emphasize voluntary action to achieve equal employment opportunity.

As with most management objectives, a systematic plan based on sound organizational analysis and problem identification is crucial to the accomplishment of affirmative action objectives. For this reason, the Council urges all State and local governments to develop and implement results oriented affirmative action plans which deal with the problems so identified.

The following paragraphs are intended to assist State and local governments by illustrating the kinds of analyses and activities which may be appropriate for a public employer's voluntary affirmative action plan. This statement does not address remedies imposed after a finding of unlawful discrimination.

2. Voluntary affirmative action to assure equal employment opportunity is appropriate at any stage of the employment process. The first step in the construction of any affirmative action plan should be an analysis of the employer's work force to determine whether percentages of sex, race or ethnic groups in individual job classification are substantially similar to the percentages of those groups available in the work force in the relevant job market who possess the basic job related qualifications.

When substantial disparities are found through such analyses, each element of the overall selection process should be examined to determine which elements operate to exclude persons on the basis of sex, race, or ethnic group. Such elements include, but are not limited to, recruitment, testing, ranking, certification, interview, recommendations for selection, hiring, promotion, etc. The examination of each element of the selection process should at a minimum include a determination of its validity in predicting job performance.

3. When an employer has reason to believe that its selection procedures have the exclusionary effect described in paragraph 2 above, it should initiate affirmative steps to remedy the situation. Such steps, which in design and execution may be race, color, sex or ethnic "conscious" include, but are not limited to, the following:

The establishment of a long term goal, and short range, interim goals and timetables for the specific job classifications, all of which should take into account the availability of basically qualified persons in the relevant job market;

A recruitment program designed to attract qualified members of the group in question;

A systematic effort to organize work and re-design jobs in ways that provide opportunities for persons lacking "journeyman" level knowledge or skills to enter and, with appropriate training, to progress in a career field;

Revamping selection instruments or procedures which have not yet been validated in order to reduce or eliminate exclusionary effects on particular groups in particular job classifications;

The initiation of measures designed to assure that members of the affected group who are qualified to perform the job are included within the pool of persons from which the selecting official makes the selection;

A systematic effort to provide career advancement training, both classroom and on-the-job, to employees locked into dead end jobs; and

The establishment of a system for regularly monitoring the effectiveness of the particular affirmative action program, and procedures for making timely adjustments in this program where effectiveness is not demonstrated.

4. The goal of any affirmative action plan should be achievement of genuine equal employment opportunity for all qualified persons. Selection under such plan should be based upon the ability of the applicant(s) to do the work. Such plans should not require the selection of the unqualified, or the unneeded, nor should they require the selection of persons on the basis of race, color, sex, religion or national origin. Moreover, while the Council believes that this statement should serve to assist State and local employers, as well as Federal agencies, it recognizes that affirmative action cannot be viewed as a standardized program which must be accomplished in the same way at all times in all places.

Accordingly, the Council has not attempted to set forth here either the minimum or maximum voluntary steps that employers may take to deal with their respective situations. Rather, the Council recognizes that under applicable authorities, State and local employers have flexibility to formulate affirmative action plans that are best suited to their particular situations. In this manner, the Council believes that affirmative action programs will best serve the goal of equal employment opportunity (41 FR 38814).

§ 51.61 Administrative complaints and investigations.

(a) *Administrative complaints.* Any person who believes anyone has been subjected to discrimination prohibited by this subpart, may personally or by a representative file with the Director of the Office of Revenue Sharing (Treasury Department, Washington, D.C. 20226) a written statement setting forth the nature of the discrimination alleged and the facts upon which the allegation is based. No representative of a recipient government nor any of its agencies shall intimidate, threaten, coerce, or discriminate against any person or class of persons because of testimony, assistance, or participation in an investigation, proceeding, or hearing under this subpart.

(b) *Investigations.* (1) The Director shall advise the chief executive officer of the recipient government of any administrative complaint received pursuant to paragraph (a) within 30 days of the receipt of such complaint.

(2) If the Director has reason to believe that the administrative complaint shows that a recipient government has failed to comply with the provisions of this subpart, an investigation will be made by the Office of Revenue Sharing, or other appropriate Federal or State agency, of the program or activity concerned within 60 days of receipt of such complaint alleging noncompliance by the recipient government with the provisions of this subpart.

(3) The Director shall make a finding within 90 days from the time of filing of a complaint alleging noncompliance by a recipient government with the provisions of this subpart.

(4) To the maximum extent feasible, the Director will make use of the agreements between agencies as provided for in § 51.74 of this subpart in order to facilitate the enforcement of the provisions of this subpart.

§ 51.62 Finding by the Director.

(a) *In general.* A finding is the administrative action taken by the Director based on an investigation with regard to the alleged noncompliance of a recipient government with the provisions of this subpart.

(b) *Finding as result of administrative complaint.* The Director may make a finding as a result of an administrative complaint filed with him alleging noncompliance of a recipient government with the provisions of this subpart. Such finding shall be made within 90 days after the filing of the administrative complaint with the Director. If the Director makes a finding of noncompliance against a recipient government, he shall notify the chief executive officer within 10 days of his finding, pursuant to § 51.65 of this part.

(c) *Finding as result of a holding of administrative agency.* Where a State or local administrative agency has made a determination or holding pertaining to a recipient government, to the effect that there has been exclusion, denial, or discrimination on the grounds of race, color, national origin, or sex, or a violation of any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975, or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973, or on the basis of religion as provided in the Civil Rights Act of 1964 or the Civil Rights Act of 1968, the Director may make a finding of noncompliance on the basis of such State or local administrative agency determination or holding.

(d) *Finding based on other information.* The Director may make a finding of noncompliance as a result of information contained within, or generated within, the files of the Office of Revenue Sharing, without the necessity of an administrative complaint filed by a private party.

§ 51.63 Notification to the complainant.

Upon the written request of the complainant the Director shall advise such complainant of the status of the investigation or review of the administrative complaint filed by the complainant. Within 10 days after the Director's finding, the Director shall notify the complainant or the complainant's counsel (if any) as to the nature of the finding.

§ 51.64 Exhaustion of administrative remedies.

A complainant shall be deemed to have exhausted his or her administrative remedies upon the expiration of 90 days from the date the administrative complaint was filed with the Director or with an agency with which the Director has an agreement under § 51.74 of this subpart where the Director of such agency:

(a) Issues a determination that the recipient government against whom the allegation is made, is in compliance with the provisions of this subpart, or

(b) Fails to make a determination on such complaint.

§ 51.65 Procedure for effecting compliance.

(a) *General.* Whenever the Director, upon the conclusion of his investigation, makes a finding that a recipient government has failed to comply with any of the provisions of this subpart, he shall within 10 days notify the chief executive officer of the noncompliance of the recipient government and in the case of a unit of local government, the Governor of the State in which the recipient government is located. In the next succeeding 30 days after notification to the recipient government by the Director of its noncompliance, the recipient government will be afforded an opportunity to demonstrate compliance, or to informally present its evidence, or to enter into a compliance agreement with the Director. On or before the 30th day following the Director's notification of noncompliance to the recipient government, the Director shall issue a determination as to whether such government has failed to comply with the provisions of this subpart unless the recipient government has entered into a compliance agreement.

(b) *Effect of determination by the Director.* When the Director issues a determination, pursuant to paragraph (a) of this section, that the recipient government has failed to comply with the provisions of this subpart, he shall notify the chief executive officer of the recipient government and the Governor of the State in which the recipient government is located that unless such recipient government enters into a compliance agreement as set forth in § 51.71 within 10 days following the Director's determination, or requests a hearing within the 10 day period with respect to the Director's determination, the Director shall suspend the further payment of entitlement funds to such recipient government.

§ 51.66 Hearings before administrative law judge.

(a) *Request by recipient government.* A hearing requested by a recipient government pursuant to paragraph (b) of § 51.65 shall be held before an administrative law judge commencing within 30 days subsequent to the receipt of such request by the Director.

(b) *Suspension of Funding or termination of payment by administrative law judge—preliminary finding.* (1) Within 30 days after the commencement of a hearing the administrative law judge conducting the hearing will, on the record of evidence then before him, issue a preliminary finding as to whether the recipient government has failed to comply with the provisions of this subpart. If the preliminary finding of the administrative law judge is to the effect that the recipient government would not prevail (or is not likely to prevail) on the issues to which the hearing pertained, the Director shall suspend (or continue the suspension of) the further payment of entitlement funds to the recipient government.

(2) The preliminary finding by an administrative law judge in favor of the Director pursuant to subparagraph (1) of this paragraph will result in the immediate suspension of any further payments of entitlement funds to the recipient government pending the final adjudication by the administrative law judge, unless in the interim a compliance agreement has been entered into by the recipient government and the Director. Such preliminary finding by the administrative law judge is not appealable by the recipient government. After the completion of the hearing on the merits the administrative law judge will make his findings and decision based upon the complete record of the evidence. If the administrative law judge issues his determination that the recipient government has failed to comply with the provisions of this subpart then, unless the recipient government enters into a compliance agreement with the Director before the 31st day after such determination, the Director shall, upon the initial decision and order of administrative law judge, indefinitely suspend the payment of entitlement funds to the recipient government, continue the suspension invoked under paragraph (b)(1) of this section or terminate the payment of entitlement funds.

(c) *Preliminary finding of compliance by administrative law judge; resumption if funding.* A determination by the administrative law judge that the recipient government has not failed to comply with the provisions of this subpart, will terminate a suspension of entitlement funds invoked by the Director pursuant to paragraph (b) of this section. In such case the Director shall, as promptly as feasible, pay over to the recipient government all entitlement funds the payment of which were temporarily suspended.

§ 51.67 Holdings by a court or Federal governmental agency.

(a) *In general.* Whenever a Federal court, a State court, or a Federal administrative law judge, issues a holding pertaining to a recipient government, to the effect that there has been exclusion, denial, or discrimination on the grounds of race, color, national origin, or sex, or a violation of any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975, or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973, or on the basis of religion as provided in the Civil Rights Act of 1964, or the Civil Rights Act of 1968, the Director shall within 10 days of the actual receipt of a certified copy of such holding, notify the Chief Executive Officer of the noncompliance of the recipient government. In the case of a unit of local government, the Director shall also notify the Governor of the State in which the recipient government is located.

(b) *Holding by Federal administrative law judge.* The holding of a Federal administrative law judge shall have been preceded by a notice and opportunity for hearing and such holding must have been rendered pursuant to the provisions of the Administrative Procedure Act (5 U.S.C. 557).

(c) *Effect of a holding by court or Federal administrative agency.* Where there has been a holding pursuant to paragraph (a) of this section with respect to a recipient government, then within 30 days after the Director has sent a notice of noncompliance to the recipient government, such government may informally present evidence to the Director which evidence shall relate only with respect to the question of whether the program or activity in which the noncompliance was found was funded in whole or in part with entitlement funds. In all other respects a holding pursuant to paragraph (a) of this section, to the effect that there has been exclusion, denial, or discrimination on account of race, color, national origin, or sex, or a violation of any prohibition against discrimination on the basis of age effected by the Age Discrimination Act of 1975, or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973, or on the basis of religion as provided in the Civil Rights Act of 1964 or Title VIII of the Civil Rights Act of 1968, shall be treated as conclusive.

(d) *Reversal of holding by appellate tribunal; resumption of funding.* If a holding pursuant to paragraph (a) of this section is reversed by an appellate tribunal, or by a reviewing authority in the case of a holding by a Federal administrative law judge, then any proceedings initiated by the Director which are dependent on such holding shall be immediately discontinued, and any suspension or termination of entitlement payments resulting from such proceedings shall also be discontinued, and any entitlement funds the payment of which were temporarily suspended shall be paid over to the recipient government as promptly as feasible.

§ 51.68 Procedure for effecting compliance in case of holding.

(a) *In general.* Within 30 days after the Director has notified a recipient government of its noncompliance, pursuant to § 51.67(a) of this subpart, and unless a compliance agreement is entered into with such government, the Director shall issue a determination as to whether such government has failed to comply with the provisions of this subpart.

(b) *Effect of determination by Director; preliminary finding of administrative law judge and suspension of funding.* Where the Director makes a determination pursuant to paragraph (a) of this section that the recipient government has failed to comply with the provisions of this subpart, he shall notify the chief executive officer of the recipient government and the Governor of the State in which the recipient government is located that unless such recipient government enters into a compliance agreement as set forth in § 51.71 within 10 days following the Director's determination, or requests a hearing within the 10 day period with respect to the Director's determination, the Director shall suspend further payment of entitlement funds to such recipient government. Such hearing requested by a recipient government pursuant to this subparagraph shall be held before an administrative law judge within 30 days subsequent to the receipt of such request by the Director. Within 30 days after the commencement of the hearing the administrative law judge will issue a preliminary finding relating only on the point of whether the specific program or activity against which the holding originally was rendered was funded with entitlement funds. If the preliminary finding by an administrative law judge supports the Director's determination, further payments of entitlement funds to the recipient government will be immediately suspended by the Director pending a final adjudication by the administrative law judge, unless in the interim a compliance agreement has been entered into by the recipient government and the Director.

(c) *Final decision of administrative law judge.* After the completion of a hearing on the merits, if one is held, the administrative law judge will make his findings and decision based upon the complete record of the evidence. If the administrative law judge issues his determination that the recipient government has failed to comply with the provisions of this subpart and that the specific program or activity complained of has been, or is, funded with entitlement funds, then, unless the recipient government enters into a compliance agreement with the Director before the 31st day after such determination, the Director shall, upon the initial decision and order of the administrative law judge, indefinitely suspend the payment of entitlement funds to the recipient government, continue the suspension invoked under paragraph (b) of this section, or terminate the payment of entitlement funds.

§ 51.69 Initial decision of administrative law judge pursuant to 5 U.S.C. 557.

(a) *In general.* As soon as practicable after the conclusion of a hearing on the merits and the receipt of any proposed findings and conclusions timely submitted by the parties, but in no event later than 30 days after the conclusion of the hearing, the administrative law judge shall, in accordance with 5 U.S.C. 557, make his initial decision in the case. The initial decision shall include a statement of the findings of fact and the conclusions therefor as well as the reasons or basis therefor upon all the material issues of fact, law or discretion presented on the record, and shall provide for one of the following orders:

(1) An order that the Director suspend the payment of all entitlement funds to the recipient government.

(2) An order that the Director terminate the payment of all entitlement funds to the recipient government.

(3) An order that the Director resume the payment of entitlements to the recipient government including all entitlements previously suspended.

(b) *Order of suspension of funding.* An order of suspension of entitlement funds means that such funds will not be paid to the recipient government but will continue to accumulate in the State and Local Government Fiscal Assistance Trust Fund until such time as compliance is achieved by the recipient government.

(c) *Order of termination of funding.* An order to terminate the payment of entitlement funds means that such funds will be returned to the general fund of the Treasury and will not thereafter be available for entitlement payments unless the determination resulting in the termination of funding is reversed by an appellate tribunal.

§ 51.70 Resumption of suspended entitlement payments.

Entitlement payments to a recipient government which have been suspended may be resumed when:

(a) The recipient government enters into a compliance agreement with the Director and the Director ascertains to his satisfaction that the recipient government has complied with certain provisions of a compliance agreement, and that the compliance is continuing; or

(b) Subsequent to a hearing on the merits in a case where the Director has invoked a preliminary suspension of entitlement funds, the administrative law judge holds that the recipient government is in compliance with the provisions of this subpart; or

(c) The recipient government complies fully with the order of a court or a Federal administrative law judge if the order covers all matters raised by the Director in his original notice of noncompliance to the recipient government; or

(d) After a rehearing or similar adjudicative proceedings a court or an administrative law judge which originally held that the recipient government had failed to comply with the provisions of this subpart, subsequently holds that the recipient government did not so fail to comply; or

(e) An appellate court reverses the findings of discrimination by a lower court or administrative law judge upon which the original findings the Director ultimately suspended the payment of entitlement funds.

§ 51.71 Compliance agreements.

(a) *In matters before a court of record or administrative law judge.* For purposes of this subpart a compliance agreement means an agreement between the Federal or State agency or official responsible for prosecuting the claim (including the Attorney General of the United States) and the chief executive officer of the recipient government against whom the noncompliance with this subpart is alleged. Such compliance agreement may take the form of a consent decree to be entered in the proceedings before a court of record or to be entered by a Federal administrative law judge having jurisdiction over the proceedings. Counsel of record representing the chief executive officer of the recipient government or other appropriate defendant officials of the recipient government may initiate or negotiate the compliance agreement on behalf of the chief executive officer of the recipient government. However, in each case the Director shall, through his counsel or representative, indicate his approval or rejection of the compliance agreement. The Director may reject the compliance agreement if, in his discretion, he determines that such agreement has not adequately remedied the discrimination complained of.

(b) *In matters between the Director and a recipient government.* In those instances where a compliance agreement is negotiated by the Director and the chief executive officer of the recipient government such agreement shall:

(1) Be in writing signed by the Director and by the chief executive officer of the recipient government concerned.

(2) Cover all matters that constitute the failure of the recipient government to comply with the requirements of this subpart.

(3) Contain the terms and conditions with which the recipient government has agreed to comply in order to achieve compliance with the requirements of this subpart. Such terms and conditions may include the payment of restitution to persons injured by the failure of the recipient government to comply with any provisions of this subpart.

(4) If necessary, consist of a series of agreements or a series of bench marks by which the recipient government will achieve compliance with the requirements of this subpart.

(c) *Notification to complainants of compliance agreement.* Within 15 days after the execution of a compliance agreement (or, in the case of an agreement executed under paragraph (a) of this section, upon the approval of the Director if later than 15 days) the Director shall submit a copy of such agreement to the complainant or complainants who initiated the complaint against the recipient government. The submission of a copy of the compliance agreement to counsel of record (if any) for the complainants shall meet the requirements of this paragraph.

§ 51.72 Hearing procedures.

Whenever a procedure under this subpart requires a hearing before an ad-

ministrative law judge, such hearing will be conducted pursuant to section 7 of the Administrative Procedure Act (5 U.S.C. 556) and the applicable procedural regulations contained in subpart G of this part shall govern.

§ 51.73 Jurisdiction over property.

(a) *In general.* The Director shall have jurisdiction over any program or activity for purposes of this subpart for as long as a recipient government retains ownership or possession of any real or personal property or any interest therein, which was purchased in whole or in part with entitlement funds for the applicable program or activity. Further, if such property is transferred to another party, the Director will retain jurisdiction over the recipient government for purposes of this subpart for as long as the property is used to provide benefits similar to those which were provided by the property before the transfer.

(b) *Definitions.* For the purposes of this section:

(1) Real property includes land, structures upon land and fixtures attached to land, and buildings or structures which cannot be removed without damage to the fixtures, buildings or structures.

(2) Personal property includes, at the least, non-expendable tangible property having a useful life of more than one year and an acquisition cost of $1,000 or more per unit of property.

(3) The transfer of property means the passage of possession or title, or both (except bona fide sale) of the property to a secondary recipient, another unit of government, another government agency within the primary recipient government, or to any other person, firm or agency.

(c) *Use of property to provide similar benefits.* For the purposes of this section the clause in paragraph (a) of this section "so long as the property is used to provide benefits similar to those provided by the property before the transfer" means the primary use or function of the property and not the specific or particular use of the property in the program or activity for which originally acquired.

(d) *Record keeping requirements.* Recipient governments shall maintain a separate record of real property and of tangible personal property having a value in excess of $1,000. Such records shall set forth the date of purchase, date of disposal or transfer and the transferee of the property. Upon outright sale, discard, or trade of such property the provisions of this section shall no longer be applicable.

§ 51.74 Agreements between agencies.

(a) *Purpose of cooperative agreements.* The Director shall endeavor to enter into cooperative agreements with officials of the Department, officials of other departments, agencies of the Federal Government, or officials of State agencies to investigate noncompliance with and effectuate the purposes of this subpart, including the achievement of effective coordination within the executive branch in the implementation of Title VI and Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000d; 2000e), the Civil Rights Act of 1968, the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975.

(b) *Consent of cooperative agreements.* The agreements between the Director and other agencies or officials shall:

(1) Describe the cooperative efforts to be undertaken (including the sharing of civil rights enforcement personnel and resources) to secure compliance with this subpart.

(2) Provide for immediate notification to the Director of any actions instituted by such agencies against a recipient government alleging a violation of any Federal civil rights statute or regulations issued thereunder.

(c) *Preliminary decision of administrative law judge.* The Director may not, pursuant to any agreement, delegate authority to any agency to review the preliminary or initial decision of an administrative law judge to officials outside the Department.

§ 51.75 Authority of the Attorney General of the United States.

(a) *Determination of Attorney General.* When the Attorney General of the United States has reason to believe that a State government or unit of local government has engaged in, or is engaging in, a pattern or practice of discrimination in violation of this subpart, he may bring a civil action in the appropriate United States district court.

(b) *Relief to be granted.* Upon holding that a State government or unit of local government is engaging in a pattern or practice discrimination a court may grant any relief necessary and appropriate to insure the full enjoyment of the rights protected under this subpart including, but not limited to, temporary restraining order, preliminary or permanent injunction, suspension, termination or repayment of entitlement funds, or placing any further entitlement funds in escrow pending the outcome of the litigation.

Subpart G—Proceedings for Reduction in Entitlement, Withholding or Repayment of Funds

Sec.
- 51.200 Scope of subpart.
- 51.201 Liberal construction.
- 51.202 Reasonable notice and opportunity for hearing.
- 51.203 Opportunity for compliance.
- 51.204 Institution of proceeding.
- 51.205 Contents of complaint.
- 51.206 Service of complaint and other papers.
- 51.207 Answer, referral to administrative law judge.
- 51.208 Supplemental charges.
- 51.209 Proof; variance; amendment of pleadings.
- 51.210 Representation.
- 51.211 Administrative law judge; powers.
- 51.212 Hearings.
- 51.213 Stipulations.
- 51.214 Evidence.
- 51.215 Depositions.
- 51.216 Stenographic record; oath of reporter; transcript.
- 51.217 Proposed findings and conclusions.
- 51.218 Initial decision of the administrative law judge.
- 51.219 Certification and transmittal of record and decision.
- 51.220 What constitutes record.
- 51.221 Procedures on review of decision of administrative law judge.
- 51.222 Decision of the Secretary.
- 51.223 Effect of order of repayment or withholding of funds.
- 51.224 Publicity of proceedings.
- 51.225 Judicial review.

AUTHORITY: State and Local Assistance Act of 1972, as amended, Title I, Pub. L. 92-512; State and Local Assistance Amendments of 1972, Pub. L. 94-4488 (31 U.S.C. 1221-1263); Treasury Department order 245, dated January 26, 1973.

Subpart G—Proceedings for Reduction in Entitlement, Withholding, or Repayment of Funds

§ 51.200 Scope of subpart.

The regulations of this subpart govern the procedure and practice requirements involving adjudications where the Act requires reasonable notice and opportunity for hearing except where otherwise provided for in subpart E of the Act.

§ 51.201 Liberal construction.

The regulations in this subpart shall be liberally construed to secure just, expeditious, and efficient determination of the issues presented. The Rules of Civil Procedure for the District Courts of the United States, where applicable, shall be a guide in any situation not provided for or controlled by this subpart, but shall be liberally construed or relaxed when necessary.

§ 51.202 Reasonable notice and opportunity for hearing.

Whenever the Director has reason to believe that a recipient government has failed to comply with any section of the Act or of the provisions of this part, and that repayment, withholding, or reduction in the amount of an entitlement of a recipient government is required, he shall give reasonable notice and opportunity of hearing to such government prior to the invocation of any sanction under the Act.

§ 51.203 Opportunity for compliance.

Except in proceedings involving willfulness or those in which the public interest requires otherwise, a proceeding under this part will not be instituted until such facts or conduct which may warrant such action have been called to the attention of the chief executive officer of the recipient government in writing and he has been accorded an opportunity to demonstrate or achieve compliance with the requirements of the Act and the regulations of this part. If the recipient government fails to meet the requirements of the Act and regulations within such reasonable time as may be specified by the Secretary, a proceeding shall be initiated. If the recipient government is a unit of local government, a copy of all written communications regarding the alleged viola-

tion shall be transmitted by the Secretary to the Governor of the State in which the unit of local government is located.

§ 51.204 Institution of proceeding.

A proceeding to require repayment of funds to the Director, or to withhold funds from subsequent entitlement payments, or to reduce the entitlement of a recipient government, shall be instituted by the Director by a complaint which names the recipient government as the respondent.

§ 51.205 Contents of complaint.

(a) *Charges.* A complaint shall give a plain and concise description of the allegations which constitute the basis for the proceeding. A complaint shall be deemed sufficient if it fairly informs the respondent of the charges against it so that it is able to prepare a defense to the charges.

(b) *Demand for answer.* Notification shall be given in the complaint as to the place and time within which the respondent shall file its answer, which time shall be not less than 30 days from the date of service of the complaint. The complaint shall also contain notice that a decision by default will be rendered against the respondent in the event it fails to file its answer as required.

§ 51.206 Service of complaint and other papers.

(a) *Complaint.* The complaint or a true copy thereof may be served upon the respondent by first-class mail or by certified mail, return receipt requested; or it may be served in any other manner which has been agreed to by the respondent. Where the service is by certified mail, the return Postal Service receipt duly signed on behalf of the respondent shall be proof of service.

(b) *Service of papers other than complaint.* Any paper other than the complaint may be served upon the respondent or upon its attorney of record by first-class mail. Such mailing shall constitute complete service.

(c) *Filing of papers.* Whenever the filing of a paper is required or permitted in connection with a proceeding under this part, and the place of filing is not specified in this subpart or by rule or order of the administrative law judge, the paper shall be filed with the Director, Office of Revenue Sharing, Treasury Department, Washington, D.C. 20226. All papers shall be filed in duplicate.

(d) *Motions and requests.* Motions and requests may be filed with the designated administrative law judge, except that an application to extend the time for filing an answer shall be filed with the Director, Office of Revenue Sharing, pursuant to § 51.207(a).

§ 51.207 Answer; referral to administrative law judge.

(a) *Filing.* The respondent's answer shall be filed in writing within the time specified in the complaint, unless on application the time is extended by the Director. The respondent's answer shall be filed in duplicate with the Director, Office of Revenue Sharing.

(b) *Contents.* The answer shall contain a statement of facts which constitute the ground of defense, and it shall specifically admit or deny each allegation set forth in the complaint, except that the respondent shall not deny a material allegation in the complaint which it knows to be true; nor shall a respondent state that it is without sufficient information to form a belief when in fact it possesses such information. The respondent may also state affirmatively special matters of defense.

(c) *Failure to deny or answer allegation in the complaint.* Every allegation in the complaint which is not denied in the answer shall be deemed to be admitted and may be considered as proved, and no further evidence in respect of such allegation need be adduced at a hearing.

(d) *Failure to file answer.* Failure to file an answer within the time prescribed in the complaint, except as the time for answer is extended under paragraph (a) of this section, may constitute an admission of the allegations of the complaint and a waiver of hearing, and the administrative law judge may make his findings and decision by default without a hearing or further procedure.

(e) *Reply to answer.* No reply to the respondent's answer shall be required, and new matter in the answer shall be deemed to be denied, but the Secretary may file a reply in his discretion and shall file one if the administrative law judge so requests.

(f) *Referral to administrative law judge.* Upon receipt of the answer by the Director, or upon filing a reply if one is deemed necessary, or upon failure of the respondent to file an answer within the time prescribed in the complaint or as extended under paragraph (a) of this section, the complaint (and answer, if one is filed) shall be referred to the administrative law judge who shall then proceed to set a time and place for hearing and shall serve notice thereof upon the parties at least 15 days in advance of the hearing date.

§ 51.208 Supplemental charges.

If it appears that the respondent in its answer falsely and in bad faith, denies a material allegation of fact in the complaint or states that it has no knowlege sufficient to form a belief, when in fact it does possess such information, or if it appears that the respondent has knowingly introduced false testimony during the proceedings, the Director may thereupon file supplemental charges against the respondent. Such supplemental charges may be tried with other charges in the case, provided the respondent is given due notice thereof and is afforded an opportunity to prepare its defense thereto.

§ 51.209 Proof; variance; amendment of pleadings.

In the case of a variance between the allegations in a pleading and the evidence adduced in support of the pleading, the administrative law judge may order or authorize amendment of the pleading to conform to the evidence: *Provided,* The party that would otherwise be prejudiced by the amendment is given reasonable opportunity to meet the allegation of the pleading as amended. The administrative law judge shall make findings on any issue presented by the pleadings as so amended.

§ 51.210 Representation.

A respondent or proposed respondent may appear in person through its chief executive officer or it may be represented by counsel or other duly authorized representative. The Secretary shall be represented by the General Counsel of the Treasury.

§ 51.211 Administrative law judge; powers.

(a) *Appointment.* An administrative law judge, appointed as provided by section 11 of the Administrative Procedure Act (5 U.S.C. 3105), shall conduct proceedings upon complaints filed under this subpart.

(b) *Powers of administrative law judge.* Among other powers provided by law, the administrative law judge shall have authority, in connection with any proceeding under this subpart, to do the following things:

(1) Administer oaths and affirmations;

(2) Make ruling upon motions and requests. Prior to the close of the hearing no appeal shall lie from any such ruling except, at the discretion of the administrative law judge, in extraordinary circumstances;

(3) Determine the time and place of hearing and regulate its course and conduct. In determining the place of hearing the administrative law judge may take into consideration the requests and convenience of the respondent or its counsel;

(4) Adopt rules of procedure and modify the same from time to time as occasion requires for the orderly disposition of proceedings;

(5) Rule upon offers of proof, receive relevant evidence, and examine witnesses;

(6) Take or authorize the taking of depositions;

(7) Receive and consider oral or written arguments on facts or law;

(8) Hold or provide for the holding of conferences for the settlement or simplification of the issues by consent of the parties;

(9) Perform such acts and take such measures as are necessary or appropriate to the efficient conduct of any proceeding; and

(10) Make initial findings and decision.

§ 51.212 Hearings.

(a) *In general.* The administrative law judge shall preside at the hearing on a complaint. Testimony of witnesses shall be given under oath or affirmation. The hearing shall be stenographically recorded and transcribed. Hearings will be conducted pursuant to section 7 of the Administrative Procedure Act (5 U.S.C. 556).

(b) *Failure to appear.* If a respondent fails to appear at the hearing, after due notice thereof has been served upon it or upon its counsel of record, it shall be deemed to have waived the right to a hearing and the administrative law judge may make his findings and decision against the respondent by default.

(c) *Waiver of hearing.* A respondent may waive the hearing by informing the administrative law judge, in writing, on or before the date set for hearing, that it desires to waive hearing. In such event the administrative law judge may make his findings and decision based upon the pleadings before him. The decision shall plainly show that the respondent waived hearing.

§ 51.213 Stipulations.

The administrative law judge shall prior to or at the beginning of the hearing require that the parties attempt to arrive at such stipulations as will eliminate the necessity of taking evidence with respect to allegations of facts concerning which there is no substantial dispute. The administrative law judge shall take similar action, where it appears appropriate, throughout the hearing and shall call and conduct any conferences which he deems advisable with a view to the simplifications, clarification, and disposition of any of the issues involved.

§ 51.214 Evidence.

(a) *In general.* Any evidence which would be admissible under the rules of evidence governing proceedings in matters not involving trial by jury in the Courts of the United States, shall be admissible and controlling as far as possible: *Provided that,* The administrative law judge may relax such rules in any hearing when in his judgment such relaxation would not impair the rights of either party and would more speedily conclude the hearing, or would better serve the ends of justice. Evidence which is irrelevant, immaterial or unduly repetitious shall be excluded by the administrative law judge.

(b) *Depositions.* The deposition of any witness may be taken pursuant to § 51.215 and the deposition may be admitted.

(c) *Proof of documents.* Official documents, records, and papers of a respondent shall be admissible as evidence without the production of the original provided that such documents, records and papers are evidence as the original by a copy attested or identified by the chief executive officer of the respondent or the custodian of the document, and contain the seal of the respondent.

(d) *Exhibits.* If any document, record, paper, or other tangible or material thing is introduced in evidence as an exhibit, the administrative law judge may authorize the withdrawal of the exhibit subject to any conditions he deems proper. An original document, paper or record need not be introduced, and a copy duly certified (pursuant to paragraph (b) of this section) shall be deemed sufficient.

(e) *Objections.* Objections to evidence shall be in short form, stating the grounds of objection relied upon, and the record shall not include argument thereon, except as permitted by the administrative law judge. Rulings on such objections shall be a part of the record. No exception to the ruling is necessary to preserve the right of either party to the proceeding.

§ 51.215 Depositions.

(a) *In general.* Depositions for use at a hearing may, with the written approval of the administrative law judge, be taken by either the Director or the respondent or their duly authorized representatives. Depositions may be taken upon oral or written interrogatories, upon not less than 15 days written notice to the other party, before any officer duly authorized to administer an oath for general purposes. Such written notice shall state the names of the witnesses and the time and place where the depositions are to be taken. The requirement of 15 days written notice may be waived by the parties in writing, and depositions may then be taken from the persons and at times and places mutually agreed to by the parties.

(b) *Written interrogatories.* When a deposition is taken upon written interrogatories, any cross-examination shall be upon written interrogatories. Copies of such written interrogatories shall be served upon the other party with the notice, and copies of any written cross-interrogatories shall be mailed by first class mail or delivered to the opposing party at least 10 days before the date of taking the depositions, unless the parties mutually agree otherwise. A party upon whose behalf a deposition is taken must file it with the administrative law judge and serve one copy upon the opposing party. Expenses in the reporting of depositions shall be borne by the party at whose instance the deposition is taken.

§ 51.216 Stenographic record; oath of reporter; transcript.

(a) *In general.* A stenographic record shall be made of the testimony and proceedings, including stipulations and admissions of fact in all proceedings, but not arguments of counsel unless otherwise ordered by the administrative law judge. A transcript of the proceedings (and evidence) at the hearing shall be made in all cases.

(b) *Oath of reporter.* The reporter making the stenographic record shall subscribe an oath before the administrative law judge, to be filed in the record of the case, that he (or she) will truly and correctly report the oral testimony and proceedings at such hearing and accurately transcribe the same to the best of his (or her) ability.

(c) *Transcript.* In cases where the hearing is stenographically reported by a Government contract reporter copies of the transcript may be obtained from the reporter at rates not to exceed the maximum rates fixed by contract between the Government and the reporter. Where the hearing is stenographically reported by a regular employee of the Department of the Treasury, a copy thereof will be supplied to the respondent or its counsel at actual cost of duplication. Copies of exhibits introduced at the hearing or at the taking of depositions will be supplied to the parties upon the payment of a reasonable fee (31 U.S.C. 483(a)).

§ 51.217 Proposed findings and conclusions.

Except in cases where a respondent has failed to answer the complaint or has failed to appear at the hearing, or has waived the hearing, the administrative law judge, prior to making his initial decision, shall afford the parties a reasonable opportunity to submit proposed findings and conclusion and supporting reasons therefor.

§ 51.218 Initial decision of the administrative law judge.

As soon as practicable after the conclusion of a hearing and the receipt of any proposed findings and conclusions timely submitted by the parties, but in no event later than 30 days after the submission of proposed findings and conclusions if they are submitted, the administrative law judge shall make his initial decision in the case. The initial decision shall include a statement of the findings of fact and the conclusions therefor, as well as the reasons or basis therefor, upon all the material issues of fact, law or discretion presented on the record, and shall provide for one of the following orders:

(a) An order that the respondent pay over to the Secretary an amount equal to 110 percent of any amount determined to be improperly expended by the respondent prior to January 1, 1977 in violation of § 51.41 relating to priority expenditures; or

(b) An order that the respondent pay over to the Director an amount equal to the amount of entitlement funds determined to be expended in violation of the Act and the provisions of this part; or

(c) An order that the Director withhold from subsequent entitlement payments to the respondent an amount equal to the amount of entitlement funds determined to be expended in violation of the Act and the provisions of this part; or

(d) An order that the entitlement of a recipient government be reduced and the amount of such reduction to be withheld from subsequent entitlement payments; or

(e) An order dismissing the proceedings.

§ 51.219 Certification and transmittal of record and decision.

After reaching his initial decision, the administrative law judge shall certify to the complete record before him and shall immediately forward the certified record, together with a certified copy of his initial decision, to the Director. The administrative law judge shall serve also a copy of the initial decision by certified

mail to the chief executive officer of the respondent or to its attorney of record.

§ 51.220 What constitutes record.

The transcript of testimony, pleadings and exhibits, all papers and requests filed in the proceeding, together with all finding, decisions and orders, shall constitute the exclusive record in the matter.

§ 51.221 Procedure on review of decision of administrative law judge.

(a) *Appeal to the Secretary.* Within 30 days from the date of the initial decision and order of the administrative law judge, the respondent may appeal to the Secretary and file his exceptions to the initial decision and his reasons therefor. The respondent shall transmit a copy of his appeal and reasons therefor to the Director of the Office of Revenue Sharing, who may, within 30 days from receipt of the respondent's appeal, file a reply brief in opposition to the appeal. A copy of the reply brief, if one is filed, shall be transmitted to the respondent or its counsel of record. Upon the filing of an appeal and a reply brief, if any, the Secretary shall make the final agency decision on the record of the administrative law judge submitted to him.

(b) *Appeal by the Director of the Office of Revenue Sharing.* In the absence of an appeal by the respondent, the Director of the Office of Revenue Sharing may, on his own motion, within 45 days after the initial decision, serve on the respondent by certified mail a notice that he will appeal the decision to the Secretary, for review. Within 30 days from such notice, the Director of the Office of Revenue Sharing or his counsel will file with the Secretary his exceptions to the initial decision and his supporting reasons therefor. A copy of the exceptions shall be transmitted to the respondent or its counsel of record, who, within 30 days after receipt thereof, may file a reply brief thereto with the Secretary and submit a copy to the Director of the Office of Revenue Sharing or his counsel. Upon the filing of a reply brief, if any, the Secretary will make the final agency decision on the record of the administrative law judge.

(c) *Absence of appeal.* In the absence of either exceptions by the respondent or a notice of appeal by the Director of the Office of Revenue Sharing within the time set forth in paragraphs (a) and (b) of this section, or a review initiated by the Secretary on his own motion within the time allowed to the Director of the Office of Revenue Sharing, the initial decision of the administrative law judge shall constitute the final decision of the Department.

§ 51.222 Decision of the Secretary.

On appeal from or review of the initial decision of the administrative law judge, the Secretary will make the final agency decision. In making his decision the Secretary will review the record or such portions thereof as may be cited by the parties to permit limiting of the issues. The Secretary may affirm, modify, or revoke the findings and initial decision of the administrative law judge. A copy of the Secretary's decision shall be transmitted immediately to the chief executive officer of the respondent or its counsel of record.

§ 51.223 Effect of order of repayment or withholding of funds.

In case the final order against the respondent is for repayment of funds to the United States, such amount as determined by the order shall be repaid upon request by the Director. To the extent that the respondent fails to do so upon request of the Director, the Director shall withhold from subsequent entitlement payments to the respondent an amount equal to the amount not repaid. In case the final order against the respondent is for the withholding of an amount of subsequent entitlement payments, such amounts as ordered shall be withheld by the Director after notice to the chief executive officer of the recipient government that if it fails to take corrective action within 60 days after receipt of the notice, further entitlement payments will be withheld until the Director is satisfied that appropriate corrective action has been taken and there is full compliance with the Act and regulations of this part. In every case in which the respondent is a unit of local government, a copy of the final order and notice shall be submitted to the Governor of the State in which the respondent is located.

§ 51.224 Publicity of proceedings.

(a) *In general.* A proceeding conducted under this subpart shall be open to the public and to elements of the news media provided that, in the judgment of the administrative law judge, the presence of the media does not detract from the decorum and dignity of the proceeding.

(b) *Availability of record.* The record established in any proceeding conducted under this subpart shall be made available to inspection by the public as provided for and in accordance with regulations of the Department of the Treasury pursuant to 31 CFR Part 1.

(c) *Decisions of the administrative law judge.* The statement of findings and the initial decision of the administrative law judge in any proceedings, whether or not on appeal or review, shall be indexed and maintained by the Director of the Office of Revenue Sharing and made available for inspection by the public at the public documents room of the Department. If practicable, the statement of findings and the decisions of the administrative law judge shall be published periodically by the Department and offered for sale through the Superintendent of Documents.

§ 51.225 Judicial review.

Actions taken under administrative proceedings pursuant to this subpart shall be subject to judicial review pursuant to section 143 of Subtitle C of the Act. If a respondent desires to appeal a decision of the administrative law judge which has become final, or a final order of the Secretary for review of appeal, to the U.S. Court of Appeals, as provided by law, the Secretary, upon prior notification of the filing of the petition for review, shall have prepared in triplicate, a complete transcript of the record of the proceeding, and shall certify to the correctness of the record. The original certificate together with the original record shall then be filed with the Court of Appeals which has jurisdiction.

[FR Doc.77-10158 Filed 4-1-77;12:45 pm]

federal register

WEDNESDAY, APRIL 6, 1977
PART III

COMMUNITY SERVICES ADMINISTRATION

■

CIVIL RIGHTS PROGRAM

Proposed Funding Eligibility Requirements

COMMUNITY SERVICES ADMINISTRATION

[45 CFR Part 1010]

CIVIL RIGHTS PROGRAM

Proposed Funding Eligibility Requirements

AGENCY: Community Services Administration.

ACTION: Proposed rule.

SUMMARY: The Community Services Administration proposes to amend its regulations to combine all of the funding eligibility Civil Rights requirements of its grantees and to add a requirement that there be a Human Rights certification of compliance with these regulations prior to the approval and the awarding of funds by GSA. The intended effect of this proposed rule is to make these regulations more accessible.

DATES: Comments must be received on or before May 6, 1977.

ADDRESSES: Community Services Administration, 1200—19th Street, NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT:

Mr. N. Tilt Kurtz, Acting Associate Director, Office of Human Rights, CSA, 202-254-5960.

SUPPLEMENTARY INFORMATION:

This subpart prescribes the Civil Rights Program, requirements and procedures required for initial funding and refunding of grants and contracts by the Community Services Administration. It adds a requirement that there be a Human Rights Certification of compliance with this subpart prior to the approval of and the awarding of funds by Community Service Administration.

CSA has promulgated numerous Civil Rights requirements with which grantees must comply. These requirements are contained in various CSA Instructions, Notices and Guidances. This subpart combines all of the funding eligibility Civil Rights requirements of CSA grantees. It provides the minimum standards for compliance with all Civil Rights statutory, Executive Order, and administrative requirements. This subpart oragnizes all of the grantees' Civil Rights requireemnts and activities into a comprehensive Civil Rights program. These proposed regulations also implement Executive Order 11764 (28 CFR Parts 42 and 50.3) and Section 624 of the Economic Opportunity Act of 1964, as amended.

A companion document "CSA grantees' Civil Rights Program Manual" will be developed which will provide grantees with details to assist them in complying with this subpart.

The Community Services Administration welcomes comments on these proposed regulations. Comments received prior to May 6, 1977 will be considered in any revision if warranted. Please address all comments to: N. Tilt Kurtz, Acting Associate Director, Office of Human Rights, Community Services Administration, 1200 19th Street NW., Washington, D.C. 20506.

ROBERT C. CHASE,
Acting Director.

45 CFR Chapter X, Part 1010.1–1010.13 is revised to read as follows:

Subpart A—General

Subpart B—Effectuation of the Provisions of Title VI of the Civil Rights Act of 1964

Subpart C—Nondiscrimination in Federally Assisted Programs of the Community Services Administration

Subpart D—Resolving Complaints of Discrimination in Employment, Program Participation and Benefits Against Grantees

AUTHORITY: Sec. 6002, 78 Stat. 530 (42 U.S.C. 2942).

Subpart A—General

§ 1010.1–1 Applicability.

(a) This Instruction applies to all grantees, and the delegate agencies of all grantees receiving financial assistance under Title II, III–B, and VII of the Economic Opportunity Act of 1964, as amended, if the assistance is administered by the Community Services Administration.

§ 1010.1–2 Policy.

(a) It is the policy of the Community Services Administration that no person shall, on the grounds of race, color, national origin, religion, sex, handicap, political affiliation, or belief be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with any program or activity receiving assistance from the Community Services Administration.

(b) It is also the policy of CSA that all grantees have a primary catalytic mission to make the entire community more responsive to the needs and interests of the poor by mobilizing resources and bringing about greater institutional sensitivity.

(c) It is further the policy of CSA that no person on the basis of age shall be denied employment or otherwise discriminated against in employment in connection with any program or activity receiving assistance from CSA.

§ 1010.1–3 Grantee Civil Rights Program—funding eligibility requirements.

To be eligible for funding each CSA Grantee shall have a comprehensive Civil Rights Program which shall include the following:

(a) A written Equal Opportunity Policy approved by CSA;

(b) An Equal Opportunity Committee;

(c) An Equal Opportunity Officer;

(d) A written informal discrimination complaint procedure approved by CSA.

(e) A data collection, record keeping and reporting system;

(f) An annual Affirmative Action Plan (AAP) approved by CSA and an annual self-evaluation of the implementation of the AAP, accepted by CSA.

(g) The requirement that all of the grantee's vendors, contractors and suppliers of service are equal opportunity employers.

§ 1010.1–4 Responsibilities of the grantee.

(a) The grantee Board shall have the ultimate responsibility for enforcing and monitoring the grantee's Civil Rights Program and for ensuring compliance with this Part. At a minimum the following requirements must be met:

(1) Each grantee Board shall establish an Equal Opportunity Committee which shall reflect the composition of the Board in regard to representation of the public and private sectors and low-income persons.

(2) The Board or a committee thereof shall review the informal determination of all the grantee's Equal Opportunity Officers (EOO) in complaints of discrimination. If the Board utilizes a committee, it shall insure that the committee avoids conflict of interest in the resolution of the complaint.

(3) Grantees shall have at a minimum one EOO at the Senior staff level with responsibility for the Civil Rights Program within the agency, and such additional full or part time personnel as are necessary to carry out the requirements of a civil rights program. The EOO shall not be the Executive Director, Deputy Director or Personnel Officer.

(4) The EOO shall undergo training as prescribed by the CSA. All expenses incurred by such training shall be borne by the grantee.

(5) The EOO shall be granted the authority to carry out the following activities:

(i) Receive and attempt to resolve

complaints of discrimination, on an informal basis.

(ii) Provide aggrieved persons with information and advice on equal opportunity procedures including local, state, and federal redress procedures, and notification of the filing deadlines for EEOC complaints.

(iii) Take any other steps which may assist in the resolution of the problem, prior to the filing of a formal complaint.

(iv) Assist in preparing a formal complaint to CSA of alleged discrimination based on race, color, religion, sex, national origin, age, physical handicap, political affiliation or belief.

(6) Grantees shall establish written procedures for the processing of informal discrimination complaints. Such procedures must conform to the requirements of this regulation and must be approved by the appropriate CSA regional office. Headquarters funded grantees must secure approval from national office CSA.

(7) Grantees shall display, in conspicuous places, posters which summarize the rights of employees, program participants and beneficiaries under Title VI of the Civil Rights Act of 1964, Section 624 of the Economic Opportunity Act of 1964, as amended, and this regulation; including the functions of the grantee's EOO and the procedures for filing complaints of discrimination.

(8) Nothing contained herein shall be construed to deny a complainant the right to make a direct complaint to CSA.

(9) No recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by section 624 of the Economic Opportunity Act, as amended; Title VI of the Civil Rights Act of 1964 or this regulation, or because he/she has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding or hearing under this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out purposes of this part, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

§ 1010.10–1 Purpose.

The purpose of this subpart is to effectuate the provisions of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the "Act") to the end that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from the Community Services Administration.

§ 1010.10–2 Definitions.

As used in this subpart:

(a) The term "CSA" means the Community Services Administration, and includes all of its organizational units.

(b) The term "Director" means the Director of the Community Services Administration.

(c) The term "responsible CSA official" with respect to any program receiving Federal financial assistance means the Director or other official of the CSA who by law or by delegation has the principal responsibility within CSA for the administration of the law extending such assistance.

(d) The term "United States" means the States of the United States, the District of Columbia, Puerto Rico, Wake Island, the Canal Zone, and the territories, and incorporated territories and possessions of the United States, and the term "State" means any one of the foregoing.

(e) The term "Federal financial assistance" includes (1) grants or donation of Federal funds, (2) the grant or donation of Federal property and interest in property, (3) the detail of Federal personnel, (4) the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration, or at a nominal consideration, or at a consideration which is reduced for the purposes of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and (5) any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

(f) The term "program" includes any program, project, or activity for the provision of services, financial aid, or other benefits to individuals (including education or training, health, welfare, rehabilitation, housing, or other services, whether provided through employees of the recipient of Federal financial assistance or provided by others through contracts or other arrangements with the recipient, and including work opportunities and cash or loan or other assistance to individuals), or for the provision of facilities for furnishing services, financial aid or other benefits to individuals. The services, financial aid, or other benefits provided under a program receiving Federal financial assistance shall be deemed to include any services, financial aid, or other benefits provided with the aid of Federal financial assistance or with the aid of any non-Federal funds, property, or other resources required to be expended or made available for the program to meet matching requirements or other conditions which must be met in order to receive the Federal financial assistance, and to include any services, financial aid, or other benefits provided in or through a facility provided with the aid of Federal financial assistance or such non-Federal resources.

(g) The term "facility" includes all or any portion of structures, equipment, or other real or personal property or interests therein, and the provision of facilities includes the construction, expansion, renovation, remodeling, alteration or acquisition of facilities.

(h) The term "recipient" means any State, political subdivision of any State or instrumentality of any State or political subdivision, any public or private agency, institution, organization, or other entity, or any individual, in any State, to whom Federal financial assistance is extended, directly or through another recipient thereof, but such term does not include any ultimate beneficiary under any such program.

(i) The term "primary recipient" means any recipient which is authorized or required to extend Federal financial assistance to another recipient for the purpose of carrying out a program.

(j) The term "applicant" means one who submits an application, request, or plan required to be approved by a responsible CSA official, or by a primary recipient, as a condition to eligibility for Federal financial assistance, and the term "application" means any such application, request, or plan.

(k) In complying with the requirements of this part, it will be necessary to refer to persons by race, color or national origin. The following designations will be used by grantees in reporting participant characteristics: (1) *Black, not of Hispanic Origin*. A person having origins in any of the black racial groups of Africa; (2) *Hispanic*. A person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race; (3) *Asian or Pacific Islander*. A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, and Samoa; (4) *American Indian or Alaskan Native*. A person having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition; (5) *White, not of Hispanic Origin*. A person having origins in any of the original people of Europe, North Africa, or the Middle East. Additional subcategories based on national origin or primary language spoken may be used where appropriate, on either a national or a regional basis. Paragraphs (k)(1) through (5), inclusive, set forth in this section are in conformity with the OMB Ad Hoc Committee on Race/Ethnic Categories' recommendations. To the extent that said designations are modified by the OMB Ad Hoc Committee, paragraphs (k)(1) through (5), inclusive, set forth in this section shall be interpreted to conform with those modifications.

§ 1010.10–3 Application of this subpart.

(a) This subpart applies to any program for which Federal financial assistance is authorized under a provision of any law administered by CSA. This part applies to money paid, property transferred, or other Federal financial assistance extended under any such program after January 7, 1965 pursuant to an application approved prior to such date. This subpart does not apply to (1) any Federal financial assistance by way of insurance or guaranty contracts, (2) money paid, property transferred, or other assistance extended under any such program, before January 7, 1965, (3) any assistance to any individual

who is the ultimate beneficiary under any such program, (4) any employment practice, under any such program, of any employer, employment agency or labor organization, except to the extent described in 1010.10–4. Any action or inaction on the part of a recipient which is a direct violation of the Economic Opportunity Act of 1964, as amended, will be dealt with under regulations enacted pursuant to such Act. Other programs under statutes now in force or hereinafter enacted may be covered by this subpart after notice is published in the FEDERAL REGISTER.

(b) This subpart also applies to any program which is funded and administered by CSA with funds transferred from another Federal agency to CSA when such transfer is authorized by applicable law.

§ 1010.10–4 Discrimination prohibited.

(a) General. No person in the United States shall, on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program to which this subpart applies.

(b) Specific discriminatory actions prohibited.

(1) A recipient under any program to which this subpart applies may not, directly or through contractual or other arrangements on the grounds of race, color, or national origin;

(i) Deny an individual any services, financial aid, or other benefit provided under the program;

(ii) Provide any service, financial aid, or other benefit to an individual which is different, from that provided to others under the program;

(iii) Subject an individual to segregation or separate treatment in any matter related to his receipt of any service, financial aid, or other benefit under the program;

(iv) Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program;

(v) Treat an individual differently from others in determining whether he/she satisfies any admission, enrollment, quota, eligibility, membership or other requirement or condition which individuals must meet in order to be provided any service, financial aid, or other benefit provided under the program;

(vi) Deny an individual an opportunity to participate in the program through the provisions of services or otherwise afford him/her an opportunity to do so which is different from that afforded others under the program, including the opportunity to participate in the program as an employee but only to the extent set forth in paragraph (c) of this section.

(vii) Deny a person the opportunity to participate as a member of a planning or advisory body which is an integral part of the program.

(2) A recipient in determining the type of services, financial aid, or other benefits, or facilities which will be provided under any such program, or the class of individuals to whom, or the situations in which such services, financial aid, other benefits, or facilities will be provided under any such program, or the class of individuals to be afforded an opportunity to participate in any such program, may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respect to individuals of a particular race, color, or national origin.

(3) In determining the site or location of facilities, an applicant or recipient may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program to which this regulation applies, on the grounds of race, color or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act of this subpart.

(4) As used in this section, the services, financial aid, or other benefits provided under a program receiving Federal financial assistance shall be deemed to include any service, financial aid, or other benefit provided in or through a facility provided with the aid of Federal financial assistance.

(5) The enumeration of specific forms of prohibited discrimination in this paragraph and paragraph (c) of this section does not limit the generality of the prohibition in paragraph (a) of this section.

(6) In administering a program regarding which the recipient has previously discriminated against persons on the ground of race, color, or national origin, the recipient must take affirmative action to overcome the effects of prior discrimination. Even in the absence of such prior discrimination, a recipient in administering a program shall take affirmative action to overcome the effects of conditions which resulted in limiting participation by persons of a particular race, color or national origin.

(c) *Employment practices.* (1) Where a primary objective of the Federal financial assistance to a program or part thereof to which this part applies is to provide employment, a recipient may not (directly or through contractual or other arrangements) subject an individual to discrimination on the grounds of race, color, or national origin in its employment practices under such program (including recruitment or recruitment advertising employment, layoff or termination, upgrading, demotion or transfer, rates of pay or other forms of compensation, and use of facilities), including programs where a primary objective of the Federal financial assistance is (i) to reduce the unemployment of such individuals or to help them through employment to meet subsistence needs, (ii) to assist such individuals through employment to meet expenses incident to the commencement or continuation of their education or training, or (3) to provide work experience with contributes to the education or training of such individuals. The following programs administered by CSA have one of the above objectives as a primary objective:

(A) Community Action Programs or parts thereof which have as a primary objective the provision of employment.

(B) Programs of assistance for migrant, and other seasonally employed, agricultural employees and their families which have as a primary objective the provision of employment.

(2) The requirements applicable to construction employment under any such program shall be those specified in or pursuant to Part III of Executive Order 11246 or any Executive Order which supersedes it. Where a primary objective of the Federal financial assistance is not to provide employment, but discrimination on the grounds of race, color or national origin in the employment practices of the recipient or other persons subject to the regulation tends, on the grounds of race, color or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program to which this subpart applies, the provisions of the foregoing paragraph of this paragraph (c) shall apply to the employment practices of the recipient or other persons subject to the regulation, to the extent necessary to assure equality of opportunity to, and nondiscriminatory treatment of beneficiaries.

(d) Exclusion from Participation in Programs for Indians. An individual shall not be deemed subjected to discrimination by reason of his exclusion from the benefits of a program limited by Federal law to individuals of a particular race, color, or national origin different from his/her, for example programs funded exclusively to serve on-reservation Indians.

(e) Medical emergencies. Notwithstanding the foregoing provisions of this section, a recipient of Federal financial assistance shall not be deemed to have failed to comply with paragraph a. of this section if immediate provision of a service or other benefit to an individual is necessary to prevent his death or serious impairment of his health, and such service or other benefit cannot be provided except by or through a medical institution which refuses or fails to comply with paragraph (a) of this section.

§ 1010.10–5 Procedures to determine compliance.

(a) *Assurances.* (1) Every application for Federal financial assistance to a program to which this subpart applies, and every application for Federal financial assistance to provide a facility shall, as a condition to its approval and the extension of any Federal assistance pursuant to the application, contain or be accompanied by an assurance that the program will be conducted or the facility operated in compliance with all

requirements imposed by or pursuant to this subpart, and that the applicant will in all phases and levels of programs and activities, install a CSA approved affirmative action program to achieve equal opportunities for participation, with provisions for effective periodic self-evaluation. In the case where Federal financial assistance is to provide or is in the form of personal property, or real property or interest therein or structures thereon, the assurance shall obligate the recipient, or, in the case of a subsequent transfer, the transferee, for the period during which the property is used for a purpose involving the provision of similar services and benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. The responsible office official shall specify the form of the foregoing assurances for each program, and the extent to which like assurance will be required of subgrantees, contractors, and subcontractors, transferees, successors in interest, and other participants in the program. Any such assurance shall include provisions which give the United States a right to seek its judicial enforcement.

(2) In the case of real property, structures or improvements thereon, or interests therein, which was acquired with Federal financial assistance, or in the case where Federal financial assistance is provided in the form of a transfer of real property or interest therein from the Federal Government, the instrument effecting or recording the transfer shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. Where no transfer of property is involved, but property is acquired or improved with Federal financial assistance, the recipient shall agree to include such a covenant in any subsequent transfer of such property. Where the property is obtained from the Federal Government, such covenant may also include a condition coupled with a right to be reserved by CSA to revert title to the property in the event of a breach of the responsible official, such a condition and right of reverter is appropriate to the program under which the real property is obtained and to the nature of the grant and the grantee. In such event if a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement for the purposes for which the property was transferred, the Director may agree, upon request of the transfer and if necessary to accomplish such financing, and upon such conditions as he deems appropriate, to forbear the exericse of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective.

(3) Transfers of surplus property are subject to regulations issued by the Administrator of General Services (41 CFR 101–6.2).

(4) Elementary and Secondary schools. In the case of any program for the benefit of elementary or secondary school students which, as a necessary part of such program, utilizes to a substantial extent the facilities of an elementary or seacondary school or school system, the requirements of paragraph (a) of this section shall be deemed to be satisfied if such school or school system (i) is subject to a final order of a court of the United States for the desegregation of such school or school system, and provides an assurance that it will comply with such order, including any future modification of such order, or (ii) submits a plan for the desegregation of such school or school system which the responsible official of the Department of Health, Education and Welfare determines is adequate to accomplish the purposes of the Act and this part within the earliest practicable time, and provides reasonable assurance that it will carry out such plan. In any case in which a final order of a court of the United States for the desegregation of such school or school system is entered after submission of such a plan, such plan shall be revised to conform to such final order including any future modification of such order. The provisions of this paragraph do not apply to programs for pre-school children.

(5) *Assurances from institutions.* In the case of any application for Federal financial assistance to an institution of higher education (including assistance for construction, for research, for a special training project, for a student loan program, or for any other purpose), the assurance required by this section shall extend to admission practices and to all other practices relating to the treatment of students. The assurance required with respect to an institution of higher education, hospital, or any other institution, insofar as the assurance relates to the institution's practices with respect to admission or other treatment of individuals as students, patients, or clients of the institution or of the opportunity to participate in the provision of services or other benefits to such individuals, shall be applicable to the entire institution unless the institution establishes, to the satisfaction of the responsible CSA official, that the institution's practices in designated parts or programs of the institutions will in no way effect its practices in the program of the institution for which Federal financial assistance is sought or the beneficiaries of or participants in such program. If in any such case the assistance sought is for the construction of a facility or part of a facility the assurance shall in any event extend to the entire facility and to facilities operated in connection therewith.

(b) *Pre-Review approval.* (1) Prior to approval of financial assistance, all such applications for financial assistance shall be reviewed by the appropriate civil rights officer who will make a written determination as to whether the applicant is in compliance with Title VI. The basis for such a determination shall be submission of an assurance of compliance and a review of the data and AAP submitted by the applicant or report on a file of a review. Where a determination cannot be made from this data, CSA will require the submission of necessary additional information. Such other steps may include, for example, communicating with local government officials or minority group organizations and field reviews.

(2) No final approval for any financial assistance shall be given by CSA unless the appropriate civil rights officer has made a written determination as to whether the applicant is in compliance with Title VI. The appropriate civil rights officer with respect to regionally administered programs is the regional Human Rights Chief and with respect to headquarters administered programs it is the Associate Director for Human Rights.

(c) *Post-approval review.* (1) All recipients will submit annual reports which will contain the compliance information specified in § 1010.10–6. Additionally, the CSA Office of Human Rights will periodically but at least once every two years, conduct a field review of each recipient to determine compliance with Title VI.

(2) The results of the post-approval review shall be committed to writing and shall include specific findings of fact and recommendation.

(d) Investigations. The responsible Office official or his designee wil make a prompt investigation whenever a compliance review, report or any other information indicates a possible failure to comply with this part. The investigation should include, where appropriate, a review of the pertinent practices and policies of the recipient, the circumstances under which the possible non-compliance with this subpart occurred, and other factors revelant to a determination as to whether the recipient has failed to comply with this subpart.

(e) *Resolution of matters.* (1) If an investigation pursuant to paragraph (d) of this section indicates a failure to comply with this subpart, the responsible Office official or his designee will so inform the recipient and the matter will be resolved by informal means whenever possible. If it has been determined that the matter cannot be resolved by informal means, action will be taken as provided for in 1010.10–11.

(2) If an investigation does not warrant action pursuant to paragraph (d) of this section, the responsible Office official or his designee will so inform the recipient if any, in writing.

(f). *Notice to Assistant Attorney General.* Whenever the appropriate CSA Human Rights officer determines that an applicant or recipient is in probable noncompliance with Title VI, he or she will promptly notify the General Counsel of CSA who is charged with review of said determination and for forwarding same, if appropriate, to the Assistant Attorney-General for Civil Rights.

§ 1010.10–6 Data and information collection.

(a) Recipients will collect and maintain the data and information listed in paragraph (a) (1)–(7) of this section relative to their programs. This data and information will be submitted to CSA in accordance with 1010.10–5 and any other guidelines promulgated by CSA and on forms supplied by CSA. It will reflect:

(1) The manner in which services are or will be provided by the program in question, and related data necessary for determining whether any persons are or will be denied such services on the basis of discrimination.

(2) The population eligible to be served by race, color and national origin.

(3) The location of existing proposed facilities connected with the program and related information adequate for determining whether the location has or will have the effect of unnecessarily denying services to any persons on the basis of prohibited discrimination.

(4) The present or proposed membership by race, color and national origin in any policy making or advisory body which is an integral part of the program.

(5) Where relocation is involved, the requirements and steps used of proposed to guard against unnecessary impact on persons on the basis of race, color or national origin.

(6) Data regarding covered employment, including use or planned use of bilingual public contact employees serving the beneficiaries of the program where necessary to permit effective participation by beneficiaries unable to speak or understand English.

(7) Where CSA determines it is necessary and appropriate to Title VI enforcement, additional data such as demographic maps, the racial composition of affected neighborhoods or census data will be required. Such additional data will be required, however, only to the extent that it is readily available or can be complied with reasonable effort.

(b) In addition to the type of data mentioned above, each applicant or recipient will:

(1) Promptly notify CSA of any lawsuits filed against the applicant or recipient alleging discrimination on the basis of race, color, or national origin; and each recipient will notify CSA every six months of any complaints filed against it alleging such discrimination.

(2) Provide CSA with a brief description of any of its pending applications to other federal agencies for assistance and of federal assistance being provided at the time of the application or requested report.

(3) Submit at the time of application and in a periodic or requested report, a statement describing any civil rights compliance reviews regarding the applicant or receipient conducted during the two year period before application of report, and the results and conclusions of those reviews.

(4) Submit, at the time of application and in a periodic or requested report, a written assurance that it will compile and maintain records required pursuant to this subpart.

(5) Provide CSA with a copy of any procedures it may have regarding internal procedures for processing Title VI complaints. Said copy (if such an internal processing exists) will be provided at the time of application and in the case of a continuing program within sixty (60) days after the effective date of this part, and said procedure will be reviewed and its use approved or disapproved by the appropriate regional or headquarters Human Rights Officer.

(6) Maintain a log of Title VI complaints filed with it; identifying each complainant by race, color, or national origin, the nature of the complaint, the dates the complaint was filed and the date grantee's investigation was completed; the disposition and date of disposition.

§ 1010.10–7 Cooperation and assistance.

(a) *Role of CSA officials.* Each responsible CSA official shall to the fullest extent practicable seek the cooperation of recipients in obtaining compliance with this subpart, and shall provide assistance and guidance to recipients to help them comply voluntarily with this subpart.

(b) *Access to sources of information.* Each recipient shall permit access by the responsible CSA official or his designee during normal business hours to each of its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascertain compliance with this subpart. Where any information required of a recipient is in the exclusive possession of any other agency, institution or person and this agency, institution or person shall fail or refuse to furnish this information, the recipient shall so certify in its report and shall set forth what efforts it has made to obtain the information.

§ 1010.10–8 Public dissemination of Title VI Information.

(a) *Display of Title VI poster.* Each recipient, where possible, will display prominently and in reasonable numbers and places posters which state that the recipient operates programs subect to the non-discrimination requirements of Title VI, summarize those requirements, note the availability of Title VI information from recipient and federal agencies, and explain briefly the procedures for filing complaints. When CSA prints and distribute a Title VI poster, recipients will use it to comply with this subpart.

(b) *Information to beneficiaries and participants.* In addition to the poster requirement of § 1010.18–8 each recipient shall make available to participants, beneficiaries, and other interested persons such information regarding the provisions of this subpart and its applicability to the program under which the recipient receives Federal financial assistance, and make such information available to them in such manner as the responsible CSA official finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this subpart.

(c) *Publication in other languages.* Recipients will, where a significant number of, or proportion of the population eligible to be served or likely to be directly affected by a federally assisted program needs service in a language other than English in order to comply with paragraphs (a) and (b) of this section shall cause their poster and other material to be available in a language other than English. The appropriate CSA Human Rights Officer will determine when publication in a language other than English is necessary, § 1010.10–9 Complaint Procedure. Any person who believes himself/herself or any specific class of individuals to have been subjected to discrimination prohibited by this part should follow the procedures outlined in Part c of this regulation. Problems may be submitted by any person or by any group or representative with the approval of the aggrieved person.

§ 1010.10–10 Procedure for effecting compliance.

(a) *General.* If there appears to be a failure or threatened failure to comply with this subpart, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this subpart may be effected by the suspension or termination of or refusal to grant or continue Federal financial assistance or by any other means authorized by Law. Such other means may include, but are not limited to (1) a reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States (including other titles of the Act), and any assurance or other contractual undertaking, (2) any applicable proceeding under State or local law and (3) use of one of the alternative means of enforcement referred to in 28 CFR 50.3.

(b) *Noncompliance with § 1010.10–5.* If an applicant fails or refuses to furnish an assurance under § 1010.10–5 or fails or refuses to supply data as referred by § 1010.10–6 or otherwise fails or refuses to comply with the requirements imposed by or pursuant to those sections, Federal financial assistance may be refused in accordance with the procedures of paragraph (c) of this section. CSA shall not be required to provide assistance in such a case during pendency of the administrative proceedings under such parn-graph.

(c) *Termination of or refusal to grant or to continue financial assistance.* No order suspending, terminating or refusing to grant or continue Federal financial assistance shall become effective until (1) the responsible CSA official has advised the applicant or recipient of his failure to comply and has determined that compliance cannot be secured by voluntary means, (2) there has been an express finding on the record, after opportunity for hearing of a failure by the applicant or recipient to comply with a requirement imposed by or pursuant to

this subpart, (3) the action has been approved by the Director pursuant to § 1010.10–11, and (4) the expiration of 30 days after the Dircetor has filed with the committee of the House and the committee of the Senate having legislative jurisdication over the program involved, a full written report of the circumstances and the grounds for such action. Any action to suspend or terminate or to refuse to grant or to continue Federal financial assistance shall be limited to the particular political entity, or part thereof, or other applicant or recipient as to whom such a finding has been made and shall be limited in its effect of the particular program, or part thereof, in which such noncompliance has been so found.

(d) *Other means authorized by law.* No action to effect compliance with Title VI of the Act by any other means authorized by law shall be taken until (1) the responsible office official has determined that compliance cannot be secured by voluntary means, (2) the recipient or other person has been notified of its failure to comply and of the action to be taken to effect compliance, and (3) the expiration of at least 10 days from the mailing of such notice to the recipent or other person to comply with this subpart and to take such corrective action as may be appropriate.

§ 1010.10–11 Hearings.

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by this section, reasonable notice of such hearing shall be given by registered or certified mail, return receipt requested. This notice shall advise the applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and either (1) fix a date not less than 20 days after the date of such notice within which the applicant or recipient may request of the responsible CSA official that the matter be scheduled for hearing, or (2) advise the applicant or recipient that the matter in question has been set down for hearing at a stated place and time. The time and place so fixed shall be reasonable and shall be subject to change for cause. The complainant, if any, shall be advised of the time and place of the hearing. An applicant or recipient may waive a hearing and submit written information and argument for the record. The failure of an applicant or recipient to request a hearing under this subsection or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing under section 602 of the Act and this section and consent to the making of a decision on the basis of such information as is available.

(b) *Time and place of hearing.* Hearings shall be held in Washington, D.C., at a time and place fixed by the responsible CSA official unless he determines that the convenience of the applicant or recipient or of CSA requires that another place be selected. Hearings shall be held before the responsible CSA official, or at his discretion, before a hearing examiner designated in accordance with 5 U.S.C. 3105 and 3344 (section 11 of the Administrative Procedure Act).

(c) *Right to counsel.* In all proceedings under this section the applicant or recipient and CSA shall have the right to be represented by counsel.

(d) *Procedures, evidence, and record.* (1) The hearing, decision, and any review thereof shall be conducted in confirmity with U.S.C. 554–557 (sections 5–8 of the Administrative Procedure Act) and in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. Both CSA and the applicant or recipient shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the hearing at the outset of or during the hearing.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to this subpart, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the officer conducting the hearing. The hearing officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence unless dispensed with by stipulation. All decisions shall be based upon the hearing record and written findings shall be made.

(e) *Consolidated or joint hearings.* In cases in which the same or related facts are asserted to constitute noncompliance with this part and the regulations of one or more other Federal departments or agencies issued under Title VI of the Act, the Director may, by agreement with such other departments or agencies, provide for the conduct of consolidated or joint hearings, and for the application to such hearings of rules of procedure not inconsistent with this part. Final decisions in such cases, insofar as this part is concerned, shall be made in accordance with § 1010.10–12.

§ 1010.10–12 Decisions and notices.

(a) *Hearing examiner.* Decision by person other than the responsible Office official. If the hearing is held by a hearing examiner, such hearing examiner shall either make any initial decision, if so authorized, or certify the entire record including his/her recommended findings and proposed decision to the responsible CSA official for a final decision and a copy of such initial decision or certification shall be mailed to the applicant or recipient. Where the initial decision is made by the hearing examiner, the applicant or recipient may within 30 days of the mailing of such notice of initial decision file with the responsible CSA official his exceptions to the initial decision with his reasons therefor. In the absence of exceptions, the responsible CSA official may, on his own motion, within 45 days after the initial decision serve on the applicant or recipient a notice that he will review the decision. Upon the filing of such exceptions or of such notice of review, the responsible CSA official shall review the initial decision and issue his own decision thereon, including the reasons therefor. In the absence of either exceptions or a notice of review the initial decision shall constitute the final decision of the responsible CSA official.

(b) *Responsible CSA official.* Decisions on record or review by the responsible CSA official. Whenever a record is certified to the responsible CSA official for decision or he reviews the decision of a hearing examiner pursuant to paragraph (a) of this section, or whenever the responsible CSA official conducts the hearing, the applicant or recipient shall be given reasonable opportunity to file with him/her briefs or other written statements of its contentions, and a copy of the final decision of the responsible CSA official shall be given in writing to the applicant or recipient, and the complainant, if any.

(c) *Waived hearings.* Whenever a hearing is waived pursuant to § 10.10.11 (a), a decision shall be made by the responsible CSA official on the record and a copy of such decision shall be given in writing to the applicant or recipient, and to the complainant, if any.

(d) *Rulings required.* Each decision of a hearing officer or responsible CSA official shall set forth his ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or found that the applicant or recipient has failed to comply.

(e) *Approval by Director.* Any final decision of a responsible CSA official (other than the Director) which provides for the suspension or termination of, or the refusal to grant or continue Federal financial assistance, or the imposition of any other sanction available under this subpart of the Act, shall promptly be transmitted to the Director, who may approve such decision, may vacate it, or remit or mitigate any sanction imposed.

(f) *Content of orders.* The final decision may provide for suspension or termination of, or refusal to grant or continue Federal financial assistance, in whole or in part, under the program involved, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and this subpart, including provisions designed to assure that no Federal financial assistance will thereafter be extended under such program to the applicant or recipient determined by such decision to be in default in its performance of an assurance given by it pursuant to this subpart, or to have otherwise failed to comply with this subpart, unless and until it cor-

rects its noncompliance and satisfies the responsible CSA official that it will fully comply with this subpart.

(g) *Post termination proceedings.* (1) An applicant or recipient adversely affected by an order issued under paragraph (f) of this section shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with this part and provides reasonable assurance that it will fully comply with this subpart.

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (f) of this section may at any time request the responsible CSA official to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of paragraph (g)(1) of this section. If the responsible CSA official determines that those requirements have been satisfied, he shall restore such eligibility.

(3) If the responsible CSA official denies any such request, the applicant or recipient may submit a request for a hearing in writing, specifying why it believes such official to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with rules of procedure issued by the responsible CSA official. The applicant or recipient will be restored to such eligibility if it proves at such a hearing that it satisfied the requirements of paragraph (g)(1) of this section. While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (f) of this section shall remain in effect.

§ 1010.10–13 Judicial review.

Any action taken pursuant to section 602 of the Act is subject to judicial review as provided in section 603 of the Act.

§ 1010.10–14 Effect on other regulations; forms and instructions.

(a) *General.* Nothing in this subpart shall be deemed to supersede (1) Executive Orders 10925, 11114 and 11246 and regulations issued thereunder, or (2) any other regulations or instructions insofar as they prohibit discrimination on the grounds of race, color, or national origin in any program or situation to which this part is inapplicable, or prohibit discrimination on any other ground.

(b) *Forms and instructions.* Each responsible CSA official shall issue and promptly make available to interested persons existing forms and instructions and procedures for effectuating this subpart as applied to programs to which this part applies and for which he is responsible.

(c) *Supervision and coordination.* The Director may, from time to time, assign to officials of other departments or agencies of the Goverment (with the consent of such department or agency) responsibilities in connection with the effectuation of the purposes of Title VI of the Act and this subpart (other than responsibility for final decision as provided in § 1010.10–11, including the achievement of effective coordination and maximum uniformity within the CSA and within the Executive Branch of the Government in the application of Title VI and this subpart to similar programs in similar situations. Any action taken, determination made, or requirements imposed by an official of another department or agency acting pursuant to an assignment of responsibility under this subsection shall have the same effect as though such action had been taken by the responsible official of this agency.

§ 1010.10–15 Employment practice.

Enforcement of Title VI compliance with respect to covered employment practices shall not be superceded by State and local merit systems relating to the same recipient.

§ 1010.10–16 Continuing State programs.

(a) Each State agency administering a continuing program which received Federal assistance from CSA shall establish a Title VI compliance program for itself and other recipients which obtain financial assistance through it.

(b) This program will parallel the provisions of this subpart, including the maintenance of records necessary to permit Federal officials to determine Title VI compliance of the State agency and the sub-recipient.

Subpart C—Nondiscrimination in Federally Assisted Programs of the Community Services Administration

§ 1010.20–1 Coverage.

(a) The Economic Opportunity Act of 1964, as amended, in Section 624 requires that no person with responsibilities for the operation of a CSA funded program shall discriminate with respect to any such program because of race, creed, color, national origin, sex, political affiliation, or beliefs. It further provides that no person on the ground of sex shall be excluded from participation in, be denied the benefits of, be subjected to discrimination under or be denied employment in connection with any program or activity receiving assistance under the Economic Opportunity Act of 1964, as amended.

(b) Section 504 of the Rehabilitation Act of 1973 provides that no otherwise qualified handicapped individual shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

(c) The Age Discrimination in Employment Act prohibits discrimination in employment on the basis of age.

§ 1010.20–2 Data information collection.

(a) The purpose of this subpart is to require grantees to provide CSA with certain data and information on participant and employee characteristics in order that CSA may enforce the prohibitions on employment and participant discrimination which are found in the Policy section and described in this section.

(b) Grantees shall provide CSA with information (if possible) on participant and employee characteristics in regard to sex, age and handicap. This information will be provided in accordance with and in addition to the provisions of Subpart B, § 1010.10–6.

§ 1010.20–3 Assurances required.

Every application for assistance under the Economic Opportunity Act of 1964, as amended, shall contain an assurance that the grantee or its delegate agencies will comply with the provisions of this subpart and the policy of CSA as outlined in § 1010.1–1.

§ 1010.20–4 Procedures to determine compliance.

Compliance with the provisions of this subpart will be accomplished utilizing the pre-review and post-approval procedures outlined in Subpart B, § 1010.10–5 (b) and (c). Compliance Investigations pursuant to this subpart shall be in accordance with Subpart B, § 1010.10–5 (d). If such an investigation indicates a failure to comply with this subpart, the responsible office official or his designee will so inform the recipient and the matter will be resolved by informal means whenever possible. If it has been determined that the matter cannot be resolved by informal means, action will be taken as provided for in 45 CFR 1067, except where the discrimination is on the ground of sex in which case action will be taken as provided for in Subpart B, § 1010.10–10.

§ 1010.20–5 Complaint procedure.

Any person who believes himself/herself or any specific class of individuals to have been subjected to discrimination prohibited by this subpart should follow the procedures outlined in Subpart D. Problems may be submitted by any person or any group or representative with the approval of the aggrieved person.

Subpart D—Resolving Complaints of Discrimination in Employment.

Program Participation and Benefits Against Grantees

§ 1010.30–1 Introduction.

This subpart provides the procedures to be followed in resolving complaints of discrimination against CSA grantees in employment, program participation and benefits.

§ 1010.30–2 Pre-complaint procedures.

(a) *Submission of equal opportunity problem.* Any person who believes he or she has encountered discrimination because of race, creed, color, sex, national origin, age, political affiliation, belief or physical handicap should first discuss the problem with the Equal Opportunity Officer of the grantee within 30 calendar days but no more than 180 calendar days after the act complained of occurred. A

copy of the informal complaint shall be immediately mailed to the Human Rights Chief (HRC) of the appropriate CSA Regional Office, or for Headquarters funded grants to the Associate Director for Human Rights.

(b) *Informal resolution and decision by the grantee.*

(1) The EOO shall make every effort to resolve the problem informally. To this end, the EOO shall, if requested by the complainant, assist in discussion with any party to the problem and may take other steps which may assist in the resolution of the problem.

(2) The aggrieved person(s) has the right to be accompanied, represented and advised by a representative or attorney of his/her own choice. If the aggrieved person and/or his representative is an employee of the agency, he/she shall be given a reasonable amount of working time to prepare and present his/her request for a solution of the problem. These procedures shall be included in the grantee's personnel policies.

(3) The EOO shall be given access within the agency to any information necessary to provide the aggrieved person(s) with a basis for determining whether there are grounds for filing a formal civil rights complaint and to resolve the problem.

(4) The EOO shall have 20 working days to attempt to resolve the problem before the filing of a formal complaint.

(5) Nothing in the subpart should be construed to mean that a complainant(s) cannot file a complaint directly with CSA at anytime.

(6) The EOO shall inform the complainant of the right to file a formal complaint with other appropriate Federal, State and local civil rights agencies or offices.

(c) *Reports on grantee efforts at resolution.* (1) When the EOO has completed attempts to resolve the problem, a report shall be prepared, setting out a summary of the problem, the investigation and the disposition of the problem, indicating the basis for that disposition.

(2) Copies of the report shall be given to the grantee's board, the complainant(s) and to the Human Rights Chief in the appropriate CSA Regional Office. This report shall be forwarded within 25 calendar days after an informal complaint has been filed with the EOO, regardless of the disposition of the problem, including filing a formal complaint with CSA.

§ 1010.30–3 Formal complaint procedure.

(a) *Filing and content of complaint.* (1) If the result of the procedures outlined in § 1010.30–2 (a) and (b) are unsatisfactory to the complainant, a formal complaint may be filed with CSA within 15 calendar days after receipt of notice of the disposition of the EOO and decision of the grantee's board.

(2) A formal signed complaint shall be addressed to the Human Rights Chief of the Regional Office or, for Headquarters administered grants, to the Associate Director for Human Rights. (CSA Form 265 may be used for this purpose.)

(3) The complaint should contain the following information:

(i) Name and address of the grantee involved and, if known, the source of financial assistance received by the grantee for the program giving rise to the complaint;

(ii) A description of the act(s) forming the basis of the complaint (e.g., employment or program benefits based on race, color, religion, sex, national origin, age, handicap, political affiliation, or belief); and the names of persons involved, the alleged discriminating person and witnesses if any;

(iii) Dates or period of time the discriminatory act(s) occurred;

(iv) Name and address of any Federal, State or local agency to which the complainant has reported the matter or filed a formal complaint.

(v) If the discrimination involves a covered employment practice identify (if possible), the source from which the applicant or employee's salary is paid.

(b) *Notice of receipt of complaint by CSA.* The CSA Regional Human Rights Chief or Associate Director for Human Rights will promptly notify the complainant in writing that the complaint has been received. In addition, the complainant must be advised that:

(1) In order to assure the protection of employment rights under Title VII of the Civil Rights Act of 1964, as amended, complainants should be apprised of their right to file charges with the United States Equal Employment Opportunity Commission.

(2) The Community Services Administration will inform complainants of their right to file complaints with any appropriate State, or local civil rights agency. The Human Rights Chief or Associate Director for the Office of Human Rights will provide to the complainant the address of the appropriate agency.

(c) *Grantee's report.* The Human Rights Chief shall also inform the complainant that:

(1) A report and/or any additional information necessary to substantiate or reject the complaint is being requested from the grantee and the time allowed for the grantee to respond;

(2) A copy of the complaint is being sent to the CSA Headquarters Office of Human Rights for information of that Office.

(d) *Acceptance or rejection of the complaint.* After receipt of the report from the grantee, the Human Rights Chief or the Associate Director for Human Rights for Headquarters administered grants, will review the facts presented in the entire case file and notify the complainant whether it is being accepted or rejected. If it is rejected, the reasons why the complaint cannot be processed will be stated in writing. The complainant shall be informed, where possible, of other sources of possible remedy.

(e) *Complaints presented to State or local commissions or to the Equal Opportunity Commission.* When a complainant has also filed a complaint with the Equal Employment Opportunity Commission or with a Federal, State or local commission having jurisdiction over the matter, the Regional Human Rights Chief or Associate Director for Human Rights shall communicate with the responsible official of the enforcement agency which has received the complaint and shall arrange to handle the complaint in such a way as to avoid duplication and to secure the most effective action to resolve the problem. It shall be the general practice of CSA to investigate a Title VI complaint, unless there appears to be a compelling reason to do otherwise.

(f) *Processing the complaint.* (1) If the Regional Human Rights Chief or Associate Director for Human Rights accepts the complaint, an attempt must be made to resolve the complaint by informal means.

(2) In the event that the Regional Human Rights Chief is unable to accomplish the informal resolution of the discrimination complaint within 15 calendar days after its acceptance or determines that it warrants an investigation, the Human Rights Chief will arrange a full investigation of the complaint. The Investigator will be provided with written authorization to investigate all aspects of complaints of discrimination. Directors of grantee agencies will require all employees to cooperate with the investigation and to have all employees having any knowledge of the matter available for interview. Thirty calendar days shall be allowed for the investigation.

(3) After the investigation is completed the Human Rights Chief shall prepare a report of the investigation including findings of fact and a recommendation as to whether there is reasonable cause to credit the complaint of discrimination.

(g) *Determination as to reasonable cause.* (1) Within 15 calendar days after the investigation has been completed the Regional Human Rights Chief shall forward to the Regional Director the independent report of the investigation, including the findings of fact and the recommendation as to reasonable cause.

(2) The Regional Counsel, or General Counsel for Headquarters grants shall review the investigation report and the findings of fact. The Regional Counsel, and General Counsel shall render an opinion to the Regional Director or the appropriate CSA Headquarters Official as to reasonable cause, including whether the report and findings are legally sufficient to support the determination of reasonable cause to credit the allegation of discrimination.

(h) *Determination of CSA decision.* (1) CSA Decision: The CSA decision regarding a complaint of discrimination shall be made by either the Regional Director or the appropriate CSA Headquarters Official. The decision shall include findings of fact, a determination as to whether there is reasonable cause to credit the allegation(s) of complaint. In appropriate complaints the proposed

disposition shall include remedial action to be taken by the grantee as well as any sanctions which may be imposed against the grantee.

(2) Headquarters Administered Grants. For grants which are administered by CSA Headquarters, the Headquarters General Counsel shall send the investigative report, the findings of facts and the recommendation as to reasonable cause through the AD/OHR to the appropriate CSA Headquarters official who is responsible for administering the grant from which the complaint arose. The CSA Headquarters official shall make the agency decision after a review by General Counsel. Should there occur the need to resolve a dispute of the appropriateness of a finding of reasonable cause between the AD/OHR and the headquarters administering official, the Office of the Director shall resolve the issue within 15 days.

(i) *Resolution of complaint and implementation of Agency decision.*

(1) Notification of the Parties. Within 15 calendar days after receipt of the Human Rights Chief's report and recommendations, the Regional Director or appropriate CSA Headquarters official shall send a copy of the CSA decision to the complainant and respondent.

(i) Where it is determined that there is not reasonable cause to credit the allegation(s) of discrimination, the CSA decision shall indicate that the complaint is dismissed. To the extent practicable, the complainant will be advised of any other administrative office or judicial forum which might accept the complaint without regard to the results of CSA investigation.

(ii) Where it is determined that there is reasonable cause to credit the allegation(s) of discrimination, the complainant and respondent shall have thirty (30) days after receipt of the CSA decision to respond to it.

(2) Informal Resolution: The Regional Director or appropriate CSA Headquarters official will attempt by informal methods of conference, conciliation and persuasion to obtain from the parties an acceptance of the CSA decision, a just resolution of the complaint and assurances that the respondent will eliminate the unlawful discriminatory practices and take such action to insure that such practices do not occur again.

(3) Formal Conciliation: Where informal reslution is unsuccessful or if the Regional Director or CSA Headquarters official deems it appropriate, formal conciliation procedures may be entered into in order to resolve the complaint.

(4) Time Limits for Resolution and Conciliation. Efforts shall be made to complete resolution or conciliation within 60 calendar days after receipt of the respondent's response to the agency decision.

(j) *Imposition of sanctions.* (1) If the respondent fails or refuses to confer or conciliate with the Regional Director or CSA Headquarters official, or to adopt the recommended remedial action, or if informal and formal conciliation efforts to resolve the complaint are unsuccessful, CSA efforts to conciliate the dispute will be terminated.

(2) The Regional Director or appropriate CSA Headquarters official shall notify the parties that CSA efforts at conciliation are terminated.

(3) In appropriate cases, the Regional Director or CSA Headquarters official may determine that the matter requires the imposition of sanctions against the respondent for its failure to confer, conciliate, adopt the recommended remedial action, or otherwise successfully resolve the complaint of discrimination. Such sanctions may include termination or suspension of Federal financial assistance or the denial of refunding to the respondent, disallowance of expenditures which are the result of discriminatory practices; referral of the matter to the Department of Justice for disposition; or any other means authorized by law or regulations.

(i) In all cases which are based upon a violation of Title VI of the Civil Rights Act of 1964 or where the discrimination is based upon the ground of sex, the procedures for effecting compliance with the provisions of this Part including termination, suspension or refusal to grant or to continue federal financial assistance shall be those set forth in Subpart B, § 1010.10–10.

(ii) In all other cases where it is determined that termination suspension or denial of refunding is an appropriate sanction, the procedures set forth in 45 CFR 1067 shall be followed.

APPENDIX C—FUNDING UNDER THE ECONOMIC OPPORTUNITY ACT OF 1964, AS AMENDED

Section of the EOA and program

102—Research, Demonstration and Pilot Projects.
221—Community Action.
222(a)(5)—Community Food and Nutrition.
222(a)(7)—Senior Opportunities and Services.
222(a)(10)—Environmental Action.
222(a)(11)—Rural Housing Development and Rehabilitation.
222(a)(12)—Emergency Energy Conservation Services.
222(a)(13)—Summer Youth Recreation.
226—Design and Planning Assistance Programs.
227—National Youth Sports Program.
228—Consumer Action and Cooperative Programs.
230—Technical Assistance and Training.
231—State Agency Assistance.
232—Research and Pilot Programs.
234—Special Assistance.
235—Demonstration Community Partnerships.
302(a)—Loans to Families (Rural Loan Programs).
312—Assistance for Migrant, and other Seasonally Employed, Farmworkers and Their Families.
712(a)—Community Development Corporations.
747(b)—Research and Planning (Community Economic Development).
901(a)—Programs and Project evaluation.

[FR Doc.77-10268 Filed 4-5-77;8:45 am]