

federal register

THURSDAY, SEPTEMBER 15, 1977



highlights

SUNSHINE ACT MEETINGS 46482

DEPARTMENT OF ENERGY ORGANIZATION ACT

Executive order prescribing effective date..... 46267

VETERANS DAY

Presidential proclamation..... 46265

BILINGUAL EDUCATION

HEW/OE announces closing date of 11-15-77 for receipt of applications for various contracts and awards (9 documents)..... 46409-46413

DROUGHT STRICKEN AREAS

USDA/FmHA amends regulations to provide special assistance through loans and grants to rural communities for water supply; effective 10-17-77..... 46269

RURAL HOUSING LOANS AND GRANTS

USDA/FmHA proposes to provide rental assistance for low income tenants; comments by 10-17-77..... 46320

COAL

Interior/BIA proposes environmental regulations for surface mining on Indian land; comments by 10-14-77.. 46352

PRIVATE FOUNDATIONS

Treasury/IRS adopts regulations on excess business holdings 46285

HAZARDOUS MATERIALS TRANSPORTATION

DOT/MTB issues safety requirements for railroad pressure tank cars; effective 10-19-77..... 46306

NATIONAL PARK LANDS

Interior/NPS establishes regulations governing the criteria for conveyance of freehold or leasehold interest; effective 9-15-77..... 46302

COMMISSARIES

DOD/AF proposes operating regulations; comments by 10-17-77 46367

FOREIGN EXCESS PROPERTY

Commerce/DIBA broadens current and includes new categories of property which would benefit U.S. economy if imported; effective 9-15-77 46375

CONTINUED INSIDE

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

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/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

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

Phone 523-5240

Area Code 202



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:

Subscription orders (GPO).....	202-783-3238
Subscription problems (GPO).....	202-275-3050
"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

AIRCRAFT INSPECTION

DOT/FAA clarifies requirements for qualifications of inspectors; effective 10-17-77..... 46278

MEETINGS—

Commission of Fine Arts, 9-27-77.....	46382
DOD/AF: USAF Scientific Advisory Board ad hoc Committee on Cruise Missile Technology, 9-22-77	46382
USAF Scientific Advisory Board Science and Technology Advisory Group, Standing Committee on Research, 10-11 and 10-12-77.....	46382
Secy: Department of Defense Wage Committee, 11-1, 11-8, 11-15, 11-22 and 11-29-77.....	46382
DOT/CG: Chemical Transportation Industry Advisory Committee, 10-4 and 10-5-77.....	46449
EPA: Control of hazardous solid waste, various locations, 10-11 and 10-12-77; 10-13 and 10-14-77; and 10-17 and 10-18-77.....	46383
ERDA: Advisory Committee on Geothermal Energy: Resource Subcommittee, 9-29 and 9-30-77.....	46382
NFAH/NEA: Dance Advisory Panel, 10-2 and 10-3-77	46423

NRC: Advisory Committee on Reactor Safeguards: Subcommittee on the Skagit Nuclear Project, 9-30-77	46432
NSF: Advisory Panel for Molecular Biology, 10-6 and 10-7-77	46423
Advisory Panel for Psychobiology, 10-5 and 10-6-77	46423
Office of Science and Technology Policy: Advisory Group on White House Information Systems, 10-4 and 10-5-77.....	46433

CANCELLED MEETING—

State/AID: Board for International Food and Agricultural Development, 9-20-77..... 46449

HEARINGS—

DOT/FAA: Cessation of service at certain airport traffic control towers, various locations, 10-4, 10-7, and 10-11-77..... 46449

SEPARATE PARTS OF THIS ISSUE

Part II, HUD/FIA.....	46487
Part III, CAB.....	46493

contents

THE PRESIDENT

Executive Order	
Department of Energy Organization Act; effective date.....	46267
Proclamations	
Veterans Day, 1977.....	46265

EXECUTIVE AGENCIES

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notices	
Meetings:	
International Food and Agricultural Development Board; cancellation	46449

AGRICULTURAL MARKETING SERVICE

Rules	
Oranges (Valencia) grown in Ariz. and Calif.....	46289
Proposed Rules	
Almonds grown in Calif.....	46319
Raisins produced from grapes grown in Calif.....	46320

AGRICULTURE DEPARTMENT

See Agricultural Marketing Service; Farmers Home Administration; Forest Service.

AIR FORCE DEPARTMENT

Proposed Rules	
Commissaries:	
Resale operations.....	46367
Notices	
Meetings:	
Scientific Advisory Board; Cruise Missile Technology Committee	46382
Scientific Advisory Board; Science and Technology Advisory Group, Systems Command Standing Committee on Research	46382

ARTS AND HUMANITIES, NATIONAL FOUNDATION

Notices	
Meetings:	
Dance Advisory Panel.....	46423

CIVIL AERONAUTICS BOARD

Rules	
Accounts and reports for certificated air carriers; uniform system:	
Form 41 schedules, amendment; transactions with affiliates and nontransport divisions.....	46493
Proposed Rules	
Accounts and reports for certificated air carriers; uniform system:	
Advertising costs, airline.....	46345
Lobbying costs, airline reporting	46339
Notices	
Hearings, etc.:	
International Air Transport Association (2 documents).....	46374

CIVIL RIGHTS COMMISSION

Notices	
American Indians; denial of equal protection of law; hearings: Washington	46375

COAST GUARD

Rules	
Drawbridge operations:	
Florida; correction.....	46302
Notices	
Meetings:	
Chemical Transportation Industry Advisory Committee.....	46449

COMMERCE DEPARTMENT

See Domestic and International Business Administration; Foreign-Trade Zones Board; National Oceanic and Atmospheric Administration.

CONSUMER PRODUCT SAFETY COMMISSION

Rules	
Chlorofluorocarbon propellants, self-pressurized (aerosol) consumer products containing; labeling and data submission requirements; correction.....	46285

CUSTOMS SERVICE

Notices	
Organization and functions; field organization; ports of entry, etc.:	
Columbus, N. Mex.; reduction of hours	46452

DEFENSE DEPARTMENT

See also Air Force Department.	
Notices	
Meetings:	
Wage Committee.....	46382

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION

Notices	
Foreign excess property determination	46375
Scientific articles; duty free entry:	
Northeastern University et al.....	46377
Northwestern University Medical School.....	46377
Rensselaer Polytechnic Institute	46378
University of California et al.....	46376
University of Southern California et al.....	46378
University of Texas System	
Cancer Center.....	46380

DRUG ENFORCEMENT ADMINISTRATION

Notices	
Registration applications, etc.; controlled substances:	
Ciba-Geigy Corp.....	46423
Drug Abuse Institute, National	46421
Endo Laboratories, Inc.....	46422
Fher Corp., Ltd.....	46422

EDUCATION OFFICE

Notices	
Applications and proposals, closing dates:	
Bilingual education program (9 documents)	46409-46413

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Notices	
Meetings:	
Geothermal Energy Advisory Committee	46382

ENVIRONMENTAL PROTECTION AGENCY

Rules	
Air pollution; standards of performance for new stationary sources:	
Wyoming; authority delegation.....	46304
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:	
Naled	46304
Norflurazon; correction.....	46305

Proposed Rules

Air quality implementation plans; various States, etc.:	
Massachusetts; extension of time	46371
Nebraska	46371

Notices

Air pollution; standards of performance for new stationary sources:	
Wyoming; authority delegation.....	46386
Hazardous waste management; meetings	46383
Pesticide applicator certification and interim certification; State plans:	
Hawaii	46383
Pesticide chemicals; tolerances, exemptions, etc.; petitions:	
Army Department.....	46387
Idaho Department of Agriculture	46384
Minnesota Department of Agriculture (2 documents)	46384, 46385
Virginia Department of Agriculture et al.....	46388

FARMERS HOME ADMINISTRATION

Rules	
Drought stricken areas, special assistance:	
Water supply assistance.....	46269
Proposed Rules	
Rural housing loans and grants: Low-income and senior citizen tenants	46320

FEDERAL AVIATION ADMINISTRATION

Rules	
Airmen certification:	
Inspection authorization.....	46278
Airworthiness directives:	
McCauley	46275
IPR altitudes	46279
Standard instrument approach procedures	46284
Transition areas (4 documents)	46276-46278

CONTENTS

Proposed Rules	Vermont et al.	46394	FINE ARTS COMMISSION
Air traffic operating and flight rules:	Environmental statements; availability, etc.:		Notices
Two-way radio communications; failure during IFR operations; withdrawn	Strategic petroleum reserves	46394	Meetings; Washington, D.C. projects
Airworthiness directives:	Powerplants burning natural gas or petroleum products, prohibition orders:		46382
Sikorsky	Carolina Power & Light Co.	46393	FISH AND WILDLIFE SERVICE
Transition areas	Nebraska Public Power District ..	46392	Rules
Notices	FEDERAL INSURANCE ADMINISTRATION		Hunting:
Airport traffic control towers, discontinuance criteria; policy formulation; hearings	Rules		Audubon National Wildlife Refuge, N. Dak.
46449	Flood Insurance Program, National:		DeSoto National Wildlife Refuge, Nebr.
FEDERAL COMMUNICATIONS COMMISSION	Communities eligible for sale of insurance (2 documents) ...	46488-46489	Flint Hills National Wildlife Refuge, Kans.
Rules	Flood elevation determinations, etc. (3 documents)	46490-46491	Loxahatchee National Wildlife Refuge, Fla.
Television broadcast stations; table of assignments:	FEDERAL MARITIME COMMISSION		Wassau Island National Wildlife Refuge, Ga.
Iowa and Minnesota	Notices		Yazoo National Wildlife Refuge, Miss.
46305	Agreements filed, etc.:		
Proposed Rules	Straits/New York Conference ..	46395	FOREIGN-TRADE ZONES BOARD
Industrial radio services:	United States Lines, Inc., et al. ..	46395	Notices
Pulsed carrier emissions; extension of time	FEDERAL POWER COMMISSION		Foreign-trade zone applications: Philadelphia, Pa.
46372	Notices		46380
Telephone companies:	Hearings, etc.:		FOREST SERVICE
Tariffs, interface of International Telex Service with Domestic Telex and TWX Services; extension of time	American Petrofina Co. of Texas	46395	Notices
46371	Art Machin & Associates, Inc.	46396	Environmental statements; availability, etc.:
Telephone companies; jurisdictional separation:	Boston Edison Co.	46396	Gila National Forest, Snow and Quemado Lakes, algaecide treatment, N. Mex.
Alaska, Hawaii, Puerto Rico, and Virgin Islands	Central Vermont Public Services Corp. (2 documents)	46396	46374
46372	Columbia Gas Transmission Corp.	46397	GENERAL SERVICES ADMINISTRATION
Notices	Delmarva Power & Light Co. et al.	46398	Rules
Meetings:	Holyoke Water Power Co. et al.	46398	Property management:
Federal-State Joint Board	Kansas City Power & Light Co.	46398	Federal; public airports; approval of surplus real property disposal
46389	Kansas Gas & Electric Co.	46398	46305
Satellite communications services; applications accepted for filing ..	Mississippi River Transmission Corp.	46398	HEALTH CARE FINANCING ADMINISTRATION
46388	Natural Gas Pipeline Co. of American (2 documents)	46399	Notices
FEDERAL DEPOSIT INSURANCE CORPORATION	New England Power Co.	46400	Professional Standards Review Organizations; nominations, designations, etc.:
Rules	Northern Natural Gas Co.	46400	California
Municipal securities dealers, insured State nonmember banks; effective date postponed	Northwest Pipeline Corp (2 documents)	46401	Indiana (2 documents)
46275	Oklahoma Gas & Electric Co.	46402	Kansas
FEDERAL DISASTER ASSISTANCE ADMINISTRATION	Philadelphia Electric Co.	46402	Michigan
Notices	Sea Robin Pipeline Co.	46403	Puerto Rico
Disaster and emergency areas:	Seattle, Wash., City of	46396	46416
Idaho	Sierra Pacific Co.	46403	46414
46416	Southern Natural Gas Co.	46403	
Michigan	Tennessee Gas Pipeline Co. et al.	46404	HEALTH, EDUCATION, AND WELFARE DEPARTMENT
46316	Texas Eastern Transmission Corp.	46404	See Education Office; Health Care Care Financing Administration; Social Security Administration.
Montana	Transcontinental Gas Pipe Line Corp.	46404	
46316	Trunkline Gas Co.	46405	HOUSING AND URBAN DEVELOPMENT DEPARTMENT
North Carolina (2 documents) ..	FEDERAL RESERVE SYSTEM		Notices
46417	Rules		See Federal Disaster Assistance Administration; Federal Insurance Administration.
West Virginia (2 documents) ..	Securities credit, credit by brokers and dealers, credit by banks, etc.:		
46417, 46418	OTC margin stock list; correction	46275	INDIAN AFFAIRS BUREAU
	Notices		Proposed Rules
FEDERAL ENERGY ADMINISTRATION	Board actions; applications and reports	46405	Mining:
Rules	Applications, etc.:		Surface exploration, mining, and reclamation of lands; coal operations
Administrative procedures and sanctions, oil, and petroleum allocation and price rules:	Combanks Corp.	46408	46352
Interpretations	Old Kent Financial Corp.	46408	
46270			
Notices			
Appeals and applications for exception, etc.; cases filed with Exceptions and Appeals Office:			
List of applicants, etc.			
46389			
Consent orders:			
Phillips Petroleum Co.			
46393			
Energy conservation plans; environmental negative determinations:			
New Hampshire et al.			
46394			

CONTENTS

INTERIOR DEPARTMENT

See also Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau; Mining Enforcement and Safety Administration; National Park Service.

Notices

Air quality, deterioration; prevention; National Park System:
Canyonlands National Park et al., Utah; termination due to preempting legislation..... 46421

INTERNAL REVENUE SERVICE

Rules

Excise taxes:
Foundations, private; excess business holdings..... 46285

INTERSTATE COMMERCE COMMISSION

Notices

Fourth section applications for relief 46453
Hearing assignments..... 46453
Motor carriers:
Temporary authority applications 46454
Transfer proceedings..... 46453
Petitions, applications, finance matters (including temporary authorities), railroad abandonments, alternate route deviations, and intrastate applications 46458
Petitions, applications, finance matters (including temporary authorities), railroad abandonments, alternate route deviations, and intrastate applications; correction 46458
Railroad freight rates and charges; various States, etc.:
Nebraska 46457
Waste product transportation for reuse or recycling..... 46481

JUSTICE DEPARTMENT

See Drug Enforcement Administration.

LAND MANAGEMENT BUREAU

Notices

Applications, etc.:
California 46418
Colorado; correction..... 46420
New Mexico (5 documents)..... 46419
Authority delegations:
Colorado State Office, Technical Services Division, Adjudication Branch Team Leaders. 46418
Classification of lands:
Oregon; disposal by exchange. 46420
Environmental statements; availability, etc.:
Nellis Air Force Bombing and Gunnery Range Withdrawal, Nev. 46418
Motor vehicles, off-road, etc.; area closures:
Colorado 46418
Withdrawal and reservation of lands, proposed, etc.:
Wyoming 46420

MATERIALS TRANSPORTATION BUREAU

Rules

Shippers; specification for pressure tank car tanks..... 46306

Proposed Rules

Aircraft, carriage by:
Radioactive materials; extension of time to file comments. 46373

Notices

Applications; exemptions, renewals, etc.:
Air Products & Chemicals Inc. et al. 46450
Dow Chemical Co. et al. 46451

MINING ENFORCEMENT AND SAFETY ADMINISTRATION

Proposed Rules

Coal mine health and safety:
Surface mines and work areas of underground mines; objections filed..... 46367

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Notices

Defect proceedings; petitions, etc.:
Ford Mustang and Mercury Cougar; seat back failures... 46451

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Notices

Tidal datums:
Gulf Coast Low Water Datum, establishment 46381

NATIONAL PARK SERVICE

Rules

Freehold and leasehold interests; conveyance on NPS lands..... 46302

Proposed Rules

Alcoholic beverage drinking and vehicle maintenance:
Minute Man National Historical Park, Mass. 46370

Notices

Authority delegations:
Independence National Historical Park, Administrative Officer, et al. 46420
Lake Meredith Recreation Area, Tex., Administrative Officer... 46421
Petersburg National Battlefield, Va., Administrative Technician; purchase orders for supplies, equipment, and services 46421
Crimes and offenses; concurrent jurisdiction accepted:
Grand Teton National Park and John D. Rockefeller, Jr. Memorial Parkway, Wyo. 46421
Management and development plans workshops:
San Juan Island National Historical Park..... 46421

Mining plans of operation; availability:

Death Valley National Monument 46421

NATIONAL SCIENCE FOUNDATION

Notices

Committees; establishment, renewals, terminations, etc.:
Atmospheric Sciences Advisory Committee et al. 46423
Nuclear Science Advisory Committee 46424
Molecular Biology Advisory Panel 46423
Psychobiology Advisory Panel... 46423

NATIONAL TRANSPORTATION SAFETY BOARD

Notices

Safety recommendations and accident reports; availability, responses, etc..... 46425

NUCLEAR REGULATORY COMMISSION

Rules

Radiation protection standards:
Reporting requirements; property damage; elimination of duplication; correction..... 46270

Notices

Meetings:
ACRS Subcommittee on the Skagit Nuclear Project..... 46432
Applications, etc.:
Florida Power & Light Co. (2 documents) 46426, 46427
General Electric Co. 46427
Kerr-McGee Nuclear Corp. 46428
Maine Yankee Atomic Power Co. 46428
Public Service Electric & Gas Co. et al. 46429
San Diego Gas & Electric Co. et al. 46429
Tennessee Valley Authority (2 documents) 46429, 46430
Toledo Edison Co. 46430
Virginia Electric & Power Co. ... 46431
Wisconsin Electric Power Co. et al. 46431
Wisconsin Electric Power Co. and Wisconsin Michigan Power Co. 46431
Yankee Atomic Electric Co. 46432

SCIENCE AND TECHNOLOGY POLICY OFFICE

Notices

Meetings:
White House Information Systems Advisory Group..... 46433

SECURITIES AND EXCHANGE COMMISSION

Notices

Self-regulatory organizations; proposed rule changes:
Depository Trust Co. 46435
Midwest Stock Exchange, Inc. ... 46440
Municipal Securities Rulemaking Board (2 documents) 46436, 46445
New York Stock Exchange, Inc. (2 documents) 46440, 46442
Pacific Stock Exchange Inc. 46448

CONTENTS

Hearings, etc.:
 AGESEC Security Corp.----- 46433
 ISC Financial Corp.----- 46435
 Jersey Central Power & Light
 Co ----- 46435
 Makeover Investment Co., Inc.--- 46436
 Network One, Inc.----- 46437
 Ohio Power Co.----- 46438
 Pennsylvania Electric Co.----- 46439
 Pennsylvania Power Co.----- 46439

SOCIAL SECURITY ADMINISTRATION

Notices

Authority delegations:
 Sensitive Inquiries Division
 et al.; determinations of
 rights of individuals to bene-
 fits; correction----- 46416

STATE DEPARTMENT

See Agency for International De-
 velopment.

TENNESSEE VALLEY AUTHORITY

Proposed Rules
 Construction; approval and struc-
 ture regulation; Tennessee
 River System----- 46348

TRANSPORTATION DEPARTMENT

See also Coast Guard; Federal
 Aviation Administration; Mate-
 rials Transportation Bureau;
 National Highway Traffic
 Safety Administration.

Rules

Organization, functions, and au-
 thority delegations:
 Coast Guard, Commandant;
 wage schedules; correction.. 46306

TREASURY DEPARTMENT

See Customs Service; Internal
 Revenue Service.

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

EXECUTIVE ORDERS:
 12009----- 46267
 PROCLAMATIONS:
 4519----- 46265
7 CFR
 908----- 46269
 1888----- 46269
 PROPOSED RULES:
 981----- 46319
 989----- 46320
 1822----- 46320

10 CFR

Ch. II----- 46270
 20----- 46270

12 CFR

207----- 46275
 220----- 46275
 221----- 46275
 224----- 46275
 343----- 46275

14 CFR

39----- 46275
 65----- 46278
 71 (4 documents)----- 46276-46278
 95----- 46279
 97----- 46284
 241----- 46494

14 CFR—Continued

PROPOSED RULES:
 39----- 46337
 71----- 46338
 91----- 46338
 241 (2 documents)----- 46339, 46345
 399----- 46345

16 CFR

1401----- 46285

18 CFR

304----- 46348

24 CFR

1914 (2 documents)----- 46488, 46489
 1916 (3 documents)----- 46490, 46491

25 CFR

PROPOSED RULES:
 177----- 46352

26 CFR

53----- 46285

30 CFR

PROPOSED RULES:
 77----- 46367

32 CFR

PROPOSED RULES:
 976----- 46367

33 CFR

117----- 46302

36 CFR

17----- 46302

PROPOSED RULES:

7----- 46370

40 CFR

60----- 46304
 180 (2 documents)----- 46304, 46305

PROPOSED RULES:

52 (2 documents)----- 46371

41 CFR

101-47----- 46305

47 CFR

73----- 46305

PROPOSED RULES:

61----- 46371
 67----- 46372
 91----- 46372

49 CFR

1----- 46306
 173----- 46306
 175----- 46373
 179----- 46306

50 CFR

32 (6 documents)----- 46315-46317

CUMULATIVE LIST OF PARTS AFFECTED DURING SEPTEMBER

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 September.

1 CFR		8 CFR		14 CFR—Continued	
Ch. I.....	43959	236.....	46045	PROPOSED RULES—Continued	
		299.....	46045	25.....	44204
3 CFR				27.....	44204
EXECUTIVE ORDERS:		9 CFR		29.....	44204
12009.....	46267	73.....	44214	39.....	43988, 43989, 45007, 45690, 46337
PROCLAMATIONS:		78.....	44215	71.....	43990,
4518.....	44211	82.....	45284		43991, 44556, 44557, 45008-45011,
4519.....	46265	92.....	45895		45690, 46338
MEMORANDUM:		113.....	45284	73.....	45011
August 2, 1977.....	43957	318.....	44217	75.....	43990, 44557, 45011
4 CFR		PROPOSED RULES:		91.....	44204, 46338
331.....	45627	1.....	45934	241.....	46339, 46345
332.....	45627	3.....	45934	296.....	45691
351.....	45629	447.....	43982	399.....	46345
403.....	45629			15 CFR	
5 CFR		10 CFR		2007.....	45532
213.....	44233,	Ch. II.....	46270	PROPOSED RULES:	
	44541, 44542, 45283, 45326, 45893	20.....	43965, 46270	921.....	45522
7 CFR		32.....	43965	16 CFR	
701.....	44213	70.....	43966	1.....	43973
907.....	44801	73.....	43966	4.....	43974
908.....	43959, 44979, 45893, 46269	150.....	43966	1145.....	44192
910.....	44213, 45325	211.....	44218	1203.....	44193
917.....	43960, 44214	212.....	45284	1401.....	46285
919.....	45629	430.....	46140, 46145, 46151	1500.....	44201
926.....	45325	PROPOSED RULES:		1702.....	44802
929.....	44979	40.....	43983, 45689	PROPOSED RULES:	
932.....	44801	73.....	43984	1500.....	44160
967.....	45326, 46045	205.....	44244	1702.....	44821
993.....	44802	211.....	44551		
1260.....	44542	430.....	44246	17 CFR	
1438.....	43961	12 CFR		200.....	44807
1804.....	44669	10.....	45510	210.....	44807
1809.....	44669	207.....	46275	211.....	44807, 44983
1821.....	44669	208.....	45289	231.....	45291, 46047
1822.....	43964	220.....	46275	240.....	44983
1831.....	44669, 44692	221.....	46275	241.....	46047
1832.....	44669	224.....	46275	249b.....	44983
1841.....	44717	225.....	45289	271.....	44810, 45291, 46047
1843.....	44717	226.....	45895, 45896	PROPOSED RULES:	
1861.....	44669, 44692, 44696	265.....	44980, 45290	1.....	44742, 46043
1864.....	44696	343.....	46275	166.....	44742
1866.....	44696	PROPOSED RULES:		210.....	44972
1867.....	44669	308.....	43984	231.....	44821
1871.....	44696	541.....	46058	239.....	44964
1872.....	44669, 44696	545.....	46058	240.....	44964
1888.....	43964, 44669, 46269	563.....	46058	249.....	44964
1901.....	45893	13 CFR		PROPOSED RULES:	
1904.....	44669	PROPOSED RULES:		166.....	44742
1921.....	44692	121.....	45934	210.....	44972
1930.....	44696	14 CFR		231.....	44821
1955.....	44715	39.....	43967,	239.....	44964
1980.....	44717		43969, 44980-44982, 45629-45631,	240.....	44964
2852.....	44542, 45327		46275	249.....	44964
PROPOSED RULES:		65.....	46278	PROPOSED RULES:	
210.....	45328	71.....	43969-43971,	1.....	44742, 46043
910.....	45334		44542, 44543, 45632, 45633, 46276-	166.....	44742
948.....	44242		46278	210.....	44972
980.....	44242	75.....	43971, 44543, 45633	231.....	44821
981.....	46319	95.....	46279	239.....	44964
987.....	45680	97.....	45633, 46284	240.....	44964
989.....	46320	121.....	43973	249.....	44964
1004.....	45001	183.....	44982	18 CFR	
1049.....	45335	223.....	44544	304.....	46348
1133.....	44243	241.....	46494	PROPOSED RULES:	
1701.....	45337	PROPOSED RULES:		2.....	44558
1822.....	43980, 46320	21.....	43985	PROPOSED RULES:	
2852.....	45932, 45933	23.....	44204	405.....	44558

FEDERAL REGISTER

20 CFR—Continued

655	45900
702	44544, 45300
PROPOSED RULES:	
405	44558

21 CFR

5	44221, 44544
101	45904
175	44222
176	44544
178	44222, 44544
310	45304
430	44223
432	44225
436	44223
444	44544
455	44224
510	44225
520	44226
546	44227
561	45304
570	44227
640	44228
1010	44228
1020	44230

PROPOSED RULES:

16	46028
20	46028
145	44247
150	44247
172	44247
180	44247
189	44247
299	45938
310	44247
430	44247
510	44247
589	44247
700	44247
860	46028

23 CFR

PROPOSED RULES:

655	46060
-----	-------

24 CFR

201	45305
570	45788
888	45772
890	44548
1912	43975
1914	46488, 46489
1915	44234, 45635, 46156, 46227
1916	46490, 46491
1917	44662, 44663, 44902-44917, 45120, 45636-45641, 46004-46011, 46234, 46235
1920	44368-44372

PROPOSED RULES:

1917	44148-44157, 44665, 45121-45130, 45498-45507
------	--

25 CFR

261	43976
-----	-------

26 CFR

53	46285
54	44388
141	44394

PROPOSED RULES:

1	44821, 46062
54	44396
177	46352

27 CFR

170	44757
173	44758
186	44758
194	44758
201	44759
250	44772
251	44772
252	44772

28 CFR

2	44234
---	-------

29 CFR

452	45306
1910	45536
1952	45905, 45907
2550	44384, 45907

30 CFR

PROPOSED RULES:

77	46367
700	44920
710	44920
715	44920
716	44920
717	44920
720	44920
721	44920
722	44920
723	44920
725	44920
740	44920
795	44920
830	44920
837	44955

32 CFR

1286	45907
------	-------

PROPOSED RULES:

286	45935
976	46367

33 CFR

110	44984
117	46302

PROPOSED RULES:

110	45693
117	44560

35 CFR

PROPOSED RULES:

10	45693
----	-------

36 CFR

17	46302
----	-------

PROPOSED RULES:

7	46370
221	46063

37 CFR

201	45916
-----	-------

PROPOSED RULES:

201	44247
-----	-------

39 CFR

PROPOSED RULES:

241	44821
245	44821
246	44821
247	44821
248	44821
265	44821

40 CFR

52	44234, 44235
60	44544, 44812, 46304
61	44544
80	45306
86	45132, 45641
162	44170
180	44812, 46304, 46305
600	45641, 45668, 45921

PROPOSED RULES:

52	44561, 44821, 44822, 45935, 46371
61	44822
120	45339
130	44561
131	44561
162	44174, 44176, 44189
205	45776

41 CFR

1-16	45672
4-4	44236, 45927
12-1	45178
12-2	45197
12-3	45199
12-4	45205
12-5	45208
12-6	45208
12-7	45210
12-9	45249
12-10	45253
12-16	45255
12-17	45255
12-18	45256
12-26	45256
12-30	45257
12-50	45257
12-60	45259
12-70	45262
12-99	45268
101-7	46057
101-47	46305
105-53	44813

PROPOSED RULES:

24-1	45935
101-25	44823

43 CFR

423	45927
2850	44985
3520	44545

45 CFR

134	44961
134b	44961
177	45307
178a	46047
192	46049
201	43977
205	43977
249	43977
250	43977
252	43977
1005	46053
1069	46053

PROPOSED RULES:

166	44406
182	45340
205	45276
249	45276
1067	45002
1068	46063

FEDERAL REGISTER

46 CFR

35	45677
252	45308
502	45677
PROPOSED RULES:	
25	45694
33	45694
75	45694
94	45694
161	45694
164	45694
167	45694
180	45694
192	45694

47 CFR

2	44986
15	44989
73	44545, 44989, 45679, 46054, 46305
76	44545
81	44991, 44992
83	44986, 44992
87	44992
89	44546
91	44546
93	44546

47 CFR—Continued

94	44546
97	44991, 45308
PROPOSED RULES:	
2	45342
43	45936
61	46371
64	46064
67	45937, 46372
73	43992, 45002, 45004, 46064, 46067
87	45007
89	44561, 45007
90	45007
91	44561, 45007, 46372
93	44561, 45007

49 CFR

1	46306
85	45800
173	46306
175	46373
179	46306
1033	44546, 44815, 46055
1038	44993
1047	44994
1048	44816
1307	44236
1310	44236

49 CFR—Continued

PROPOSED RULES:	
85	45803
172	43993
173	43993
174	43993
175	43993, 46373
176	43993
178	45695, 45696
179	43993
1003	44249
1242	45346

50 CFR

17	45526
20	45310
26	44241, 45320
32	43977, 43978, 44547, 44816-44819, 45321-45324, 45929, 46055, 46056, 46315-46317
33	43979
611	44547
PROPOSED RULES:	
17	43995
26	44250
259	43997
611	45552

FEDERAL REGISTER PAGES AND DATES—SEPTEMBER

Pages	Date	Pages	Date	Pages	Date
43957-44206	Sept. 1	44979-45282	8	45893-46043	13
44211-44540	2	45283-45623	9	46045-46263	14
44541-44799	6	45625-45891	12	46265-46504	15
44801-44977	7				

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

- CSA—Conduct standards for employees; reports of non-CSA interests.... 41282; 8-16-77
- DOT/FAA—Standard instrument approach procedures..... 39380; 8-4-77
- FCC—Hay Springs-Scottsbluff, Nebr.; table of TV assignments..... 41123; 8-15-77
- FDIC—Insured state nonmember banks which are municipal securities dealers; regulations, forms, and instructions. 40891; 8-12-77
- HEW/FDA—Zirconium, aerosol drug and cosmetic products containing.. 41374; 8-16-77

Interior/FWS—Hunting, openings:

- Bombay Hook National Wildlife Refuge, Del..... 43394; 8-29-77
- Seney National Wildlife Refuge, Mich.; upland game..... 43638; 8-30-77
- Treasury/CS—Trademarks, trade names and copyrights; recordation of copyrights in sound recordings..... 41278; 8-16-77
- USDA/APHIS—Animal Welfare Act; care, treatment, and transportation of certain animals..... 31022; 6-17-77

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

PROCLAMATION 4519

Veterans Day, 1977

By the President of the United States of America

A Proclamation

The blessings of liberty which our ancestors secured for us are today, as they have always been, the birthright of every American. They have remained so because in each generation there have been men and women who have been willing to suffer the hardships and sacrifices necessary to preserve our rights for future generations.

No act of citizenship is more worthy of our respect than a willingness to serve in our armed forces and to protect and defend our ideals. There are nearly thirty million of our fellow citizens among us today who have earned that respect by their loyal and honorable service.

In recognition of the contributions our veterans have made to the cause of peace and freedom, the Congress has determined (5 U.S.C. 6103(a)) that one day each year should be set aside as a national holiday in order that all Americans may be able to take part in activities designed to show our respect for their dedication to their country.

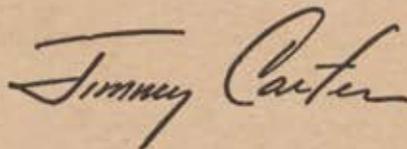
NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, ask all Americans to observe Monday, October 24, 1977, as Veterans Day in a manner that will let our Nation's veterans know that their sacrifices are and always will be recognized and appreciated.

I urge the conduct of public ceremonies, the visible tribute of members of the business community, and the personal participation of all Americans of all ages in honoring our Nation's veterans.

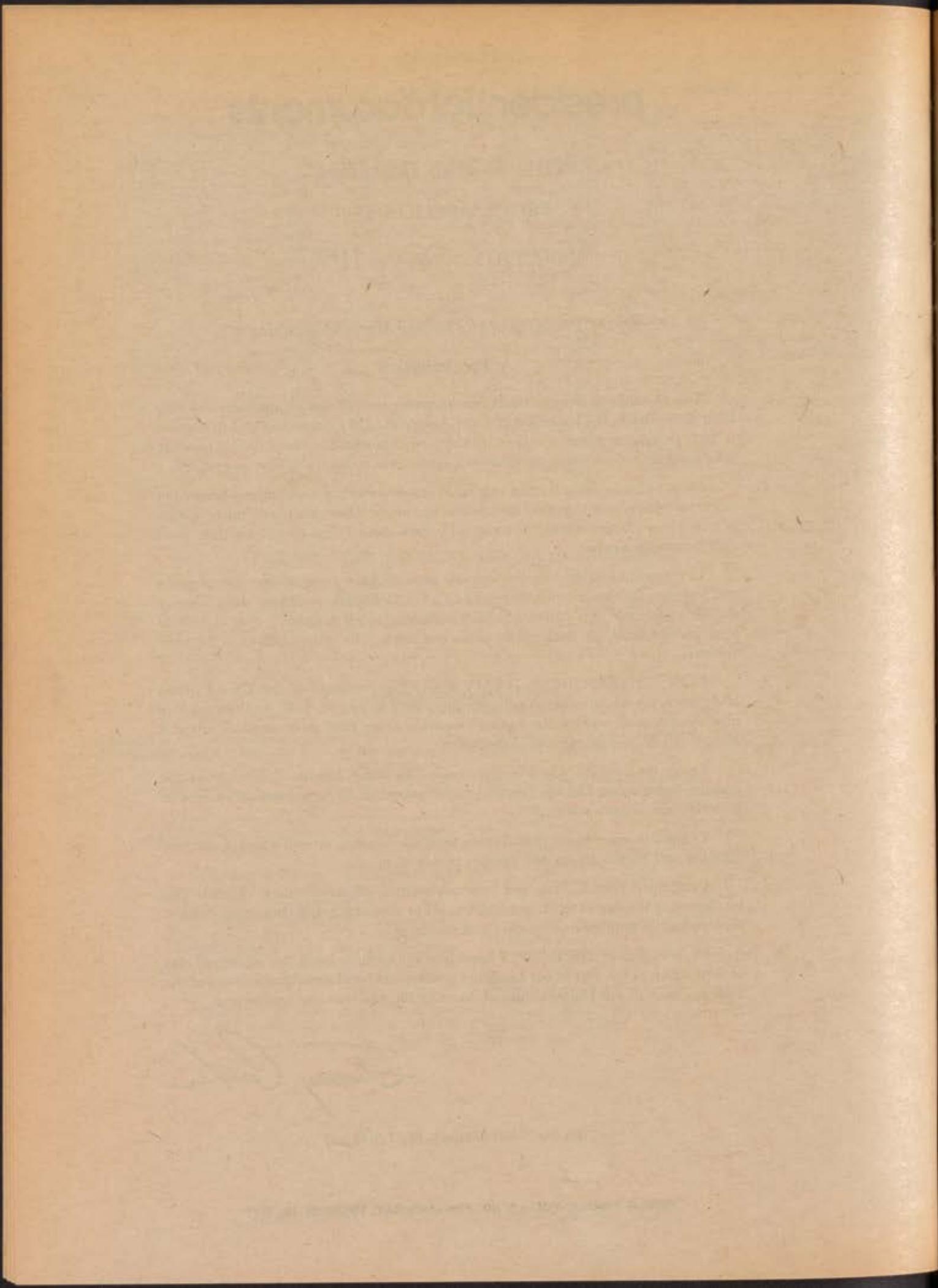
I especially encourage remembrance to those men and women who are sick and disabled and to those who are patients in our hospitals.

I call upon Federal, State and local government officials to mark Veterans Day by displaying the flag of the United States and by supporting and encouraging public involvement in appropriate exercises and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of September, in the year of our Lord nineteen hundred and seventy-seven, and of the Independence of the United States of America the two hundred and second.



[FR Doc.77-27026 Filed 9-13-77;3:36 pm]



Executive Order 12009

September 13, 1977

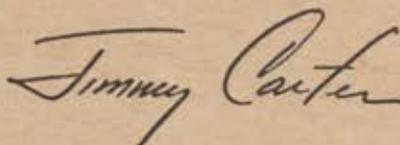
Providing for the Effectuation of the Department of Energy Organization Act

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including the Department of Energy Organization Act (Public Law 95-91; 91 Stat. 565), and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. Pursuant to Section 901 of the Department of Energy Organization Act, I hereby prescribe October 1, 1977, as the effective date of that Act.

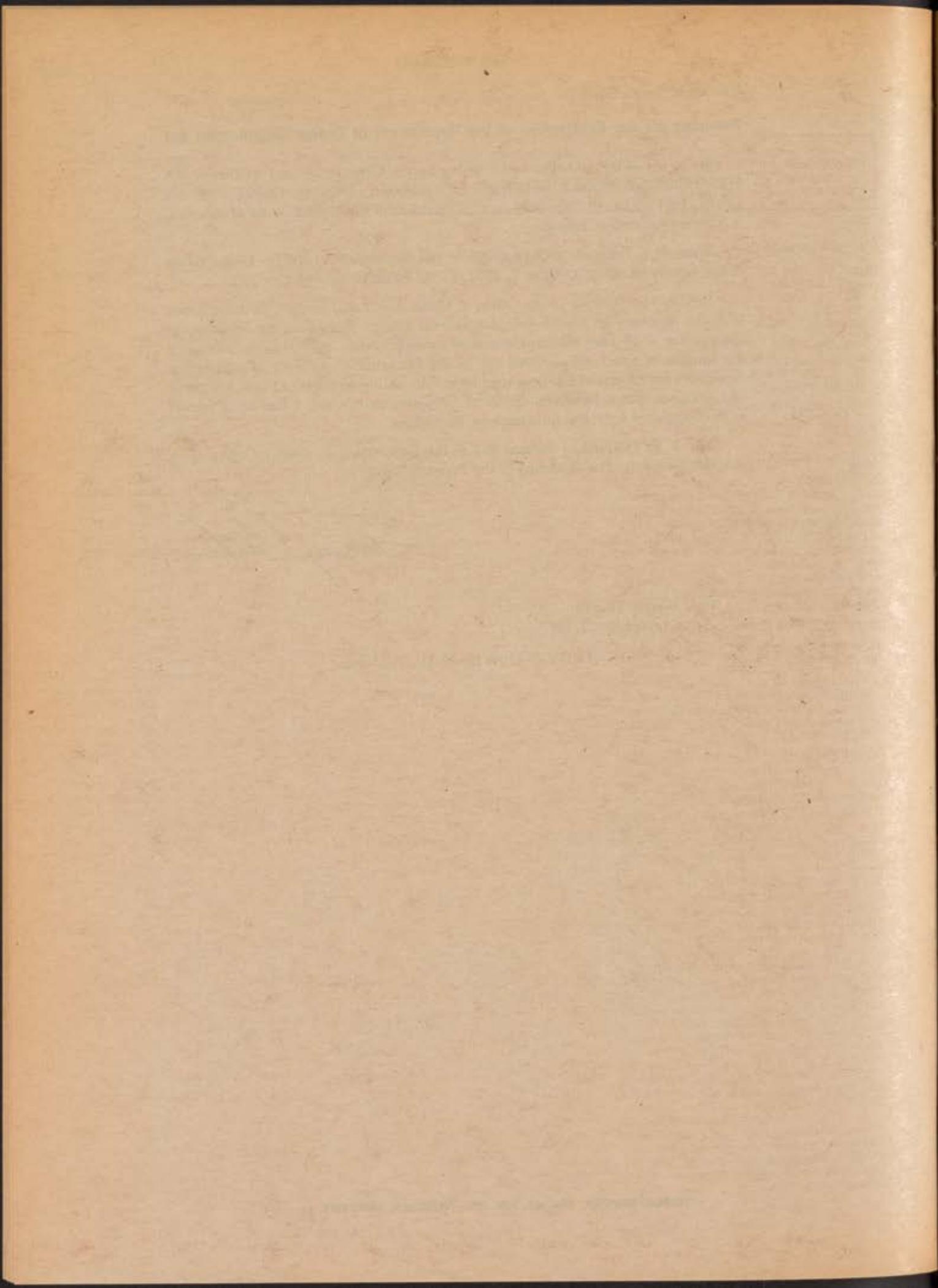
SEC. 2. The Director of the Office of Management and Budget, in consultation with the Secretary of Energy and the Federal Energy Regulatory Commission, as appropriate, shall take all steps necessary or appropriate to ensure or effectuate the transfer of functions provided for in the Department of Energy Organization Act, to the extent required or permitted by law, including transfers of funds, personnel and positions, assets, liabilities, contracts, property, records and other items related to the transfer of functions, programs, or authorities.

SEC. 3. As required by Section 901 of the Department of Energy Organization Act, this Order shall be published in the FEDERAL REGISTER.



THE WHITE HOUSE,
September 13, 1977.

[FR Doc.77-27068 Filed 9-14-77;10:01 am]



rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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

Title 7—Agriculture

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

[Valencia Orange Reg. 573]

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

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period Sept. 16-22, 1977. This regulation is needed to provide for orderly marketing of fresh Valencia oranges for the regulation period because of the production and marketing situation confronting the orange industry.

EFFECTIVE DATE: September 16, 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. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the amended marketing agreement and order, and upon other available information, it is found that the limitation of handling of Valencia oranges, as provided in this regulation will tend to effectuate the declared policy of the act.

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

(1) The committee has submitted its recommendation for the quantities of Valencia oranges that should be marketed during the specified week. The recommendation, designed to provide equity of marketing opportunity to handlers in

all districts, resulted from consideration of the factors covered in the order. The committee further reports the fresh market demand for Valencia oranges continues good.

Average f.o.b. price was \$4.51 per carton on 532 cars for the week ended September 8, as compared with \$4.47 per carton on 531 cars the previous week. Track and rolling supplies at 288 cars were up 24 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantities of Valencia oranges which may be handled should be established as provided in this regulation.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information become available upon which this regulation is based and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient. A reasonable time is permitted for preparation for such effective time; and good cause exists for making the regulation effective as specified. The committee held an open meeting during the current week, after giving due notice, to consider supply and market conditions for Valencia oranges and the need for regulation. Interested persons were afforded an opportunity to submit information and views at this meeting. The recommendation and supporting information for regulation during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning such provisions and effective time has been provided to handlers of Valencia oranges. It is necessary, to effectuate the declared policy of the act, to make this regulation effective during the period specified. The committee meeting was held on September 13, 1977.

§ 908.873 Valencia Orange Regulation 573.

(a) Order. (1) The quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period September 16, 1977, through Sept. 22, 1977, are hereby fixed as follows:

- (i) District 1: 290,000 cartons;
- (ii) District 2: 435,000 cartons;
- (iii) District 3: Unlimited.

(2) As used in this section, "handled", "District 1", "District 2", "District 3",

and "carton" have the same meaning as when used in the amended marketing agreement and order.

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

Dated: September 14, 1977.

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

[FR Doc. 77-27088 Filed 9-14-77; 11:57 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER G—MISCELLANEOUS REGULATIONS

(FmHA Instruction 440.3)

PART 1888—SPECIAL ASSISTANCE TO DROUGHT STRICKEN AREAS

Amendment

AGENCY: Farmers Home Administration, USDA

ACTION: Final rule.

SUMMARY: The Farmers Home Administration issues amended regulations to provide that loan funds may be used to pay initial operating and maintenance expenses attributable to short term measures necessary to augment community water supplies; all users being served by the project, regardless of meter size, may be considered in determining the amount of the grant; and, that the reasonable user rate provision of § 1823.472 (b), (b)(1), and (b)(2), will not be applicable when determining the amount of eligible grant assistance for drought projects. This action is brought about by the need for emergency assistance through grants and/or loans and the intended effect is to ameliorate the impact of the drought conditions.

EFFECTIVE DATE: September 15, 1977. Comments must be received on or before October 17, 1977.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, South Building, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles B. Hart (202-447-5717).

SUPPLEMENTARY INFORMATION: Section 1888.13 of Part 1888 of Chapter XVIII, Title 7, Subchapter G, "Miscellaneous Regulations," in the Code of

Federal Regulations, (42 FR 19322; 42 FR 23158; 42 FR 43965) is amended. The text of paragraph (c) of this section is amended to provide that loan funds may be used to pay initial operating and maintenance expenses attributable to short term measures necessary to augment community water supplies. The text of paragraph (d) of this section is amended to further explain methods for determining grant assistance to eligible recipients and project users suffering from drought, as set forth in the amended § 1888.13(d). It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemptions in 5 U.S.C. 553 with respect to such rules. This amendment, however, is not published for proposed rulemaking since any delay in administering this currently needed assistance would be contrary to the public interest. However, comments will be accepted and material thus submitted will be evaluated and acted upon in the same manner as if the document were a proposal. However, this addition will remain effective until amended in order to permit the public business to proceed expeditiously. Accordingly, the text of paragraphs (c) and (d) of § 1888.13 are amended to read as follows:

§ 1888.13 Loans and grants to rural communities for water supply assistance.

(c) For those projects determined to meet the requirements of paragraph (b) of this section, assistance may be provided to the extent necessary for the construction, enlargement, extension, improvement, or any other appropriate community water facility purpose for ameliorating drought caused problems. Such assistance may include, but not be limited to, deepening an existing well, developing a new water source by digging a new well, or extending water supply lines to other water sources. Additionally, assistance may be provided for short term measures necessary to augment community water supplies where there are severe problems resulting from water shortages due to the drought, including the use of loan funds for initial operation and maintenance expenses attributable to such measures. However, increased operation and maintenance expenses on existing facilities attributable to the drought are not items for which assistance may be provided. Eligibility is limited to those project measures which can be completed by April 30, 1978. Under special circumstances or hardship an extension of completion time may be granted by the FmHA Administrator.

(d) The provisions of paragraph (b), (b) (1), and (b) (2) of § 1823.472 of this Chapter as they pertain to the use of grant funds to achieve a reasonable user cost and to those users that may be considered eligible recipients of grant benefits will not apply. All users being served by the project, regardless of meter size, may be considered in determining the

amount of grant, except that projects must primarily serve rural residents. Grant assistance will be determined as follows:

(7 U.S.C. 1989; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.)

NOTE.—The Farmers Home 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: September 8, 1977.

JAMES E. THORNTON,
Associate Administrator,
Farmers Home Administration.

[FR Doc. 77-26936 Filed 9-14-77; 8:45 am]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

Amendments to Chapter to Revoke or Revise Certain Reporting Requirements

Correction

In FR Doc. 77-25074 appearing on page 43965 in the issue for Thursday, September 1, 1977, the amendment to § 20.403 should read as follows: "2. Paragraph (a) (4) of § 20.403 is amended by deleting '\$100,000' and substituting therefor '\$200,000'."

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

1977 PRICE AND ALLOCATION INTERPRETATIONS

AGENCY: Federal Energy Administration.

ACTION: Notice of interpretations.

SUMMARY: Attached are the interpretations issued by the General Counsel of the Federal Energy Administration (FEA) during the period August 5 through August 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Kathleen Williams, Federal Energy Administration, 12th & Pennsylvania Avenue NW., Room 7132, Washington, D.C. 20461 (202-566-2454).

SUPPLEMENTARY INFORMATION: FEA interpretations issued pursuant to 10 CFR Part 205, Subpart F, are published in the FEDERAL REGISTER from time to time in accordance with editorial and classification criteria set forth in 42 FR 7923, February 8, 1977.

In 42 FR 7923, FEA stated as follows:

The Interpretations published today are altered from the form in which they were originally issued only in the following respects:

(1) Material which is arguably confidential under 18 U.S.C. 1905 (chiefly specific price or supply data relating to the requesting firm's business operations) has been deleted and replaced by x's;

(2) The inside address, subject line and salutation have been deleted and replaced

by the following uniform data identification headings:

To: (Firm which submitted request for Interpretation or on whose behalf request for interpretation was submitted);

Date: (Date Interpretation was issued);

Rules Interpreted: List of regulations, rulings or statutory provisions construed in the Interpretation);

Code: (Information indicating (1) whether the Interpretation was issued by General Counsel/Washington ("GCW") or Regional Counsel, and the FEA Region concerned (e.g., "GCR(IV)"), (2) whether the Interpretation is a Price Interpretation ("PI") or Allocation Interpretation ("AI"), or both, and (3) the generic subject or subjects (e.g., "Class of Purchaser," "December 1 Rule") discussed in the Interpretation); and

(3) Nonsubstantive information included as a matter of course at the end of every Interpretation (indicating, for example, by whom and to what extent the Interpretation may be relied upon, the procedure for appeal of the Interpretation, and to whom copies of the Interpretation have been sent) has also been omitted.

These alterations were predicated on the issuance of Interpretations in letter format, and all Interpretations through Interpretation 1977-27 were in fact issued as letters. Beginning with Interpretation 1977-28 (the first Interpretation appended hereto) FEA has issued Interpretations under a new format in which the Interpretation is an attachment to a brief cover letter. This style permits FEA to group in the cover letter all non-interpretive remarks which used to be found in the introductory and concluding paragraphs of Interpretations and which need not be published in the FEDERAL REGISTER. This format also permits FEA to structure the interpretation proper—the attachment to the cover letter—in a manner appropriate for publication in the FEDERAL REGISTER without the need for alteration or other preparation (except for the deletion of any confidential material).

Thus, subject to the single exception just noted, the Interpretations published today, including the interpretation numbers and data identification headings, are published exactly in the form issued. Because the non-interpretive introductory paragraph or paragraphs usually beginning "This is in response to your request * * *" are now found in the cover letter, the text of Interpretations as published in the REGISTER will no longer begin with such paragraphs but will consist entirely of portions labelled "Facts," "Issue," and "Interpretation."

Except as indicated above, the editorial and classification standards noted in 42 FR 7923 with respect to publication of Interpretations remain unaltered.

FEA Interpretations depend for their authority on the accuracy of the factual statement used as a basis for the Interpretation (10 CFR 205.84(a)(2)) and may be rescinded or modified at any time (§ 205.85(d)). Only the persons to whom Interpretations are addressed and other persons upon whom Interpretations are served are entitled to rely on them (§ 205.85(c)). An Interpretation is modified by a subsequent amendment to the regulation(s) or ruling(s) interpreted thereby to the extent that the Interpretation is inconsistent with the amended

regulation(s) or ruling(s) (§ 205.85(e)). In addition, Interpretations are subject to appeal. The Interpretations appended hereto are published today only for general guidance in accordance with the reasons set forth in the FEA notice cited above.

Issued in Washington, D.C., September 10, 1977.

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

APPENDIX

No.	To	Date	Category
1977-28	Mobil Oil Corp.	Aug. 5	Allocation.
1977-29	Peerless Distributing Co.	Aug. 9	Price.
1977-30	Atlantic Richfield Co.	Aug. 10	Allocation and price.
1977-31	Mobil Oil Corp.	Aug. 12	Allocation.
1977-32	Cook & Cooley, Inc.	Aug. 29	Do.
1977-33	C. R. England Oil & Gas Properties.	Aug. 31	Price.

INTERPRETATION 1977-28

To: Mobil Oil Corporation.

Date: August 5, 1977.

Rules Interpreted: §§ 205.2, 205.33(a), 211.12(e), 211.13(c) and (f).

Code: GCW—AI—"New" Wholesale Purchaser-Reseller; Base Period Use, Adjustments to; Procedural Requirements.

FACTS

Mobil Oil Corp. ("Mobil") is the prime supplier of motor gasoline for Ace Oil Co. ("Ace"), a distributor in Chattanooga, Tenn. (a wholesale purchaser-reseller under the Mandatory Petroleum Allocation Regulations). Ace entered into an agreement with the Atlantic Richfield Co. ("ARCO") to assume ARCO's FEA-mandated supply obligations for twelve retail motor gasoline sales outlets (also classified as wholesale purchaser-resellers under FEA regulations). "Three-party agreements" executed by Ace, ARCO and each of the twelve purchasers were submitted to the FEA's Region IV Office for approval. The agreements requested termination of the base period supplier/purchaser relationship between ARCO and the individual purchasers and the substitution by an assignment of Ace as the new base period supplier for the twelve accounts. The FEA granted approval of the three-party agreements by letters sent to each of the twelve purchasers over the period of February 17 through May 19, 1976. Each letter indicated that ARCO had voluntarily relinquished its supply obligation for the individual purchaser and that Ace had assumed the base period supply obligation for that purchaser.

On June 1, 1976, Ace certified to Mobil pursuant to 10 CFR 211.13(f) for an adjustment to its base period use to reflect the additional supply obligation arising out of Ace's agreement to supply the twelve former ARCO accounts. By letter dated June 14, 1976, Mobil agreed to make the increased allocation of gasoline available to Ace without waiving any of its rights.

ISSUE

The issue presented for interpretation is: (1) Whether a wholesale purchaser-reseller which receives FEA approval of termination of its base period supply relationship (in the context of a three-party agreement approved by FEA) is a "new wholesale purchaser" under 10 CFR 211.12(e); and, (2) whether a supplier who accepts the supply obligation to supply a "new wholesale purchaser" can certify to its supplier for an upward adjust-

ment of its base period use as provided in 10 CFR 211.13(c)(1).

INTERPRETATION

For the reasons set forth below, it has been concluded that a wholesale purchaser-reseller which receives FEA approval of termination of its base period supply relationship in the context of an FEA approved three-party agreement as described hereinabove is a "new wholesale purchaser" under 10 CFR 211.12(e). In addition, the new supplier for that "new wholesale purchaser-reseller" can then certify to its supplier for an upward adjustment of its base period use as provided in 10 CFR 211.13(c)(1) to reflect the assumption of an additional allocation obligation.¹

FEA approval of the termination for the base period supply relationships between ARCO and the twelve retail gasoline sales outlets was required by 10 CFR 211.9(2)(1). That section provides:

Unless otherwise provided in this part or directed by FEO, the supplier/wholesale purchaser-reseller relationships defined by specific dates or base periods or otherwise imposed pursuant to this part shall be maintained for the duration of the Mandatory Petroleum Allocation Program and may not be waived or otherwise terminated without the express written approval of FEO.

By requesting and receiving FEA approval of the termination, ARCO was relieved of the supply obligation of the twelve purchasers and the purchasers then had no base period supplier and were therefore "new wholesale purchasers" under the express language of 10 CFR 211.12(e). That section provides, in relevant part, as follows:

(e) *New wholesale purchasers.* Wholesale purchasers which do not have base period suppliers and wholesale purchasers whose base period suppliers are unable to supply them with sufficient amounts of an allocated product shall be supplied as provided in this paragraph.

Such "new wholesale purchasers" may obtain FEA approval, in the form of an assignment, for the establishment of a new supplier/purchaser relationship with a different supplier, as provided in 10 CFR 211.12(e)(2)(ii):

Wholesale purchaser-resellers without a base period supplier or a new supplier as provided in § 211.10(e)(1) must apply to FEA for an assignment to a supplier and for assignment of base period volume in accordance with Subpart C of Part 205 of this chapter.

Submission of the so-called three-party agreements was the vehicle in this case by which the twelve wholesale purchaser-resellers, having simultaneously terminated their relationship with ARCO, sought under § 211.12(e)(2)(ii) to obtain assignment to Ace. When FEA approved the three-party agreement, Ace became the supplier for the twelve wholesale purchaser-resellers.

In light of its new and increased supply responsibilities to the twelve wholesale purchasers, Ace sought an increase of supply from Mobil. Pursuant to the provisions of 10 CFR 211.13(c)(1), a wholesale purchaser-reseller, such as Ace is entitled to an automatic adjustment to its base period use level "whenever (i) it is notified pursuant to § 205.36(d) of an assignment to supply a new wholesale purchaser * * *." That section further provides that the amount of the adjustment shall be "equal to the in-

¹ FEA Interpretation 1975-50, issued January 3, 1975, is not dispositive of the issue in this case because 10 CFR 211.13(c) in its present form was not in existence at the time of the issuance of that interpretation.

creases in the allocation entitlements which the wholesale purchaser-reseller is to supply." Mobil is Ace's base period supplier. Therefore, Mobil is obligated under the provisions of 10 CFR 211.13(c)(1) to supply Ace with additional motor gasoline in a volume which is equal to the aggregate amount which Ace is obligated to supply to the twelve wholesale purchasers acquired under the three party agreements approved by FEA.

You have also contended in your request that Mobil is an aggrieved party as defined in 10 CFR 205.2 with regard to FEA's approval of the three party agreements and assignment of Ace as the base period supplier for the twelve accounts. As an aggrieved party within the contemplation of FEA procedural regulations you contend that FEA's approval of the three party agreements described hereinabove was not in conformance with the notice requirements specified in 10 CFR 205.33(a). In connection with assignments of new purchasers, that section provides:

The FEA shall serve notice on any person readily identifiable by the FEA as one who will be aggrieved by the FEA action and may serve notice on any other person that written comments regarding the application for assignment will be accepted if filed within 10 days of service of the notice; or may determine that notice should be published in the FEDERAL REGISTER.

For the purposes of FEA administrative proceedings, the term "aggrieved" is defined in 10 CFR 205.2 as "a person with an interest sought to be protected under the FEAA, EPAA or Proclamation No. 3279, as amended, who is adversely affected by an order or interpretation issued by the FEA or a State Office."

Mobil is within the scope of the definition of the term "aggrieved" with respect to the orders issued by FEA Region IV assigning Ace as the base period supplier of the twelve accounts. This assignment as has been described hereinabove has the ultimate effect of increasing Mobil's supply obligations to Ace. As pointed out in your request, increases in Mobil's supply obligations could cause a disruption in the company's supply and distribution system to the detriment of all of Mobil's accounts and could adversely affect Mobil's position as a marketer in the petroleum industry. Therefore, Mobil is a party with interests sought to be protected under Section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973 as amended.

Mobil was also "readily identifiable" by the FEA as a party which would be aggrieved by the transfer of supply obligations because Ace was identified as a Mobil distributor in the three party agreements submitted to FEA. Accordingly, Mobil should have been treated as an aggrieved party and given notice of the action.

In general when FEA fails to comply with the notice requirements in issuing an assignment order and the failure to do so is raised in a timely and proper manner on appeal, the order will be reversed and vacated. See *Texaco, Inc.*, 3 FEA § 80.864 (June 29, 1976). However, it appears from the facts contained in your submission and set forth below that Mobil, having received actual notice of the FEA orders discussed herein, failed to appeal these orders.

As indicated in your submission, Mobil requested clarification of 10 CFR 211.13(c) from Region IV with regard to the three party agreements hereinabove described on March 2, 1976, and Mobil received a reply from the FEA Regional Office on March 24, 1976. In addition, Ace certified to Mobil for an increase in its base period volume reflecting all of the newly acquired accounts on June

1, 1976. It is evident that Mobil had actual notice both of the submission of the three party agreements and the subsequent approval of them by FEA as early as March 1976, but failed to appeal the orders within the thirty day period provided for in 10 CFR 205.38.

In the event the application of 10 CFR 211.13 consistent with this interpretation may result in serious hardship or gross inequity, Mobil may file an "Application for Exception" in accordance with the procedures set forth in Subpart D of 10 CFR Part 205.

INTERPRETATION 1977-29

To: Peerless Distributing Company.

Date: August 9, 1977.

Rules Interpreted: §§ 212.31, 212.81, 212.91.

Code: CCR(V)—PI—Firm, def.; Refiner, def.; Reseller, def.

FACTS

Peerless Distributing Company ("Peerless") is a Michigan company engaged in the purchase and resale of various petroleum products. It is owned 100 percent by members of the Fleischman family (the family consisting of the father, mother, son, two daughters, and son-in-law). Members of the same family also own 100 percent of a second firm engaged in reselling petroleum products, Petroleum Specialties, Incorporated ("Petroleum Specialties") and two refineries, Lakeside Refining Company ("Lakeside") and Crystal Refining Company ("Crystal").

Peerless is both a purchaser from and supplier to the other Fleischman-owned companies. Peerless purchases approximately 30 percent of its product from Crystal and Lakeside. Peerless files its own federal and state income tax returns, and claims that it has traditionally operated as a completely independent entity. Peerless also maintains its own inventories and claims to establish prices separately from the other family held companies.

ISSUE

May Peerless be treated as a separate entity under the Mandatory Petroleum Price Regulations ("Price Regulations"), or must it be considered as part of an integrated "firm" along with Petroleum Specialties, Lakeside, and Crystal? If it must be treated as part of an integrated "firm", must the regulations for refiners, 10 CFR 212.81, et seq., be applied to its business activities?

INTERPRETATION

The definition of "firm" in 10 CFR 212.31 provides that the Federal Energy Administration ("FEA") "may, in regulations and forms issued under this part (212), treat as a firm: (1) A parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls, (2) a parent and its consolidated entities, (3) an unconsolidated entity, or (4) any part of a firm."

FEA regulations provide that with regard to both refiners and resellers, a "firm" will include any consolidated or unconsolidated entities which it directly or indirectly controls. For refiners, under Subpart E of Part 212, 10 CFR, "firm" is defined in § 212.32, as "a parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls." As for resellers under Subpart F of 10 CFR, Part 212, FEA in an amendment to § 212.92, effective May 1, 1976, expressly defined "seller" as "a parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls." In issuing this amendment FEA pointed out that this express definition "conforms to prior interpretations that 'seller' as used in Subpart F, is the same as 'firm' as defined in Subpart E of Part 212, i.e., a parent and the consolidated and unconsolidated

entities (if any) which it directly or indirectly controls." (41 FR 19110, May 10, 1976).

One of the purposes of defining a firm in this manner is to guard against the possibility of a firm improperly magnifying allowable costs through intracorporate sales or transfers of products at prices reflecting a margin of profit added to each sale or transfer within the firm. Using the "control" concept, the costs which can be passed through are the costs to the "firm," assuring only a dollar-for-dollar passthrough of actual costs incurred by the "firm" concerned.

If direct or indirect control exists between entities, they must be included in the "firm." Peerless argues that it operates on a completely independent basis from the other family-owned companies and therefore no "control" exists. But in FEA Interpretation 1975-32 (42 FR 29722, May 10, 1977), FEA made clear that control is determined by possession of the power to control and not the actual exercise of that power. FEA explained that the issue of control must be decided on objective as well as established criteria. A decision as to the issues of control "which would depend upon a judgment by FEA regarding the degree of * * * actual supervision of * * * day to day operations and which might be subject to review according to the changing circumstances of managerial intervention * * * would be both administratively unfeasible and too arbitrary and indefinite to permit coherent application of the price and allocation regulations * * *"

Power to control a company must be inferred from 100-percent ownership and the power to control all of the companies must be interpreted from the common ownership within the same family. Cost of Living Council ("CLC") Phase IV and FEA regulations include the definitions of "parent and its consolidated entities" and "unconsolidated entity" the qualification that an individual "shall be deemed to control a firm which is directly or indirectly controlled by him or by his father, mother, spouse, children or grandchildren." 6 CFR 150.31 and 10 CFR 212.31.

The ownership and thus the power to control all four of the Fleischman-owned companies lies within the members of the same family. Peerless states in its request that it "is controlled by persons who also own Lakeside, Crystal, and Petroleum Specialties." FEA must treat all four companies as one "firm." Which Subpart of Part 212 should be applicable to the "firm," which is engaged in both refining and reselling operations? Section 212.81, under Subpart E, the refiner regulations, states that:

"This subpart applies to each sale of a covered product which is purchased or refined by a refiner, except as provided in Subparts F and K."

Section 212.91, under Subpart F, the reseller and retailer regulations, states that: " * * * For purposes of this subpart, 'reseller' includes any entity of a refiner (other than an entity that operates in Puerto Rico) that is engaged in the business of purchasing and reselling covered products: *Provided*, That the entity does not purchase more than 5 percent of such covered products from the refiner including any entities that it directly or indirectly controls: *And provided further*, That the entity has consistently and historically exercised the exclusive price authority with respect to sales by the entity."

FEA Interpretation 1977-6 (42 FR 17100, March 31, 1977) explained that:

" * * * the regulations make it clear that Subpart B applies to all sales of a 'refiner' except as provided in Subpart F, and the only exceptions under Subpart F are: (1)

Refiner resales of crude oil * * * and (2) an entity of a refiner that is engaged in purchasing and reselling covered products * * * only if that entity (a) purchases no more than five percent of such covered products from the refiner ("including any entities that it directly or indirectly controls"), and (b) has consistently and historically exercised exclusive price authority with respect to its own sales."

Peerless admits that it purchases approximately 30 percent of its product volume from Crystal and Lakeside. It therefore fails to qualify for treatment as a reseller under the "5 percent rule" of § 212.91. Since under § 212.81 all refiner activities are regulated under Subpart B, except with respect to that part of a refiner, if any, which meets the exceptions outlined in § 212.91, the family owned "firm" must be treated as a refiner under Subpart E of the Price Regulations.

Peerless also claims that FEA has allowed "companies, which otherwise meet the regulations definitions of one firm, to continue to operate as separate entities for the purpose of calculating the maximum permissible selling price for each." FEA's Office of Exceptions and Appeals, has under certain circumstances, allowed such separate treatment. A request for interpretation is not the proper forum for Peerless to seek such relief. An exception from the requirements of the Price Regulations would have to be sought under the procedures of Subpart D of 10 CFR Part 205.

INTERPRETATION 1977-30

To: Atlantic Richfield Company.

Date: August 10, 1977.

Rules Interpreted: §§ 211.67(d)(2), 212.53 (c).

Code: GCW—AI, PI—Export Sales Deduction.

FACTS

Atlantic Richfield Company ("ARCO") is a refiner subject to the Mandatory Petroleum Price and Allocation Regulations, 10 CFR Part 211 and 10 CFR Part 212.

ARCO produces non-bonded aviation jet fuel and then sells volumes of such fuel to a domestic purchaser intending to uplift it on international flights departing from the United States. The purchaser certifies to ARCO that certain of such volumes are for export.

ISSUE

All sales of non-bonded aviation fuel to be consumed on international flights departing from the United States export sales for purposes of the export sales deduction set forth in § 211.67(d)(2), when the purchaser certifies that the volumes sold are for export?

INTERPRETATION

Section 211.67(d)(2) states:

The volume of a refiner's crude oil runs to stills in a particular month for purposes of the calculations in paragraph (a)(1) of this section and the calculations for the national domestic crude oil supply ratio shall be reduced by that refiner's volume of export sales under § 212.53 of Part 212 of this chapter in that month of refined petroleum products (including aviation fuels as defined in § 211.142 of this part, but excluding refined lubricating oils) and residual fuel oil, including sales to a domestic purchaser which certifies the product is for export: * * * (Emphasis added.)

Section 211.67(d)(2) expressly refers to the provisions of § 212.53 to define the scope of those export sales which are required to be deducted from ARCO's crude oil runs to stills. Section 212.53(c) specifically deals with the question of non-bonded aviation fuel by providing that:

Non-bonded aviation fuel uplifted in the United States for international flights departing from the United States shall not be considered as export for purposes of this part.

Therefore, a purchaser's certification to the contrary notwithstanding, sales of non-bonded aviation fuel uplifted in the United States for international flights departing from the United States are not export sales, and consequently should be included in ARCO's crude oil runs to stills for purposes of the export sales deduction set forth in § 211.67(d)(2).

INTERPRETATION 1977-31

To: Mobil Oil Corporation.

Date: August 12, 1977.

Rules Interpreted: §§ 211.51, 211.67.

Code: GCW—AI—Crude Oil, def.; Entitlements Program.

FACTS

Mobil Oil Corporation ("Mobil") is planning to import liquid hydrocarbons ("liquids") produced at the Arun field in Indonesia. Facilities designed to produce, treat and liquify natural gas are currently under construction at the field. Upon completion of the plant facilities 600 MM SCF per day of liquified natural gas ("LNG") will be produced and a substantial volume of liquids will be available at the plant.

The facilities being constructed at Arun are designed to become operational in stages. Liquids will be recovered from the production facilities in an interim operation and will be available for loading for export in September of 1977. The Arun gas plant is to become operational in mid-1978.

The liquids produced at Arun in the interim operation will be derived from wellhead condensation which has been reduced to ambient conditions through retrograde condensation (the formation of liquids from gas through reduction of pressure). The Arun wellhead conditions are such that the gas produced is at high pressure and temperature (5,000 p.s.i.; 340 F) and contains a significant volume of liquid. Due to the high pressure of the gas and in order to obtain complete recovery of the liquids, four stages of separation by retrograde condensation or "flashing" (separation of liquids from gas by reduction of pressure) will be used. The liquids are first separated at 1150 pounds per square inch ("p.s.i.") and then pumped 20 miles to liquid recovery facilities near the marine loading terminal. Two additional flash stages will then be employed to reduce the pressure to 200 p.s.i. and 60 p.s.i. respectively. The vapor phase from these stages will be utilized as fuel and the excess flared.

After these two flash stages, the stream is discharged at 41° F because of the thermodynamic cooling effects of the condensation. The stream is then passed through a steam exchanger to heat the liquid to 174° F and reflash at atmospheric pressure. The final flash step further reduces the volume of recovered liquid and results in stable liquids at ambient conditions.

ISSUE

Are the liquids recovered from gas production at the Arun field in Indonesia through separation by retrograde condensation at an interim facility and imported to the United States by Mobil for use as feedstock in domestic Refineries "lease condensate" and thus within the definition of crude oil in 10 CFR 211.51 and eligible for inclusion in the volume of crude oil runs to stills for purposes of the entitlements program set forth 10 CFR 211.67?

INTERPRETATION

For the reasons set forth below, it has been concluded that the liquids recovered from

the gas production at the Arun field in Indonesia through an interim operation pending completion of a gas processing plant by means of retrograde condensation and imported to the United States by Mobil qualify as "lease condensate" and are thus within the definition of crude oil in 10 CFR 211.51 and eligible for inclusion in the entitlements program, 10 CFR 211.67.

Crude oil is defined in 10 CFR 211.51 as follows: * * * a mixture of liquid hydrocarbons including lease condensate that exists in natural underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities. (Emphasis added.)

The term "lease condensate" does not have a uniform definition in the petroleum industry. Generally, condensate refers to the heavier liquid hydrocarbon portion of natural gas in the underground reservoir which is mechanically separated from natural gas as a liquid through a process of retrograde condensation, involving pressure reduction, and sometimes accompanied by a reduction in temperature as well. Condensate separated from natural gas by conventional lease separation facilities ("surface separators" (at the wellhead, or by a single mechanical separator ("field facility"), located centrally and servicing two or more wells, is typically referred to as "lease condensate." Condensate which is separated from natural gas at gas processing plants, for example, at the inlet side of a gas processing plant, is referred to as "plant condensate." For the purposes of FEA's price regulations (10 CFR, Part 212, Subpart D), condensate, wherever recovered (lease, field or plant) is considered as crude oil and priced accordingly. (See 40 FR 40819, September 4, 1975). However, for the purposes of the allocation regulations (10 CFR Part 211) only lease condensate is included in the definition of crude oil.

The liquids recovered from the Arun field are lease condensate because they are recovered by mechanical separation after retrograde condensation in a process comparable to recovery at the lease or at field facilities. Additionally, they remain liquid at normal atmospheric pressure and thus fall within the definition of crude oil in 10 CFR 211.51.

As Mobil pointed out in its request, the condensate recovery process does differ from the general method of recovery of lease condensate in two ways. First, the condensate facilities span an area of twenty miles and second, the liquids are reheated in the final stage prior to marine shipment.

The fact that the condensate facilities span an area of twenty miles does not alter the conclusion that the basic method of recovery in this case is comparable to the domestic recovery of lease condensate. After the first separation, the liquids are transported twenty miles so that further recovery can take place near the marine loading terminal. As you indicated, stabilizing the liquid at a location near the loading port offers the efficiency of being able to use the low pressure off-gas as fuel. Carrying the flash stages out at the lease would require flaring of this low pressure gas. The completion of the condensate recovery at the loading port does not change the basic method of recovery of the liquids. Furthermore, the condensate recovery during the interim operation is not associated with a gas processing plant. Therefore, the distance involved in the Arun interim operation is not a distinguishing factor.

The second difference, the fact that, unlike the normal processing of lease condensate, the liquids at the Arun interim operation are reheated in the final stage prior to marine shipment, does not detract from the classification of this material as lease condensate. The reheating does not affect the

composition of the condensate, but only, as pointed out in Mobil's submission, enhances the separation of the liquids and substantially reduces the volume of the material recovered. This heating process is not equivalent to a fractionation process.

Finally, classification of the Arun condensate as lease condensate and therefore crude oil under the definition of that term in 10 CFR Part 211 will allow the condensate to be included in Mobil's crude oil receipts as imported crude oil for the purposes of the entitlements program. That program seeks to reduce to a competitive range disparities in refiner's feedstock costs resulting from the fact that some refiners have greater access to price controlled domestic crude oil whereas other refiners are more dependent on higher priced imported crude oil. The Arun liquids are in all respects the equivalent to foreign crude oil, they are obtained at a price equivalent to foreign crude oil and will be used as refinery feedstock in Mobil's domestic refineries.

INTERPRETATION 1977-32

To: Cook & Cooley, Inc.

Date: August 29, 1977.

Rules Interpreted: § 211.13(c).

Code: GC(DX)—AI—Adjustments to Base Period Use.

FACTS

Cook & Cooley, Inc., ("Cook & Cooley") is a distributor of Texaco branded motor gasoline for independently operated Texaco retail sales outlets in the Los Angeles basin area, and is a wholesale purchaser-reseller within the contemplation of FEA regulations. Cook & Cooley did not begin to supply several of these retail outlets until the latter part of 1973, after the operators had terminated supply relationships with other distributors. Therefore, the base period responsibility to supply these retail outlets, under FEA allocation regulations, was with Cook & Cooley for the latter months of 1972 and with other suppliers for the preceding months of 1972.

Prior to March 1, 1976, Cook & Cooley received notification from two of these retail outlets that they had elected to designate Cook & Cooley as their sole base period supplier in accordance with the provisions of 10 CFR 211.105. The election by these retail outlets placed an additional supply obligation of approximately 1.67 million gallons of gasoline annually on Cook & Cooley, Inc.

ISSUE

The issue presented for interpretation is whether Cook & Cooley, as a wholesale purchaser-reseller, is entitled to an automatic adjustment to its base period use under 10 CFR 211.13(c) to reflect the increased supply obligation resulting from the designation of Cook & Cooley as the sole base period supplier to certain of its purchasers pursuant to 10 CFR 211.105.

INTERPRETATION

For the reasons set forth below, it has been concluded that Cook & Cooley, as a wholesale purchaser-reseller, is not entitled to an automatic adjustment to its base period use under the provisions of 10 CFR 211.13(c) for increased supply obligations resulting from the designation of Cook & Cooley as the sole base period supplier pursuant to 10 CFR 211.105.

When initially promulgated on January 15, 1974, the general provisions of 10 CFR Part 211, Subpart A, required each supplier to supply all retail outlets which purchased or obtained allocated product from that supplier during the base period. The supplier/purchaser relationship so established could not be waived or otherwise terminated without the express written approval of the FEA. On October 3, 1975, 10 CFR 211.105 was amended

FACTS

(40 FR 47477, October 9, 1975) to permit a branded independent marketer with two or more base period suppliers during a calendar year corresponding to a base period to designate its supplier as of December 1972 as its sole supplier for the entire base period. The relevant part of the amended regulation (§ 211.105 (b) and (c)) establishes that:

(b) * * * A wholesale purchaser-reseller of motor gasoline which terminates a supplier/purchaser relationship pursuant to this paragraph may by no later than February 29, 1976, designate its supplier as of December 1972 as the base period supplier for all periods during a calendar year which corresponds to base periods and during which the purchaser was entitled to an allocation from the terminated base period supplier(s). This designation may be made once and shall be for the duration of the Mandatory Petroleum Allocation Program unless otherwise ordered by FEA pursuant to Part 205 of this chapter.

(c) A wholesale purchaser-reseller of motor gasoline which designates a base period supplier pursuant to paragraph (b) of this section shall provide written notice to the terminated base period supplier(s) and to the designated supplier at least twenty (20) days prior to the beginning of the first period corresponding to a base period affected by the termination * * * The designated base period supplier shall begin deliveries reflecting its increased supply obligation, if any, to the wholesale purchaser-reseller pursuant to paragraph (d) of this section starting with the first period corresponding to a base period after receiving the notice from the wholesale purchaser-reseller required by this paragraph (c).

The change to a single designated base period supplier did not require formal action or issuance of orders by the FEA. As indicated above, the only affirmative action required to effectuate the change was the wholesale purchaser's notification in accordance with the regulatory provisions within the prescribed time period. Subsequent to February 29, 1976, this option is no longer available.

The preamble to 10 CFR 211.105, as amended, stated with reference to the increased obligations of designated suppliers that:

The provisions of Part 205 with respect to assignments, adjustments and exceptions should provide adequate means of relief in those few instances where designated suppliers need to obtain additional suppliers of motor gasoline to meet their requirements.

It is also significant to note that 10 CFR 211.13(c)(1), which was last amended on October 8, 1975 subsequent to the October 3, 1975 amendment to 10 CFR 211.105, specifically limits adjustments to a wholesale purchaser-reseller's base period use to those situations in which it has been:

* * * notified pursuant to § 205.36(d) of an assignment to supply a new wholesale purchaser; or * * * notified pursuant to § 205.26 (c) of an adjustment granted pursuant to § 211.12(h), § 211.13(e), § 211.125(b) or § 211.145(b) to the base period use of a wholesale purchaser entitled to receive an allocation from that wholesale purchaser-reseller * * *.

Thus, no provision was made in the FEA allocation regulations to permit automatic upward base period use adjustments for a supplier to reflect the increased supply obligations resulting from a wholesale purchaser's exercise of the option to designate a sole base period supplier pursuant to 10 CFR 211.105.

INTERPRETATION 1977-33

To: C. R. England Oil & Gas Properties.
Date: August 31, 1977.
Rules Interpreted: §§ 212.72, 212.131.
Code: GCW-PI—Certification.

1. C. R. England Oil & Gas Properties ("C. R. England") is a producer of domestic crude oil subject to the Mandatory Petroleum Price Regulations of 10 CFR Part 212.

2. Triton Oil & Gas Corporation assigned to C. R. England, effective May 31, 1973, oil and gas leases to Lots 20, 21 and 22 in the Saratoga Field, Hardin County, Texas. As assignee, C. R. England is the sole producer of crude oil from those lots. For the purposes of this interpretation, each of Lots 20, 21 and 22 shall be considered a "property" as that term is used in 10 CFR 212.72 and 212.131.

3. Producers Monthly Report Forms P-1, filed by Triton Oil & Gas Corporation and by C. R. England with the Railroad Commission of Texas, show that the crude oil produced and sold from Lots 20, 21 and 22 for the period June 1, 1973 through June 30, 1975 exceeded the base production control level ("BPCL") for each property.

4. C. R. England did not make a certification pursuant to FEA regulations of crude oil produced and sold from these properties during this period.

5. On November 24, 1975, Sun Oil Company ("Sun") paid C. R. England for crude oil Sun had purchased from the three lots during 1973 and 1974. That payment reflected, for Lots 21 and 22, the "old crude oil" price. According to C. R. England, Sun advised C. R. England at that time that the "new crude oil" price could not be paid on Lots 21 and 22 because the necessary certifications as to 1972 production had not been filed in 1973. In addition, C. R. England alleges that Sun asserted that it was precluded from paying the "new crude oil" price to C. R. England because such a payment might be a "retroactive price increase" barred under 10 CFR 212.1(c)(1) of FEA regulations.

6. C. R. England takes the position that it should be relieved of its burden of compliance with respect to certification under 10 CFR 212.131. It points out that it made a "timely and diligent" inquiry of Sun in October 1973, regarding Sun's failure to send to C. R. England the proper certification forms, and that, in response, Sun employees made verbal statements to C. R. England claiming it was unnecessary to provide any certification forms at that time because the proceeds of crude oil produced and sold from these lots were being held in suspense pending resolution of certain title problems connected with lands covered by the oil and gas leases to Lots 20, 21 and 22.

7. C. R. England urges that the burden of compliance with certification procedures was shared by Sun. C. R. England alleges that, in any event it could not have issued written certification because it did not receive from Sun the correct forms for Lots 20, 21 and 22.

ISSUE

The issue presented for consideration is whether a producer may sell volumes of crude oil as "new crude oil" as defined in 10 CFR 212.72 when that producer failed to certify that such volumes qualify as "new crude oil" as required in 10 CFR 212.131(a)(2)(1).

INTERPRETATION

For the reasons set forth below, it has been concluded that a producer that fails to certify crude oil as "new crude oil" as required in 10 CFR 212.131(a)(2)(1) within the consecutive two-month period immediately succeeding the month in which the crude oil is produced and sold cannot charge the "new crude oil" price for such crude oil because the crude oil does not qualify as "new crude oil" pursuant to the definition in 10 CFR 212.72.

With reference to "new crude oil," 10 CFR 212.72 provides in pertinent part that it:

(3) shall not * * * include any number of barrels not certified as new crude oil pursuant to the provisions of § 212.131(a)(1) within the consecutive two-month period immediately succeeding the month in which the crude oil is produced and sold, except where such recertification is explicitly required or permitted by FEA order, interpretation, or ruling.²

10 CFR 212.131(a)(2)(1) provides that:

(1) With respect to each sale of crude oil from a property which has not qualified as a stripper well property, the producer shall certify in writing to the purchaser the number of barrels of new crude oil and the number of barrels of old crude oil * * *.

10 CFR 212.131 clearly states that a producer shall certify, and that the certification shall contain certain information. This section does not say a producer "ought to" or "shall, when practicable" certify. FEA believes that its certification requirements must be strictly construed in order to insure price reliability and stability and to minimize disputes between producers and purchasers with respect to prices charged for crude oil sold.

The certification requirements have evolved from the rule originally adopted by the Cost of Living Council on August 17, 1973 which required producers which charged a price in excess of the ceiling price to certify in writing to the purchaser in each sale: (1) The ceiling price of the crude oil; (2) the amount of new crude oil; and (3) the base production control level (6 CFR 150.354, 38 FR 22536, August 22, 1973). The requirements were substantially continued by FEO in 10 CFR 212.74(c) (39 FR 1924, January 15, 1974). In a rulemaking issued on August 29, 1974 (39 FR 31622, August 30, 1974), the certification requirements of 10 CFR 212.74(c) were redesignated as 10 CFR 212.131, and amended to require each producer and each seller of domestic crude oil to certify in writing to the purchaser, with respect to each sale: (1) The ceiling price (in first sales); (2) the amount of stripper well lease crude oil; (3) the amount of new crude oil; (4) the amount of released crude oil; and (5) the amount of old crude oil. On November 29, 1974, 10 CFR 212.131 was amended to provide that the certification requirements as to a first sale of domestic crude oil may be satisfied by a one-time certification as to the BPCL for each month of 1972 for the particular property (39 FR 42246, December 4, 1974).

Effective March 23, 1975 (40 FR 28447, July 7, 1975), FEA amended the definitions of "new crude petroleum" and "released crude petroleum" in 10 CFR 212.72 to exclude the volumes that were not certified as new and released crude petroleum within the two month period immediately following the month in which the petroleum was first produced and sold. The July preamble made it clear that volumes of crude oil, other than stripper well crude oil, produced and sold prior to January 1975 could be certified as new or released only until March 23, 1975. All volumes of crude oil produced and sold in January 1975 or thereafter are clearly subject to the two month restriction in order to qualify as "new" or "released" domestic crude petroleum. 10 CFR 212.131 was subsequently amended to require new certifications for first sales of all domestic crude oil

² Although the definition of "new crude oil" only refers to 10 CFR 212.131(a)(1), it is intended to encompass the certification requirements of 10 CFR 212.131(a)(2) as well. The definition was inadvertently not changed to conform to subsequent amendments to the certification requirements, but will be revised by technical amendment to reflect those changes.

within the two month period following the month of production and sale (41 FR 37309, September 3, 1976).

Thus, prior to March 23, 1975, FEA price regulations contained no explicit time restrictions on the certification of first sales of domestic crude oil. Sun was therefore correct in its assertion to C. R. England in October of 1973 that certification of the 1972 production was not necessary at that time. However, for crude oil produced and sold in January 1975 or thereafter, certification within the two-month period following the month in which such volumes were produced and sold is necessary in order for such crude oil to qualify as "new crude oil." It is an established principle of law that a firm's ignorance of its obligations under federal law does not constitute a justification for nonconformance with such laws. C. R. England has an affirmative obligation to be cognizant of, and conform to, the requirements of FEA regulations. See Carlos R. Lefler, 2 FEA ¶ 80,640 (July 18, 1975); Belco Petroleum Corp., 3 FEA ¶ 83,136 (May 12, 1976). Since C. R. England failed to certify the volumes of crude oil produced and sold within the two-month period specified in the regulations, the crude oil does not qualify as "new crude oil."

The definition of "new crude oil" (10 CFR 212.72) does permit, as noted above, the recertification as new and released crude oil of volumes of crude oil initially certified as old crude oil, where such recertification is required or permitted by FEA order, interpretation or ruling. This provision is intended to provide for the possibility that certain volumes of crude oil treated as old oil may subsequently become eligible for treatment as new or released crude oil by virtue of later administrative action. This provision is not applicable in the circumstances presented here because the classification of the crude oil as "old crude oil" is the result of the failure of C. R. England to certify the crude oil in a timely manner and not the result of administrative action.

C. R. England contends in its request that the reason for its failure to file the certification of the amount of base production control level crude oil production is because Sun, the purchaser of the crude oil, did not request the certification. The regulations, however, explicitly require certification by the producer. The following passage from the preamble of the August 26, 1976 "Clarifications to Mandatory Petroleum Price Regulations Applicable to Domestic Crude Oil" (41 FR 36171) emphasizes that the duty to file certification forms in accordance with FEA regulations attaches to the producer, not to the purchaser.

"* * * [I]t should be noted that it has been the practice among many purchasers and producers for the purchaser to prepare the certification and send it to the producer for completion and authentication and return to the purchaser. FEA has no objections to this practice to the extent that it permits any large purchaser to help to relieve the certification burdens on a small producer. However, the certification responsibility must in every case rest ultimately with the producer. (Id. at 36183, emphasis added.)

In addition, 10 CFR 212.31(d) expressly provides that "[n]o firm may sell domestic crude oil unless it provides the certification required by this section." In this regard, FEA stated in the August 26 rulemaking that "[t]o ensure compliance with the requirements of this section, a purchaser may refuse to recognize a sale of crude oil at other than lower tier prices until the necessary certification has been made." Thus, it was consistent with FEA regulations and stated policy for Sun to pay the "old crude oil" price where C. R. England failed to timely certify

that the volumes of crude oil qualified as "new crude oil."

[FR Doc.77-26858 Filed 9-14-77;8:45 am]

Title 12—Banks and Banking
CHAPTER II—FEDERAL RESERVE SYSTEM
SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Regs. G, T, U, and X]

PART 207—SECURITIES CREDIT BY PERSONS OTHER THAN BANKS, BROKERS OR DEALERS

PART 220—CREDIT BY BROKERS AND DEALERS

PART 221—CREDIT BY BANKS FOR THE PURPOSE OF PURCHASING OR CARRYING MARGIN STOCKS

PART 224—RULES GOVERNING BORROWERS WHO OBTAIN SECURITIES CREDIT

List of OTC Margin Stocks: Corrections

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Correction of List of OTC Margin Stocks.

SUMMARY: This document corrects the List of OTC Margin Stocks published in the FEDERAL REGISTER on August 18, 1977, at page 41604.

EFFECTIVE DATE: The List of OTC Margin Stocks was effective on August 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Jamie Lenoci, Financial Analyst, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-2781).

SUPPLEMENTARY INFORMATION: In the List of OTC Margin Stocks, FR Doc. 77-23790, appearing at page 41604 in the FEDERAL REGISTER of August 18, 1977, the following corrections are made:

1. The description of the stocks of CHICAGO & NORTH WESTERN TRANSPORTATION COMPANY found at page 41608, the third column, is corrected to read: "Class A, \$.83 1/2 par common."
2. The description of the stocks of Krueger, W. A. Company found at page 41614, the second column, is corrected to read: "\$2.50 par common."

Dated: September 9, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-26780 Filed 9-14-77;8:45 am]

CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

PART 343—INSURED STATE NONMEMBER BANKS WHICH ARE MUNICIPAL SECURITIES DEALERS

Postponement of Effective Date

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Change in Effective Date of Part 343 of FDIC's Regulations.

SUMMARY: On August 8, 1977 FDIC's Board of Directors adopted a new Part 343 of FDIC's Rules and Regulations. The new part, appearing at 42 FR 40891 (1977), Friday, August 12, 1977, concerned insured State nonmember banks which are municipal securities dealers and contained an effective date of September 15, 1977. For administrative convenience and in the interest of coordinating with the Board of Governors of the Federal Reserve System and the Comptroller of the Currency, the effective date of the Regulation will be postponed until October 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Judith E. Minsker, Attorney, Legal Division, Federal Deposit Insurance Corporation, Washington, D.C. 20429 (202-389-4422).

By order of the Board of Directors, September 9, 1977.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[FR Doc.77-26779 Filed 9-14-77;8:45 am]

Title 14—Aeronautics and Space
CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 77-GL-3; Amdt. 39-3033]

PART 39—AIRWORTHINESS DIRECTIVES

McCauley Model D2A34C58-(), F2A34C58-(), and D2A34C98-(), Series Propellers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires periodic inspection of the McCauley D2A34C58-(), F2A34C58-(), and D2A34C98-() series propellers. The AD is needed to detect cracks and prevent failures of hubs which could result in separation of the blade(s). Since this condition is likely to exist or develop in other propellers of the same design, the Airworthiness Directive requires periodic inspection of the propeller hubs for fatigue cracking, until replaced by McCauley oil-filled hubs containing a dyed oil crack detection system.

DATES: Effective, September 16, 1977. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: Information relating to the service documents referenced in the body of the AD may be obtained from McCauley Accessory Division, Cessna Aircraft Company, Box 7, Roosevelt Station, Dayton, Ohio 45417.

Copies of the service information incorporated in this AD are contained in the Rules Docket, Office of the Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois 60018; and at FAA Headquarters, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Henry L. Weiss, Engineering and Manufacturing Branch, Flight Standards Division, AGL-214, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Ill. 60018. Telephone 312-694-4500, extension 308.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of Federal Aviation Regulations by adding an Airworthiness Directive applicable to the McCauley D2A34C58-(), F2A34C58-(), and D2A34C98-() series propellers was published in the FEDERAL REGISTER (42 FR 7159), February 7, 1977. The proposal, which requires periodic inspection of the affected propeller hubs, was issued in conjunction with the National Transportation Safety Board's (NTSB) Safety Recommendations of September 21, 1976. These recommendations were based in part on NTSB's Metallurgical Laboratory examination of several failed hubs each of which was a different model having certain design improvements intended to decrease fatigue type failures. Periodic inspections of the affected propellers are no longer required when the hubs are replaced by McCauley oil-filled series hubs containing a dyed oil crack detection system. Although no comments have been received about the proposal to date, some minor changes were adopted in the new Airworthiness Directive. Namely, the applicability statement was amended to include the phrase, "but not limited to," in order to ensure that any aircraft other than those which were initially cited in the proposal, which are equipped with such propellers, comply with the Directive. Also, the phrase "Federal Aviation Administration approved revisions," was added following the references to McCauley Service Bulletins and Manuals.

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

In accordance with Departmental Regulatory Reform, dated March 23, 1976, we have determined that the expected impact of this final regulation is so minimal that it does not warrant an evaluation.

DRAFTING INFORMATION

The principal authors of this document are H. L. Weiss, Flight Standards Division, Great Lakes Region, and J. T. Brennan, Office of the Regional Counsel, Great Lakes Region.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

MCCAULEY PROPELLERS. Applies to the following Model D2A34C58-(), F2A34C58-(), and D2A34C98-() series propellers installed on but not limited to Cessna

A188, A188A, and A188B "Agwagon," and Transavia PL-12 "Air Truck" aircraft.

D2A34C58	F2A34C58-N
D2A34C58-A	D2A34C98-BM or
D2A34C58-B, -BM,	-BMN
or -BMN	D2A34C98-CM or
D2A34C58-C, -CM,	-CMN
or -CMN	D2A34C98-JM or
D2A34C58-J, -JM, or	-JMN
-JMN	D2A34C98-KM or
D2A34C58-K, -KM,	-KMN
or -KMN	D2A34C98-LM or
D2A34C58-L, -LM, or	-LMN
-LMN	D2A34C98-M or -MN
D2A34C58-M or -MN	D2A34C98-N
D2A34C58-N	

Compliance required as indicated, unless already accomplished. To detect propeller hub cracks and prevent possible failure, accomplish the following:

(a) All Models and Series listed above.
(1) Propeller hubs with less than 500 hours time in service, inspect in accordance with paragraph (d)(2) within 525 hours total time and reinspect in accordance with paragraph (d)(2) every 100 hours time in service from last inspection.

(2) Propeller hubs with 500 or more but less than 1,200 hours time in service, inspect in accordance with paragraph (d)(2) within the next 25 hours time in service after the effective date of this AD, and reinspect in accordance with paragraph (d)(2) every 100 hours time in service from last inspection.

(b) Model D2A34C58 and D2A34C58-A only. Propeller hubs with 1,200 or more total hours in service, or whose total time in service is unknown, remove from service and replace in accordance with paragraph (d)(1) within the next 25 hours in service after the effective date of this AD.

(c) All Models and Series listed above except D2A34C58 and D2A34C58-A. Propeller hubs with 1,200 or more hours time in service, or whose total time in service is unknown, inspect in accordance with paragraph (d)(3) within the next 25 hours time in service after the effective date of this AD, unless already accomplished within the last 300 hours time in service and reinspect in accordance with paragraph (d)(3) every 300 hours time in service from the last inspection.

(d) Required Action. (1) Remove propeller from the aircraft, disassemble, inspect components and replace hub with a Model D2A34C58-BMNO, -CMNO, -JMNO, -KMNO, -LMNO, -MNO, -NO, -O; F2A34C58-NO, -O, or D2A34C98-BMNO, -CMNO, -JMNO, -LMNO, -MNO, -NO, or -O oil-filled series hub as applicable in accordance with McCauley Service Bulletin No. 122 dated February 15, 1977, and Service Manual No. 720415, or later Federal Aviation Administration approved revisions.

(2) Inspect all external surfaces of propeller hub for cracks by dye penetrant method. Replace before further flight any cracked hub with a McCauley oil-filled series hub as in paragraph (d)(1).

(3) Remove propeller from aircraft and disassemble. Inspect all internal and external hub surfaces for cracks by dye penetrant method in accordance with McCauley Service Letter 1974-3 dated March 29, 1974, or later Federal Aviation Administration approved revisions. Replace before further flight any cracked hub with a McCauley oil-filled series hub as in paragraph (d)(1).

(e) Exemption. The foregoing inspections may be discontinued after replacement of Model D2A34C58-(), F2A34C58-(), or D2A34C98-() series propeller hubs with McCauley oil-filled hubs as in paragraph (d) (McCauley Service Bulletin No. 88 and Cessna Service Letters SE77-4 and SE77-12 also pertain to this subject.)

The manufacturer's specifications and procedures identified in this Directive are incorporated herein and made part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by the Directive who have not already received these documents from the manufacturer, may obtain copies upon request to McCauley Accessory Division, Cessna Aircraft Co., Box 7, Roosevelt Station, Dayton, Ohio 45417. These documents may also be examined at the Great Lakes Regional Office, 2300 East Devon Avenue, Des Plaines, Ill. 60018, and at FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. 20591. A historical file on this Airworthiness Directive which includes incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and the Great Lakes Region.

This amendment becomes effective: September 16, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

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

Issued in Des Plaines, Ill., on August 31, 1977.

LEON C. DAUGHERTY,
Acting Director,
Great Lakes Region.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the FEDERAL REGISTER on June 19, 1967.

[FR Doc. 77-25543 Filed 9-14-77; 8:45 am]

[Airspace Doc. No. 77-CE-3]

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

Alteration of Transition Area—Moberly, Missouri

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to realign and redesignate the existing transition area at Moberly, Missouri, to provide controlled airspace for aircraft executing instrument approach procedures to Omar N. Bradley Airport which are based on a Non-Directional Radio Beacon (NDB) navigational aid being installed at the airport.

EFFECTIVE DATE: December 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

SUPPLEMENTARY INFORMATION: The City of Moberly, Missouri, is installing a Non-Directional Radio Bea-

con (NDB) on Omar N. Bradley Airport. This navigation aid will provide additional guidance for aircraft utilizing this airport. The establishment of instrument approach procedures based on the navigation aid entails alteration of the Moberly, Missouri, transition area at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to insure adequate controlled airspace for aircraft executing the new instrument approach procedures.

DRAFTING INFORMATION

The principal authors of this document are Dwaine E. Hiland, Operations, Procedures and Airspace Branch, Air Traffic Division and John L. Fitzgerald, Jr., Office of the Regional Counsel.

DISCUSSION OF COMMENTS

On pages 13303 and 13304 of the FEDERAL REGISTER dated March 10, 1977, the Federal Aviation Administration published a notice of proposed rulemaking which would amend Section 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Moberly, Missouri. Interested persons were invited to participate in this rule-making proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

Accordingly, Subpart G, Section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 3, 1977 (42 FR 440), is amended, effective 0901 G.m.t. December 1, 1977, by amending the following transition area to read:

MOBERLY, MISSOURI

That airspace extending upward from 700 feet above the surface within a 6.5 mile radius of the Omar N. Bradley Airport (Latitude 39°27'50" N., Longitude 92°25'35" W.); and 3 miles either side of the 315° bearing from the airport extending from the 6.5 mile radius to 8 miles northwest of the airport; and 3 miles either side of the 126° bearing from the airport extending from the 6.5 mile radius to 8 miles southeast of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69).)

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

Issued in Kansas City, Missouri, on September 6, 1977.

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

[FR Doc.77-26875 Filed 9-14-77;8:45 am]

[Airspace Docket No. 77-WE-25]

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

Alteration of Transition Area, Montague, Calif.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Montague, Calif., transition area by changing the bearing reference from the Montague RBN by 4° from 360° to 356°. This change is necessary in order to provide controlled airspace protection for aircraft executing the revised NDB-A instrument approach procedure to the Siskiyou County Airport.

EFFECTIVE DATE: December 1, 1977.

ADDRESSES: Copies of this final rule may be obtained from:

Federal Aviation Administration, Air Traffic Division, Chief, Airspace and Procedures Branch, AWE-530, 15000 Aviation Boulevard, Lawndale, Calif. 90261.

FOR FURTHER INFORMATION CONTACT:

Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, Calif. 90261. Telephone: 213-536-6182.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the description of the Montague, Calif. transition area to provide controlled airspace for the revised NDB-A instrument approach procedure to the Siskiyou County Airport, Montague, Calif.

The change in bearing reference of 4° is so minimal as to impose no additional burden on any person and thus notice and public procedure hereon are unnecessary.

DRAFTING INFORMATION

The principal authors of this document are Thomas W. Binczak, Air Traffic Division, and DeWitte T. Lawson, Jr., Esquire, Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., December 1, 1977, as hereinafter set forth.

In Subpart G § 71.181 (42 FR 440) the Montague, Calif. transition area is amended so as to delete the reference to the 360° bearing and insert in lieu thereof "356° bearing."

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

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

Issued in Los Angeles, Calif., on September 6, 1977.

HERMAN C. BLISS,
Acting Deputy Director,
Western Region.

[FR Doc.77-26873 Filed 9-14-77;8:45 am]

[Airspace Docket No. 77-WE-15]

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

Alteration of Transition Area: Ukiah, California

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Ukiah, California Transition Area by establishing additional controlled airspace west of V-27 and east of V-27W between Ukiah and Fortuna, California VORTAC's. This additional airspace will be used for radar vectoring of aircraft between the main and alternate airways.

EFFECTIVE DATE: December 1, 1977.

ADDRESS: Copies of this final rule may be obtained from: Federal Aviation Administration, Air Traffic Division, Chief, Airspace and Procedures Branch, 15000 Aviation Boulevard, Lawndale, Calif. 90261.

FOR FURTHER INFORMATION CONTACT:

Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, Calif. 90261. Telephone 213-536-6182.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the transition area at Ukiah, Calif.

On July 21, 1977, a Notice of Proposed Rulemaking (NPRM) was published in the FEDERAL REGISTER (42 FR 37415) stating that the Federal Aviation Administration proposed to alter the transition area at Ukiah, Calif., to provide controlled airspace for aircraft transiting between V-27 and V-27W northwest of Ukiah, Calif.

Interested persons were afforded an opportunity to participate in the rule-making through submission of comments. All comments received were favorable.

DRAFTING INFORMATION

The principal authors of this document are Thomas W. Binczak, Air Traffic Division, and DeWitte T. Lawson, Jr., Esquire, Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT, December 1, 1977, as hereinafter set forth.

§ 71.181 [Amended]

UKIAH, CALIFORNIA

Following " * * * Fortuna VORTAC 110° radials." Add: " * * * "and that airspace extending upward from 5,300 feet MSL bounded on the east by the southwest edge of V-27 and on the west by the east/southeast edge of V-27W."

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

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

Issued in Los Angeles, California on September 1, 1977.

HERMAN C. BLISS,
Acting Deputy Director,
Western Region.

[FR Doc. 77-26544 Filed 9-14-77; 8:45 am]

[Airspace Doc. No. 77-CE-8]

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

Designation of Transition Area—Clarion, Iowa

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to designate a transition area at Clarion, Iowa to provide controlled airspace for aircraft executing instrument approach procedures to the Clarion Municipal Airport which are based on a Non-Directional Radio Beacon (NDB) navigational aid being installed at the airport.

EFFECTIVE DATE: December 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-337, FAA, Central Region, Federal Build-

ing, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

SUPPLEMENTARY INFORMATION: The City of Clarion, Iowa is installing a Non-Directional Radio Beacon (NDB) on the Clarion Municipal Airport. This navigational aid will provide new navigational guidance for aircraft utilizing this airport. The establishment of an instrument approach procedure based on this navigational aid entails designation of a transition area at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure adequate controlled airspace for aircraft executing the new instrument approach procedures at the Clarion Municipal Airport.

DRAFTING INFORMATION

The principal authors of this document are Dwaine E. Hiland, Operations, Procedures and Airspace Branch, Air Traffic Division and John L. Fitzgerald, Jr., Office of the Regional Counsel.

DISCUSSION OF COMMENTS

On pages 20534 and 20335 of the FEDERAL REGISTER dated April 21, 1977, as extended in the FEDERAL REGISTER of May 31, 1977, at page 27603, the Federal Aviation Administration published a notice of proposed rulemaking which would amend Section 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Clarion, Iowa. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

Accordingly, Subpart G, Section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 3, 1977 (42 FR 440), is amended, effective 0901 G.m.t. December 1, 1977, by adding the following new transition area:

CLARION, IOWA

That airspace extending upward from 700' above the surface within a 5 mile radius of the Clarion Municipal Airport (latitude 42°44'30" N., longitude 93°45'30" W.) and within 3 miles each side of the 311° bearing from the Clarion Municipal Airport, extending from the 5 mile radius to 8.5 miles northwest of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655 (c)); Sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69)).

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

Issued in Kansas City, Missouri, on September 6, 1977.

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

[FR Doc. 77-26876 Filed 9-14-77; 8:45 am]

[Docket No. 12537; Amdt. No. 65-22]

PART 65—CERTIFICATION: AIRMEN OTHER THAN FLIGHT CREWMEMBERS

Inspection Authorization

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment is being issued to clarify current rules, and to adopt additional rules, applicable to applicants for, and holders of, an inspection authorization (I.A.). This action is necessary since the current rules have been the subject of considerable misunderstanding.

EFFECTIVE DATE: October 17, 1977.

FOR FURTHER INFORMATION CONTACT:

Raymond E. Ramakis, Regulatory Projects Branch (AFS-940), Safety Regulations Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; Telephone: (202) 755-8716.

SUPPLEMENTARY INFORMATION: Interested persons have been afforded an opportunity to participate in the making of this amendment by a notice of proposed rule making (Notice No. 73-4) issued on January 29, 1973, and published in the FEDERAL REGISTER on February 6, 1973 (38 F.R. 3410). Due consideration has been given to all comments received in response to the notice. Except as otherwise discussed in this amendment, the amendment and the reasons for it are identical to the proposal and the reasons set forth in the proposal.

Many of the three hundred and seventy-six comments received in response to the notice expressed disagreement with proposed § 65.91(c)(2). That section would have required the applicant for an inspection authorization to have had diversified practical experience performing aircraft and aircraft engine maintenance during at least the two-year period before applying. Nearly all of the commentators in disagreement with this proposal objected to the use of the word "diversified" as being confusing, vague, or undefined. The FAA agrees that the words "diversified practical experience", as used in proposed § 65.91(c)(2), need further clarification and, accordingly, withdraws this proposal.

In addition, many commentators disagreed with proposed § 65.95(c) and (d). Paragraph (c) would have precluded the holder of an I.A. from exercising the privileges of his authorization outside of the area of jurisdiction of the local FAA District Office in which his fixed base of operation is located. Under paragraph (d), the holder of an I.A. changing the location of, or terminating inspection activity at, his fixed base of operation would have had to surrender the authorization to the local FAA District Office. Most of those opposing these proposals stated, in essence, that a mere

change of geographical location has no effect on qualifications to exercise the privileges of an I.A. Others stated that the inability to use an I.A. outside the fixed base of operation would cause economic hardship.

After consideration of these comments, the FAA has determined that the holder of an I.A. should not be denied the use of his authorization when going outside the jurisdiction of his local FAA District Office or terminating inspection activity at, or changing the location of, his fixed base of operation, as provided in proposed § 65.95 (c) and (d). Accordingly, these proposals are withdrawn.

Proposed § 65.94 would have required the holder of an I.A. to keep, and make available for inspection by the Administrator, a current record of inspections performed by him under § 65.95(a). While a preponderance of commentators favored this proposal, some contended that such a requirement would impose an undue economic burden and others felt that it would not be beneficial to anyone. In light of the economic burden that this recordkeeping provision may impose, the FAA has decided to further evaluate the impact of proposed § 65.94. Accordingly, that proposed section is also withdrawn.

Proposed § 65.91(c)(1) was intended to clarify the current section by providing that an applicant for an I.A. would have to hold a currently effective mechanic certificate with both an airframe rating and a powerplant rating, each of which has been in effect for not less than three years. Moreover, under proposed § 65.92(a), the holder of an I.A. could exercise the privileges of the authorization only while he holds a currently effective certificate and ratings. While those proposed sections specified that the applicant for, or holder of, an I.A. must have a currently effective mechanic certificate, they did not expressly provide that the airframe and powerplant ratings held must also be current. Sections 65.91(c)(1) and 65.92(a), as adopted, make this clear. These requirements will ensure that the applicant for an I.A. is qualified to exercise the privileges of the authorization and remains qualified while he holds the authorization.

Paragraph (d) of current § 65.91 provides that an inspection authorization expires on March 31 of each year. That paragraph is revoked by this amendment since the provision contained therein is included in new § 65.92(a).

A review of comments received in response to the notice indicates that proposed § 65.93 appears to have been misinterpreted by several commentators. The purpose of that proposal was merely to require that a person desiring to renew his I.A. must present the evidence currently required by that section at the local FAA District Office having jurisdiction over the area in which his fixed base of operation is located. The proposal was designed to relax the current requirement to submit that evidence at a more distant General Aviation District Office or International Filed Office. However, as part of its Operations Review

Program, the FAA is considering extensive revisions to current § 65.93, including a revision similar to that set forth in Notice 73-4. In light of this, the FAA concludes that it would be appropriate to consider all revisions to that section during the Operations Review, rather than implementing a single revision at the present time.

The FAA has conducted a preliminary evaluation of the impacts of the provisions adopted in this amendment. Based on that evaluation, it has been determined that the impacts of those provisions will be minimal and that an in-depth evaluation under the policy of the Secretary of Transportation and the Administrator (41 FR 16200; April 16, 1976) is not required.

The principal authors of this document are Irving Birnbaum, Flight Standards Service, and Danvers E. Long, Office of the Chief Counsel.

Accordingly, Part 65 of the Federal Aviation Regulations is amended, effective October 17, 1977, as follows:

1. By amending § 65.91 by revising paragraph (c)(1), and by revoking and reserving paragraph (d) as follows:

§ 65.91 Inspection authorization.

(c) To be eligible for an inspection authorization, an applicant must:

(1) Hold a currently effective mechanic certificate with both an airframe rating and a powerplant rating, each of which is currently effective and has been continuously in effect for not less than the three year period immediately before the date of application;

(d) [Reserved]

2. By adding a new § 65.92 to read as follows:

§ 65.92 Inspection authorization: Duration.

Each inspection authorization expires on March 31 of each year. However, the holder may exercise the privileges of that authorization only while he holds a currently effective mechanic certificate with both a currently effective airframe rating and a currently effective powerplant rating.

(b) An inspection authorization ceases to be effective whenever any of the following occurs:

(1) The authorization is surrendered, suspended, or revoked.

(2) The holder no longer has a fixed base of operation.

(3) The holder no longer has the equipment, facilities, and inspection data required by § 65.91(c)(3) and (4) for issuance of his authorization.

(c) The holder of an inspection authorization that is suspended or revoked shall, upon the Administrator's request, return it to the Administrator.

(Secs. 313(a) and 601, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a) and 1421); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1555(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement

under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C. on September 9, 1977.

LANGHORNE BOND,
Administrator.

[FR Doc. 77-26941 Filed 9-14-77; 8:45 am]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Docket No. 17137; Amdt. No. 95-274]

PART 95—IFR ALTITUDES

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rule) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone 202-426-8277.

SUPPLEMENTARY INFORMATION:

This amendment to Part 95 of the Federal Aviation Regulations (14 CFR Part 95) prescribes new, amended, suspended, or revoked IFR altitudes governing the operation of all aircraft in IFR flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in Part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference.

The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provides for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and im-

RULES AND REGULATIONS

mediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment is unnecessary, impracticable, or contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

The principal authors of this document are Rudolph L. Floretti, Flight Standards Service, and Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly and pursuant to the authority delegated to me by the Administrator, Part 95 of the Federal Aviation Regulations (14 CFR Part 95) is amended as follows effective: October 6, 1977.

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348, 1354

(a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Delegation: 25 FR 6489 and Paragraph 802 of Order FS P 1100.1, as amended March 9, 1973.)

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

Issued in Washington, D.C. on September 6, 1977.

JAMES M. VINES,
Chief, Aircraft
Programs Division.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

§95.627 BLUE FEDERAL AIRWAY ZF			DIRECT ROUTES—U.S.—cont'd.		
is amended by adding:			Springfield, Mo. VORTAC	Nashville, Tenn. VORTAC	18000 MAA-41000
FROM	TO	MEA			
Oscarville, Alas. HDB	Sr. Marys, Alas. HDB	3000			
Sr. Marys, Alas. HDB	Fort Davis, Alas. HDB	3000			
§95.627 BLUE FEDERAL AIRWAY ZF			§95.1001 DIRECT ROUTES—U.S.		
is amended to delete:			is amended to delete:		
FROM	TO	MEA	FROM	TO	MEA
Oscarville, Alas. LF/RBN	Fr. Davis, Alas. LF/RBN	4000	Fin INT, Alas.	Juniper INT, Alas.	*3000
			*2300-MOCA		
			Fort Randall, Alas. LF/RBN	Nisalak, Alas. VOR	11500
			Fort Randall, Alas. LF/RBN	Fort Muller, Alas. LF/RBN	10500
			Fort Randall, Alas. LF/RBN	Rovos INT, Alas.	2300
			*Kochenek, Alas. LF/RBN	Granite INT, Alas.	7500
				Via Control 1218	
			*5000-MCA Kochenek LF/RBN, SC-bound		
			King Salmon, Alas. LFR	Cape Newenham, Alas. LF/RBN	4500
			Noknek River, Alas. LF/RBN	Herry INT, Alas.	2000
				Via Control 1401	
			Noknek River, Alas. LF/RBN	Gore INT, Alas.	2000
				Via Control 1400	
			Nenana, Alas. VOR	Choodlar Lake, Alas.	*14500
				LF/RBN	
			*8000-MOCA	COP 113 ENN	
			Nisalak, Alas. LF/RBN	Cape Kotichaf, Alas. LF/RBN	9000
			Sogwon, Alas. LF/RBN	Fin INT, Alas.	2000
			Wessels, Alas. LF/RBN	Porpoise INT, Alas.	*3000
			*2000-MOCA	Via Control 1310	

§95.5000 HIGH ALTITUDE RNAV ROUTES

FROM/TO	TOTAL DISTANCE	CHANGEOVER POINT DISTANCE	FROM GEOGRAPHIC LOCATION	TRACK ANGLE	MEA	MAA
§863R is amended to read in part:						
Galax, Va. W/P	200	50.0	Galax	234/054 to COP	18000	45000
Moccy, Ga. W/P				232/052 to Moccy		
§879R is amended to read in part:						
Roder, Tenn. W/P	113.0			200/020 to COP	18000	45000
Moccy, Ga. W/P				201/021 to Moccy		
§881R is amended to read in part:						
Miner, Ky. W/P	263.0	142.0	Miner	175/355 to COP	18000	45000
Moccy, Ga. W/P				180/360 to Moccy		

§95.5500 HIGH ALTITUDE RNAV ROUTES

§907R is amended to read in part:						
Humble, Tex. W/P	124	62	Humble	274/094 to COP	18000	45000
Austin, Tex. W/P				270/090 to Austin		
§916R is amended to read in part:						
San Antonio, Tex. W/P	164	82	San Antonio	074/254 to COP	18000	45000
Humble, Tex. W/P				074/254 to Humble		

RULES AND REGULATIONS

FROM/TO	TOTAL DISTANCE	CHANGEOVER POINT DISTANCE FROM GEOGRAPHIC LOCATION	TRACK ANGLE	MEA	MAA	FROM/TO	TOTAL DISTANCE	CHANGEOVER POINT DISTANCE FROM GEOGRAPHIC LOCATION	TRACK ANGLE	MEA	MAA
J918R is amended to read in part: Humble, Tex. W/P Geert, La. W/P	147	75	082/262 to COP 082/262 to Geert	18000	45000	J946 is amended by adding: Rosin, Calif. W/P Ficky, Calif. W/P	60.8	28000	206/056 to Ficky	28000	45000
J929R is amended to read in part: Burke, La. W/P Humble, Tex. W/P	111	56	239/059 to COP 240/060 to Humble	18000	45000	J960R is amended to delete: Ceres, Calif. W/P Perch, Calif. W/P	173	18000	067/247 to Perch	18000	45000
J932R is amended to read in part: Bucks, La. W/P Humble, Tex. W/P	111	56	239/059 to COP 240/060 to Humble	18000	45000	J960R is amended by adding: Dixie, Calif. W/P Perch, Calif. W/P	173	18000	067/247 to Perch	18000	45000
J984 is amended to read in part: Humble, Tex. W/P Levellie, La. VORTAC	278	139	092/272 to COP 095/275 to Levellie	18000	45000	J961R is amended to delete: Ceres, Calif. W/P Santa Barbara, Calif. VORTAC	153.2	18000	051/231 to Santa Barbara	18000	45000
J937R is amended to delete: Levins, Calif. W/P Seward, Calif. W/P	139		053/233 to Seward	28000	45000	J961R is amended by adding: Dixie, Calif. W/P Santa Barbara, Calif. VORTAC	153.2	18000	051/231 to Santa Barbara	18000	45000
J937R is amended by adding: Alcoa, Calif. W/P Seward, Calif. W/P	139		053/233 to Seward	28000	45000	J962R is amended to delete: Yucca, Calif. W/P Santa Catalina, Calif. VORTAC	184.0	28000	040/220 to Santa Catalina	28000	45000
J938R is amended to delete: Pellis, Calif. W/P Levins, Calif. W/P	112		260/080 to Levins	28000	45000	J962R is amended by adding: Ficky, Calif. W/P Santa Catalina, Calif. VORTAC	184.0	28000	040/220 to Santa Catalina	28000	45000
J938R is amended by adding: Pellis, Calif. W/P Alcoa, Calif. W/P	112		260/080 to Alcoa	28000	45000	J964R is amended to delete: Merle, Calif. W/P Fruit, Calif. W/P	172	29000	216/036 to Fruit	29000	45000
J944R is amended to read: Morro, Calif. W/P Perch, Calif. W/P Perch, Calif. W/P Dixie, Calif. W/P	97	173	248/069 to COP 246/066 to Perch 247/067 to Dixie	18000	45000	J964R is amended by adding: Merle, Calif. W/P Clakk, Calif. W/P	172	29000	216/036 to Clakk	29000	45000
J945 is amended to delete: Santa Barbara, Calif. VORTAC Ceres, Calif. W/P	153.2		231/051 to Ceres	18000	45000	J965R is amended to delete: Pellis, Calif. W/P Levins, Calif. W/P	112	28000	260/080 to Levins	28000	45000
J945R is amended by adding: Santa Barbara, Calif. VORTAC Dixie, Calif. W/P	153.2		231/051 to Dixie	18000	45000	J965R is amended by adding: Pellis, Calif. W/P Alcoa, Calif. W/P	112	28000	260/080 to Alcoa	28000	45000
J946R is amended to delete: Rosin, Calif. W/P Yucca, Calif. W/P	60.8		256/056 to Yucca	20000	45000	J966R is amended to delete: Levins, Calif. W/P Pellis, Calif. W/P	112	20000	080/260 to Pelis	20000	45000

RULES AND REGULATIONS

FROM/TO	TOTAL DISTANCE	CHANGEOVER POINT DISTANCE FROM GEOGRAPHIC LOCATION	TRACK ANGLE	MEA	MAA
J966R is amended by adding:					
Alcoa, Calif. W/P	112			28000	45000
Polis, Calif. W/P			080/260 to Polis		
J967R is amended to delete:					
Fruit, Calif. W/P	122			29000	45000
Merle, Calif. W/P			036/216 to Merle		
J967R is amended by adding:					
Clukk, Calif. W/P	122			29000	45000
Merle, Calif. W/P			036/216 to Merle		
195.600 VOR FEDERAL AIRWAY 3			195.600 VOR FEDERAL AIRWAY 28		
<i>is amended to read in part:</i>			<i>is amended to read in part:</i>		
FROM	TO	MEA	FROM	TO	MEA
Branwick, Ga. VOR	*Faded INT, Ga.	1500	Palacios, Tex. VOR	*Arcola INT, Tex.	**1800
*3000-MRA			*2000-MCA Arcola INT, NE-bound		
Faded INT, Ga.	*Hops INT, Ga.	1500	**1600-MOCA		
*3800-MRA			Arcola INT, Tex.	Hobby, Tex. VOR	2500
Hops INT, Ga.	Savannah, Ga. VOR	2000	Hobby, Tex. VOR	Begunoot, Tex. VOR	*1800
			*1600-MOCA		
195.606 VOR FEDERAL AIRWAY 6			195.605 VOR FEDERAL AIRWAY 25		
<i>is amended to read in part:</i>			<i>is amended to read in part:</i>		
FROM	TO	MEA	FROM	TO	MEA
Morton INT, Wyo.	*Lites INT, Wyo.	**10500	Ventura, Calif. VOR	Santa Barbara, Calif. VOR	6000
*10500-MCA Lites INT, W-bound					
**9500-MOCA					
Lites INT, Wyo.	Albin INT, Wyo.	*9300			
*7800-MOCA					
195.607 VOR FEDERAL AIRWAY 7			195.605 VOR FEDERAL AIRWAY 26		
<i>is amended to read in part:</i>			<i>is amended to read in part:</i>		
FROM	TO	MEA	FROM	TO	MEA
Terra Haute, Ind. VOR	Wings INT, Ind.	*2600	Casper, Wyo. VOR	Sand Creek INT, Wyo.	8000
*1900-MOCA					
Wings INT, Ind.	*Pates INT, Ind.	2500			
*4000-MRA					
Pates INT, Ind.	Lafayette, Ind. VOR	2500			
195.607 VOR FEDERAL AIRWAY 27			195.607 VOR FEDERAL AIRWAY 27		
<i>is amended to read in part:</i>			<i>is amended to read in part:</i>		
FROM	TO	MEA	FROM	TO	MEA
Ventura Calif. VOR	Hemer INT, Calif.	5000	Ventura Calif. VOR	Hemer INT, Calif.	5000
Hemer INT, Calif.	Cherry INT, Calif.	6000	Hemer INT, Calif.	Cherry INT, Calif.	6000
Cherry INT, Calif.	Galer INT, Calif.	5000	Cherry INT, Calif.	Galer INT, Calif.	5000
Galer INT, Calif.	Geovata, Ca. VOR	6000	Galer INT, Calif.	Geovata, Ca. VOR	6000
195.607 VOR FEDERAL AIRWAY 27			195.607 VOR FEDERAL AIRWAY 27		
<i>is amended to read in part:</i>			<i>is amended to read in part:</i>		
FROM	TO	MEA	FROM	TO	MEA
Ventura Calif. VOR	Hemer INT, Calif.	5000	Ventura Calif. VOR	Hemer INT, Calif.	5000
Hemer INT, Calif.	Cherry INT, Calif.	6000	Hemer INT, Calif.	Cherry INT, Calif.	6000
Cherry INT, Calif.	Galer INT, Calif.	5000	Cherry INT, Calif.	Galer INT, Calif.	5000
Galer INT, Calif.	Geovata, Ca. VOR	6000	Galer INT, Calif.	Geovata, Ca. VOR	6000
195.607 VOR FEDERAL AIRWAY 27			195.607 VOR FEDERAL AIRWAY 27		
<i>is amended to read in part:</i>			<i>is amended to read in part:</i>		
FROM	TO	MEA	FROM	TO	MEA
Branwick, Ga. VOR	*Faded INT, Ga.	1500	Branwick, Ga. VOR	*Faded INT, Ga.	1500
*3000-MRA			*3000-MRA		
Faded INT, Ga.	**Hops INT, Ga.	1500	Faded INT, Ga.	**Hops INT, Ga.	1500
*3800-MRA			*3800-MRA		
Hops INT, Ga.	Savannah, Ga. VOR	2000	Hops INT, Ga.	Savannah, Ga. VOR	2000
Zenith INT, W. Va.	*Hawk INT, W. Va.	**8000	Zenith INT, W. Va.	*Hawk INT, W. Va.	**8000
*8000-MRA			*8000-MRA		
**6600-MOCA			**6600-MOCA		
Hawk INT, W. Va.	Elkins, W. Va. VOR	6000	Hawk INT, W. Va.	Elkins, W. Va. VOR	6000
195.608 VOR FEDERAL AIRWAY 28			195.608 VOR FEDERAL AIRWAY 28		
<i>is amended to read in part:</i>			<i>is amended to read in part:</i>		
FROM	TO	MEA	FROM	TO	MEA
Elkins, W. Va. VOR	*Bugel INT, W. Va.	6400	Elkins, W. Va. VOR	*Bugel INT, W. Va.	6400
*8000-MRA			*8000-MRA		
Bugel INT, W. Va.	Crawford INT, W. Va.	*8000	Bugel INT, W. Va.	Crawford INT, W. Va.	*8000
*6900-MOCA			*6900-MOCA		
195.608 VOR FEDERAL AIRWAY 28			195.608 VOR FEDERAL AIRWAY 28		
<i>is amended to read in part:</i>			<i>is amended to read in part:</i>		
FROM	TO	MEA	FROM	TO	MEA
Indianapolis, Ind. VOR	Jacks INT, Ind.	2700	Indianapolis, Ind. VOR	Jacks INT, Ind.	2700
Jacks INT, Ind.	Lafayette, Ind. VOR	2600	Jacks INT, Ind.	Lafayette, Ind. VOR	2600
195.606 VOR FEDERAL AIRWAY 66			195.606 VOR FEDERAL AIRWAY 66		
<i>is amended to read in part:</i>			<i>is amended to read in part:</i>		
FROM	TO	MEA	FROM	TO	MEA
Albers, Ga. VOR	Irons INT, S.C.	2600	Albers, Ga. VOR	Irons INT, S.C.	2600
Irons INT, S.C.	Upton INT, S.C.	*6900	Irons INT, S.C.	Upton INT, S.C.	*6900
*2500-MOCA			*2500-MOCA		
195.605 VOR FEDERAL AIRWAY 53			195.605 VOR FEDERAL AIRWAY 53		
<i>is amended to read in part:</i>			<i>is amended to read in part:</i>		
FROM	TO	MEA	FROM	TO	MEA
Indianapolis, Ind. VOR	Jacks INT, Ind.	2700	Indianapolis, Ind. VOR	Jacks INT, Ind.	2700
Jacks INT, Ind.	Lafayette, Ind. VOR	2600	Jacks INT, Ind.	Lafayette, Ind. VOR	2600
195.606 VOR FEDERAL AIRWAY 66			195.606 VOR FEDERAL AIRWAY 66		
<i>is amended to read in part:</i>			<i>is amended to read in part:</i>		
FROM	TO	MEA	FROM	TO	MEA
Albers, Ga. VOR	Irons INT, S.C.	2600	Albers, Ga. VOR	Irons INT, S.C.	2600
Irons INT, S.C.	Upton INT, S.C.	*6900	Irons INT, S.C.	Upton INT, S.C.	*6900
*2500-MOCA			*2500-MOCA		
195.605 VOR FEDERAL AIRWAY 53			195.605 VOR FEDERAL AIRWAY 53		
<i>is amended to read in part:</i>			<i>is amended to read in part:</i>		
FROM	TO	MEA	FROM	TO	MEA
Hobby, Tex. VOR	Sealy INT, Tex.	*2000	Hobby, Tex. VOR	Sealy INT, Tex.	*2000
Via W alter.	Via W alter.		Via W alter.	Via W alter.	
*1600-MOCA			*1600-MOCA		

<p>595.405 VOR FEDERAL AIRWAY 85 is amended to read in part:</p>			<p>595.416 VOR FEDERAL AIRWAY 164 is amended to read in part:</p>		
FROM	TO	MEA	FROM	TO	MEA
Medicine Bow, Wyo. VOR Via W alter. *9700-MRA	*Alcova INT, Wyo. Via W alter.	9900	Type INT, W. Va. Tuske INT, W. Va.	Tuske INT, W. Va. Kassan, W. Va. VOR	4900 6000
<p>595.408 VOR FEDERAL AIRWAY 89 is amended to read in part:</p>			<p>595.417 VOR FEDERAL AIRWAY 172 is amended by adding:</p>		
FROM	TO	MEA	FROM	TO	MEA
Liter INT, Wyo. *7500-MOCA	Chadron, Neb. VOR	*7800	Walbeck, Neb. VOR *2200-MOCA	Columbus, Neb. VOR	*3800
			Columbus, Neb. VOR *3000-MOCA	Neola, Iowa VOR	*3500
<p>595.409 VOR FEDERAL AIRWAY 95 is amended by adding:</p>			<p>595.417 VOR FEDERAL AIRWAY 172 is amended to delete:</p>		
FROM	TO	MEA	FROM	TO	MEA
Farmington, N.M. VOR *9100-MCA Durango VOR, S-bound	*Durango, Colo. VOR	9400	Walbeck, Neb. VOR *3800-MOCA	Bellwood INT, Neb.	*4000
*Durango, Colo. VOR *12200-MCA Durango VOR, N-bound	**Gunnison, Colo. VOR	14100	Bellwood INT, Neb. *2800-MOCA	Kennard INT, Neb.	*4000
**12500-MCA Gunnison VOR, S-bound			Kennard INT, Neb.	Neola, Iowa VOR	2900
**13000-MCA Gunnison VOR, NE-bound					
<p>595.410 VOR FEDERAL AIRWAY 140 is amended to read in part:</p>			<p>595.417 VOR FEDERAL AIRWAY 174 is amended to read in part:</p>		
FROM	TO	MEA	FROM	TO	MEA
*Natural Walls INT, Va. Vall INT, W. Va. *6000-MRA **6400-MOCA	Vall INT, W. Va. Elkins, W. Va. VOR	7000 *7000	Elkins, W. Va. VOR Knead INT, W. Va.	Knead INT, W. Va. Front Royal, Va. VOR	6000 6800
<p>595.412 VOR FEDERAL AIRWAY 128 is amended to read in part:</p>			<p>595.416 VOR FEDERAL AIRWAY 164 is amended by adding:</p>		
FROM	TO	MEA	FROM	TO	MEA
Sites INT, W. Va. *9000-MRA **7000-MOCA	*Hewitt INT, W. Va.	**10000	Santa Barbara, Calif. VOR Fillmore, Calif. VOR	Fillmore, Calif. VOR	6000
Hewitt INT, W. Va. *7000-MOCA	Luray INT, Va.	*10000	<p>595.416 VOR FEDERAL AIRWAY 164 is amended to read in part:</p>		
*Pates INT, Ind. *4000-MRA **2200-MOCA	Jacks INT, Ind.	**4000	FROM	TO	MEA
Jacks INT, Ind.	Indianapolis, Ind. VOR	2700	Rocky Mount, N.C. VOR	Calfield, N.C. VOR	1800
<p>595.413 VOR FEDERAL AIRWAY 139 is amended to read in part:</p>			<p>595.418 VOR FEDERAL AIRWAY 198 is amended to read in part:</p>		
FROM	TO	MEA	FROM	TO	MEA
Wacky INT, R.I. *1700-MOCA	Lafayette INT, R.I.	*2200	Hobby, Tex. VOR *1500-MOCA	Smith INT, Tex.	*1800
Lafayette INT, R.I. *1800-MOCA	Providence, R.I. VOR	*2300	Smith INT, Tex. *1300-MOCA	Sobies Pass, Tex. VOR	*1900
<p>595.414 VOR FEDERAL AIRWAY is deleted.</p>			<p>595.416 VOR FEDERAL AIRWAY 216 is amended to read in part:</p>		
<p>595.415 VOR FEDERAL AIRWAY 157 is amended to read in part:</p>			FROM	TO	MEA
FROM	TO	MEA	Lenox INT, Ill.	Davis INT, Ill.	2800
*Vegle INT, Fla. Via W alter. *3100-MRA **1500-MOCA	Serge INT, Fla. Via W alter.	**3100	<p>595.421 VOR FEDERAL AIRWAY 221 is amended to read in part:</p>		
Serge INT, Fla. Via W alter. *1200-MOCA	Swags INT, Fla. Via W alter.	*2000	FROM	TO	MEA
			Bible Grove, Ill. VOR *2100-MOCA	Carlisle INT, Ind.	*3700
			Shelbyville, Ind. VOR	Muncie, Ind. VOR	2800
<p>595.416 VOR FEDERAL AIRWAY 142 is amended to read in part:</p>			<p>595.422 VOR FEDERAL AIRWAY 232 is amended to read in part:</p>		
FROM	TO	MEA	FROM	TO	MEA
Deris INT, W. Va. Emmit INT, W. Va.	Emmit INT, W. Va. Clarksburg, W. Va. VOR	6000 4000	Milton, Pa. VOR Beers INT, Pa. *3200-MOCA	Beers INT, Pa. Penas INT, N.J.	4000 *4000
<p>595.425 VOR FEDERAL AIRWAY 237 is amended to read in part:</p>			<p>595.416 VOR FEDERAL AIRWAY 306 is amended to read in part:</p>		
FROM	TO	MEA	FROM	TO	MEA
*Grand Canyon, Ariz. VOR *12100-MCA Grand Canyon VOR, N-bound **11100-MOCA	Kacie INT, Ariz.	**12000	Navasota, Tex. VOR *1700-MOCA	Montgomery INT, Tex.	*2000
Kacie INT, Ariz.	Bryce Canyon, Utah VOR	11600	Montgomery INT, Tex. *1700-MOCA	Cleveland INT, Tex.	*5000
<p>595.426 VOR FEDERAL AIRWAY 206 is amended to read in part:</p>			<p>595.428 VOR FEDERAL AIRWAY 348 is amended to read in part:</p>		
FROM	TO	MEA	FROM	TO	MEA
Elkins, W. Va. VOR Deris INT, W. Va. *6000-MOCA	Deris INT, W. Va. Coronovs, Va. VOR	6000 *6000	Thunder Bay, Ont. VOR R for that airspace over U.S. Territory.	Sault Ste. Marie, Mich. VOR	7200
<p>595.426 VOR FEDERAL AIRWAY 206 is amended to read in part:</p>			<p>595.441 VOR FEDERAL AIRWAY 441 is amended by adding:</p>		
FROM	TO	MEA	FROM	TO	MEA
Fayetteville, N.C. VOR *3000-MRA	*Curie INT, N.C.	1900	Melbourne, Fla. VOR Lakeland, Fla. VOR	Lakeland, Fla. VOR St. Petersburg, Fla. VOR	2900 2000
Curie INT, N.C.	Wilmington, N.C. VOR	1900	<p>595.445 VOR FEDERAL AIRWAY 445 is amended to read in part:</p>		
<p>595.428 VOR FEDERAL AIRWAY 206 is amended to read in part:</p>			FROM	TO	MEA
FROM	TO	MEA	Ventura, Calif. VOR *6200-MCA Hener INT, N-bound	*Hener INT, Calif.	5000
McCall, Ida. VOR *9800-MCA Dubois VOR, W-bound **14000-MOCA	*Dubois, Ida. VOR	**16000	Hener INT, Calif. *5300-MOCA	Fellows, Calif. VOR	*9000

§95.7079 JET ROUTE NO. 79 is amended to read in part:

FROM	TO	MEA	MAA
Norfolk, Va. VORTAC	Int. 030 M rad Norfolk VORTAC & 219 M rad Snow Hill VORTAC	18000	40000
Int 030 M rad Norfolk VORTAC & 219 M rad Snow Hill VORTAC	Coyle, N.J. VORTAC	18000	45000

By amending Sub-part D as follows:

AIRWAY SEGMENT	TO	CHANGEOVER POINTS	CHANGEOVER POINTS
FROM		DISTANCE FROM	
V-306 is amended by adding: Doisetta, Tex. VOR	Lake Charles, La. VOR	30	Doisetta
Y-444 is amended by adding: Barrow, Alas. VOR	Evansville, Alas. NDB	105	Barrow

[FR Doc.77-26874 Filed 9-14-77;8:45 am]

[Docket No. 17215; Amdt. No. 1090]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For examination—1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed weekly, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The current annual subscrip-

tion price is \$150.00; add \$30.00 for each additional copy mailed to the same address.

FOR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. § 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the FEDERAL REGISTER expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the

FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The principal authors of this document are Rudolph L. Fioretti, Flight Standards Service, and Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

* * * Effective November 3, 1977.

Kailua-Kona, HI—Ke-ahole, VOR/DME Rwy 17 (TAC) Orig.

Kailua-Kona, HI—Ke-ahole, VORTAC Rwy 17, Amdt. 3, canceled

Holland, MI—Tulip City, VOR-A, Amdt. 5
Holland, MI—Park Township, VOR-C, Amdt. 4

Belmar-Farmingdale, NJ—Monmouth County, VOR-A, Amdt. 9

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

* * * Effective September 22, 1977.

Augusta, ME—Augusta State, LOC Rwy 17, Original

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

* * * Effective November 3, 1977.

Holland, MI—Park Township, NDB-B, Amdt. 3

* * * Effective October 6, 1977.

Selma, AL—Selfield, NDB Rwy 30, Amdt. 1
Anahuac, TX—Chambers County, NDB Rwy 30, Amdt. 1

NOTE.—The FAA published an amendment in Docket No. 17063, Amdt. No. 1084 to Part 97 of the Federal Aviation Regulations (42 FR 39381; August 4, 1977) under section 97.27 effective October 8, 1977, which is hereby amended as follows:

Minchumina, AK—Minchumina, NDB Rwy 2, Amdt. 1 is effective October 8, 1977.

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

* * * Effective September 1, 1977.

Tulsa, OK—Tulsa International, ILS Rwy 35R, Amdt. 24

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348, 1354 (a), 1421, and 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Delegation: 24 FR 5662 and Paragraph 802 of Order FS P 1100.1, as amended March 9, 1973.)

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

Issued in Washington, D.C. on September 9, 1977.

JAMES M. VINES,
Chief,
Aircraft Programs Division.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

[FR Doc. 77-26873 Filed 9-14-77; 8:45 am]

Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

PART 1401—SELF PRESSURIZED CONSUMER PRODUCTS CONTAINING CHLOROFUOROCARBONS: REQUIREMENTS TO PROVIDE THE COMMISSION WITH PERFORMANCE AND TECHNICAL DATA; REQUIREMENTS TO NOTIFY CONSUMERS AT POINT OF PURCHASE OF PERFORMANCE AND TECHNICAL DATA

Self-Pressurized Consumer Products Containing Chlorofluorocarbon Propellants: Labeling and Data Submission Requirements

Correction

In FR Doc. 77-24502 appearing at page 42780 in the issue for Wednesday, August 24, 1977, the date given as "February 20, 1978" should be changed to "February 19, 1978" in the following paragraphs:

- (1) On page 42781, first column, in the last line of the first full paragraph;
- (2) On page 42784, middle column, in the 7th line of § 1401.4(a);
- (3) Also on page 42784, third column, in the 7th line of § 1401.5(a).

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

[T.D. 7496 (CC:LR-1614)]

PART 53—FOUNDATION EXCISE TAXES Taxes on Excess Business Holdings

AGENCY: Internal Revenue Service, Treasury.

ACTION: Publication of full text of final regulations.

SUMMARY: This document sets forth the full text of previously adopted final

regulations (42 FR 34499, July 6, 1977) related to taxes on the excess business holdings of private foundations.

EFFECTIVE DATE: The regulations are effective for taxable years beginning after December 31, 1969.

FOR FURTHER INFORMATION CONTACT:

Larry E. Smith of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3909, not a toll-free call.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On January 3, 1973, the FEDERAL REGISTER published a notice of proposed rulemaking containing proposed amendments to the Foundation Excise Tax Regulations (26 CFR Part 53) under section 4943 of the Internal Revenue Code of 1954, 38 FR 32. The amendments were proposed to conform the regulations to section 101(b) of the Tax Reform Act of 1969 (83 Stat. 507). A public hearing was held on March 29, 1973. After consideration of all comments regarding the proposed amendments, those amendments were adopted, as revised, by T.D. 7496, published in the FEDERAL REGISTER for July 6, 1977 (42 FR 34499). In addition, T.D. 7496 superseded § 143.6 of the Temporary Excise Tax Regulations under the Tax Reform Act of 1969 (26 CFR Part 143). However, T.D. 7496 as published in the FEDERAL REGISTER contained only the changes to the notice of proposed rulemaking published on January 3, 1973, rather than the full text of the final regulations. This document sets forth the full text of the final regulations.

Accordingly, the full text of the final regulations adopted by T.D. 7496 is as follows.

ROBERT A. BLEY,
Director, Legislation and
Regulations Division.

Subpart D of 26 CFR Part 53 is inserted in its appropriate place to read as follows:

§ 53.4943-1 General rule; purpose

Generally, under section 4943, the combined holdings of a private foundation and all disqualified persons (as defined in section 4946(a)) in any corporation conducting a business which is not substantially related (aside from the need of the foundation for income or funds or the use it makes of the profits derived) to the exempt purposes of the foundation are limited to 20 percent of the voting stock in such corporation. In addition, the combined holdings of a private foundation and all disqualified persons in any unincorporated business (other than a sole proprietorship) which is not substantially related (aside from the need of the foundation for income or funds or the use it makes of the profits derived) to the exempt purposes of such foundation are limited to 20 percent of the beneficial or profits interest in

such business. In the case of a sole proprietorship which is not substantially related (within the meaning of the preceding sentence), section 4943 provides that a private foundation shall have no permitted holdings. These general provisions are subject to a number of exceptions and special provisions which will be described in following sections.

§ 53.4943-2 Imposition of tax on excess business holdings of private foundations.

(a) *Imposition of initial tax*—(1) *In general*—(i) *Initial tax*. Section 4943 (a) (1) imposes an initial excise tax (the "initial tax") on the excess business holdings of a private foundation for each taxable year of the foundation which ends during the taxable period defined in section 4943(d)(2). The amount of such tax is equal to 5 percent of the total value of all the private foundation's excess business holdings in each of its business enterprises. In determining the value of the excess business holdings of the foundation subject to tax under section 4943, the rules set forth in §§ 20.2031-1 through 20.2031-3 of this chapter (Estate Tax Regulations) shall apply.

(ii) *Disposition of certain excess business holdings within ninety days*. In any case in which a private foundation acquires excess business holdings, other than as a result of a purchase by the foundation, the foundation shall not be subject to the taxes imposed by section 4943, but only if it disposes of an amount of its holdings so that it no longer has such excess business holdings within 90 days from the date on which it knows, or has reason to know, of the event which caused it to have such excess business holdings. Similarly, a private foundation shall not be subject to the taxes imposed by section 4943 because of its purchase of holdings where it did not know, or have reason to know of prior acquisitions by disqualified persons, but only if the foundation disposes of its excess holdings within the 90-day period described previously, and its purchase would not have created excess business holding but for such prior acquisitions by disqualified persons. In determining whether for purposes of this (ii) the foundation has disposed of such excess business holdings during such 90-day period, any disposition of holdings by a disqualified person during such period shall be disregarded.

(iii) *Extension of ninety day period*. The period described in paragraph (a) (1) (ii) of this section, during which no tax shall be imposed under section 4943, shall be extended to include the period during which a foundation is prevented by federal or state securities laws from disposing of such excess business holdings.

(iv) *Effect of disposition subject to material restrictions*. If a private foundation disposes of an interest in a business enterprise but imposes any material restrictions or conditions that prevent the transferee from freely and effectively using or disposing of the transferred interest, then the transferor foundation will be treated as owning such interest until all such restrictions or conditions

are eliminated (regardless of whether the transferee is treated for other purposes of the Code as owning such interest from the date of the transfer). However, a restriction or condition imposed in compliance with federal or state securities laws, or in accordance with the terms or conditions of the gift or bequest through which such interest was acquired by the foundation, shall not be considered a material restriction or condition imposed by a private foundation.

(v) *Foundation knowledge of acquisitions made by disqualified persons.* (A) For purposes of paragraph (a) (1) (ii) of this section, whether a private foundation will be treated as knowing, or having reason to know, of the acquisition of holdings by a disqualified person will depend on the facts and circumstances of each case. Factors which will be considered relevant to a determination that a private foundation did not know or had no reason to know of an acquisition are: the fact that it did not discover acquisitions made by disqualified persons through the use of procedures reasonably calculated to discover such holdings; the diversity of foundation holdings; and the existence of large numbers of disqualified persons who have little or no contact with the foundation or its managers.

(B) The provisions of paragraph (a) (1) (v) (A) of this section may be illustrated by the following example:

Example. By the fifteenth day of the fifth month after the close of each taxable year, the F Foundation sends to each foundation manager, substantial contributor, person holding more than a 20% interest (as described in section 4946(a) (1) (C)) in a substantial contributor, and foundation described in section 4946(a) (1) (H), a questionnaire asking such persons to list all holdings, actual or constructive, in each business enterprise in which F had holdings during the taxable year in excess of those permitted by the 2 percent de minimis rule of section 4943(c) (2) (C). In preparing the list of such enterprises, F takes into account its constructive holdings only if, during the taxable year, F (along with all related foundations described in section 4946(a) (1) (H)) owned over 2% of the voting stock, profits interest or beneficial interest in the entity actually owning the holdings constructively held by F. The questionnaire asks each such person to list the holdings in such enterprises of any persons who, because of their relationship to such disqualified person, were themselves disqualified persons (i.e., members of the family (as defined in section 4946(d)), and any corporations, partnerships, trusts and estates described in section 4946(a) (1) (E) through (G) in which such person, or members of his family, had an interest). The questionnaire asks that constructive holdings be listed only if, during the taxable year, the disqualified person owned over 2% of the voting stock, profits interest or beneficial interest in the entity actually owning the holdings constructively held by such person. (Thus a disqualified person owning less than 2% of a mutual fund is not required to list his attributed share of all the securities in the portfolio of the fund.) If no response to the questionnaire is received, the foundation seeks the information requested by the questionnaire by mailing a second (but not a third) questionnaire. If a questionnaire which is returned to the foundation indicates that cer-

tain information was unavailable to the person completing the questionnaire, the foundation seeks that information directly. For example, if a disqualified person indicates that he could not find out whether a corporation described in section 4946(a) (1) (E) had holdings in the enterprise listed in the questionnaire, the foundation seeks to obtain this information directly from the corporation by mailing it a questionnaire. In such a case, F may be found not to have reason to know of the acquisition of holdings by a disqualified person.

(vi) *Holdings acquired other than by purchase.* See section 4943(c) (6) and § 53.4943-6 for rules relating to the acquisition of certain holdings other than by purchase by the foundation or a disqualified person.

(2) *Special rules.* In applying subparagraph (1) of this paragraph, the tax imposed by section 4943(a) (1) —

(i) Shall be imposed on the last day of the private foundation's taxable year, but

(ii) The amount of such tax and the value of the excess business holdings subject to such tax shall be determined with respect to the foundation's holdings (based upon voting power, profits or beneficial interest, or value, whichever is applicable) in any business enterprise as of that day during the foundation's taxable year when the foundation's excess holdings in such enterprise were the greatest.

In applying subdivision (ii) of this subparagraph, if a foundation's excess business holdings in a business enterprise which constitute such foundation's greatest excess holdings in such enterprise for any taxable year are maintained for 2 or more days during such taxable year, the value of such excess holdings which is subject to tax under section 4943(a) (1) shall be the greatest value of such excess holdings in such enterprise as of any day on which such greatest excess holdings are maintained during such taxable year.

(3) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). Y is a private foundation reporting on a calendar year basis. On January 1, 1973, Y has 20 shares of common stock in corporation N, of which five shares constitute excess business holdings. On June 1, 1973, Y disposes of such five shares; however, because of additional acquisitions of N common stock on such date by disqualified persons with respect to Y, the remaining 15 shares of N common stock held by Y now constitute excess business holdings. There are no further acquisitions or dispositions of N common stock during 1973 by Y or its disqualified persons. Although Y's greatest holdings in N during 1973 are held between January 1, 1973, and May 31, 1973, Y's greatest excess holdings in N during 1973 are held between June 1, 1973, and December 31, 1973. Therefore, the tax specified in section 4943(a) (1) shall be computed on the basis of the greatest value of such greatest excess holdings as of any day between June 1 and December 31, 1973.

Example (2). X is a private foundation reporting on a calendar year basis. On January 1, 1972, X has 100 shares of common stock in M corporation which are excess business holdings. On such date each share of M common stock has a fair market value of \$100. On February 28, 1972, in an effort to

dispose of such excess business holdings, X sells 70 shares of M common stock for \$120 per share (the fair market value of each share on such date) to A, an individual who is not a disqualified person within the meaning of section 4946(a). The value of \$120 per share is the highest fair market value between January 1 and February 28, 1972. X disposes of no more stock in M for the remainder of calendar year 1972. On December 31, 1972, the fair market value of each share of M common stock is \$90. X calculates its tax on its excess business holdings in M for 1972 as follows:

100 shares of M common stock times	
\$120 fair market value per share	
as of Feb. 28, 1972.....	\$12,000
\$12,000 multiplied by rate of tax	
(percent)	5
Amount of tax on X foundation's	
excess business holdings for 1972.....	\$600

Example (3). Assume the same facts as in Example (2) except that the sale of X to A occurs on January 7, 1973, when the fair market value of each share of M corporation common stock equals \$70. A value of \$100 per share is the highest fair market value of the M common stock between January 1 and January 7, 1973. On May 9, 1973, X for the first time has excess business holdings in N corporation in the form of 200 shares of N common stock. The value per share of N common stock on May 9, 1973, equals \$200. X makes no disposition of the N common stock during 1973, and the value of each share of N common stock as of December 31, 1973 equals \$250 (the highest value of N common stock during 1973). X calculates its tax on its excess business holdings in both M and N for 1973 as follows:

100 shares of M common stock times	
\$100 fair market value per share.....	\$10,000
\$250 fair market value per share.....	\$50,000
Total	\$60,000
Total	\$60,000
\$60,000 multiplied by rate of tax	
(percent)	5
Amount of tax on X foundation's	
excess business holdings for 1973.....	\$3,000

(b) *Additional tax.* In any case in which the initial tax is imposed under section 4943(a) with respect to the holdings of a private foundation in any business enterprise, if, at the close of the correction period (as defined in section 4943(d) (3) and § 53.4943-9) with respect to such holdings the foundation still has excess business holdings in such enterprise, there is imposed a tax under section 4943(b) equal to 200 percent of the value of such excess holdings as of the last day of such correction period (determined without regard to extensions).

§ 53.4943-3 Determination of excess business holdings.

(a) *Excess business holdings.*—(1) *In general.* For purposes of section 4943, the term "excess business holdings" means, with respect to the holdings of any private foundation in any business enterprise (as described in section 4943(d) (4)), the amount of stock or other interest in the enterprise which, except as provided in § 53.4943-2(a) (1), the foundation, or a disqualified person, would have to dispose of, or cause the disposition of, to a person other than a disqualified person (as defined in section 4946(a)) in order for the remaining holdings of the foundation in such en-

terprise to be permitted holdings (as defined in paragraphs (b) and (c) of this section). If a private foundation is required by section 4943 and the regulations thereunder to dispose of certain shares of a class of stock in a particular period of time and other shares of the same class of stock in a shorter period of time, any stock disposed of shall be charged first against those dispositions which must be made in such shorter period.

(2) *Example.* The provisions of this paragraph may be illustrated by the following example:

Example. Corporation X has outstanding 100 shares of voting stock, with each share entitling the holder thereof to one vote. F, a private foundation, possesses 20 shares of X voting stock representing 20 percent of the voting power in X. Assume that the permitted holdings of F in X under paragraph (b) (1) of this section are 11 percent of the voting stock in X. F, therefore, possesses voting stock in X representing a percentage of voting stock in excess of the percentage permitted by such paragraph. Such excess percentage is 9 percent of the voting stock in X, determined by subtracting the percentage of voting stock representing the permitted holdings of F in X (i.e., 11 percent) from the percentage of voting stock held by F in X (i.e., 20 percent). ($20\% - 11\% = 9\%$). The excess business holdings of F in X are an amount of voting stock representing such excess percentage, or 9 shares of X voting stock (9 percent of 100).

(b) *Permitted holdings in an incorporated business enterprise—(1) In general.—(i) Permitted holdings defined.* Except as otherwise provided in section 4943(c) (2) and (4), the permitted holdings of any private foundation in an incorporated business enterprise (including a real estate investment trust, as defined in section 856) are—

(A) 20 percent of the voting stock in such enterprise reduced (but not below zero) by

(B) The percentage of voting stock in such enterprise actually or constructively owned by all disqualified persons.

(ii) *Voting stock.* For purposes of this section, the percentage of voting stock held by any person in a corporation is normally determined by reference to the power of stock to vote for the election of directors, with treasury stock and stock which is authorized but unissued being disregarded. Thus, for example, if a private foundation holds 20 percent of the shares of one class of stock in a corporation, which class is entitled to elect three directors, and such foundation holds no stock in the other class of stock, which is entitled to elect five directors, such foundation shall be treated as holding 7.5 percent of the voting stock because the class of stock it holds has 37.5 percent of such voting power, by reason of being able to elect three of the eight directors, and the foundation holds one-fifth of the shares of such class (20 percent of 37.5 percent is 7.5 percent). The fact that extraordinary corporate action (e.g., charter or by-law amendments) by a corporation may require the favorable vote of more than a majority of the directors, or of the outstanding voting stock, of such

corporation shall not alter the determination of voting power of stock in such corporation in accordance with the two preceding sentences.

(2) *Nonvoting stock as permitted holdings—(i) In general.* In addition to those holdings permitted by paragraph (b) (1) of this section, the permitted holdings of a private foundation in an incorporated business enterprise shall include any share of nonvoting stock in such enterprise held by the foundation in any case in which all disqualified persons hold, actually or constructively, no more than 20 percent (35 percent where third persons have effective control as defined in paragraph (b) (3) (i) of this section) of the voting stock in such enterprise. All equity interests which do not have voting power attributable to them shall, for purposes of section 4943, be classified as nonvoting stock. For this purpose, evidences of indebtedness (including convertible indebtedness), and warrants and other options or rights to acquire stock shall not be considered equity interests.

(ii) *Stock with contingent voting rights and convertible nonvoting stock.* Stock carrying voting rights which will vest only when conditions, the occurrence of which are indeterminate, have been met, such as preferred stock which gains such voting rights only if no dividends are paid thereon, will be treated as nonvoting stock until the conditions have occurred which cause the voting rights to vest. When such rights vest, the stock will be treated as voting stock that was acquired other than by purchase, but only if the private foundation or disqualified persons had no control over whether the conditions would occur. Similarly, nonvoting stock which may be converted into voting stock will not be treated as voting stock until such conversion occurs. For special rules where stock is acquired other than by purchase, see section 4943(c) (6) and the regulations thereunder.

(iii) *Example.* The provisions of this paragraph (2) may be illustrated by the following example:

Example. Assume that F, a private foundation, holds 10 percent of the single class of voting stock of corporation X, and owns 20 shares of nonvoting stock in X. Assume further that A and B, the only disqualified persons with respect to F, hold 10 percent of the voting stock of X. Under the provisions of paragraph (b) (1) of this section, the 10 percent of X voting stock held by F will be classified as permitted holdings of F in X since 20 percent less the percentage of voting stock held by A and B in X is 10 percent. In addition, under the provisions of this (2), the 20 shares of X nonvoting stock will qualify as permitted holdings of F in X since the percentage of voting stock held by A and B in X is no greater than 20 percent.

(3) *Thirty-five-percent rule where third person has effective control of enterprise—(i) In general.* Except as provided in section 4943(c) (4), paragraph (b) (1) of this section shall be applied by substituting 35 percent for 20 percent if—

(A) The private foundation and all disqualified persons together do not hold,

actually or constructively, more than 35 percent of the voting stock in the business enterprise, and

(B) The foundation establishes to the satisfaction of the Commissioner that effective control (as defined in paragraph (b) (3) (ii) of this section) of the business enterprise is in one or more persons (other than the foundation itself) who are not disqualified persons.

(ii) *"Effective control" defined.* For purposes of this subparagraph, the term "effective control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a business enterprise, whether through the ownership of voting stock, the use of voting trusts, or contractual arrangements, or otherwise. It is the reality of control which is decisive and not its form or the means by which it is exercisable. Thus, where a minority interest held by individuals who are not disqualified persons has historically elected the majority of a corporation's directors, effective control is in the hands of those individuals.

(4) *Two percent de minimis rule—(i) In general.* Under section 4943(c) (2) (C), a private foundation is not treated as having excess business holdings in any incorporated business enterprise in which it (together with all other private foundations (including trusts described in section 4947(a) (2)) which are described in section 4946(a) (1) (H)) actually or constructively owns not more than 2 percent of the voting stock and not more than 2 percent in value of all outstanding shares of all classes of stock. If, however, the private foundation, together with all other private foundations which are described in section 4946(a) (1) (H), actually or constructively owns more than 2 percent of either the voting stock or the value of the outstanding shares of all classes of stock in any incorporated business enterprise, all the stock in such business enterprise classified as excess business holding under section 4943 is treated as excess business holdings. For purposes of this paragraph, any stock owned by a private foundation which is treated as held by a disqualified person under section 4943(c) (4) (B), (5), or (6) shall be treated as actually owned by the private foundation. See paragraph (b) (1) of § 53.4941(d)-4 for the determination of excess business holdings without regard to section 4943(c) (2) (C) for purposes of applying section 101(C) (2) (B) of the Tax Reform Act of 1969 (83 Stat. 533).

(ii) *Examples.* The provisions of this subparagraph may be illustrated by the following examples:

Example (1). F, a private foundation, owns 1 percent of the single class of voting stock and 1 percent in value of all the outstanding shares of all classes of stock in X corporation. No other private foundation described in section 4946(a) (1) (H) owns any stock in X. All of the stock owned by F in X would be excess business holdings under section 4943(c) (1) if section 4943(c) (2) (C) were inapplicable. F owns no other shares of stock in X. Since F owns no more than 2 percent of the voting stock and no more than 2 percent in value of all outstanding shares of all classes of stock in X, under section 4943(c)

(2) (C) none of the stock in X owned by F is treated as excess business holdings.

Example (2). Assume the facts as stated in Example (1), except that F and T, a controlled private foundation under section 4946 (a) (1) (H), together own 1 percent of all the voting stock and 1 percent in value of all the outstanding shares of all classes of stock in X. All of the stock in X owned by F and T would be excess business holdings under section 4943(c)(1). If section 4943(c)(2)(C) were inapplicable. Since F and T together own no more than 2 percent of the voting stock and no more than 2 percent in value of all outstanding shares of all classes of stock in X, under section 4943(c)(2)(C) none of the stock in X owned by either F or T is treated as excess business holdings.

Example (3). Assume the facts as stated in Example (1), except that F owns 3 percent of the voting stock in X, 2 percent of which is treated as held by P, a disqualified person of F, under section 4943(c)(4)(B). Under subdivision (i) of this subparagraph, the 2 percent of the stock in X owned by F which is treated as held by P under section 4943(c)(4)(B) is treated as actually owned by F for purposes of section 4943(c)(2)(C). Consequently, all of the X stock owned by F is treated as excess business holdings under section 4943(c)(2)(C). However, only 1 percent of the stock in X is subject to tax under section 4943(a), since the other 2 percent is treated as owned by a disqualified person under section 4943(c)(4)(B) for purposes of determining the tax upon F under section 4943(a).

(c) *Permitted holdings in an unincorporated business enterprise—(1) In general.* The permitted holdings of a private foundation in any business enterprise which is not incorporated shall, subject to the provisions of subparagraphs (2), (3), and (4) of this paragraph, be determined under the principles of paragraph (b) of this section.

(2) *Partnership or joint venture.* In the case of a partnership (including a limited partnership) or joint venture, the terms "profits interest" and "capital interest" shall be substituted for "voting stock" and "nonvoting stock," respectively, wherever those terms appear in paragraph (b) of this section. The interest in profits of such foundation (or such disqualified person) shall be determined in the same manner as its distributive share of partnership taxable income. See section 704(b) (relating to the determination of the distributive share by the income or loss ratio) and the regulations thereunder. In the absence of a provision in the partnership agreement, the capital interest of such foundation (or such disqualified person) in a partnership shall be determined on the basis of its interest in the assets of the partnership which would be distributable to such foundation (or such disqualified person) upon its withdrawal from the partnership, or upon liquidation of the partnership, whichever is the greater.

(3) *Sole proprietorship.* For purposes of section 4943, a private foundation shall have no permitted holdings in a sole proprietorship. In the case of a transfer by a private foundation of a portion of a sole proprietorship, see paragraph (c) (2) of this section (relating to permitted holdings in partnerships). For the treatment of a private foundation's ownership

of a sole proprietorship prior to May 26, 1969, see § 53.4943-4.

(4) *Trusts and other unincorporated business enterprises—(i) In general.* In the case of any unincorporated business enterprise which is not described in paragraph (c) (2) or (3) of this section, the term "beneficial interest" shall be substituted for "voting stock" wherever the term appears in paragraph (b) of this section. Any and all references to nonvoting stock in paragraph (b) of this section shall be inapplicable with respect to any unincorporated business enterprise described in this subparagraph.

(ii) *Trusts.* For purposes of section 4943, the beneficial interest of a private foundation or any disqualified person in a trust shall be the beneficial remainder interest of such foundation or person determined as provided in paragraph (b) of § 53.4943-8.

(iii) *Other unincorporated business enterprises.* For purposes of section 4943, the beneficial interest of a private foundation or any disqualified person in an unincorporated business enterprise (other than a trust or an enterprise described in paragraph (c) (2) or (3) of this section) includes any right to receive a portion of distributions of profits of such enterprise, and, if the portion of distributions is not fixed by an agreement among the participants, any right

to receive a portion of the assets (if any) upon liquidation of the enterprise, except as a creditor or employee. For purposes of this subparagraph, a right to receive distributions of profits includes a right to receive any amount from such profits (other than as a creditor or employee), whether as a sum certain or as a portion of profits realized by the enterprise. Where there is no agreement fixing the rights of the participants in such enterprise, the interest of such foundation (or such disqualified person) in such enterprise shall be determined by dividing the amount of all equity investments or contributions to the capital of the enterprise made or obligated to be made by such foundation (or such disqualified person) by the amount of all equity investments or contributions to capital made or obligated to be made by all participants in the enterprise.

(d) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). Corporation X has outstanding 100 shares of voting stock, with each share entitling the holder thereof to one vote. Assume that F, a private foundation, possesses 30 shares of X voting stock, and that A and B, the only disqualified persons with respect to F, together own 10 shares of X voting stock. The excess business holdings of F in X are 20 shares of X voting stock, determined as follows:

(i) Determination of voting stock percentages:	
(a) Total number of outstanding votes in X.....	100
(b) Total number of votes in X held by F.....	30
(c) Total number of votes in X held by A and B.....	10
(d) Percentage of voting stock in X held by F (item (b) divided by item (a)) (percent).....	30
(e) Percentage of voting stock in X held by A and B item (c) divided by item (a) (percent).....	10
(ii) Determination of permitted holdings of voting stock:	
(a) Percentage of voting stock in X held by A and B (percent).....	10
(b) Permitted holdings of voting stock by F in X (20 pct less item (a)) (percent).....	10
(iii) Determination of excess business holdings:	
(a) Percentage of voting stock in X held by F (percent).....	30
(b) Permitted holdings of voting stock by F in X (percent).....	10
(c) Item (a) less item (b) (percent).....	20
(d) Excess business holdings of F in X (i.e., an amount of X voting stock representing a percentage of voting stock equivalent to that in item (c)) (shares).....	20

Example (2). F, a private foundation, is a partner in P partnership. In addition, A and B, the only disqualified persons with respect to F, are partners in P. The partnership agreement of P contains no provisions regarding the sharing of profits by, and the respective capital interests of, the partners.

(i) Assume that, under section 704(b), F's distributive share of P taxable income is determined to be 20 percent. In addition, assume that under such section, A and B are determined to have a 4-percent distributive share each of P taxable income. Accordingly, F holds a 20-percent profits interest in P, and A and B hold an 8-percent profits interest in P. Assuming that the provisions of section 4943(c)(2)(B) do not apply, the permitted holdings of F in P are 12 percent of the profits interest in P, determined by subtracting the percentage of the profits interest held by A and B in P (i.e., 8 percent) from 20 percent. (20 percent—8 percent=12 percent.) F, therefore, holds a percentage of the profits interest in P in excess of the percentage permitted by § 53.4943-3(b)(1). The excess business holdings of F in P are a per-

centage of the profits interest in P equivalent to such excess percentage, or 8 percent of the profits interest in P, determined by subtracting the permitted holdings of F in P (i.e., 12 percent) from the percentage of the profit interest held by F in P (i.e., 20 percent) (20 percent—12 percent=8 percent.)

(ii) Assume that, under the partnership agreement, F would be entitled to a distribution of 20 percent of P's assets upon F's withdrawal from P and to a distribution of 30 percent of P's assets upon the liquidation of P's interest held by F in P (i.e., 20 percent) (20 percent—12 percent=8 percent). of P, F, therefore, holds a 30-percent capital centage of the assets of P distributable to F upon F's withdrawal from P, or the percentage of such assets distributable to F upon the liquidation of P. Since the percentage of the profits interest held by A and B in P is less than 20 percent, such 30-percent capital interest will be included in the permitted holdings of F in P.

§ 53.4943-4 Present holdings.

(a) *Introduction—(1) Section 4943 (c) (4) in general.* (i) Paragraph (4) of

section 4943(c) prescribes transition rules for a private foundation which, but for such paragraph, would have excess business holdings on May 26, 1969. Section 4943(c)(4) provides such a foundation with protection from the initial tax on excess business holdings in two ways. First, the entire interest of such a foundation in any business enterprise in which such a foundation, but for section 4943(c)(4), would have had excess business holdings on May 26, 1969, is treated under section 4943(c)(4)(B) as held by disqualified persons for a certain period of time (the "first phase"). The effect of such treatment is to prevent a private foundation from being subject to the initial tax with respect to its May 26, 1969, interest during the first phase holding period and also to prevent the foundation from purchasing any additional business holdings in such business enterprise during such period (unless the combined holdings of the foundation and all disqualified persons fall below the 20 percent (or 35 percent, if applicable) figure prescribed by section 4943(c)(2)). Second, section 4943(c)(4)(A)(i) initially increases the percentage of permitted holdings of such a foundation to a percentage equal to the difference between—

(A) The percentage of combined holdings of the foundation and all disqualified persons in such business enterprise on May 26, 1969 (subject to a 50 percent maximum), and

(B) The percentage of holdings of all disqualified persons.

The percentage referred to in paragraph (a)(1)(i)(A) of this section is referred to in this section as the "substituted level". This "substituted level" is then reduced by the "downward ratchet rule" prescribed by section 4943(c)(4)(A)(ii) and paragraph (d)(3) of this section for certain dispositions by such foundation or by disqualified persons. The primary purpose of the substituted level is to indicate what the permitted holdings in such business enterprise will be immediately after the expiration of the first phase holding period. Thereafter, the permitted holdings of a private foundation itself are further limited to a maximum 25 percent interest in such business enterprise by section 4943(c)(4)(D) as soon as the combined holdings of all disqualified persons in such business enterprise exceed 2 percent (of the voting stock). If the combined holdings of all disqualified persons at no time exceed 2 percent (of the voting stock) during the 15 years following the first phase (the "second phase"), then the substituted level is reduced to a 35 percent maximum after the second phase.

(ii) Paragraph (a)(1)(i) of this section may be illustrated by the following example:

Example. On May 26, 1969, private foundation P held a 5 percent interest in corporation X (voting stock and value). On such date disqualified persons held a 16 percent interest in X (voting stock and value). Assume that except for section 4943(c)(4), P would have had a 1 percent interest in X which would have constituted excess busi-

ness holdings. Therefore, section 4943(c)(4)(B) applies and P's 5 percent interest in X is treated as held by a disqualified person during the 10-year period beginning May 26, 1969. Since the entire 21 percent held by P and disqualified persons is now treated as held by disqualified persons, P's substituted level is 21 percent and its permitted holdings are zero (21%—21%). However, P has no excess business holdings in X, because during the 10-year period P is not treated as holding such interest. The only change in the interest in X occurs on January 2, 1972, when P disposes of 2 percent of its interest in X to A, an unrelated person. Since the interest held by P and all disqualified persons (21%—2%=19%) has decreased below 20 percent, P's substituted level is reduced to 20 percent and its permitted holdings are 1 percent (20%—19%) on such date. Therefore, if the other interests in X do not change, P will not have excess business holdings if P purchases no more than an additional 1 percent interest in X.

(2) *Interaction of provisions of section 4943(c)(4), (5), and (6).* During the first phase, a private foundation may acquire additional interests in a business enterprise, other than by purchase, which are entitled to be treated as held by disqualified persons for varying holding periods under section 4943(c)(5) or (6) (relating respectively to certain holdings acquired pursuant to the terms of a trust or will in effect on May 26, 1969, and to the 5-year period to dispose of certain gifts, bequests, etc.). In any case, holdings which the private foundation disposes of shall be charged first against those holdings which it must dispose of in the shortest period in order to avoid the initial tax thereon. Further, acquisitions of a private foundation under a pre-May 27, 1969, will or trust described in section 4943(c)(5) are treated in a manner similar to the treatment of interests actually held by a private foundation on May 26, 1969. See §§ 53.4943-5 and 53.4943-6.

(b) *Present holdings in general.* (1) Section 4943(c)(4)(B) provides that any interest in a business enterprise held by a private foundation on May 26, 1969, if the foundation on such date has excess business holdings (determined without regard to section 4943(c)(4)), shall (while held by the foundation) be treated as held by a disqualified person during a first phase. Therefore, no interest of a private foundation shall be treated as held by a disqualified person under section 4943(c)(4)(B) and this section unless:

(i) The private foundation was an entity (not including a revocable trust) in existence on May 26, 1969, even though it was not then treated as a private foundation under section 509 or section 4947;

(ii) Such interest was actually or constructively owned by such entity on such date; and

(iii) Without regard to section 4943(c)(4) such entity had on such date an interest (considered in connection with the interests actually or constructively owned by all disqualified persons with respect to such entity on that date in the same business enterprise, determined as if the entity were then a private founda-

tion) which exceeded the permitted holdings prescribed by section 4943(c)(2) or (3).

(See, however, section 4943(c)(5) and § 53.4943-5 for similar treatment for certain interests acquired by a private foundation under the terms of a trust or a will which were in effect on May 26, 1969.) If a private foundation owns an interest described by section 4943(c)(4)(B), then the length of the first phase for such an interest is prescribed by paragraph (c) of this section and shall not be affected by any interest acquired by the private foundation or any disqualified person in such business enterprise after May 26, 1969. In addition, the amount of permitted holdings in such business enterprise is prescribed by paragraph (d) of this section. An interest constructively held by a private foundation (or a disqualified person) on May 26, 1969, shall not cease to be an interest to which section 4943(c)(4) applies merely because it is later distributed to such foundation (or to such disqualified person). Nor shall an interest directly held by a private foundation (or disqualified person) on May 26, 1969, cease to be treated as an interest to which section 4943(c)(4) applies to the extent it remains actually or constructively held by such foundation (or such disqualified person) upon transfer of such interest, such as upon the incorporation of a sole proprietorship.

(2) The provisions of this paragraph may be illustrated by the following example:

Example. A, a nonprofit research organization described in section 501(c)(3), was organized in 1966. On May 26, 1969, A held 50 percent of the stock of corporation B. For its taxable years 1970, 1971, and 1972, A is classified as an organization described in section 509(a)(2). However, for 1973 and subsequent years, A fails to satisfy the gross investment income limitation of section 509(a)(2)(B), and is thus classified as a private foundation. In such a case, section 4943(c)(4) applies, and a disqualified person shall be treated as holding A's stock in B during a first phase that begins on May 26, 1969.

(c) *First phase holding periods—(1) In general.* If, on May 26, 1969, a private foundation has excess business holdings in any business enterprise (determined with regard to the 20 or 35 percent permitted holdings of section 4943(c)(2)), then all interests which such foundation holds, actually or constructively, in such enterprise on May 26, 1969, shall (while held by such foundation) be deemed held by a disqualified person during the following periods:

(i) The 20-year period beginning on May 26, 1969, if the private foundation holds, actually or constructively, more than 95 percent of the voting stock (or more than a 95 percent profits or beneficial interest in the case of an unincorporated enterprise) in such enterprise on such date;

(ii) Except as provided in paragraph (c)(1)(i) of this section, the 15-year period beginning on May 26, 1969, if the private foundation and all disqualified persons hold, actually or constructively

on such date, more than 75 percent of the voting stock (or more than a 75 percent profits or beneficial interest in the case of any unincorporated enterprise) or 75 percent of the value of all outstanding shares of all classes of stock in such enterprise (or more than a 75 percent profits and capital interest in the case of a partnership or joint venture); or

(iii) The 10-year period beginning on May 26, 1969, in any case not described in paragraph (c)(1)(i) or (ii) of this section.

The 20-year, 15-year, or 10-year period described in this subdivision (whichever applies) shall, for purposes of section 4943 and this section, be known as the "first phase".

(2) *Sole proprietorships.* The 20-year period described in paragraph (c)(1) of this section shall apply with respect to any interest which a private foundation holds in a sole proprietorship on May 26, 1969. See paragraph (b) of this section for the effect of converting such an enterprise to a corporate, partnership, or other form.

(3) *Suspension of first-phase periods.* The 20-year, 15-year, or 10-year period described in paragraph (c)(1) of this section shall be suspended during the pendency of any judicial proceeding which is brought and diligently litigated by the private foundation and which is necessary to reform, or to excuse the foundation from compliance with, its governing instrument or any other instrument (as in effect on May 26, 1969) in order to allow disposition of any excess business holdings held by the foundation on May 26, 1969.

(4) *Election to shorten the period during which certain holdings of private foundations are treated as held by disqualified persons.* If, on May 26, 1969, the combined holdings of a private foundation and all disqualified persons in any one business enterprise are such as to make applicable the 15-year period referred to in paragraph (c)(1)(ii) of this section, and if, on such date, the foundation's holdings do not exceed 95 percent of the voting stock in such enterprise, then such 15-year period is shortened to the 10-year period referred to in paragraph (c)(1)(iii), if at any time before January 1, 1971, one or more individuals—

(i) Who are substantial contributors (as described in section 507(d)(2)), or members of the family within the meaning of section 4946(d) of one or more substantial contributors, to such private foundation, and

(ii) Who on May 26, 1969, held in the aggregate more than 15 percent of the voting stock in the enterprise,

made an election in the manner described in 26 CFR 143.6 (rev. as of Apr. 1, 1974).

(5) *Examples.* The provisions of this paragraph (c) may be illustrated by the following examples:

Example (1). Assume that F, a private foundation, owns, on May 26, 1969, 50 shares of voting stock in corporation X representing 50 percent of the voting power in X and 25

percent of the value of all outstanding shares of all classes of stock in X. Assume further that A and B, the only disqualified persons with respect to F, own five shares each of voting stock in X on such date. The 10 shares of voting stock in X owned by A and B together represent 10 percent of the voting power in X and 5 percent of the value of all outstanding shares of all classes of stock in X. Under the provisions of § 53.4943-3, the excess business holdings of F in X (determined without regard to section 4943(c)(4)) as of such date are, therefore, 40 percent of X voting stock. Accordingly, since the combined holdings of F, A, and B in X are, on such date, less than 75 percent of the voting stock in X and less than 75 percent of the value of all outstanding shares of all classes of stock in X, under the provisions of section 4943(c)(4)(B)(iii), all holdings of F in X (i.e., 50 percent of X voting stock) will be treated as held by a disqualified person through May 25, 1979.

Example (2). Assume the facts as stated in Example (1), except that F, on December 15, 1969, purchases an additional 10 shares of voting stock in X representing 10 percent of X voting power. Assume, further, that there were no other transactions in the stock in X during 1969. While the 50 percent of X voting stock held by F on May 26, 1969, will be deemed held by a disqualified person through May 25, 1979, the additional 10 shares of X voting stock acquired by purchase by F on December 15, 1969, will not be deemed to be so held. Accordingly, since, under the provisions of § 53.4943-3, such 10 shares represent excess business holding of F in X, such 10 shares will be subject to the imposition of tax under the provisions of section 4943(a).

Example (3). Assume the facts as stated in Example (1), except that F, on December 15, 1971, acquires an additional 10 shares of voting stock in X (representing 10 percent of X voting power) under the terms of a will which was executed before May 26, 1969, to which section 4943(c)(5) applies. While the 50 percent of X voting stock held by F on May 26, 1969, will be deemed held by a disqualified person through May 25, 1979, the additional 10 percent of X voting stock acquired by F on December 15, 1971, will, under the provisions of section 4943(c)(5), be deemed held by a disqualified person through December 14, 1981. See § 53.4943-5.

Example (4). Assume that F, a private foundation, owns on May 26, 1969, 50 shares of voting stock in corporation Y representing 50 percent of the voting power in Y. Assume further that C and D, the only disqualified persons with respect to F, own on such date 15 shares each of Y voting stock and that the 30 shares of Y voting stock owned by C and D together represent 30 percent of the voting power in Y. Under the provisions of § 53.4943-3 the excess business holdings of F in Y (determined without regard to section 4943(c)(4)) as of such date are, therefore, 50 percent of Y voting stock. Accordingly, since the combined holdings of F, C, and D in Y represent, on such date, more than 75 percent of the voting stock in Y, under the provisions of section 4943(c)(4)(B)(ii), all holdings of F in Y (i.e., 50 percent of Y voting stock) will be treated as held by a disqualified person through May 25, 1984.

Example (5). M, a private foundation, owns on May 26, 1969, sole proprietorship S. Since, under the provisions of § 53.5954-3, M's ownership of S constitutes excess business holdings (determined without regard to section 4943(c)(4)) as of May 26, 1969, and since M's interest in S is greater than 95 percent on such date, under the provisions of this paragraph a disqualified person will be treated as the owner of S for the 20-year period beginning on such date. If S is later incorporated,

that percentage of the interest in S retained by M, even though less than a 95-percent interest, shall continue to be treated as held by a disqualified person through May 25, 1989.

Example (6). A and B, individuals, together own on May 26, 1969, 40 shares of voting stock in corporation X representing 40 percent of the voting power in X and 20 percent of the value of all outstanding shares of all classes of stock in X. A and B are both disqualified persons with respect to F, a private foundation, which owns no stock in X on May 26, 1969. On January 1, 1973, A and B donate the 40 shares of X voting stock held by them to F. Since F had no excess business holdings on May 26, 1969, section 4943(c)(4) does not apply. See however, section 4943(c)(6) and § 53.4943-6.

Example (7). Assume the facts as stated in Example (6), except that F, on May 26, 1969, owns 50 shares of voting stock in X, representing 50 percent of the voting power in X and 25 percent of the value of all outstanding shares of all classes of stock in X. Under the provisions of this paragraph, the 50 shares of X voting stock held by F on May 26, 1969 shall be treated in accordance with the provisions of section 4943(c)(4), while the 40 shares of X voting stock acquired by F on January 1, 1973 shall be treated in accordance with the provisions of section 4943(c)(6). See § 53.4943-6.

(d) *Permitted holdings under section 4943(c)(4)—(1) In general.* The permitted holdings of a private foundation to which section 4943(c)(4) applies in a business enterprise shall be as follows:

(i) The excess of the substituted combined voting level over the disqualified person voting level, and separately,

(ii) The excess of the substituted combined value level over the disqualified person value level.

(2) *Definitions.* For purposes of paragraph (d) of this section—

(i) The term "disqualified person voting level" on any given date means the percentage of voting stock held by all disqualified persons together on such date (including stock deemed held by such a person by reason of section 4943(c)(4), (5), or (6)).

(ii) The term "disqualified person value level" on any given date means the percentage of the total value of all outstanding shares of all classes of stock in a business enterprise held by all disqualified persons together on such date (including stock deemed held by such a person by reason of section 4943(c)(4), (5), or (6)).

(iii) The term "foundation voting level" prior to the second phase is equal to zero. After the first phase, such term on any given date means the lowest percentage of voting stock held by a private foundation (without regard to section 4943(c)(4)(B)) in a business enterprise on May 26, 1969, and at all times thereafter up to such date. See section 4943(c)(5) and § 53.4943-5 for the effect of interests acquired pursuant to the terms of certain wills or trusts in effect on May 26, 1969.

(iv) The term "foundation value level" prior to the second phase is equal to zero. After the first phase, such term on any given date means the lowest percentage of the total value of all outstanding shares of all classes of stock held by a private foundation (without

regard to section 4943(c)(4)(B)) in a business enterprise on May 26, 1969, and at all times thereafter up to such date. See section 4943(c)(5) and § 53.4943-5 for the effect of interests acquired pursuant to the terms of certain wills or trusts in effect on May 26, 1969.

(v) The term "substituted combined voting level" means the lowest percentage to which the sum of the foundation voting level plus the disqualified person voting level has been reduced since May 26, 1969, by paragraph (d)(4) of this section (the "downward ratchet rule"), subject to the following modifications:

(A) In no event shall such substituted level exceed 50 percent; and

(B) Such substituted level shall be increased (but not above 50 percent) in accordance with section 4943(c)(5) and § 53.4943-5 for certain interests acquired by such foundation pursuant to the terms of a will or trust in effect on May 26, 1969.

(vi) The term "substituted combined value level" means the lowest percentage to which the sum of the foundation value level plus the disqualified person value level has been reduced since May 26, 1969, by paragraph (d)(4) of this section (the "downward ratchet rule"), subject to the following modifications:

(A) In no event shall such substituted level exceed 50 percent; and

(B) Such substituted level shall be increased (but not above 50 percent) in accordance with section 4943(c)(5) and § 53.4943-5 for certain interests acquired by such foundation pursuant to the terms of a will or trust in effect on May 26, 1969.

(vii) In the case of an interest in a partnership or joint venture, definitions (i) through (iv) of this subparagraph shall be applied by substituting "profit interests" for "voting stock" and "all partnership interests" for "all outstanding shares of all classes of stock."

(viii) In the case of an interest in a business enterprise other than a corporation, partnership or joint venture, definitions (i) through (iv) of this subparagraph shall be applied by substituting "beneficial remainder interests" for "voting stock" and "all beneficial remainder interests" for "all outstanding shares of all classes of stock."

(ix) Each level defined in paragraph (d)(2)(iii), (iv), (v) and (vi) as of any date shall be carried over to the subsequent date subject to any adjustments prescribed for such level.

(3) *Permitted holdings—First phase.* Since during the first phase the substituted combined voting level generally does not exceed the disqualified person voting level, and the substituted combined value level generally does not exceed the disqualified person value level, the permitted holdings during the first phase are generally equal to zero. The permitted holdings during the first phase exceed zero only where the 20 percent (or 35 percent) limitation on the downward ratchet rule contained in paragraph (d)(4)(ii)(B) of this section applies.

(4) *Downward ratchet rule—(i) In general.* Except as provided in paragraph (d)(4)(ii) of this section and section 4943(c)(5)—

(A) *Scope of rule.* In general, when the percentage of the holdings in a business enterprise held by a private foundation and all disqualified persons together to which section 4943(c)(4) applies decreases, or when the percentage of the holdings of the private foundation alone in such business enterprise decreases, such holdings may not be increased (except as provided under section 4943(c)(5) or (6)). This so-called "downward ratchet rule" is designed to prevent the private foundation from purchasing additional holdings in the business enterprise until the substituted combined voting level reduced to the 20-percent (or 35 percent) figure prescribed by section 4943(c)(2).

(B) *Levels affected.* Under the downward ratchet rule any decrease after May 26, 1969, in the percentage of holdings comprising either the substituted combined voting level, the substituted combined value level, the foundation voting level or the foundation value level shall cause the respective level to be decreased to such decreased percentage for purposes of determining the foundation's permitted holdings.

(C) *Implementation of reductions.* Thus, if at any time the sum of the foundation voting level and the disqualified person voting level is less than the immediately preceding substituted combined voting level, the substituted level shall be decreased so that it equals such sum. For example, if on May 26, 1969, a foundation and all disqualified persons together have holdings in a business enterprise equal to 50 percent, on such date the substituted combined voting level and the disqualified person voting level equal 50 percent (since such holdings of the foundation are treated as held by a disqualified person). If the private foundation or a disqualified person on May 27, 1969, sold 2 percent of such holdings to a nondisqualified person, the disqualified person voting level would be decreased to 48 percent (50% - 2%), causing the substituted combined voting level to be decreased to 48 percent. As a further example, assume that on May 26, 1969, a foundation and all disqualified persons together have holdings in a business enterprise equal to 50 percent, and when the first phase expires on May 26, 1979, the substituted combined voting level is still 50 percent, the foundation voting level is 10 percent, and the disqualified person voting level is 40 percent. If a disqualified person thereafter sells 2 percent to a nondisqualified person so that the sum of the disqualified person voting level (40% - 2% = 38%) and the foundation voting level (10%) equals 48 percent (38% + 10%), then the substituted combined voting level is decreased to 48 percent. Similarly, if at any time the sum of the foundation value level and the disqualified person value level is less than the immediately preceding substituted combined value level,

the substituted combined value level shall be decreased so that it equals such sum.

(D) *Restrictions on increases in levels.* In addition, none of the four levels referred to in paragraph (d)(4)(i)(B) of this section may be adjusted upward to reflect any increase in the holdings comprising such level, except as provided in section 4943(c)(5) and § 53.4943-5. As a result, any transfer of May 26, 1969, holdings from a disqualified person to a private foundation shall not increase the foundation voting level or the foundation value level (unless the transfer qualifies under section 4943(c)(5)), and thus may reduce the substituted combined value level (and, where appropriate, the substituted combined voting level). Thus, in the last preceding example, if the disqualified person, instead of selling the 2 percent interest to a nondisqualified person, had sold such interest to the foundation, the substituted combined voting level would still be reduced to 48 percent, since the disqualified person voting level would be reduced by 2 percent (to 38%) but the foundation voting level would not be increased by 2 percent (remaining at 10%). However, any transfer of May 26, 1969, holdings from a private foundation to a disqualified person under section 101(1)(2)(B) of the Tax Reform Act of 1969, shall reduce the foundation value level (and, where appropriate, the foundation voting level), but will not reduce the substituted combined value level or the substituted combined voting level. The disqualified person voting level and disqualified person value level are correspondingly increased, not being limited to interests held since May 26, 1969. In addition, a transfer of May 26, 1969, holdings from one disqualified person to another, for example, by bequest, shall not reduce the substituted combined voting level nor the substituted combined value level.

(ii) *Exceptions—(A) One percent de minimus rule.* If after May 26, 1969, there are one or more decreases in the holdings comprising any of the four levels referred to in paragraph (d)(4)(i)(B) of this section during any taxable year of a private foundation, and if such decreases are attributable to issuances of stock (or such issuances coupled with redemptions), then, unless the aggregate of such decreases equals or exceeds 1 percent, the determination of whether there is a decrease in such level for purposes of this paragraph (d)(4) shall be made only at the close of such taxable year. If, however, the aggregate of such decreases equals or exceeds 1 percent, such level shall be decreased at that time as if the previous sentence had never applied.

(B) *Twenty percent (or 35 percent) floor.* In no event shall the downward ratchet rule contained in paragraph (d)(4)(i) of this section decrease the substituted combined voting level or the substituted combined value level below 20 percent, or, for purposes of section 4943(c)(2)(B), below 35 percent.

(iii) *Special rules*—(A) *Change of foundation managers.* In the case of a foundation manager (as defined in section 4946(b)) who on May 26, 1969, owns holdings in a business enterprise and who is replaced by another foundation manager, the decrease in the substituted combined voting or value levels shall be limited to the excess, if any, of the departing foundation manager's holdings over his successor's holdings.

(B) *Termination of private foundation status under section 507.* If an organization gives the notification described in section 507(b)(1)(B)(ii) of the commencement of a 60-month termination period and fails to meet the requirements of section 509(a)(1), (2) or (3) for the entire period, then such organization will be treated as a private foundation during the entire 60-month period for purposes of this paragraph (d)(4) and section 4946(a)(1)(H). For example, X, a private foundation gives notification of the commencement of a 60-month termination commencing on January 1, 1972. X and Y, another private foundation, are effectively controlled by the same persons within the meaning of section 4946(a)(1)(H). X and Y hold 25 percent each of the voting stock of Z corporation on May 26, 1969, so that the substituted combined voting level for X or Y is 50 percent on such date. If X meets the requirements of section 509(a)(1), (2), or (3) for the entire 60-month period, section 4946(a)(1)(H) is inapplicable to X, and, under the downward ratchet rule, the substituted combined voting level for Y is decreased by 25 percent. On the other hand, if X meets the requirements of section 509(a)(2) for its taxable years 1972 and 1973, but fails to meet the requirements of section 509(a)(1), (2), or (3) in 1974, 1975, and 1976, then solely for purposes of section 4943(c)(4)(A)(ii) and this paragraph (d)(4), X will be treated as a disqualified person with respect to Y, and Y will be treated as a disqualified person with respect to X, for taxable years 1972 through 1976 pursuant to section 4946(a)(1)(H). Thus, for purposes of section 4943(c)(4)(A)(ii), the substituted combined voting level for X or Y will not be decreased by reason of the fact that X was attempting to terminate under section 507(b)(1)(B), and assuming no other transactions, such level will remain at 50 percent.

(iv) *Examples.* The provisions of this paragraph (d)(4) may be illustrated by the following examples:

Example (1). F, a private foundation, owns on May 26, 1969, 50 shares of voting stock in corporation X representing 50 percent of the voting stock in X and 25 percent of the value of all outstanding shares of all classes of stock in X. A and B, the only disqualified persons with respect to F, together own, on such date, 2 shares of voting stock in X representing 2 percent of the voting stock in X and 1 percent of the value of all outstanding shares of all classes of stock in X. In addition, on such date, F owns 30 shares of nonvoting stock in X, representing 30 percent of the value of all outstanding shares of all classes of stock in X, and

A and B together own 15 shares of nonvoting stock in X representing 15 percent of the value of all outstanding shares of all classes of stock in X. The provisions of section 4943(c)(4)(B)(iii) apply and during the 10-year period beginning on May 26, 1969, a disqualified person is deemed to hold all interests of F in X. Assume that on February 1, 1972, F sells to C, an unrelated individual, 12 shares of voting stock in X representing 12 percent of the voting stock in X and 6 percent of the value of all outstanding shares of all classes of stock in X.

(i) Beginning on May 26, 1969, the disqualified person voting level is 52 percent, the foundation voting level is zero, and the substituted combined voting level is 50 percent; the disqualified person value level is 71 percent, the foundation value level is zero, and the substituted combined value level is 50 percent.

(ii) Beginning on February 1, 1972, the disqualified person voting level is 40 percent (52% - 12%), the foundation voting level is zero, and the substituted combined voting level is 40 percent; the disqualified person value level is 65 percent (71% - 6%), the foundation value level is zero and the substituted combined value level is 50 percent.

Example (2). P, a private foundation on the calendar year basis, holds, on May 26, 1969, 30 percent of the voting stock in corporation Y. C and D, the only disqualified persons with respect to P, together hold, on such date, 10 percent of the voting stock in Y. The provisions of section 4943(c)(4)(B)(iii) apply with respect to P, and disqualified persons are deemed to hold all interests of P in Y for the 10-year period beginning on May 26, 1969, so that the substituted combined voting level as of such date is 40 percent.

On February 1, 1973, a stock issuance by Y causes the combined holdings of voting power by F, C, and D in Y to decrease by 0.3 percent. On June 1, 1973, another such issuance causes such combined holdings to decrease by 0.5 percent. In September 1, 1973, an unrelated stock redemption by Y causes such combined holdings to increase by 0.4 percent. Under this paragraph the determination whether there is a decrease in the substituted combined voting level for purposes of the downward ratchet rule shall not be made before January 1, 1974, since the aggregate of the decreases occurring on February 1 and June 1 of 1973 is less than 1 percent (0.3% + 0.5%). Therefore, the substituted combined voting level as of January 1, 1974, is 39.6 percent (40% - [(0.3% + 0.5%) - 0.4%]).

Example (3). Assume the facts as stated in Example (2), except that, on October 1, 1973, a stock issuance by Y causes the combined holdings of voting power by F, C, and D in Y to decrease by 0.3 percent. Since the aggregate of the decreases occurring on February 1, June 1, and October 1, of 1973 exceeds 1 percent, the determination whether there is a decrease in the substituted combined voting level shall be made as of October 1, 1973. At that time the substituted combined voting level shall be reduced to 39.2 percent (40% - 0.3% - 0.5%), the lowest actual combined holdings during the period that the de minimis rule was in effect.

(5) *Permitted holdings—Second phase*—(i) *In general.*—For purposes of section 4943 and this section, the term "second phase" means the 15-year period immediately following the first phase. Upon the expiration of the first phase with respect to an interest to which section 4943(c)(4) applies, such interest shall no longer be treated as held by a disqualified person under section 4943(c)(4)(B). During the second

phase, the manner of determining the permitted holdings of a private foundation to which section 4943(c)(4) applies shall be the same as applicable to the first phase, except that a 25 percent maximum shall apply under certain conditions specified in paragraph (d)(5)(ii) of this section. For these purposes the substituted combined voting level and the substituted combined value level in effect for the foundation at the end of the first phase shall be carried over to the second phase. The substituted levels are carried over because although there is a decrease in the disqualified person levels (since holding are no longer treated as held by disqualified persons under section 4943(c)(4)(B)), a corresponding increase in the foundation levels occurs. For example, if a private foundation on May 26, 1969, held 10 percent of the voting stock in a corporation and disqualified persons held 40 percent of the voting stock, both the disqualified person voting level and the substituted combined voting level equal 50 percent (10% + 40%). Assuming no transactions during the first phase, on May 26, 1979, the disqualified person voting level would be decreased to 40 percent (50% - 10%), but the foundation voting level would be increased to 10 percent so that the substituted combined voting level would remain at 50 percent. In addition, the downward ratchet rule of paragraph (d)(4) of this section shall continue to apply, to prevent the foundation and disqualified persons from purchasing any additional interest in the same enterprise until the substituted combined voting level decreases below 20 percent.

(ii) *25 percent maximum on foundation holdings.* If, or as soon as, the disqualified person voting level exceeds 2 percent after the expiration of the first phase, the permitted holdings shall not thereafter exceed 25 percent of the voting stock or 25 percent of the value of all outstanding shares of all classes of stock, even though the holdings of the foundation and all disqualified persons combined do not exceed the substituted level. Solely for purposes of determining whether the 25 percent limitation of this subdivision (ii) applies, the disqualified person voting level shall not be treated as exceeding 2 percent solely as a result of the holdings of a private foundation which are treated as held by a disqualified person by reason of section 4943(c)(5) or (6). For example, where under the constructive ownership rules for trusts in § 53.4943-8(b), a private foundation is deemed to own more than 2 percent of the voting stock of a business enterprise but such stock is treated as held by a disqualified person under section 4943(c)(5), the determination of the substituted percentage for permitted holdings in the second phase will be as if the foundation owned the stock held by the trust. Similarly, where a private foundation is the only remainder beneficiary of a trust that is a disqualified person under section 4946(a)(1)(H), the disqualified person voting level shall not be treated as exceeding 2 percent solely

as a result of the holdings of such a trust.

(6) *Permitted holdings—Third phase.* For purposes of section 4943 and this section, the term "third phase" means the entire period following the second phase. During the third phase the manner of determining the permitted holdings of a private foundation to which section 4943(c)(4) applies shall be the same as applicable to the second phase under paragraph (d)(5) of this section (including the carryover of levels from the earlier phase). However, if the 25 percent limit of paragraph (d)(5)(ii) of this section never applied during the second phase, the substituted combined voting level and the substituted combined value level each shall not exceed 35 percent during the third phase.

(7) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). F, a private foundation, owns, on May 26, 1969, 30 shares of voting stock in corporation Z representing 30 percent of the voting power in Z and 15 percent of the value of all outstanding shares of all classes of stock in Z, and owns, on such date, 10 shares of nonvoting stock in Z representing 10 percent of the value of all outstanding shares of all classes of stock in Z. E and G, the only disqualified persons with respect to F, own, on such date, 5 shares each of nonvoting stock in Z. The 10 shares of nonvoting stock in Z owned by E and G together represent 10 percent of the value of all outstanding shares of all classes of stock in Z. Assume further that F cannot meet the requirements for the 35 percent test of section 4943(c)(2)(B). For purposes of applying section 4943(c)(4)(B) and this paragraph, F has excess business holdings in Z (determined without regard to section 4943(c)(4)), because under section 4943(c)(2)(A) F's permitted holdings are 20 percent (20%—0%) of the voting stock since disqualified persons have no holdings of voting stock. Therefore, section 4943(c)(4)(B) and this paragraph apply, and a disqualified person is treated as holding F's shares of both voting and nonvoting stock in Z for the 10-year period through May 25, 1979. Thus, since all holdings by F in Z are treated as held by a disqualified person during the first phase, F cannot be subject to tax under section 4943(a) on its May 26, 1969, holdings prior to the termination of the first phase, regardless of whether or not disqualified persons purchase additional shares of Z during the first phase.

Example (2). Assume the same facts as in Example (1), and further assume that there were no transactions in the stock of Z during the first phase (May 26, 1969 through May 25, 1979). During the first phase the permitted holdings by F in Z for both the voting stock and the value is zero. The disqualified person voting level and the substituted combined voting level are each 30 percent, and the disqualified person value level and the substituted combined value level are each 35 percent (15%+10%+10%). The substituted levels are carried over into the second phase. The disqualified person voting level on May 26, 1979, the beginning of the second phase, is zero, because the voting shares held by F are no longer treated as held by a disqualified person. Therefore, F's permitted holdings on such date are 30 percent of the voting stock, because such percentage is equal to the excess of the substituted combined voting level (30%) over the disqualified person voting level (0%). The disqualified person value level on May 26, 1979, is 10 percent, because the voting

and nonvoting shares held by F are no longer treated as held by a disqualified person. Therefore, F's permitted holdings on such date are 25 percent of the value of Z stock, because such percentage is equal to the excess of the substituted combined value level (35%) over the disqualified person value level (10%) as of such date.

Example (3). Assume the facts as stated in Example (2), except that E and G acquire, on February 1, 1970, 10 shares of Z voting stock representing 10 percent of the voting power in Z and 5 percent of the value of all outstanding shares of all classes of stock in Z. During the first phase such permitted holdings remain zero, and prior to May 25, 1979, the substituted combined voting level and substituted combined value level remain 30 and 35 percent, respectively, because such levels may not be increased by acquisitions by disqualified persons. However, the disqualified person voting level and the disqualified person value level are each increased to 40 percent (30%+10%) and 40 percent (35%+5%) respectively. During the first phase the excess of the disqualified person voting level over the substituted combined voting level (40%—30%) and the excess of the disqualified person value level over the substituted combined value level (40%—35%) indicate how much stock F must dispose of during the first phase to avoid the initial tax when it expires. On May 25, 1979, the last day of the first phase, F disposes of 12 shares of Z voting stock, representing 12 percent of the voting power in Z and 6 percent of the value of all outstanding shares. The disposition by F reduces the interest F owns to 18 percent (30%—12%) of the voting power, and 19 percent (25%—6%) of the value of all outstanding shares of all classes of stock, in Z. Since the disqualified person voting level decreases to 28 percent (40%—12%), the substituted combined voting level as of May 25, 1979, accordingly is decreased to 28 percent under the downward ratchet rule. Similarly, the substituted combined value level is decreased to 34 percent, as the disqualified person value level as of such date is 34 percent (40%—6%). On May 26, 1979, the disqualified person voting level is 10 percent (28%—18%), and the disqualified person value level is 15 percent (34%—19%), since the shares owned by F are no longer treated as held by a disqualified person as of such date. Accordingly, on May 26, 1979, the permitted holdings by F and Z are 18 percent of the voting power in Z, because such percentage is equal to the excess of the substituted combined voting level (28%) over the disqualified person voting level (10%) as of such date. Similarly, the permitted holdings of F in Z by value are 19 percent (34%—15%). If F had not disposed of the 12 shares, then on May 26, 1979, F's permitted holdings in voting power and value would be 20 percent (30%—10%) and 20 percent (35%—15%), respectively.

Example (4). F, a private foundation, owns on May 26, 1969, 35 shares of voting stock in corporation Y representing 35 percent of the voting stock in Y and 17.5 percent of the value of all classes of stock in Y, and owns on such date 45 shares of nonvoting stock representing 22.5 percent of the value of all outstanding shares of all classes of stock in Y. No disqualified person with respect to F owns, on such date, any stock in Y. Assume further that Y cannot meet the requirements of the 35 percent test of section 4943(c)(2)(B). For purposes of applying section 4943(c)(4)(B) and this paragraph, F has excess business holdings in Y (determined without regard to section 4943(c)(4)), because under section 4943(c)(2)(A) F's permitted holdings are 20 percent (20%—0%) of the voting stock since disqualified persons have no holdings of vot-

ing stock. Therefore, section 4943(c)(4)(B) and this paragraph apply, and a disqualified person is treated as holding F's shares of both voting and nonvoting stock in Y for the 10-year period through May 25, 1979. During the first phase the permitted holdings by F in Y of both the voting stock and of value are zero. The disqualified person voting level and the substituted combined voting level are each 35 percent, and the disqualified person value level and the substituted combined value level are each 40 percent (17.5%+22.5%). The substituted levels are carried over into the second phase. The disqualified person voting level and value level on May 26, 1979, are both zero, because the shares held by F are no longer treated as held by a disqualified person. Therefore, F's permitted holdings on such date are 35 percent of the voting power (35%—0%) and 40 percent of the value (40%—0%). Assume that on February 1, 1981, A, a disqualified person, acquires 6 percent of the voting stock in Y representing 3 percent of the value of all outstanding shares of all classes of stock in Y. The permitted holdings by F in Z on February 1, 1981, are thus reduced to 25 percent of the voting stock (the lesser of the separate 25% second phase limitation or 29% (35% substituted combined voting level minus 6% disqualified person voting level)) and 25 percent of the value (the lesser of the separate 25% second phase limitation or 37% (40% substituted combined value level minus 3% disqualified person value level)). But see paragraph (d)(8) of this section for limitations on restrictions with respect to non-voting stock.

Example (5). Assume the same facts as in Example (4) except that A does not acquire the 6 shares of voting stock until February 1, 1996 (in the third phase), rather than on February 1, 1981. Thus, F's permitted holdings in Y would remain at 35 percent of the voting stock and 40 percent of the value during the second phase, which expired on May 25, 1994. Assume that on May 25, 1994, the last day of the second phase, F disposes of 10 shares of nonvoting stock representing 5 percent of the value of all outstanding shares in Y to meet the 35 percent third phase limit. In accordance with the downward ratchet rule, the substituted combined value level and F's permitted holdings in Y would be reduced to 35 percent of value. On February 1, 1996, F's permitted holdings in Y would be reduced to 25 percent of the voting stock (the lesser of the separate 25% third phase limitation or 29% (35% substituted combined voting level minus 6% disqualified person value level)) and 25 percent of the value (the lesser of the separate 25% third phase limitation or 32% (35% substituted combined value level minus 3% disqualified person value level)). But see paragraph (d)(8) of this section for limitations on restrictions with respect to non-voting stock.

(8) *Special rule where all holdings are permitted under section 4943(c)(2).* (i) Since section 4943(c)(4) and this paragraph provide transitional rules for foundations which would otherwise have had excess business holdings on May 26, 1969, no holdings shall cease to be permitted holdings under this paragraph where such holdings would be permitted holdings under section 4943(c)(2) and § 53.4943-3. Thus, for example, where the substituted combined voting level has been reduced to 20 percent, the provisions of § 53.4943-3(b)(2) concerning nonvoting stock as permitted holdings generally apply.

(ii) The provisions of this paragraph (d)(8) may be illustrated by the following example:

Example. (A) F, a private foundation, owns, on May 26, 1969, 40 shares of voting stock in corporation X representing 40 percent of the voting stock in X and 20 percent of the value of all outstanding shares of all classes of stock in X, and owns, on such date, 60 shares of nonvoting stock in X, representing 30 percent of the value of all outstanding shares of all classes of stock in X. A, the only disqualified person with respect to F, owns, on such date, 10 shares of voting stock in X, representing 10 percent of the voting stock in X and 5 percent of the value of all outstanding shares of all classes of stock in X. Under section 4943(c)(4)(B)(iii), a disqualified person is deemed the owner of all holdings by F in X for the 10-year period beginning on May 26, 1969.

(B) Assume that the only transaction in X stock during the first phase is the disposition of 30 shares of voting stock by F on May 1, 1975. The voting stock held by F is permitted holdings under § 53.4943-3 and under such section since all disqualified persons together do not own more than 20 percent of the voting stock in X, all nonvoting stock held by F shall also be treated as permitted holdings. Therefore, all the stock held by F is permitted holdings.

(C) Assume that on May 1, 1975, F had disposed of only 15 shares of voting stock and also had disposed of 35 shares of nonvoting stock. On May 26, 1979, at the beginning of the second phase, this paragraph (d)(8) would not apply since F would have excess business holdings under § 53.4943-3. Under the provisions of this section, the permitted holdings by F in X on such date are 25 percent of the voting stock (35% substituted combined voting level minus 10% disqualified person voting level) and 25 percent of the value (30% substituted combined value level minus 5% disqualified person value level).

(9) *Special rule for certain private foundations.* In the case of a private foundation—

(i) Which was incorporated before January 1, 1951.

(ii) Substantially all of the assets of which on May 26, 1969, consisted of more than 90 percent of the stock of an incorporated business enterprise which is licensed and regulated, the sales or contracts of which are regulated, and the professional representatives of which are licensed, by State regulatory agencies in at least 10 States;

(iii) Which acquired such stock solely by gift, devise, or bequest;

(iv) Which does not purchase any stock or other interest in such enterprise after May 26, 1969, and does not acquire any stock or other interest in any other business enterprise which constitutes excess business holdings under § 53.4943-3; and

(v) Which, in the last 5 taxable years ending on or before December 31, 1970, expended substantially all of its adjusted net income (as defined in section 4942(f)) for the purpose or function for which it is organized and operated;

paragraph (d)(1) through (5) of this section (permitted holdings during the first and second phase) shall be applied with respect to the holdings of such foundation in such incorporated business enterprise by substituting "51 percent" for "50 percent," and section 4943(c)(4)(D) (third phase) shall not apply with respect to such holdings. For pur-

poses of the preceding sentence, stock of such enterprise in a trust created before May 27, 1969, of which the foundation is the remainder beneficiary shall be deemed to be held by such foundation on May 26, 1969, if such foundation held (without regard to such trust) more than 20 percent of the stock of such enterprise on May 26, 1969.

§ 53.4943-5 Present holdings acquired by trust or a will.

(a) *Interests to which section 4943(c)(5) applies.*—(1) *In general.* Section 4943(c)(5) provides that section 4943(c)(4) (other than the 20-year first phase holding period) applies to an interest in a business enterprise acquired after May 26, 1969 by a private foundation under the terms of a trust which was irrevocable on May 26, 1969, or under the terms of a will executed on or before May 26, 1969, which were in effect on May 26, 1969, and at all times thereafter, as if such interest were held on May 26, 1969. However the first phase holding period prescribed by § 53.4943-4(c)(1)(ii) or (iii) shall commence for such an interest on the date of distribution to the foundation. Unlike section 4943(c)(4) and § 53.4943-4, section 4943(c)(5) and this section treat only the interest so acquired (and not the entire interest held by the foundation in such enterprise on the date of distribution) as held by a disqualified person during a first phase holding period. (See, however, section 4943(c)(6) and paragraph (b)(2) of § 53.4943-6 for the treatment of other holdings of the foundation in the same enterprise if an interest to which section 4943(c)(5) applies is acquired from a person who was not a disqualified person prior to the acquisition.) In addition, section 4943(c)(5) and this section shall not apply if after the acquisition of such an interest the foundation would not have excess business holdings (determined without regard to section 4943(c)(4), (5), or (6)).

(2) *After-acquired interests.* Section 4943(c)(5) and this section shall not apply to any interest acquired after May 26, 1969, by an estate or trust, other than by reason of the death of the decedent. For example, where a foundation is a residuary beneficiary under the terms of a will executed before May 26, 1969, and the residue of the estate consists of cash, then stock subsequently purchased with this cash for distribution to the foundation will not be treated as an interest acquired under the terms of a will executed on or before May 26, 1969.

(3) *Certain revocable trusts.* If an interest in a business enterprise actually passes to a private foundation under a trust which would have met the tests referred to in paragraph (a)(1) of this section but for the fact that the trust was revocable (even though it was not in fact revoked) and such interest would have passed to such foundation under a will that meets those tests but for the fact that the grantor died without hav-

ing revoked the trust, then for purposes of section 4943(c)(5) and this section, such an interest shall be treated as having been acquired by the foundation under the will.

(4) *Modification of will.*—(i) *In general.* For purposes of section 4943(c)(5) and this section, an amendment or republication of a will which was executed on or before May 26, 1969, does not prevent any interest in a business enterprise which was to pass under the terms (which were in effect on May 26, 1969, and at all times thereafter) of such will from being treated as a present holding under section 4943(c)(4) or (5)—

(A) Solely because there is a reduction in the interest in the business enterprise which the foundation was to receive under the terms of the will (for example, if the foundation is to receive the residuary estate, and if one class of stock is disposed of by the decedent during his lifetime or by a subsequent codicil);

(B) Solely because such amendment or republication is necessary in order to comply with section 508(e) and the regulations thereunder;

(C) Solely because there is a change in the executor of the will; or

(D) Solely because of any other change which does not otherwise change the rights of the foundation with respect to such interest in the business enterprise.

However, if under such amendment or republication there is an increase in the interest in the business enterprise which the foundation was to receive under the terms of the will in effect on May 26, 1969, such increase shall not be treated as present holdings under section 4943(c)(4) or (5). Under such circumstances the interest which would have been acquired before such increase shall remain present holdings. See section 4943(c)(6) and § 53.4943-6 with respect to the treatment of such increase in holdings of a private foundation.

(ii) *Examples.* The provisions of this paragraph (a)(4) may be illustrated by the following examples:

Example (1). On May 9, 1985, A modifies by codicil his will which was in effect on May 26, 1969, and was unchanged until such modification. The purpose of the codicil was, in the event of A's death, to increase the number of shares in X Corporation that would pass to the W foundation from 70 percent of all the voting power and value to 80 percent. Under these facts, if A dies without further modifying the terms of the will which apply to W's interest in X, section 4943(c)(5) will apply to 70 percent of the X voting power and value and section 4943(c)(6) will apply to 10 percent of the X voting power and value, since 10 percent of the X voting power and value would not pass under a provision of the will which was in effect on May 26, 1969, and at all times thereafter. Accordingly, if the stock is distributed to W on July 6, 1988, then, assuming that on May 26, 1969, W and all disqualified persons owned less than 75% of the voting stock in X, an amount of such stock representing 70 percent of X voting power and value shall be treated as held by a disqualified person through July 5, 1988, and an amount of such stock repre-

senting 10 percent of X voting power and value shall be treated as held by a disqualified person through July 5, 1993.

Example (2). Assume the facts as stated in Example (1), except that the sole purpose of the codicil was to change the executor of the will. Under paragraph (a) (4) (1) of this section, such codicil will not prevent the X voting stock which was bequeathed to W from being treated as held by a disqualified person through July 5, 1998.

(b) *Holding periods*—(1) *In general.* An interest to which section 4943(c) (5) applies shall be entitled to a 15-year holding period starting on the date of distribution only if the interests actually or constructively owned by a private foundation and all disqualified persons on May 26, 1969, in a business enterprise exceed 75 percent of the voting stock (or of the profits or beneficial interest) or 75 percent of the value of all outstanding shares of all classes of stock (or of the profits and capital interest) in such enterprise. For purposes of the preceding sentence, interests held by the foundation on May 26, 1969, shall be deemed to include an interest to which section 4943(c) (5) applies and which has been acquired (on or before the date of distribution for the interest in question) from a person who was not a disqualified person on May 26, 1969. Therefore, if under the terms of a will in effect on May 26, 1969, and at all times thereafter, a private foundation is created on July 1, 1975, and receives 76 percent of the voting stock of a business enterprise on that date, such stock shall be treated as held by a disqualified person until June 30, 1990. Any interest to which section 4943(c) (5) applies but which is not entitled to a 15-year holding period shall be entitled to a 10-year holding period starting on the date of distribution. For purposes of this paragraph the date of distribution shall be deemed to occur no later than the date on which the trust or estate is considered to be terminated under § 1.641(b)–(3) of this chapter (Income Tax Regulations).

(2) *Constructive ownership prior to date of distribution.* To the extent that an interest to which section 4943(c) (5) applies is constructively held by a private foundation under section 4943(d) (1) and § 53.4943–8 prior to the date of distribution, it shall be treated as held by a disqualified person prior to such date by reason of section 4943(c) (5). In addition, in the case of a foundation's interest in a trust which was irrevocable on May 26, 1969, and to which both sections 4943(c) (4) and (5) apply, the first phase holding period for such interest shall end with whichever such period under section 4943(c) (4) or (5) ends later. For example, if under the terms of such a trust, 96 percent of the voting stock in a business enterprise was constructively held by a private foundation on May 26, 1969, and was distributed to such foundation on June 30, 1970, such interest is entitled to a 20-year holding period beginning on May 26, 1969.

(c) *Permitted holdings*—(1) *In general.* The permitted holdings of a private foundation which has an interest in a business enterprise to which section 4943(c) (5) applies shall be determined in accordance with the rules of paragraph (d) of § 53.4943–4. The levels referred to in such paragraph shall be adjusted to take into account the acquisition of such an interest as if it were treated as held by a disqualified person from May 26, 1969, until the date of acquisition. See also § 53.4943–6(b) (2) for the special rule for interests held by a private foundation at the time it acquires a section 4943(c) (5) interest from a nondisqualified person. Thus, for example, if on June 30, 1975, the disqualified person voting level and the substituted combined voting level in corporation X with respect to foundation F are 45 percent, and a nondisqualified person's 10 percent voting interest in X is acquired by F on July 1, 1975, in a transaction to which section 4943(c) (5) applies, the above-mentioned levels shall be increased to 55 and 50 percent respectively, on July 1, 1975. However, if such interest had been acquired from a person who was a disqualified person on May 26, 1969, rather than from a nondisqualified person, no adjustments in such levels would have taken place on July 1, 1975. In such a case, though, at the beginning of the second phase on July 1, 1985, the foundation voting level would be increased by 10 percent, and the disqualified person voting level decreased by 10 percent (assuming that none of the acquired stock had been disposed of prior to such date).

(2) *Separate phases.* The phases for each interest to which section 4943(c) (5) applies start independently from those for any other interest of the foundation in the same enterprise to which section 4943(c) (4) or (5) applies. Therefore, until an interest enters its own second phase, the 25 percent limit described in paragraph (d) (5) of § 53.4943–4 shall not apply to such interest since such interest (and any subsequently acquired section 4943(c) (5) interest in the first phase) is still treated as held by a disqualified person for purposes of that 25 percent limit. In addition, if such an interest enters its second phase and at such time all disqualified persons together do not have holdings in excess of 2 percent of the voting stock in the

same business enterprise, then the 25 percent limit of section 4943(c) (4) (D) (1) shall not then apply to such interest, even though such limit may have been applicable to an interest with an earlier second phase. Moreover, the 35 percent limit of section 4943(c) (4) (D) (ii) shall cause only interests which have entered the third phase to become excess business holdings, taking into account, however, interests in prior phases in determining the holdings subject to such limit.

(3) *Examples.* The provisions of this paragraph may be illustrated by the following examples: (After each example is a chart setting forth the chronological changes in the various levels referred to in paragraph (d) of § 53.4943–4.)

Example (1). On May 26, 1969, F, a private foundation, owns no stock in M Corporation, and A, a disqualified person owns 40 percent of the voting stock (voting power and value) in M. A dies on May 1, 1971, leaving 30 percent of the voting stock in M to F and leaving the other 10 percent to a disqualified person. Distribution is made on June 1, 1972, and assume that section 4943(c) (5) applies. No transactions in the stock of M, other than those described in this example, occur. On May 26, 1969, the substituted combined voting level is 40 percent, the disqualified person voting level is deemed to be 40 percent, and the permitted holdings by F in M is deemed to be 0 percent (40%–40%). On May 1, 1971 (the date that F acquired the M stock by reason of its constructive ownership of A's estate), the various levels remain unchanged. On May 1, 1971, the 30 percent interest is treated as held by a disqualified person for a period extending through May 31, 1982. On June 1, 1981, F disposes of 6 percent of the voting stock to a nondisqualified person. The substituted combined voting level and the disqualified person voting level thereby are reduced to 34 percent (40%–6%) each. On June 1, 1982, at the beginning of the second phase, the foundation voting level increases to 24 percent (30%–6%) and the disqualified person voting level is reduced to 10 percent (34%–10%). The substituted combined voting level as of June 1, 1982, remains at 34 percent. The permitted holdings as of such date are 24 percent (34%–10%). If F had not disposed of any holdings prior to June 1, 1982, F's permitted holdings would have been 25 percent, the lesser of 25 percent (the limitation of section 4943(c) (4) (D) (1)), or 30 percent (40%–10%). Since on such date the 30 percent interest would no longer have been treated as held by a disqualified person, F would have had excess business holdings of 5 percent (30%–25%).

Date	F owns (percent)	Interest treated as held by disqualified person (percent)	Disqualified persons own (percent)	Foundation voting level (percent)	Substituted combined voting level (percent)	Disqualified person voting level (percent)	Permitted holdings (percent)	Comments
May 26, 1969...	0	0	40	0	40	40	0	
May 1, 1971...	+30	+30	30	0	40	40	0	A dies
Do.....	30	30	10	0	40	40	0	
June 1, 1972...	30	30	10	0	40	40	0	Distribution
June 1, 1981...	-6	-6	10	0	34	34	0	F sells 6 pct.
Do.....	24	24	10	0	34	34	0	
June 1, 1982...	24	24	10	+24	34	24	+24	2d phase begins.
Do.....	24	0	10	24	34	10	24	

RULES AND REGULATIONS

Example (2). (i) On May 26, 1969, F, a private foundation, owns 30 percent of the voting stock of N Corporation (voting power and value) and disqualified persons own 20 percent of the voting stock of N Corporation. On May 1, 1971, B, a disqualified person, dies leaving 15 percent of the voting stock to F. Assume that distribution was made on June 1, 1972, and that section 4943(c)(5) applies. On May 26, 1969, the substituted combined voting level and the disqualified person voting levels are each 50 percent and the permitted holdings are 0 percent (50%-50%). On May 1, 1971, and June 1, 1972, these levels remain unchanged. On May 1, 1971, the 15 percent interest is treated as held by a disqualified person for a period extending through May 31, 1982.

(ii) On July 1, 1978, F sells 6 percent of the F stock to a nondisqualified person, thereby reducing the disqualified person voting level and the substituted combined voting level to 44 percent (50%-6%). On May 26, 1979, at the beginning of the second phase for F's 1969 holdings, the foundation voting level is 24 percent (30%-6%), the substituted combined voting level is still 44 percent, and the disqualified person voting level is 20 percent (44%-24%). The permitted holdings are 24 percent (44%-20%). In addition F's 24 percent holdings do not exceed the 25 percent limitation of section 4943(c)(4)(D)(i) and paragraph (d)(5)(ii) of § 53.4943-4.

(iii) On August 1, 1981, F sells 16 percent of the N stock to a nondisqualified person, thereby reducing the foundation voting level

to 8 percent (24%-16%), and reducing the substituted combined voting level to 28 percent (44%-16%). The disqualified person voting level remains at 20 percent. On June 1, 1982, at the beginning of the second phase for F's holdings acquired by will, the substituted combined voting level is still 28 percent, the foundation voting level is 23 percent (8%+15%), the disqualified person voting level is 5 percent (20%-15%), and the permitted holdings are 23 percent (28%-5%).

(iv) If F had not disposed of the 6 percent on July 1, 1978, then on May 26, 1979, at the beginning of the second phase for F's 1969 holdings, F's permitted holdings would have been 25 percent, the lesser of 25 percent (the limitation of section 4943(c)(4)(D)(i)), or 30 percent (50%-20%). Since F's 30 percent interest would no longer have been treated as held by a disqualified person on May 26, 1979, F would have had excess business holdings of 5 percent (30%-25%). Similarly, if F had not disposed of the 16 percent interest on August 1, 1981 (but had disposed of the 6 percent interest), on July 1, 1982, at the beginning of the second phase for F's holdings acquired by will, F's permitted holdings would have been 25 percent, the lesser of 25 percent (under section 4943(c)(4)(D)(i)), or 39 percent (44%-5%). Since as of such date F's entire holdings of 39 percent would no longer have been treated as held by a disqualified person, F would have had excess business holdings of 14 percent (39%-25%).

Date	F owns (percent)	F's interest 1969 (percent)	F's interest 1971 (percent)	Interest treated as held by disqualified person (percent)	Disqualified persons own (percent)	Foundation voting level (percent)	Substituted combined voting level (percent)	Disqualified person voting level (percent)	Permitted holdings (percent)	Comments
May 26, 1969	30	30		30	20	0	50	50	0	
May 1, 1971	+15		+15	+15	-15					B dies
Do	45	30	15	45	5	0	50	50	0	Distribution
June 1, 1972	45	30	15	45	5			-6		F sells 6 pct
July 1, 1978	-6			-6				44	0	
Do	39	24	15	39	5	+24		-24	+24	2d phase for 24 pct
May 26, 1979				-24						
Do	39	24	15	15	5	24	44	20	24	
Aug 1, 1981	-16	-16		-16		-16	-16		-16	F sells 16 pct
Do	23	8	15	15	5	8	28	20	8	
July 1, 1982				-15		+15		-15	+15	All in 2d phase
Do	23	8	15	0	5	23	28	5	23	

Example (3). (i) On May 26, 1969, F, a private foundation owns 5 percent of the voting stock of O Corporation (voting power and value), and disqualified persons own 45 percent of the voting stock. C, a disqualified person, dies on May 1, 1971, and leaves 41 percent of the voting stock of O to F. Assume that distribution is made on June 1, 1972, and that section 4943(c)(5) applies. On May 26, 1969, the substituted combined voting level and the disqualified person voting level are 50 percent and the permitted holdings are 0 percent (50%-50%). On May 1, 1971, and June 1, 1972, the various levels remain unchanged. On May 1, 1971, the 41 percent interest is treated as held by a disqualified person for a period extending through May 31, 1982. On May 26, 1979, at the beginning of the second phase for F's 1969 holdings of 5 percent, the 5 percent is no longer treated as held by a disqualified person, the foundation voting level is 5 percent, the disqualified person voting level is reduced to 45 percent (50%-5%), and the substituted combined voting level remains at 50 percent. On such date F's permitted holdings are 5 percent (50%-45%). Since the 41 percent interest is treated as held by a disqualified person, the interest treated as

held by F (5%) does not exceed the 25 percent limitation of section 4943(c)(4)(D)(i).

(ii) On August 1, 1981, F sells 22 percent of the O stock to a nondisqualified person, thereby reducing the foundation voting level to 0 percent. Since the reductions are first applied to the 1969 holdings of 5 percent, 17 percent (22%-5%) applies to the 41 percent interest, reducing such interest to 24 percent (41%-17%), and reducing the disqualified person voting level to 28 percent (45%-17%). The substituted combined voting level is reduced to 28 percent (0%+28%). On June 1, 1982, at the beginning of the second phase for F's holdings acquired by will, the substituted combined voting level remains at 28 percent, the foundation voting level is 24 percent, the disqualified person voting level is reduced to 4 percent (28%-4%).

(iii) If F had not disposed of the 22 percent interest prior to June 1, 1982, F's permitted holdings would have been 25 percent, the lesser of 25 percent (under section 4943(c)(4)(D)(i)), or 46 percent (50%-4%). Since as of such date, F's entire holdings of 46 percent would no longer have been treated as held by a disqualified person, F would have had excess business holdings of 21 percent (46%-25%).

Date	F owns (percent)	F's Interest 1969 (percent)	F's Interest 1971 (percent)	Interest treated as held by disqualified person (percent)	Disqualified persons own (percent)	Foundation voting level (percent)	Substituted combined voting level (percent)	Disqualified person voting level (percent)	Permitted holdings (percent)	Comments
May 26, 1969...	5	5		5	45	0	50	50	0	
May 1, 1971...	+41		+41	+41	-41					C dies
Do.....	46	5	41	46	4	0	50	50	0	
June 1, 1972...	46	5	41	46	4	0	50	50	0	Distribution
May 26, 1979.....				-5		+5		-5	+5	2d phase for 5 pct.
Do.....	46	5	41	41	4	5	50	45	5	
Aug 1, 1981...	-22	-5	-17	-17		-5	-22	-17	-5	F sells 22 pct.
Do.....	24	0	24	24	4	0	28	28	0	
June 1, 1982.....				-24		+24		-24	+24	2d phase for 24 pct.
Do.....	24	0	24	0	4	24	28	4	24	

Example (4). (i) On May 26, 1969, F, a private foundation, owns 30 percent of the voting stock in P Corporation (voting power and value), and disqualified persons own 20 percent. On May 1, 1971, D, a disqualified person, dies leaving 18 percent of the voting stock to F. Assume that distribution was made on June 1, 1972, and that section 4943(c)(5) applies. On May 26, 1969, the substituted combined voting level and the disqualified person voting level are each 50 percent and the permitted holdings are 0 percent (50%-50%). On May 1, 1971, and June 1, 1972, these levels remain unchanged. On May 1, 1971, the 18 percent interest is treated as held by a disqualified person for a period extending through May 31, 1982. On May 26, 1979, the foundation voting level increases to 30 percent, the disqualified person voting level decreases to 20 percent (50%-30%), and the permitted holdings are 30 percent (50%-20%). On June 1, 1982, the foundation voting level increases to 48 percent, the disqualified person voting level decreases to 2 percent and the permitted holdings are 48 percent (50%-2%). Since

at no time during the second phase for F's 1969 holdings did all disqualified persons together have holdings in excess of 2 percent of the voting stock of P, the 25 percent limitation of section 4943(c)(4)(D)(i) did not apply to F's 1969 holdings.
(ii) On July 1, 1993, F disposes of 16 percent of the stock in P, thereby reducing the substituted combined voting level to 34 percent (50%-16%), and reducing the permitted holdings to 32 percent (34%-2%). If F had not disposed of the 16 percent of the stock of P prior to May 26, 1994, on such date, under section 4943(c)(4)(D)(ii), F's substituted combined voting level for its 1969 holdings would have been 35 percent, and the permitted holdings would have been 33 percent (35%-2%). Since none of F's holdings of 48 percent would have been treated as held by a disqualified person on such date (the beginning of the third phase for F's 1969 holdings), F would have had excess business holdings of 15 percent, the lesser of 30 percent (F's 1969 holdings in the third phase), or 15 percent (the excess of F's 48 percent holdings over the permitted holdings of 33 percent).

Date	F owns (percent)	1969 F's Interest (percent)	1971 F's Interest (percent)	Interest treated as held by disqualified person (percent)	Disqualified persons own (percent)	Foundation voting level (percent)	Substituted combined voting level (percent)	Disqualified person voting level (percent)	Permitted holdings (percent)	Comments
May 26, 1969...	30	30		30	20	0	50	50	0	
May 1, 1971...	+18		+18	+18	-18					D dies
Do.....	48	30	18	48	2	0	50	50	0	
June 1, 1972...	48	30	18	48	2	0	50	50	0	Distribution
May 26, 1979.....				-30		+30		-30	+30	2d phase for 30 pct.
Do.....	48	30	18	18	2	30	50	20	30	
June 1, 1982.....				-18		+18		-18	+18	2d phase for 18 pct.
Do.....	48	30	18	0	2	48	50	2	48	F disposes of 16 pct.
July 1, 1993...	-16	-16				-16	-16		-16	
Do.....	32	14	18	0	2	32	34	2	32	
May 26, 1994...	32	14	18	0	2	32	34	2	32	3d phase for 14 pct.
June 1, 1997...	32	14	18	0	2	32	34	2	32	3d phase for 18 pct.

Example (5). (i) On May 26, 1969, F, a private foundation, owns 5 percent of the voting stock in Q Corporation (voting power and value), and disqualified persons own 45 percent. On May 1, 1971, E, a disqualified person, dies leaving 43 percent of the voting stock to F. Assume that distribution was made on June 1, 1972, and that section 4943(c)(5) applies. On May 26, 1969, the substituted combined voting level and the disqualified person voting level are each 50 percent and the permitted holdings are 0 percent (50%-50%). On May 1, 1971, and June 1, 1972, these levels remain unchanged. On May 1, 1971, the 43 percent interest is treated as held by a disqualified person for a period extending through May 31, 1982. On May 26, 1979, the foundation voting level

increases to 5 percent, the disqualified person voting level decreases to 45 percent, and the permitted holdings are 5 percent (50%-45%). On June 1, 1982, the foundation voting level increases to 48 percent, the disqualified person voting level decreases to 2 percent, and the permitted holdings are 48 percent (50%-2%). At no time during the second phase for F's 1969 holdings did all disqualified persons together have holdings in excess of 2 percent of the voting stock of Q. Therefore, the 25 percent limitation of section 4943(c)(4)(D)(i) did not apply.
(ii) On July 1, 1993, F sells 6 percent of the stock in Q to a nondisqualified person. This reduces the substituted combined voting level to 44 percent and reduces the permitted holdings to 42 percent (44%-2%). If F had

RULES AND REGULATIONS

not disposed of the 6 percent of the stock in 1993, on May 26, 1994, at the beginning of the third phase for F's 1969 holdings, F would have had 5 percent excess business holdings. The excess business holdings are 5 percent because although the excess business holdings computed for the third phase are 15 percent (the excess of F's actual holdings (48%) over the permitted holdings of 33 percent (35% - 2%)), only 5 percent of the holdings are in this phase and subject to the 35 percent combined holdings limitation.

(iii) On July 1, 1995, F sells 10 percent of the stock in Q, thereby reducing the substituted combined voting level to 34 percent and reducing the permitted holdings to 32 percent (34% - 2%). If F had not disposed of the 10 percent of the stock, on June 1, 1997, at the beginning of the third phase for F's acquired holdings, F would have had 9 percent excess business holdings (the excess of F's total holdings in the third phase (42%) over the permitted holdings of 33 percent (35% - 2%)).

Date	F owns (percent)	F's interest 1969 (percent)	F's interest 1971 (percent)	Interest treated as held by disqualified person (percent)	Disqualified persons own (percent)	Foundation voting level (percent)	Substituted combined voting level (percent)	Disqualified person voting level (percent)	Permitted holdings (percent)	Comments
May 26, 1969	5	5		5	45	0	50	50	0	
May 1, 1971	+43		+43	+43	-43					E dies.
Do.	48	5	43	48	2	0	50	50	0	
June 1, 1972	48	5	43	48	2	0	50	50	0	Distribution
May 26, 1979				-6		+6		-6	+6	2d phase for 6 pct.
Do.	48	5	43	43	2	5	50	45	5	
June 1, 1982				-43		+43		-43	+43	2d phase for 43 pct.
Do.	48	5	43	0	2	48	50	2	48	
July 1, 1993	-6	-6	-1			-6	-6		-6	F sells 6 pct
Do.	42	0	42	0	2	42	44	2	42	
July 1, 1995	-10		-10			-10	-10		-10	F sells 10 pct
Do.	32	0	32	0	2	32	34	2	32	
June 1, 1997	32	0	32	0	2	32	34	2	32	3d phase for 33 pct.

Example (6). (i) On May 26, 1969, F, a private foundation, owns 30 percent of the voting stock in R Corporation (voting power and value), and disqualified persons own 20 percent. On August 1, 1978, F disposes of 6 percent of the stock to a nondisqualified person. On May 1, 1981, G, a disqualified person, dies leaving 15 percent of the voting stock to F. Assume that distribution was made on June 1, 1982, and that section 4943 (c) (5) applies. On May 26, 1969, the substituted combined voting level and the disqualified person voting level are each 50 percent, and the permitted holdings are 0 percent (50% - 50%). On August 1, 1978, these levels decrease to 44 percent (50% - 6%). On May 26, 1979, the foundation voting level increases to 24 percent (30% - 6%), the disqualified person voting level decreases to 20 percent (44% - 24%), and the permitted holdings are 24 percent (44% - 20%). If F had not disposed of the 6 percent of the stock prior to May 26, 1979, on May 26, 1979, the beginning of the second phase for F's 1969 holdings, F's permitted holdings would have been 25 percent, the lesser of 25 percent (under section 4943(c) (4) (D) (1)) or 30 percent (50% - 20%). Since the 30 percent interest would no longer have been treated as held by a disqualified person on such date, F would have had excess business holdings of 5 percent (30% - 25%).

(ii) On May 1, 1981, and June 1, 1982 (assuming F had disposed of the 6 percent

holdings), the foundation voting level, the disqualified person voting level, the substituted combined voting level and permitted holdings remain respectively 24 percent, 20 percent, 44 percent and 24 percent. On May 1, 1981, the 15 percent interest is treated as held by a disqualified person for a period extending through May 31, 1992. On July 1, 1991, F sells 16 percent of the voting stock in R to a nondisqualified person, thereby reducing the substituted combined voting level to 28 percent (44% - 16%), and reducing the foundation voting level to 8 percent (24% - 16%). The disqualified person voting level remains at 20 percent. On June 1, 1992, at the beginning of the second phase for F's holdings acquired by will, the substituted combined voting level remains at 28 percent, the foundation voting level increases to 23 percent (8% + 15%) and the disqualified person voting level decreases to 5 percent (20% - 15%). The permitted holdings on such date are 23 percent (28% - 5%). If F had not disposed of the 16 percent interest prior to June 1, 1992, F's permitted holdings would have been 25 percent, the lesser of 25 percent (under section 4943 (c) (4) (D) (1)) or 30 percent (44% - 5%). Since as of such date, F's entire holdings of 39 percent would no longer have been treated as held by a disqualified person, F would have had excess business holdings of 14 percent (39% - 25%).

Date	F owns (percent)	1969 F's interest (percent)	1981 F's interest (percent)	Interest treated as held by disqualified person (percent)	Disqualified persons own (percent)	Foundation voting level (percent)	Substituted combined voting level (percent)	Disqualified person voting level (percent)	Permitted holdings (percent)	Comments
May 26, 1969	30	30		30	30	0	50	50	0	
Aug. 1, 1978	-6	-6		-6				-6		F disposes of 6 pct.
Do.	24	24		24	20	0	44	44	0	
May 26, 1979				-24		+24		-24	+24	2d phase for 24 pct.
Do.	24	24		0	20	24	44	20	24	
May 1, 1981	+15		+15	+15	-15					G dies
Do.	39	24	15	15	5	24	44	20	24	
June 1, 1982	39	24	15	15	5	24	44	20	24	Distribution
July 1, 1991	-16	-16				-16	-16		-16	F disposes of 16 pct.
Do.	23	8	15	15	5	8	28	20	8	
June 1, 1992				-15		+15		-15	+15	2d phase for 15 pct.
Do.	23	8	15	0	5	23	28	5	23	

Example (7). On May 26, 1969, F, a private foundation, owns 5 percent of the voting stock in S Corporation (voting power and value), and disqualified persons own 45 percent. On May 1, 1980, H, a disqualified person, dies leaving 41 percent of the voting stock to F. Assume that distribution is made on June 1, 1981, and that section 4943(c)(5) applies. On May 26, 1969, the substituted combined voting level and disqualified person voting levels are each 50 percent. On May 26, 1979, the disqualified person voting level decreases to 45 percent, the foundation voting level increases to 5 percent, and the permitted holdings are 5 percent (50% - 45%). On May 1, 1980, and June 1, 1981, the levels remain the same. Since the 41 percent holdings are treated as held by a disqualified person for the period beginning on May 1, 1980, and extending through May 31, 1991, F's remaining holdings of 5 percent do not exceed the 25 percent limitation of section 4943(c)(4)(D)(1).

(ii) On August 1, 1990, F sells 22 percent of the voting stock of S to a nondisquali-

fied person, reducing the 5 percent foundation voting level to zero, leaving 17 percent (22% - 5%) to reduce the disqualified person voting level to 28 percent (45% - 17%) so that the substituted combined voting level equals 23 percent (50% - 22%). On June 1, 1991, the beginning of the second phase for the remaining 24 percent (41% - 17%) of F's holdings acquired by will, the foundation voting level increases from zero to 24 percent, the disqualified person voting level decreases to 4 percent (28% - 24%), the substituted combined voting level remains at 28 percent, and the permitted holdings equal 24 percent (28% - 4%).

(iii) If F had not disposed of the 22 percent holdings prior to June 1, 1991, F's permitted holdings would have been 25 percent, the lesser of 25 percent (under section 4943(c)(4)(D)(1)) or 46 percent (50% - 4%). Since as of such date, F's entire holdings of 46 percent would no longer have been treated as held by a disqualified person, F would have had excess business holdings of 21 percent (46% - 25%).

percent to the foundation in 1978 of an interest in such enterprise shall not prevent the 3 percent (28% - 25%) excess over the 25 percent limit from constituting excess business holdings on May 26, 1979, if on such date disqualified persons hold more than a 2 percent interest in such enterprise (and no other transaction has taken place).

(2) "Purchase" defined. [Reserved]

(3) **Examples.** The provisions of paragraph (a) of this section may be illustrated by the following examples:

Example (1). On January 4, 1985, A, an individual, makes a contribution to F, a private foundation, of 200 shares of X Corporation common stock. Assume that F had no X stock before January 4, 1985, and under section 4943(c)(1) the receipt of the X stock by F would cause some or all of the 200 shares of the X stock to be classified as excess business holdings. Under the provisions of section 4943(c)(6)(A) and this paragraph (a), since the contribution of the X stock to F is a gift and not a purchase, the X stock in F's hands is treated as held by disqualified persons and not by F through January 3, 1990.

Example (2). Assume the facts as stated in Example (1) except that F receives the X stock as a bequest pursuant to the terms of A's will executed on April 1, 1980. A dies on June 3, 1984, and the stock is distributed to F on February 16, 1985. As in Example (1), the bequest of X to F is not a purchase under this paragraph (a). Consequently, the X stock in F's hands is treated as held by disqualified persons and not by F through February 15, 1990.

Example (3). On February 1, 1980, F, a private foundation, owns 15 percent of the voting stock of X Corporation, and disqualified persons own 4 percent of the voting stock of X Corporation. On February 2, 1980, B, a nondisqualified person, contributes 8 percent of the voting stock of X to F in a transaction to which section 4943(c)(5) does not apply. Assuming that the 35 percent limit of section 4943(c)(2)(B) does not apply, under the provisions of section 4943(c)(6)(A) and paragraph (a) of this section the 23 percent voting stock owned by F on such date is treated as held by a disqualified person through February 1, 1985, since F would have had excess business holdings of 7 percent as a result of the contribution (23% actual holdings less 16% (20% - 4%) permitted holdings). On March 1, 1984, C, another nondisqualified person, contributes 6 percent of the voting stock of X Corporation to F. But for this second contribution and the resulting application of section 4943(c)(6) to F's interest in X, F would have excess business holdings of 7 percent (23% - 16%) within the five-year period beginning on the date of such contribution. Accordingly, under section 4943(c)(6)(B) and paragraph (a) of this section, all 29 percent (6% + 23%) of the stock held by F on March 1, 1984, will be treated as held by a disqualified person until March 1, 1989, except that 7 percent will cease to be so treated on February 2, 1985. If prior to February 2, 1985, no further transactions occurred in the stock of X, F would have excess business holdings of 7 percent subject to the initial tax, since the amount still treated as held by disqualified persons (29% - 7%) plus the amount actually held by disqualified persons (4%) already exceed 20 percent.

(b) **Special rules for acquisitions by will or trust—(1) In general.** In the case of an acquisition of holdings in a business enterprise by a private foundation pursuant to the terms of a will or trust,

Date	F owns (percent)	1969 F's interest (percent)	1980 F's interest (percent)	Interest treated as held by disqualified person (percent)	Disqualified persons own (percent)	Foundation voting level (percent)	Substituted combined voting level (percent)	Disqualified person voting level (percent)	Permitted holdings (percent)	Comments
May 26, 1969	5	5		5	45	0	50	50	0	
Do.				-5		+5		-5	+5	2d phase for 5 pct.
Do.	5	5		0	43	5	50	45	5	H dies.
May 1, 1980	+41		+41	+41	-41					
Do.	46	5	41	41	4	5	50	45	5	Distribution.
June 1, 1981	46	5	41	41	4	5	50	45	5	F disposes of 22 pct.
Aug. 1, 1990	-22	-5	-17	-17		-5	-22	-17	-5	
Do.	24	0	24	24	4	0	28	28	0	
June 1, 1991				-24		+24		-24	+24	2d phase for 24 pct.
Do.	24	0	24	0	4	24	28	4	24	

§ 53.4943-6 Five-year period to dispose of gifts, bequests, etc.

(a) **In general—(1) Application.** (1) Paragraph (6) of section 4943(c) prescribes transition rules for a private foundation, which, but for such paragraph, would have excess business holdings as a result of a change in the holdings in a business enterprise after May 26, 1969 (other than by purchase by such private foundation or by a disqualified person) to the extent that section 4943(c)(5) (relating to certain holdings acquired under a pre-May 27, 1969, will or trust) does not apply.

(ii) Subparagraph (A) of section 4943(c)(6) applies where, immediately prior to a change in holdings described in paragraph (a)(1)(i) of this section, the foundation has no excess business holdings in such enterprise (determined without regard to section 4943(c)(4), (5), or (6)). In such a case, the entire interest of the foundation in such enterprise (immediately after such change) shall (while held by the foundation) be treated as held by a disqualified person (rather than by the foundation) during the five-year period beginning on the date of such change.

(iii) Subparagraph (B) of section 4943(c)(6) applies where the foundation has excess business holdings in such enterprise (determined without regard to section 4943(c)(4), (5), or (6)) immediately prior to a change in holdings

described in paragraph (a)(1)(i) of this section. In such a case, the interest of the foundation in such enterprise (immediately after such change) shall (while held by the foundation) be treated as held by a disqualified person (rather than the foundation) during the five-year period beginning on the date of such change, except that if and as soon as any holdings in such enterprise become excess business holdings during such period (determined without regard to such change (and the resulting application of section 4943(c)(6) to the foundation's interest in such enterprise)), such holdings shall no longer be treated as held by a disqualified person under this section, but shall constitute excess business holdings subject to the initial tax. In applying the preceding sentence, if holdings of the foundation which (but for such change in holdings (and the resulting application of section 4943(c)(6) to the foundation's interest in such enterprise)) would be subject to the 25 percent limit prescribed by section 4943(c)(4)(D) after the expiration of the first phase, such holdings shall be treated as subject to such percentage limitation for purposes of determining excess business holdings. For example, if a private foundation in 1978 has present holdings of 28 percent in a business enterprise to which section 4943(c)(4) applies, and such holdings would exceed the 25 percent limit of section 4943(c)(4)(D)(i) on May 26, 1979, a gift of 5

the five-year period described in section 4943(c) (6) in this section shall not commence until the date on which the distribution of such holdings from the estate or trust to the foundation occurs. See § 53.4943-5(b) (1) for rules relating to the determination of the date of distribution under the terms of a will or trust. To the extent that an interest to which 4943(c) (6) applies is constructively held by a private foundation under section 4943(d) (1) and § 53.4943-8 prior to the date of distribution, it shall be treated as held by a disqualified person prior to such date by reason of section 4943(c) (6). See § 53.4943-8 for rules relating to constructive ownership by a private foundation of business holdings held in an estate or trust for the benefit of the foundation.

(2) *Special rule for section 4943(c) (5) interests acquired from a nondisqualified person.* (i) In the case of holdings of a private foundation in a business enterprise to which section 4943(c) (5) (relating to certain holdings acquired under a pre-May 27, 1969, will or trust) applies which are acquired from a nondisqualified person, the interest of the foundation in such enterprise (immediately after such acquisition) shall (while held by the foundation) be treated as held by a disqualified person (rather than the foundation) under section 4943(c) (6) (B) and paragraph (a) (1) (iii) of this section from the date of acquisition until the end of the fifth year following the date of distribution of such holdings. Thereafter, only the holdings to which section 4943(c) (5) and § 53.4943-5(a) (1) apply shall continue to be treated as held by a disqualified person until the end of the first phase with respect thereto.

(ii) The provisions of paragraph (b) (2) (i) of this section may be illustrated by the following examples:

Example (1). On May 26, 1969, F, a private foundation, owns 5 percent of the voting stock of Corporation X and no disqualified persons own any stock in X. On June 30, 1977, a nondisqualified person bequeaths to F 33 percent of the voting stock in X to which section 4943(c) (5) applies. This 33 percent interest is distributed to F on August 17, 1978. Under section 4943(c) (6) (A) the entire 38 percent (5% + 33%) of the X voting stock shall be treated as held by a disqualified person from June 30, 1977 (the date the 33 percent interest is constructively acquired by F) until August 17, 1983 (five years after the date of distribution of the 33 percent interest to F). However, assuming that the 35 percent limit of section 4943(c) (2) (B) does not apply, the substituted combined voting level on June 30, 1977 is only 33 percent because there was no interest to which section 4943(c) (4) or (5) applied immediately before that date and thus there was no substituted combined voting level at that time. In that case, since the 3-phase holding period is only available for the interest acquired by will (33%) under section 4943(c) (5), the substituted combined voting level on June 30, 1977 is only 33 percent, not 38 percent. Assuming that the substituted combined voting level remains 33 percent at all relevant times, and prior to August 17, 1983, no further transactions occur in the stock of X, F on that date would have excess business holdings of 5 percent

subject to the initial tax. The amount treated as held by disqualified persons at that time (33%) would equal the substituted combined voting level at that time (33%), and thus permitted holdings would be zero. Under section 4943(c) (5) the 33 percent interest will continue to be treated as held by a disqualified person until August 17, 1983 (10 years after the date of distribution).

Example (2). On May 26, 1969, F, a private foundation, owns 29 percent of the stock (voting power and value) of Corporation X, and on June 30, 1977, a nondisqualified person bequeaths to F 23 percent of the stock (voting power and value) in X to which section 4943(c) (5) does apply. This 23 percent interest is distributed to F on August 17, 1978. Disqualified persons hold no stock of X. Although the substituted combined voting and value levels cannot exceed 50 percent on May 26, 1979 (at the start of the second phase with respect to the 29 percent interest), under section 4943(c) (6) (B) the entire 52 percent (29% + 23%) of the X voting stock shall be treated as held by a disqualified person from June 30, 1977 (the date the 23% interest is constructively acquired by F) until August 17, 1983 (five years after the date of distribution of the 23% interest to F). On June 1, 1980, during such second phase, D, a disqualified person, purchases 3 percent of the X stock (voting power and value). On such date, but for the acquisition by F of the 23 percent interest, F would have had excess business holdings of 4 percent. The purchase by D of more than 2 percent of the voting stock of X causes the 25 percent limit of section 4943(c) (4) (D) (1) to apply to the 29 percent interest (29% - 25% = 4%). Thus, on June 1, 1980, 4 percent of the X voting stock held by F since May 27, 1969, shall cease to be treated as held by a disqualified person under section 4943(c) (6) (B) and become excess business holdings subject to the initial tax. See § 53.4943-2(a) (1) (ii) for the 90-day period in which to dispose of these excess business holdings resulting from the purchase by the disqualified person.

(c) *Exceptions.* (1) Section 4943(c) (6) and this section shall not apply to any transfer of holdings in a business enterprise by one private foundation to another private foundation which is related to the first foundation within the meaning of section 4946(a) (1) (H).

(2) Section 4943(c) (6) and this section shall not apply to an increase in the holdings of a private foundation in a business enterprise that is part of a plan whereby disqualified persons will purchase additional holdings in the same enterprise during the five-year period beginning on the date of such change, e.g., to maintain control of such enterprise, since such increase shall be treated as caused in part by the purchase of such additional holdings.

(3) The purchase of holdings by an entity whose holdings are treated as constructively owned by a foundation or a disqualified person under section 4943(d) (1) shall be treated as purchased by such foundation or disqualified person. Thus, if a foundation receives a specific bequest of 40 percent of the voting stock of a corporation and \$20,000 in cash, and the estate uses the cash to purchase additional voting stock of the same corporation, the provisions of this section shall only apply to the 40 percent originally held by the estate, and the additional stock will be treated as if purchased by the foundation.

§ 53.4943-7 Special rules for corporate organizations, reorganizations, redemptions, and distributions. [Reserved]

§ 53.4943-8 Business holdings; constructive ownership.

(a) *Constructive ownership—(1) In general.* For purposes of section 4943, in computing the holdings in a business enterprise of a private foundation, or a disqualified person (as defined in section 4946), any stock or other interest owned, directly or indirectly, by or for a corporation, partnership, estate or trust shall be considered as being owned proportionately by or for its shareholders, partners, or beneficiaries except as otherwise provided in paragraphs (b), (c) and (d) of this section. Any interest in a business enterprise actually or constructively owned by a shareholder of a corporation, a partner of a partnership, or a beneficiary of an estate or trust shall not be considered as constructively held by the corporation, partnership, trust or estate. Further, if any corporation, partnership, estate or trust has a warrant or other option to acquire an interest in a business enterprise, such interest is not deemed to be constructively owned by such entity until the option is exercised. (See paragraph (b) (2) of § 53.4943-3 for rules that options are not stock for purposes of determining excess business holdings.)

(2) *Powers of appointment.* Any interest in business enterprise over which a foundation or a disqualified person has a power of appointment exercisable in favor of the foundation or a disqualified person shall be considered owned by the foundation or disqualified person holding such power of appointment.

(b) *Estates and trusts—(1) In general.* Any interest actually or constructively owned by an estate or trust is deemed constructively owned, in the case of an estate, by its beneficiaries or, in the case of a trust, by its remainder beneficiaries except as provided in paragraphs (b) (2), (3) and (4) of this section (relating to certain split-interest trusts described in section 4947(a) (2), to trusts of qualified pension, profit-sharing, and stock bonus plans described in section 401(a) and to revocable trusts). Thus, if a trust owns 100 percent of the stock of a corporation A, and if, on an actuarial basis, W's life interest in the trust is 15 percent, Y's life interest is 25 percent, and Z's remainder interest is 60 percent, under this paragraph (b), Z will be considered to be the owner of 100 percent of the stock of corporation A. See § 53.4943-4, § 53.4943-5 and § 53.4943-6 for rules relating to certain actual or constructive holdings of a foundation being treated as held by a disqualified person. For the treatment of certain property acquired by an estate or trust after May 26, 1969, see paragraph (a) (2) of § 53.4943-5.

(2) *Split-interest trusts—(1) Amounts transferred in trust after May 26, 1969.* In the case of an interest in a business enterprise which was transferred to a trust described in section 4947(a) (2) af-

ter May 26, 1969, for the benefit of a private foundation, no portion of such interest shall be considered as owned by the private foundation—

(A) If the foundation holds only an income interest in the trust, or

(B) If the foundation holds only a remainder interest in the trust (unless the foundation can exercise primary investment discretion with respect to such interest)

until such trust ceases to be so described. See section 4947(a)(2) and (b)(3) and the regulations thereunder for rules relating to such trusts. See also sections 4946(a)(1)(G) and (H) and the regulations thereunder for rules relating to when a trust described in this paragraph (b)(2) is itself a disqualified person.

(ii) *Amounts transferred in trust on or before May 26, 1969.* In the case of an interest in a business enterprise which was transferred to a trust described in section 4947(a)(2) (without regard to section 4947(a)(2)(C)) on or before May 26, 1969, for the benefit of a private foundation, no portion of such interest shall be considered as owned by the foundation until it is actually distributed to the foundation or until the trust ceases to be so described. See section 4943(c)(5) and § 53.4943-5 for rules relating to certain trusts which were irrevocable on May 26, 1969.

(3) *Employee benefit trusts.* An interest in a business enterprise owned by a trust described in section 401(a) (pension and profit-sharing plans) shall not be considered as owned by its beneficiaries, unless disqualified persons (within the meaning of section 4946) control the investment of the trust assets.

(4) *Revocable trusts.* An interest in a business enterprise owned by a revocable trust shall be treated as owned by the grantor of such trust.

(5) *Estates.* For purposes of applying section 4943(d)(1) to estates, the term "beneficiary" includes any person (including a private foundation) entitled to receive property of a decedent pursuant to a will or pursuant to laws of descent and distribution. However, a person shall no longer be considered a beneficiary of an estate when all the property to which he is entitled has been received by him, when he no longer has a claim against the estate and when there is only a remote possibility that it will be necessary for the estate to seek the return of property or to seek payment from him by contribution or otherwise to satisfy claims against the estate or expenses of administration. When pursuant to the preceding sentence, a person (including a private foundation) ceases to be a beneficiary, stock or another interest in a business enterprise owned by the estate shall not thereafter be considered owned by such person. If any person is the constructive owner of an interest in a business enterprise actually held by an estate, the date of death of the testator or decedent intestate shall be the first day on which such person shall be considered a constructive owner of such interest. See § 53.4943-5 for rules relating

to wills executed on or before May 26, 1969.

(c) *Corporation actively engaged in a trade or business.* [Reserved]

(d) *Partnerships.* [Reserved]

(e) *Examples.* [Reserved]

§ 53.4943-9 Business holdings: certain periods.

(a) *Taxable period—(1) In general.* For purposes of section 4943, the term "taxable period" means, with respect to any excess business holdings of a private foundation in a business enterprise, the period beginning with the first day on which there are such excess business holdings and ending on whichever of the following is the earlier:

(i) The date of mailing of a notice of deficiency under section 6212 with respect to the tax imposed on such holdings by section 4943(a); or

(ii) The date on which such excess is eliminated.

For example, M, a private foundation, first has excess business holdings in X, a corporation, on February 5, 1972. A notice of deficiency is mailed under section 6212 to M on June 1, 1974. With respect to M's excess business holdings in X, the taxable period begins on February 5, 1972, and ends on June 1, 1974.

(2) *Special rule.* Where a notice of deficiency referred to in subparagraph (1)(i) of this paragraph is not mailed because there is a waiver of the restrictions on assessment and collection of a deficiency, or because the deficiency is paid, the date of filing of the waiver or the date of such payment, respectively, shall be treated as the end of the taxable period.

(3) *Suspension of taxable period for 90 days.* In any case in which a private foundation has excess business holdings solely because of the acquisition of an interest in a business enterprise to which paragraph (a)(1)(ii) or (iii) of § 53.4943-2 applies, the taxable period described in paragraph (a) of this section shall be suspended for the 90-day period (as extended) starting with the date on which the foundation knows or has reason to know of the acquisition, provided that at the end of such period the foundation has disposed of such excess holdings.

(b) *Correction period—(1) In general.* For purposes of section 4943, the correction period shall begin with the first day on which the private foundation has excess business holdings in a business enterprise and end 90 days after the date of mailing of a notice of deficiency under section 6212 with respect to the tax imposed by section 4943(b).

(2) *Extensions of correction period.* (i) The correction period referred to in subparagraph (1) of this paragraph shall be extended by any period in which a deficiency cannot be assessed under section 6213(a). In addition, the correction period shall be extended in accordance with subdivisions (ii), (iii), and (iv) of this subparagraph, except that such subdivision (iii) or (iv) shall not operate to extend a correction period with respect

to which a taxpayer has filed a petition with the Tax Court for redetermination of a deficiency within the time prescribed by section 6213(a).

(ii) The correction period referred to in subparagraph (1) of this paragraph may be extended by any period which the Commissioner determines is reasonable and necessary to permit orderly disposition of excess business holdings. The Commissioner ordinarily will not extend the correction period pursuant to this subdivision unless the following factors are present:

(a) The foundation or an appropriate State officer (as defined in section 6104(c)(2)) is actively in good faith seeking to dispose of such holdings;

(b) Orderly disposition of such holdings cannot reasonably be expected to result during the unextended correction period; and

(c) The failure to divest appears to have been an isolated occurrence which is unlikely to recur in the future.

(iii) If, within the unextended correction period, the tax imposed by section 4943(a) is paid and is accompanied by a statement of the taxpayer's intent to file a claim for refund with respect to such tax, then the Commissioner shall extend the correction period to the later of—

(a) A period of 90 days after the payment of such tax, or

(b) The period determined without regard to this subdivision.

(iv) If prior to the expiration of the correction period (including extensions) a claim for refund with respect to a tax imposed by section 4943(a) is filed, the Commissioner shall extend the correction period during the pendency of the claim plus an additional 90 days. If within such time, a suit or proceeding referred to in section 7422(b) with respect to such claim is filed, the Commissioner shall extend the correction period during the pendency of such suit or proceeding. (See § 301.7422-1(d) of this chapter (Regulations on Procedure and Administration) for rules relating to pendency of such suit or proceeding.)

(c) *Correction.* For purposes of section 4943, correction shall be considered as made when no interest in the enterprise held by the foundation is classified as an excess business holding under section 4943(c)(1). In any case where the private foundation has excess business holdings which are constructively held for it under section 4943(c)(1), correction shall be considered made when either a corporation, partnership, estate, or trust in which holdings in such enterprise are constructively held for the foundation or a disqualified person; the foundation itself; or a disqualified person disposes of a sufficient interest in the enterprise so that no interest in the enterprise held by the foundation is classified as excess business holdings under section 4943(c)(1).

§ 53.4943-10 Business enterprise; definition.

(a) *In general.* (1) Except as provided in paragraph (b) or (c) of this section, under section 4943(d)(4) the term "busi-

ness enterprise" includes the active conduct of a trade or business, including any activity which is regularly carried on for the production of income from the sale of goods or the performance of services and which constitutes an unrelated trade or business under section 513. For purposes of the preceding sentence, where an activity carried on for profit constitutes an unrelated trade or business, no part of such trade or business shall be excluded from the classification of a business enterprise merely because it does not result in a profit.

(2) Notwithstanding paragraph (a) (1) of this section, a bond or other evidence of indebtedness does not constitute a holding in a business enterprise unless such bond or evidence of indebtedness is otherwise determined to be an equitable interest in such enterprise. Similarly, a leasehold interest in real property does not constitute an interest in a business enterprise, even though rent payable under such lease is dependent, in whole or in part, upon the income or profits derived by another from such property, unless such leasehold interest constitutes an interest in the income or profits of an unrelated trade or business under section 513.

(b) *Certain program-related activities.* For purposes of section 4943(d) (4) the term "business enterprise" does not include a functionally related business as defined in section 4942(j) (5). See § 53.4942(a)-2(c) (3) (iii). In addition, business holdings do not include program-related investments (such as investments in small businesses in central cities or in corporations to assist in neighborhood renovation) as defined in section 4944(c) and the regulations thereunder.

(c) *Income derived from passive sources—(1) In general.* For purposes of section 4943(d) (4), the term "business enterprise" does not include a trade or business at least 95 percent of the gross income of which is derived from passive sources; except that if in the taxable year in question less than 95 percent of the income of a trade or business is from passive sources, the foundation may, in applying this 95 percent test, substitute for the passive source gross income in such taxable year the average gross income from passive sources for the 10 taxable years immediately preceding the taxable year in question (or for such shorter period as the entity has been in existence). Thus, stock in a passive holding company is not to be considered a holding in a business enterprise even if the company is controlled by the foundation. Instead, the foundation is treated as owning its proportionate share of any interests in a business enterprise held by such company under section 4943(d) (1).

(2) *Gross income from passive sources.* Gross income from passive sources, for purposes of this paragraph, includes the items excluded by section 512(b) (1) (relating to dividends, interest, and annuities), 512(b) (2) relating to royalties, 512(b) (3) (relating to rent) and 512(b) (5) (relating to gains or losses from the disposition of certain property). Any in-

come classified as passive under this paragraph does not lose its character merely because section 512(b) (4) or 514 (relating to unrelated debt-financed income) applies to such income. In addition, income from passive sources includes income from the sale of goods (including charges or costs passed on at cost to purchasers of such goods or income received in settlement of a dispute concerning or in lieu of the exercise of the right to sell such goods) if the seller does not manufacture, produce, physically receive or deliver, negotiate sales of, or maintain inventories in such goods. Thus, for example, where a corporation purchases a product under a contract with the manufacturer, resells it under contract at a uniform markup in price, and does not physically handle the product, the income derived from that markup meets the definition of passive income for purposes of this paragraph. On the other hand, income from individually negotiated sales, such as those made by a broker, would not meet such definition even if the broker did not physically handle the goods.

(d) *Application of section 4943(c) (6)—(1) Program related activities.* If a private foundation holds an interest which is not an interest in a business enterprise because of paragraph (b) of this section (relating to program related activities), and such interest later becomes an interest in a business enterprise solely by reason of failing to meet the requirements of such paragraph (b), such interest will then be subject to section 4943(c) (6) (regardless of when it was originally acquired) and will be treated as having been acquired other than by purchase for purposes of section 4943(c) (6).

(2) *Holding companies.* [Reserved]

(e) *Sole proprietorship.* For purposes of section 4943 and the regulations thereunder, the term "sole proprietorship" means any business enterprise (as defined in paragraphs (a), (b), and (c) of this section—

- (1) Which is actually and directly owned by a private foundation,
- (2) In which the foundation has a 100 percent equity interest, and
- (3) Which is not held by a corporation, trust, or other business entity for such foundation.

A foundation may be considered to own a sole proprietorship even though the foundation is itself a corporation or a trust. However, a sole proprietorship which is owned by a foundation shall cease to be treated as a sole proprietorship when the foundation no longer has a 100-percent interest in the equity of the business enterprise. Thus, if and when a foundation sells a 10-percent interest in a sole proprietorship, such business enterprise shall be treated as a partnership under section 4943 and the regulations thereunder.

§ 53.4943-11 Effective date.

(a) *In general.* Section 4943 and §§ 53.4943-1 through 53.4943-11 shall take effect for taxable years beginning after December 31, 1969, except as otherwise provided by such sections.

(b) *Special transitional rule.* In the case of any acquisition of excess holdings prior to February 2, 1973, section 4943(a) (1) shall not apply if correction occurs (within the meaning of paragraph (c) of § 53.4943-9) within a period ending 90 days after July 5, 1977 extended (prior to the expiration of the original period) by any period which the Commissioner determines is reasonable and necessary (within the meaning of paragraph (b) of § 53.4943-9) to bring about such correction.

[FR Doc.77-26856 Filed 9-14-77; 8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER 1—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 76-139a]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Dodge Island, Fla.

AGENCY: Coast Guard, DOT.

ACTION: Correction.

SUMMARY: In FR Doc. 77-16705 appearing at page 30178 of the June 13, 1977, issue of the FEDERAL REGISTER, the heading of § 117.446f is corrected by adding the words, "AIWW mile 1089.4, Miami, Florida", after the words, "Dodge Island bridges".

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590 (202-426-0942).

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g) (2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1656(g) (2); 49 CFR 1.46(c) (5))

Dated: September 1, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc.77-26515 Filed 9-14-77; 8:45 am]

Title 36—Parks, Forests, and Public Property

CHAPTER 1—NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

PART 17—CONVEYANCE OF FREEHOLD AND LEASEHOLD INTERESTS ON LANDS OF THE NATIONAL PARK SYSTEM

AGENCY: National Park Service.

ACTION: Final rule.

SUMMARY: This is to establish regulations governing the criteria for conveyance of freehold or leasehold interests in lands within units of the National Park System to private parties and the procedures under which such conveyances would be made.

EFFECTIVE DATE: September 15, 1977.

FOR FURTHER INFORMATION CONTACT:

C. Allen Harpine (202-523-5252).

SUPPLEMENTARY INFORMATION: On January 4, 1977 there was published

in the FEDERAL REGISTER (42 FR 814-815) a notice of proposed rulemaking setting forth the proposed regulations. Interested parties were given the opportunity to submit written comments, suggestions, or objections, on or before February 3, 1977. This date was later extended to April 3, 1977.

As a result of comments received there has been an addition in §§ 17.3 and 17.8 to assure that no conveyance is made without first complying with the requirements of Executive Order 11593, Section 2(b), and assuring that such land is surveyed for National Register properties and appropriate action taken.

Therefore, title 36 of the Code of Federal Regulations, Chapter I is amended by adding a new Part 17 to read as set forth below.

WILLIAM J. WHALEN,
Director, National
Park Service.

SEPTEMBER 2, 1977.

- Sec.
17.1 Authority.
17.2 Definitions.
17.3 Lands subject to disposition.
17.4 Notice.
17.5 Bids.
17.6 Action at close of bidding.
17.7 Preference rights.
17.8 Conveyance.

AUTHORITY: Sec. 5(a), of the Act of July 15, 1968, 82 Stat. 354, 16 U.S.C. 4601-22(a).

§ 17.1 Authority.

Section 5(a) of the Act of July 15, 1968, 82 Stat. 354, 16 U.S.C. 4601-22(a), authorizes the Secretary of the Interior, under specified conditions, to convey a leasehold or freehold interest on Federally owned real property acquired by the Secretary from non-federal sources within any unit of the National Park System except national parks and those national monuments of scientific significance. This legislation is referred to as "the act" in regulations in this part.

§ 17.2 Definitions.

As used in the regulations in this part:
(a) "Secretary" shall mean Secretary of the Interior and his authorized representatives.

(b) "Authorized officer" shall mean an officer or employee of the National Park Service designated to conduct the sale or lease and delegated authority to execute all necessary documents, including deeds and leases.

(c) The term "unit" of the National Park System means any area of land or water administered by the Secretary of the Interior through the National Park Service for park, monument, historic, parkway, recreational, or other purposes.

(d) The term "national park" means any unit of the National Park System the organic act of which declares it to be a "national park."

(e) The term "national monument of scientific significance" means a unit of the National Park System designated as a national monument by statute or proclamation for the purpose of preserving

landmarks, structures, or objects of scientific interest.

(f) The term "person" includes but is not necessarily limited to an individual, partnership, corporation, or association.

(g) The term "freehold interest" means an estate in real property of permanent or of indefinite duration.

(h) The term "leasehold interest" means an estate in real property for a fixed term of years or an estate from month-to-month or from year-to-year.

(i) The term "fair market value" means the appraised value as set forth in an approved appraisal made for the Secretary for the interest to be sold or leased.

§ 17.3 Lands subject to disposition.

The Act is applicable to any Federally owned real property acquired by the Secretary from non-federal sources within any unit of the National Park System other than national parks and those national monuments of scientific significance. No leasehold or freehold conveyance shall be made except as to lands which the General Management Plan for the particular unit of the National Park System has designated as a Special Use Zone for the uses that are permitted by the freehold or leasehold conveyance. No leasehold or freehold conveyance shall be made unless the lands have been surveyed for natural, historical, and cultural values and a determination made by the Secretary that such leasehold or freehold conveyance will not be inconsistent with any natural, historical, or cultural values found on the land.

§ 17.4 Notice.

(a) When the Secretary has determined in accordance with these regulations that a freehold or leasehold interest will be offered, he will have a notice published in the FEDERAL REGISTER and, subsequently, once weekly for five consecutive weeks in a newspaper of general circulation in the vicinity of the property. Publication of the notice shall be completed not less than 30 nor more than 120 days of the date for bid opening. The notice shall contain, at a minimum, (1) a legal description of the land by public lands subdivisions, metes-and-bounds, or other suitable method, (2) a statement of the interest to be conveyed, including restrictions to be placed on the use of the property, (3) a statement of the fair market value of the interest as determined by the Secretary below which the interest will not be conveyed, together with information as to where the Government's appraisal may be inspected, (4) information as to any preference rights of former owners to acquire the interest upon matching the highest bid, (5) an outline of bid procedure and a designation of the time and place for submitting bids, and (6) an outline of conveyance procedures, requirements, and time schedule.

(b) If the property has been in Federal ownership for less than two years, the last owner or owners of record shall be sent a notice by certified mail to their present or last known address providing

the information in the published notice and advising them of their right under section 5(a) of the act to acquire the interest upon payment or agreement to pay an amount equal to the highest bid price.

§ 17.5 Bids.

Bids may be made by the principal or his agent, either personally or by mail. Bids will be considered only if received at the place and prior to the hour fixed in the notice. No particular form is specified for bids. However, a bid must be in writing, clearly identify the bidder, be signed by the bidder or his designated agent, state the amount of the bid, and refer to the notice. Bids conditioned in ways not provided for by the notice will not be considered. Bids must be accompanied by certified checks, post office money orders, bank drafts, or cashier's checks made payable to the United States of America for the amount of the bid in case of a freehold interest or for the amount of the first year's rent in the case of leasehold interest. This payment will be refunded to unsuccessful bidders. A separate nonrefundable payment of \$100 to cover costs of publication and of processing of bids will also be included with the bid. The bid and payments must be enclosed in a sealed envelope upon which the prospective bidder shall write (a) bid on interest in land of the National Park System, and (b) the scheduled date the bids are to be opened. In the event two or more valid bids are received in the same amount, the determination of which is the highest will be by drawing. Bids will be opened at the time and place specified in the notice. Bidders, their agents or representatives, and any other persons may attend the bid opening. No bid in an amount less than the fair market value, as herein defined, shall be considered.

§ 17.6 Action at close of bidding.

The person who is declared by the authorized officer to be the high bidder shall be bound by his bid and the regulations in this part to complete the purchase in accordance therewith unless his bid is rejected or he is released therefrom by the authorized officer. The declared high bid on property for which a preference right exists will be conditionally accepted subject to the exercise of the preference as described below.

§ 17.7 Preference rights.

On any property which has been in Federal ownership less than two years, the Secretary, in addition to the notice specified in § 17.4, shall inform the last owner or owners of record by certified mail at their present or last known address of the highest bid on the interest and advise them of their right to acquire the interest for an amount equal to the highest bid if within 30 days they notify the Secretary of their desire to do so and make payment or agree to make payment of an amount equal to that specified in § 17.5.

If within 30 days of mailing of such notification, the former owner or owners do not indicate a desire to acquire

the interest and make payment or agree to make payment for such interest in an amount equal to the declared high bid, or, if they do indicate such a desire but fail to consummate the transaction within the time period established for the conveyance, then the bid of the declared high bidder will be accepted. In the event that a former owner who indicates a desire to repurchase pursuant to this procedure fails to consummate the transaction within the established time period the declared high bidder shall be permitted, but not required, to consummate the transaction. If the declared high bidder does not choose to consummate the transaction in this circumstance, the entire transaction will be cancelled, and, if appropriate, a new bidding procedure instituted.

§ 17.8 Conveyance.

Conveyance of a leasehold or freehold interest shall be by lease or deed, as appropriate, at the highest bid price, but not less than fair market value. All conveyance of leasehold or freehold interests shall contain such terms and conditions as the Secretary deems necessary to assure use of the property in a manner consistent with the purpose for which the area was authorized by Congress. The conveying or leasing document shall contain such provisions and restrictions as may be determined by the Secretary to be necessary to protect the natural, historic, cultural or other values present on the lands. All conveyances shall be without warranty.

[FR Doc. 77-26775 Filed 9-14-77; 8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 790-4]

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Delegation of Authority to State of Wyoming

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rule will change the address to which reports and applications must be sent by owners and operators of new and modified sources in the State of Wyoming. The address change is the result of delegation of authority to the State of Wyoming for New Source Performance Standards (40 CFR Part 60).

ADDRESS: Any questions or comments should be sent to Director, Enforcement Division, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colo. 80295.

FOR FURTHER INFORMATION CONTACT:

Mr. Irwin L. Dickstein, 303-837-3868.

SUPPLEMENTARY INFORMATION: The amendments below institute certain address changes for reports and

applications required from operators of new and modified sources. EPA has delegated to the State of Wyoming authority to review new and modified sources. The delegated authority includes the review under 40 CFR Part 60 for the standards of performance for new stationary sources.

A notice announcing the delegation of authority is published today in the FEDERAL REGISTER (Notices Section). The amendments now provide that all reports, requests, applications, submittals, and communications previously required for the delegated reviews will now be sent to the Air Quality Division of the Wyoming Department of Environmental Quality instead of EPA's Region VIII.

The Regional Administrator finds good cause for foregoing prior public notice and for making this rulemaking effective immediately in that it is an administrative change and not one of substantive content. No additional substantive burdens are imposed on the parties affected. The delegation which is reflected by this administrative amendment was effective on August 2, 1977, and it serves no purpose to delay the technical change of this addition of the State address to the Code of Federal Regulations.

(Sec. 111, Clean Air Act, as amended (42 U.S.C. 1857, 1857c-5, 6, 7, 1857g).

Dated: August 25, 1977.

JOHN A. GREEN,
Regional Administrator.

Part 60 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. In § 60.4 paragraph (b) is amended by revising subparagraph (ZZ) to read as follows:

§ 60.4 Address.

(b) State of Wyoming, Air Quality Division of the Department of Environmental Quality, Hathaway Building, Cheyenne, Wyo. 82002.

[FR Doc. 77-26905 Filed 9-14-77; 8:45 am]

SUBCHAPTER E—PESTICIDE PROGRAMS

[OPP-260023A; FRL 790-6]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Naled

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule (1) corrects an error in the naled regulation, (2) updates the regulation, and (3) editorially revises the format. The amendment was proposed by the Agency. This rule will provide the public with more accurate information in an easier to read style.

EFFECTIVE DATE: September 15, 1977.
FOR FURTHER INFORMATION, CONTACT:

Mr. Edward Gross, Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. (202-755-4854).

SUPPLEMENTARY INFORMATION:

On July 8, 1977, the EPA published a notice of proposed rulemaking in the FEDERAL REGISTER (42 FR 35172) proposing that (1) section 180.215 be reformatting, (2) section 180.319 be amended to delete all interim tolerances for naled and (3) section 180.215 be amended to update and clarify the tolerances and to eliminate a contradiction in the tolerances. No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

It has been concluded, therefore, that the proposed amendments to 46 CFR 180.215 and 180.319 should be adopted without change, and it has been determined that these regulations will protect the public health.

Any person adversely affected by these regulations may, on or before October 17, 1977, file written objections with the Hearing Clerk, EPA, Room 1019, East Tower, 401 M St. SW., Washington D.C. 20460. Such objections should be submitted in quintuplicate and should specify both the provisions of the regulations deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective September 15, 1977, Part 180, Subpart C, §§ 180.215 and 180.319 are amended as set forth below.

(Section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).)

Dated: September 8, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator
for Pesticide Programs.

Section 180.215 is amended by revising the entire section to read as follows:

§ 180.215 Naled; tolerances for residues.

Tolerances are established for residues of the insecticide naled (1,2-dibromo-2,2-dichloroethyl dimethyl phosphate) and its conversion product 2,2-dichlorovinyl dimethyl phosphate, expressed as naled, resulting from the application of the pesticide to growing crops or from direct application to livestock and poultry, in or on the following raw agricultural commodities:

Commodity:	Parts per million
Almonds (hulls)-----	0.5
Almonds (nuts)-----	0.5
Beans (dry)-----	0.5
Beans (succulent)-----	0.5
Beets, sugar, roots-----	0.5
Beets, sugar, tops-----	0.5

Commodity:	Parts per million
Broccoli	1
Brussels sprouts	1
Cabbage	1
Cattle, fat	0.05
Cattle, mbypp	0.05
Cattle, meat	0.05
Cauliflower	1
Celery	3
Collards	3
Cottonseed	0.5
Cucumbers	0.5
Eggplant	0.5
Eggs	0.05
Goats, fat	0.05
Goats, mbypp	0.05
Goats, meat	0.05
Grapefruit	3
Grapes	0.5
Grasses, forage	10
Hogs, fat	0.05
Hogs, mbypp	0.05
Hogs, meat	0.05
Hops	0.5
Horses, fat	0.05
Horses, mbypp	0.05
Horses, meat	0.05
Kale	3
Legumes, forage	10
Lemons	3
Lettuce	1
Melons	0.5
Milk	0.05
Mushrooms	0.5
Oranges	3
Peaches	0.5
Pears (succulent)	0.5
Peppers	0.5
Poultry, fat	0.05
Poultry, mbypp	0.05
Poultry, meat	0.05
Pumpkins	0.5
Rice	0.5
Safflower, seed	0.5
Sheep, fat	0.05
Sheep, mbypp	0.05
Sheep, meat	0.05
Spinach	3
Squash, summer	0.5
Squash, winter	0.5
Strawberries	1
Swiss chard	3
Tangerines	3
Tomatoes	0.5
Turnips, tops	3
Walnuts	0.5

A tolerance of 0.5 part per million is established for the pesticide named in or on all raw agricultural commodities, except those otherwise listed in this section, from use of the pesticide for area pest (mosquito and fly) control.

§ 180.319 [Amended]

Section 180.319 is amended by deleting the substance named and corresponding tabular material from the regulation.

[FR Doc.77-26729 Filed 9-14-77;8:45 am]

[PP 6P1778/R124A; FRL 790-7]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Nonflurazon; Correction

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

SUMMARY: This document corrects a final rule that appeared at page 40909 in

the FEDERAL REGISTER of Friday, August 12, 1977 (FR Doc. 77-23352).

EFFECTIVE DATE: September 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Henry Jacoby, Product Manager (PM) 24, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St. SW., Washington, D.C. 20460 (202-755-2196).

SUPPLEMENTARY INFORMATION: In FR Doc. 77-23352, appearing at page 40909 in the issue of Friday, August 12, 1977, the section number in the third column on page 40910 is changed from "§ 180.66" to "§ 180.356".

Dated: September 8, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator
for Pesticide Programs.

[FR Doc.77-26730 Filed 9-14-77;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER H—UTILIZATION AND DISPOSAL
[FPMR Amdt. H-104]

PART 101-47—UTILIZATION AND DISPOSAL OF REAL PROPERTY

Subpart 101-47.3—Surplus Real Property Disposal

PROPERTY FOR PUBLIC AIRPORTS

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This rule sets forth the basis for approval of disposals of surplus real property for public airports. The basis has not previously been published. Publication is intended to clarify the basis for approval.

EFFECTIVE DATE: This rule is effective on September 15, 1977.

FOR FURTHER INFORMATION CONTACT:

James R. Bergdahl, Office of Real Property, Public Buildings Service, General Services Administration, Washington, D.C. 20405 (202-566-1339).

Section 101-47.308-2(e) is revised as follows:

§ 101-47.308-2 Property for public airports.

(e) Upon receipt of such recommendation, the disposal agency may, with the approval of the head of the disposal agency or his designee, convey property recommended by the Federal Aviation Administration for disposal for a public airport to the eligible public agency, subject to the provisions of the Surplus Property Act of 1944, as amended. Approval for aviation areas shall be based on established FAA guidelines, criteria, and requirements for such areas. Approval for nonaviation revenue-produc-

ing areas shall be given only for such areas as are anticipated to generate net proceeds which do not exceed expected deficits for operation of the aviation areas applied for at the airport.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).)

NOTE.—The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Orders 11821 and 11949 and OMB Circular A-107.

Dated: September 1, 1977.

ROBERT T. GRIFFIN,
Acting Administrator of
General Services.

[FR Doc.77-26757 Filed 9-14-77;8:45 am]

Title 47—Telecommunication

CHAPTER 1—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20878; RM-2680]

PART 73—RADIO BROADCAST SERVICES

Television Broadcast Stations in Burlington, Fort Madison, Keokuk, Keosauqua, Rock Rapids, and Sibley, Iowa, and in Winona, Minn.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: In response to a petition for rule making filed by the State Educational Radio and Television Facility Board of the State of Iowa, the Federal Communications Commission assigns five UHF TV channels to be used on a reserved basis for noncommercial educational purposes at the communities of Fort Madison, Keokuk, Keosauqua, Rock Rapids, and Sibley, Iowa. This action will enable the Board to obtain TV translator stations to provide these communities and the area surrounding them with television coverage.

EFFECTIVE DATE: October 20, 1977.

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

FOR FURTHER INFORMATION CONTACT:

Thomas L. McCrickard III, Broadcast Bureau, 202-632-9660.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.606 (b), Table of Assignments, Television Broadcast Stations (Fort Madison, Keokuk, Keosauqua, Rock Rapids, Sibley, Iowa), Docket No. 20878, RM-2680, report and order.

Adopted: September 6, 1977.

Released: September 8, 1977.

1. The Commission herein considers the Notice of Proposed Rule Making, adopted July 1, 1976 (41 FR 29869, July 20, 1976), in the above-captioned proceeding instituted in response to a petition filed by the State Educational Radio and Television Facility Board of the State of Iowa ("Board"). The petition proposed the

amendment of Section 73.606(b) of the Commission's Rules, the Television Table of Assignments, by assigning and reserving for noncommercial educational use Channel *38 at Fort Madison, Iowa; Channel *44 at Keokuk, Iowa Channel *54 at Keosauqua, Iowa Channel *25 at Rock Rapids, Iowa and Channel *33 at Sibley, Iowa. Further, it was proposed that Channel *57 be assigned and the unoccupied and unapplied for Channel *58 be deleted at Burlington, Iowa, in order that the requested assignment at Keokuk can be made. Also, the assignment of Channel 44 to Keokuk would require a change in the offset designation of the unoccupied co-channel Winona, Minn., assignment (from plus to minus).

2. The Board is presently the licensee of four noncommercial educational television stations in Iowa,¹ and the permittee of four others,² all of which form the Iowa Educational Broadcasting Network. The proposed assignments were requested to enable the Board to extend noncommercial educational television service, by means of translators, to persons residing in and around the specified communities. The only comment received in response to the Notice was a reiteration of intentions by petitioner to submit applications for authority to construct television translator stations on these channels, and when such authority is granted, construct these stations.

3. The Notice indicated that the proposed assignments meet the Commission's separation requirements and other technical criteria. In view of the above, and the fact that it would make possible providing an educational TV service to significant populations not now having such service, the Commission believes that the public interest would be served by adopting the amendments proposed.

4. Accordingly, *It is ordered*, That effective October 20, 1977, the Television Table of Assignments (Section 73.606(b) of the Commission's Rules) is amended with regard to the following communities:

City	Channel No.
Burlington, Iowa	26-, *57-
Fort Madison, Iowa	*38+
Keokuk, Iowa	*44+
Keosauqua, Iowa	*54+
Rock Rapids, Iowa	*25+
Sibley, Iowa	*33
Winona, Minn.	*35+, 44-

5. 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 Section 0.281 of the Commission's Rules.

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

¹ KDIN-TV, Des Moines, Iowa; KIIN-TV, Iowa City, Iowa; KRIN, Waterloo, Iowa; and KSIN, Sioux City, Iowa.

² KHIN, Red Oak, Iowa KBIN, Council Bluffs, Iowa; KTIN, Fort Dodge, Iowa; and KYIN-TV, Mason City, Iowa.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303.)

FEDERAL COMMUNICATIONS

COMMISSION,

MARTIN I. LEVY,

Acting Chief, Broadcast Bureau.

[FR Doc.77-26745 Filed 9-14-77;8:45 am]

Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

[OST Docket No. 1; Amdts. 1-127, 1-128]

PART 1—ORGANIZATION AND DELEGATIONS OF POWERS AND DUTIES

Delegations to the Commandant of the U.S. Coast Guard

AGENCY: Department of Transportation.

ACTION: Delegations of Authority; Correction.

SUMMARY: This document corrects the delegation of authority to the Commandant of the U.S. Coast Guard which appeared in the FEDERAL REGISTER on May 3, 1977, page 22366.

EFFECTIVE DATE: September 15, 1977.

FOR FURTHER INFORMATION CONTACT:

B. T. Wade, Jr., Attorney-Adviser, Office of the General Counsel, Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590 (202-426-4723).

On March 3, 1977, the Secretary of Transportation delegated to the Commandant of the U.S. Coast Guard the authority vested in the Secretary by the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) (see 42 FR 12176). On May 3, 1977, the Secretary of Transportation also delegated to the Commandant of the United States Coast Guard the authority to develop, coordinate and issue wage schedules under the Federal Wage System. Both of the described delegations were published as 49 CFR 1.46(v). The latter delegation should have been published as 49 CFR 1.46(w). This document is to correct that error.

Since this amendment relates to Departmental management, procedures and practices, notice and public procedure thereon are unnecessary and it may be made effective immediately.

In consideration of the foregoing, § 1.46 of Part 1 of the Code of Federal Regulations is amended by substituting paragraph "(w)", for paragraph "(v)" as it appeared in the May 3, 1977 issue of the FEDERAL REGISTER.

(49 U.S.C. 1657(e))

Issued in Washington, D.C., on September 9, 1977.

WILLIAM J. DRISCOLL,
Assistant General Counsel for
Operations and Legal Counsel.

[FR Doc.77-26769 Filed 9-14-77;8:45 am]

CHAPTER I—MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

[Docket No. HM-144; Amdt. Nos. 173-108, 179-19]

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

PART 179—SPECIFICATIONS FOR TANK CARS

Shippers; Specification for Pressure Tank Car Tanks

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Final rule.

SUMMARY: As a result of a series of serious railroad accidents involving certain uninsulated pressure tank cars transporting hazardous materials these amendments are issued in the interest of safety.

1. Existing and newly built specification 112 and 114 tank cars used to transport flammable gases such as propane, vinyl chloride and butane are required to have both thermal and tank head protection. Newly built cars are to be so equipped starting on January 1, 1978, while existing cars are to be retrofitted over a four-year period ending on December 31, 1981.

2. Existing and newly built specification 112 and 114 tank cars used to transport anhydrous ammonia are required to have tank head protection (such as a head shield) installed. Cars built after December 31, 1977, must be so equipped. Previously built cars are to be retrofitted with tank head protection over a four-year period ending on December 31, 1981.

3. All specification 112 and 114 tank cars, regardless of the hazardous lading being transported, are to be equipped with special couplers designed to resist coupler vertical disengagements. These couplers are to be installed on cars built after December 31, 1977 and retrofitted on all previously built cars by July 1, 1979.

EFFECTIVE DATE: These regulations become effective on October 19, 1977.

ADDRESS: All written comments received in this proceeding are available for examination during regular business hours in room 6500, Transpoint Building, 2100 Second Street, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

William F. Black, Office of Safety, Federal Railroad Administration (202-426-2748).

SUPPLEMENTARY INFORMATION: These amendments are the result of the joint efforts of the Federal Railroad Administration (FRA) and the Materials Transportation Bureau (the Bureau). In accordance with internal DOT procedures, the FRA has developed the substantive provisions of these amendments

for review and issuance by the Bureau. Accordingly, further information concerning substantive provisions of these amendments may be obtained from the above contact.

BACKGROUND INFORMATION

On November 19, 1976, as a result of a series of serious railroad accidents involving uninsulated pressure tank cars (built to specifications 112 and 114) transporting hazardous materials, the Materials Transportation Bureau issued a Notice of Proposed Rulemaking, Docket No. HM-144; Notice No. 76-12 (41 FR 52324). The purpose of that Notice was to elicit public comment on a proposed rule to improve the design and construction of new and existing 112 and 114 tank cars. Specifically, the Notice proposed that a new Section 179.105 entitled "Special Requirements for Specification 112 and 114 Tank Cars" be added to Part 179 of the regulations. This section would prescribe new specifications for improving the safety of these cars. The Notice would have required that all newly built 112 and 114 tank cars, be equipped with "shelf couplers," a tank head puncture resistance system, a thermal protection system and a safety relief valve of adequate capacity to protect each thermally insulated tank.

Also, the Notice proposed that existing 112 and 114 tank cars be retrofitted according to the following schedule:

1. Either shelf couplers or a tank head puncture resistance system be installed within one year after the effective date of the rule;

2. Notwithstanding "1," shelf couplers be installed within two years after the effective date of the rule; and

3. Thermal protection and tank head puncture resistance systems with adequate safety relief valve capacity be installed within four years after the effective date of the rule.

In order to assure compliance with the requirements for thermal protection and tank head puncture resistance within the four-year period, an annual completion schedule was also proposed.

The reasons for these proposals were discussed in considerable detail in the Notice. Interested persons were invited to participate in the rulemaking proceeding through the submission of written comments. Fifty-three submissions were received and have been fully considered by the Bureau in the development of this final rule.

Subsequent to the issuance of the Notice, three serious railroad accidents occurred involving 112 and 114 tank cars.

On November 26, 1976, at Belt, Montana, the Burlington Northern, Inc., had a train derailment. Two persons were killed, six persons were seriously injured and fifteen others were treated for injuries when twenty-four freight cars derailed. One of the derailed cars was CGTX 64226, a 112A tank car, loaded with approximately 31,000 gallons of propane. The tank sustained a tank head puncture, began to release its contents and subsequently ruptured. A second

112A tank car, CGTX 64141, loaded with butane was subjected to the fire environment. Approximately two hours after the accident this tank car ruptured from the heat exposure.

On February 20, 1977, in Dallas, Tex., an Atchison, Topeka and Santa Fe Railway freight train derailed. In the derailment, UTLX 38355, a 112A tank car loaded with 32,437 gallons of propane, sustained a tank head puncture near the base of the head. The escaping propane ignited and the resulting torching flame impinged upon and heated GATX 97359, another 112A tank car, which contained 30,321 gallons of isobutane. After about forty minutes of fire impingement, GATX 97359 exploded violently. The tank separated into three major parts. Fortunately, no injuries resulted from this accident, but the estimated third-party damage has been set at \$3,500,000.

On March 16, 1977, at Love, Ariz., an Atchison, Topeka and Santa Fe Railway train derailed. Eight propane laden tank cars were involved:

ACFX 17359—112A340W.
ACFX 17355—112A340W.
RTMX 3515—105A300W.
ACFX 17358—112A340W.
RTMX 3487—105A300W.
RTMX 3526—105A300W.
RTMX 3532—105A300W.
RTMX 3492—105A300W.

All RTMX tank cars had 1/2-inch jacket heads and insulation.

ACFX 17359 sustained a puncture in the "belly" of the tank. The spilled contents burned. ACFX 17355 ruptured as a result of flame impingement. RTMX 3515 sustained a tank head puncture caused by a wheel cutting through the jacket head and the tank head. The contents ignited and burned. ACFX 17358 sustained a small head puncture. The contents spilled out through this hole and burned; also burning of contents occurred at the safety relief valves. RTMX 3487 which was exposed to fire impingement burned its contents at the safety relief valve. The tank did not rupture; the contents were released through the safety relief valve. The remaining three tank cars, RTMX 3526, 3532 and 3492, sustained no appreciable fire damage.

In the opinion of the Bureau, the tank head punctures sustained by CGTX 64226 at Belt, Montana, and UTLX 38355 at Dallas, Tex., would have been prevented had these cars been equipped with a tank head puncture resistance system. If neither tank car tank head had been punctured, there would have been no spill of product, no fire, and no resulting tank ruptures. No loss of life, nor serious injury would have occurred at Belt, Mont., and very little third-party property damage would have ensued at Dallas, Tex.

The Love, Ariz., accident is more difficult to analyze. The estimated speed at the time of the derailment was 48 miles per hour. The tank tear in ACFX 17359 occurred in the tank shell; tank head protection would not have prevented this tank puncture. ACFX 17355 ruptured due

to heat exposure while RTMX 3487 did not rupture. It released its contents through its safety relief valve. Insulation appears to have assisted RTMX 3487 in resisting the adverse affects of fire exposure. Although RTMX 3515 was equipped with a 1/2-inch jacket head, it sustained a tank head puncture. The high derailing speed of 48 miles per hour appears to have given sufficient energy to a car wheel so that it could puncture both the 1/2-inch jacket head and the tank head. However, since much of the wheel's energy was dissipated in penetrating the jacket head, it is the Bureau's opinion that the 1/2-inch steel jacket kept the tank head hole to a minimum. This reduced the amount of fire in the area of this car.

As a result of analyzing comments received, two significant changes have been made in the final rule.

1. Specification 112 and 114 tank cars used to transport hazardous liquids (such as flammable or poisonous liquids) and nonflammable gases other than anhydrous ammonia (such as "fluorocarbon" gases), need only be equipped with shelf couplers. Such cars will continue to be designated as 112A/114A tank cars.

2. Specification 112 and 114 tank cars used to transport anhydrous ammonia need only be equipped (or retrofitted) with a tank head puncture resistance system and shelf couplers; thermal protection is not required. Such cars will be designated as 112S/114S tank cars. Several other changes have been made in the final rule. These changes and comments are discussed in the "Section by Section Analysis" which follows.

SECTION BY SECTION ANALYSIS

SECTION 173.31 QUALIFICATION, MAINTENANCE, AND USE OF TANK CARS

The purpose of amending paragraph (a)(3) is to authorize the use of classes DOT-112T and 112J tank cars having equal or higher marked test pressure when classes DOT-112A and 112S are prescribed, and similarly to authorize the use of classes DOT-114T and 114J tank cars having equal or higher marked test pressures when classes DOT-114A and 114S are prescribed. No specific comments on this change were received; the amendment is being adopted as proposed.

In the notice of proposed rulemaking, §§ 179.105-2(a)(4) and 179.105-3(a)(1) and (2) would require that each newly built 112 and 114 tank car be equipped and each previously built 112 and 114 be retrofitted, with a coupler restraint system. Furthermore, the Notice proposed that such a system be retrofitted within one year on cars not equipped with tank head puncture resistance systems and within two years on all other 112 and 114 cars. The requirement for retrofitting existing cars has been placed in a new paragraph (a)(5) of § 173.31 so as to clearly indicate that it applies to all 112 and 114 tank cars no matter how used, while newly built tank car requirements remain in § 179.105-2(a)(4).

Several comments were received indicating that it appeared that under the proposal most 112 and 114 tank cars would have to be retrofitted with a coupler restraint system within one year and that it was doubtful that the application of approximately 40,000 shelf couplers (two per tank car) could be accomplished in one year. The Bureau agrees and the retrofit period has been extended to June 30, 1979.

SECTION 179.105-1 REQUIREMENTS FOR COMPRESSED GASES IN TANK CARS

Currently, note 23 to the table in paragraph (c) states:

Specification 112A or 114A tank cars used for transportation of compressed gases must be equipped with protective head shields after December 31, 1977. See § 179.105-23 for head shield specification.

Note 23 appears in the Table after specifications 112 and 114 for anhydrous ammonia and flammable gases (such as butadiene, LPG, vinyl chloride, etc.). The notice proposed to change this requirement to:

*** either protective head shields or shelf couplers after (one year after effective date), shelf couplers after (two years after effective date); and thermal protection and tank head puncture resistance systems after (four years after effective date) ***

The final rule separates the requirements for 112 and 114 tank cars used to transport flammable compressed gases from those used to transport anhydrous ammonia. These requirements are being placed in two notes. Note 23 requires specification 112 and 114 tank cars used for the transportation of flammable compressed gases to be equipped with thermal protection and tank head puncture resistance systems by January 1, 1982.

Note 24 covers anhydrous ammonia cars. Many commenters indicated thermal protection did not appear to be necessary to improve safety on 112 and 114 tank cars transporting nonflammable compressed gases such as "fluorocarbons" and anhydrous ammonia. The Bureau concurs, particularly since accident records maintained by the Federal Railroad Administration show no incidents of thermal rupture of a 112/114 tank car when transporting nonflammable compressed gases. However, due to the toxicity of anhydrous ammonia and the fact that FRA accident records show deaths and injuries caused by the tank head puncture of 112/114 tank cars transporting anhydrous ammonia, new Note 24 requires installation of tank head puncture resistance systems (such as headshields) by January 1, 1982, for 112/114 tank cars transporting anhydrous ammonia. However, tank head puncture resistance systems are not required on cars used to transport other nonflammable compressed gases.

SECTION 179.105 SPECIAL REQUIREMENTS FOR SPECIFICATION 112 AND 114 TANK CARS

This new section sets forth the new requirements for newly built and for retro-

fitting previously built 112 and 114 tank cars.

SECTION 179.105-1 GENERAL

This new section sets forth three requirements:

1. Tanks built under specification 112 and 114 must meet the requirements of §§ 179.100, 179.101 and when applicable §§ 179.102 and 179.103.

2. AAR approval is not required for changes in nor additions to specifications 112 and 114 tank cars necessary to comply with § 179.105.

3. 112 and 114 tank cars built to specifications promulgated by the Canadian Transport Commission that are not equipped as described in § 179.105 may not be used to transport compressed gases in the United States after December 31, 1981.

No comments were received pertaining to "1" or "3," but many comments were received regarding deletion of "AAR Approval ("2")."

Commenters requested that approval by the AAR Committee on Tank Cars be required for changes in or additions to 112/114 tank cars necessary to comply with § 179.105. It was stated that the railroad "Interchange Rules" require a "Certificate of Construction" before a tank car may move in interchange service. Modifications and additions would still be required to be approved by the Committee. In addition, many commenters expressed belief that the Committee's expertise is essential to assure that modifications to these tank cars are performed properly.

The Bureau recognizes that the existing car owner/rail carrier approval system which is set forth in the AAR "Interchange Rules" may be continued by the AAR Tank Car Committee and that its approval for interchange may, therefore, be required by industry for all additions, modifications and repairs performed to comply with § 179.105. However, the Bureau does not believe that this approval need be imposed by regulation. These standards adopted for improved tank car safety are augmented by specific design criteria (such as specified couplers, head shield designs and thermal protection system), thereby affording tank car owners sufficient guidance to perform the modifications and additions required by this rule. For these reasons, the Bureau has deleted the requirement for AAR Tank Car Committee approval in this rule.

SECTION 179.105-2 NEW CARS

The notice proposed that all 112 and 114 tank cars built after six months after the effective date be equipped with:

1. A thermal protection system (§ 179.105-4);
2. A tank head puncture resistance system § 179.105-5);
3. A safety relief valve meeting the requirements of § 179.105-7; and
4. A coupler restraint system (§ 179.105-6).

Based upon comments received, the Bureau has decided to establish three

types of 112 and 114 tank cars. This decision has been alluded to earlier in this preamble. Accordingly, § 179.105-2 has been revised as follows:

1. Newly built 112A and 114A tank cars are authorized to transport hazardous liquids and nonflammable compressed gases, other than anhydrous ammonia. Each is required to be equipped with a coupler restraint system that meets the requirements of § 179.105-6.

2. Newly built 112S and 114S tank cars are authorized to transport anhydrous ammonia as well as commodities authorized to be transported in 112A/114A tank cars. Each is required to be equipped with a tank head puncture resistance system that meets the requirements of § 179.105-5 as well as a coupler restraint system that meets the requirements of § 179.105-6.

3. Newly built 112T, 112J, 114T and 114J tank cars are authorized to transport flammable and non-flammable compressed gases, including anhydrous ammonia, and hazardous liquids. Each is required to be equipped with all four safety measures: Thermal protective system (§ 179.105-4), tank head puncture resistance system (§ 179.105-5), coupler restraint system (§ 179.105-6) and a safety relief valve that meets the requirements of § 179.105-7.

Several commenters suggested that the use of a coupler restraint system such as "shelf couplers" and the perpetuation of FRA Emergency Order No. Five would obviate the need for installation of a tank head puncture resistance system FRA Emergency Order No. Five orders railroad carriers to handle 112 and 114 tank cars not equipped with head shields which are transporting flammable compressed gases in switch yards by "shoving to rest." It was issued as a result of three serious rail switching accidents in which tank cars not equipped with head shields sustained tank head punctures as a result of overspeed impacts. Release of the flammable gas lading and subsequent ignition caused deaths, injuries and substantial property damage. The intent of the Emergency Order was to provide an interim safety measure until all 112 and 114 tank cars transporting flammable gases were equipped with tank head shields (January 1, 1978), and not be applied permanently.

As a result of testing performed at the Transportation Test Center, Pueblo, Colo., it has been demonstrated that for some overspeed switching impacts, shelf couplers will prevent some tank head punctures. For other impacts under differing conditions, shelf couplers were not effective in preventing tank head puncture, but head shields were effective and did prevent punctures. And, under certain test impact conditions involving more than one tank car, a combination of both shelf couplers and head shields were needed to prevent tank head puncture. These test results were summarized at the FRA public briefing held on December 8, 1976.

Tank head punctures occur in train derailments as well as in switching mis-

haps. Emergency Order No. Five has no effect on train derailment conditions. Therefore, the Bureau has concluded that for tank cars carrying anhydrous ammonia and flammable gases, both a coupler restraint system and a tank head puncture resistance system are necessary to prevent tank puncture in derailments as well as in switch yard accidents. However, for tank cars carrying products having less volatility such as hazardous liquids, and gaseous products having non-toxic, nonflammable properties, the consequence of puncture and product release is not as serious. Therefore, the application of a coupler restraint system will afford adequate public safety. When both a tank head puncture resistance system and a coupler restraint system are applied to all 112 and 114 tank cars used to transport flammable gases, the need for Emergency Order No. Five will end.

179.105-3 PREVIOUSLY BUILT CARS

In the notice of proposed rulemaking, the Bureau proposed that previously built (existing) 112 and 114 tank cars be retrofitted in a four-year time period with a thermal protective system and a tank head puncture resistance system.

Based upon comments received, the Bureau has modified this requirement. The rule requires a tank head puncture resistance system to be retrofit installed on 112S, 112T, 112J, 114S, 114T and 114J tanks cars, but this system is not required on 112A and 114A tank cars. Likewise, thermal protection must be retrofit installed on 112T, 112J, 114T and 114J tank cars, but it is not required on 112A, 112S, 114A and 114S tank cars.

As proposed in the Notice, a coupler restraint system is required to be retrofit installed on all 112 and 114 tank cars by July 1, 1979; for clarity this requirement is stated in § 173.314(a)(5) as well as § 179.105-3(a).

Each car owner is required to install thermal protection and tank head puncture resistance systems in conformance to the following schedule:

1. "Lead time" until January 1, 1978.
2. Twenty percent of cars owned by January 1, 1979.
3. Fifty percent of cars owned by January 1, 1980.
4. Eighty percent of cars owned by January 1, 1981.
5. All cars owned by January 1, 1982.

Many commenters said that they believed that this schedule did not provide adequate time to perform a retrofit installation program of this magnitude. Several requested a six-month "lead time;" essentially this has been granted. Several requested a retrofit schedule of a five, or six-year time period, in lieu of the proposed four-year period. This extended retrofit time period was carefully considered by the Bureau. However, due to the serious catastrophic consequences which can result from a single accident involving uninsulated, non-head shielded tank cars transporting flammable compressed gases, or involving non-head shielded tank cars trans-

porting anhydrous ammonia, the Bureau believes that it is imperative to have retrofit installation completed as soon as is practicable.

Other factors evaluated by the Bureau in making this decision were:

1. Current regulations contained in § 173.314(c) require head shield installation by January 1, 1978. This requirement is now being phased in over an additional 4-year period.

2. Anhydrous ammonia cars (112S and 114S) will not require thermal protection, thus reducing the magnitude of the retrofit program.

3. Cars for "fluorocarbon gases" and hazardous liquids (112A and 114A) will not require thermal protection nor tank head protection, thus likewise reducing the magnitude of the retrofit program.

For these reasons, the 4-year schedule has been retained.

SECTION 179.105-4 THERMAL PROTECTION

The purpose of this section is to establish performance standards and also testing procedures to verify compliance with these performance standards for thermal protection systems to be applied to 112T, 112J, 114T and 114J tank cars. This section contains six paragraphs:

- (a) Performance standard;
- (b) Test verification;
- (c) Simulated pool fire test;
- (d) Simulated torch fire test;
- (e) Analysis; and
- (f) Exterior tank color.

Paragraph (a) in the Notice proposed a requirement that:

Each specification 112 and 114 tank car shall be equipped with a thermal protection system that prevents the release of any of the car's contents (except release through the safety relief valve) when subjected to:

- (1) A pool fire for 100 minutes; and
- (2) A torch fire for 30 minutes.

Several commenters suggested that the "performance standards" be replaced by "test requirements" or "qualification tests," or supplemented by "design specifications." These comments pertained not only to thermal protection but also to tank head puncture resistance (§ 179.105-5) and, to a lesser extent, to "coupler restraint" (§ 179.105-6). The Bureau has considered those options but still believes that the performance standards are the best approach because they provide incentives for innovation. Also, the requirement that tank cars covered by these specifications retain the level of protection specified throughout their service life, eliminates the need for detailed maintenance procedures.

The performance standards prescribed are individual requirements which must be demonstrated under simulated pool and torch fire environments. It is not intended that an undamaged tank car be capable of withstanding a 100-minute pool fire and a 30-minute torch fire; and, to satisfy these requirements, one insulated test plate need not be subjected to both tests. Compliance may be achieved by subjecting an insulated test plate to the pool fire test and a similar test plate equipped with the same thermal protec-

tion system to the torch fire test. A tank car having an acceptable thermal system which is involved in a severe accident in which the tank and the system sustain considerable physical damage may not be capable of surviving a 100-minute pool fire and a 30-minute torch fire. The thermal protection system may not eliminate all tank car ruptures, but when properly maintained most thermal ruptures will be prevented. Damaged or deteriorated systems must be repaired or replaced before the cars are again used.

Several commenters recommended that additional fire testing and in-service testing of thermal protection systems be conducted before final rulemaking. The Bureau recognizes that additional testing can always be said to provide additional data, but it does not concur in the need for additional testing in this case. The Bureau believes that the extensive series of fire tests conducted by FRA and RPI/AAR demonstrate not only the utility and practicality of a thermal shield system, but also provide sufficient data for reliable cost projections. Furthermore, the Bureau believes that the successful in-service use of thermal shields to protect aerospace hardware and stationary compressed gas tanks, in addition to considerable railroad tank car experience, demonstrate the reliability of several competitive types of thermal shields. The Accelerated Life Test (ALT) program, being conducted by FRA, RUI/AAR, and several shippers, has provided adequate evidence that at least four reliable thermal shield systems are readily available (see discussion below). The Bureau has sought to achieve a condition of adequate protection at minimum cost and sees no reason why additional thermal shield systems cannot be developed.

Most commenters indicated that the extensive testing programs conducted by FRA with the assistance of the RPI/AAR were beneficial in analyzing the problems encountered with uninsulated pressure tank cars and developing solutions to these problems. However, one commenter offered the opinion that DOT sponsored tank car tests were not run to gather information regarding a wreck environment, but were designed to make the tank car look bad in support of some preconceived theories. This commenter used as an example the White Sands Missile Range fire tests which were purported to be "about as far from a wreck environment as could be devised." The Bureau does not agree with this assessment and believes that the tests conducted were reasonable (although not necessarily conservative) simulations of tank car accident scenarios. It should be noted that the time to rupture of an uninsulated tank car in a White Sands test was 24 minutes, whereas in analyzing rail accidents, the RPI/AAR has found that in at least twenty-three instances, the times required to rupture tank cars engulfed in accidental fire were less than 24 minutes. The Bureau, therefore, feels that these fire tests were reasonable simulations of wreck environments.

A similar comment was that the two full-scale fire tests conducted at White Sands were run under controlled conditions and yet variables were not controlled. Several instances were cited. The commenter stated that in the non-insulated test the car contained 3,200 gallons more propane than the car in the thermally coated test and that the initial propane temperature was lower in the thermally coated test than in the uninsulated test. The Bureau has analyzed these differences and has concluded that they did not significantly affect the test results and that the differences were partially compensating. For example, a greater initial volume of propane in the thermally coated test would have increased the time to rupture and conversely, a higher initial propane temperature would have decreased the time to rupture. The commenter noted that the propane composition was not reported for the thermally coated test. On the basis of the temperature-pressure data at the start of each test, the Bureau has concluded that there was no significant difference in the propane used in the two tests. Also, the "commercial propane" used in both tests was supplied from the same source. The commenter noted that in the uninsulated test, the temperatures and pressures reported do not match the temperatures and pressures expected. The Bureau has reviewed the temperature-pressure data from the uninsulated test and has concluded that the experimental pressure-temperature data correlate reasonably well with theoretical data. The commenter mentioned that in both tests pure propane temperature-pressure relationships were used to estimate missing data ignoring important factors of superheat, supercooling, compressibility, and the influence of impurities. The Bureau has reviewed the effects mentioned and has concluded that the procedures used in both tests were adequate.

One commenter criticized the quality of some of the reports listed in Appendix A of Notice No. HM-144. To support his position, the commenter used several quotes from "Reference 9" of the Notice. The Bureau does not concur with the assessment of this commenter and believes that the quotes used are taken out of context. For example, the commenter used the following quote from "Reference 9," page 39, first paragraph under B: "Unfortunately, no useful liquid level data were recorded." This quote only referred to direct liquid level measurements. This report also described an indirect method that was used to measure liquid level. Another misleading quote was from "Reference 9," page 39, third paragraph under VIA: "One or more sign reversals occurred in the recorded emf values during the test, indicating that the data recorded are not reliable." This latter quote was only in reference to a particular, small group of thermocouples. The majority of thermocouples did not experience any sign reversals and were reliable.

Paragraph (b) in the Notice established the method of verifying by testing

that the thermal protection system meets the performance standard. Several commenters noted that the Bureau did not identify thermal systems which are deemed acceptable and do not require further testing. The commenters recommended that either a list of approved thermal systems be presented or sufficient time be allowed for the testing of new systems. The Bureau believes there is merit to these comments. Accordingly, the following list specifies thermal protection systems that do not require test verifications under § 179.105-4(b) based upon successful simulation testing conducted by FRA. This list is not intended to be all inclusive, and systems that may be submitted to the Bureau in the future and which are shown to meet the test specifications in § 179.105-4 will also be excepted from the test verification. Information concerning the systems listed below as well as any which may be excepted from verification in the future, is available for inspection in the Docket Section, Room 6500, Transport Building, 2100 Second Street, SW., Washington, D.C. 20590.

1. One inch minimum thickness Delta-board (12 pounds per cubic foot, 15 pounds per cubic foot) encased in an 11-gauge steel jacket. Manufacturer, (Delataboard) Rockwell Manufacturing Company, Leeds, Alabama.

2. The tank car external surface is prepared by sandblasting to remove all existing paint, primer, grease and loose material. 2 mils (dry) of Thermolag primer-351 are applied to the clean surface. 165 mils (dry) of Thermolag 330-1 subliming compound is next applied to the primed surface. 5 mils (dry) of Thermolag topcoat 350 is applied to the subliming coating. Manufacturer TSI-Inc., St. Louis, Missouri.

3. The tank car external surface is prepared by sandblasting to remove all existing paint, primer, oil, grease, and loose materials. 3 mils (dry) of primer (Military Standard MIL-P-52192B) are applied to the clean surface. Chicken wire (1" hexagonal, 22 gauge) is next attached to the primed surface. 180 mils (dry) of Chartek 59 thermal coating is then applied. 3 mils (dry) of a topcoat (AMBERCOAT 75) is then applied. Manufacturer (Topcoat)-Ameron, Brea, California. Manufacturer (Chartek 59), Avco, Lowell, Massachusetts.

4. The tank car external surface is prepared by sandblasting to remove all existing paint, primer, grease and loose material. 7 mils (dry) of primer (a 1:1 ratio by volume of 513-003 base component and 9110x350 activator component) is applied to the clean surface. 235 mils (dry) of thermal shield coating (a nominal 5:1 ratio by volume of 821x359 base component and 9110x407 activator component) is next applied to the primed surface. 2 mils (dry) of topcoat (a 2:1 ratio by volume of 821x317 base component and 9110x376 activator component) is applied to the thermal shield material. Manufacturer, De Soto, Inc., Des Plaines, Illinois.

Paragraph (c) proposed a testing simulation for the "pool fire" perform-

ance standard. This paragraph prescribed in detail the pool fire test environment and the method of testing the thermal protection system in that environment. In a similar manner, paragraph (d) proposed a testing simulation for the "torch fire" performance standard. The torch fire test environment and the method of testing in that environment were specified. Many comments were submitted about both proposals.

Several commenters have questioned the availability of facilities for conducting the thermal performance tests. It should be noted that the Transportation Test Center facility is available under stipulated user agreements for conducting any of the prescribed tests in § 179.105-4. Interested parties should contact the Transportation Test Center Director for information on use of the facility. The test facility is not unique; it uses standard components and technology. Thus, it is the Bureau's belief that the test facility and the test procedures themselves can be readily duplicated.

Some commenters requested a reduction in the pool fire time criteria on the basis that tank cars do not fail at 800° F. but fail at a higher temperature, e.g. 1050° F. In addition, some commenters contend that the 100-minute figure for pool fires is not theoretically consistent with the 30-minute requirement for the torch fire environment. In setting forth performance standards for thermal protection systems in terms of both pool fire and torch fire exposure criteria, the Bureau intended to ensure that the thermal protection system would retain the required thermal capacity with a safety factor over the range of exposures encountered. The pool fire environment, which involves interactive safety relief valve action and more extensive exposure of the tank car exterior, is considered the prime performance requirement. The 100-minute, 800° F. stipulations provide safety margins. Both full scale and simulated pool fire tests have shown that there are available thermal protection systems which can meet this pool fire criteria. Given the fundamental pool fire performance standards, the torch fire requirement is designed to ensure the adequacy of the thermal protection system in another commonly encountered, but not necessarily more severe fire environment. The Bureau does not feel that it is necessary to increase the torch resistance time in order to be theoretically consistent with the pool fire time specifications. The total performance standard is composed of the two fire environment elements and the Bureau is convinced that when viewed as a whole, the requirements not only adequately cover the scope of experienced exposures but can be met by several currently available products.

One commenter agreed with the 40 plus or minus 10 mph flame velocity requirement for the torch fire test for non-jacketed systems, but contended that it was not necessary for steel jacketed systems. The Bureau stipulated the torch fire criteria to include evaluation of erosive effects as the commenter rightfully concluded. The Bureau sees no reason

why it should prejudice how a jacketed and a nonjacketed system might differ, and accordingly the specifications treat all systems equally. Each must successfully withstand the same environment and be tested under identical conditions.

Several commenters have recommended that smaller plate sizes be allowed for testing thermal protection systems. One commenter also requested that small circular plates be allowed. The Bureau's intent in requiring large test specimens is to evaluate an entire thermal shield system, including attachments. By requiring these plates, the phenomena of edge effects, inhomogeneities, heat paths due to attachment requirements, etc., are minimized.

Paragraph (e) requires that the entire tank car surface be analyzed to assure that it will achieve the performance standards for thermal protection.

Some commenters requested a clarification of what analysis is required by this paragraph. Several commenters suggested that certain structures (e.g., ladders) be exempted from this requirement. One commenter requested that a maximum of 350 square inches be exempted from this requirement. The Bureau's intent in requiring this analysis is to ensure that those portions of the tank car shell that are not covered by the thermal protection system do not pose an unacceptable safety hazard. In other words, there must be equivalent thermal resistance in these areas. In calculating the thermal resistance in these areas, the structural strength of the tank and attachments may be used to demonstrate adequate thermal resistance.

One commenter recommended that the requirement in § 179.101-1(a), Note 4, for white paint on specifications 112 and 114 compressed gas tank cars be eliminated if thermal protection systems are installed. The Bureau agrees. Paragraph (g) has been added to § 179.105-4 and it states that 112 and 114 tank cars equipped with thermal protection need not be painted white.

SECTION 179.105-5 TANK HEAD PUNCTURE RESISTANCE

The purpose of this section is to establish performance criteria and testing standards to verify compliance with the performance criteria for tank head puncture resistance systems to be applied to 112S, 112T, 112J, 114S, 114T and 114J tank cars. The section consists of three paragraphs:

- (a) Performance standard;
- (b) Test verification; and
- (c) Tank head puncture resistance test.

Paragraph (a) in the notice proposed a requirement that each tank car be capable of sustaining, without loss of contents, coupler-to-tank head impacts within the area of the tank head described in § 179.100-23 (approximately the lower half of the head) at relative car speeds of 18 miles per hour.

These test conditions were developed as a result of analyzing accident data compiled by the Federal Railroad Administration which was used in promul-

gating MTB Docket HM-109, Tank Head Shields. Also, data derived from coupler impact tests at the Transportation Test Center were used in verifying the specific test criteria.

Several commenters stated that they questioned the need for tank head protection on shelf coupler-equipped tank cars. The Bureau does not concur; its reasons have been set forth under the discussion of § 179.105-2.

Paragraph (b) requires test verification by full-scale testing to the performance standard or by use of the "alternate test procedures" set forth in (c). However, test verification is not required if the car owner elects to install:

- 1. Protective head shields (§ 179.100-23); or
- 2. Full tank head jackets of at least 3/8-inch steel.

One commenter discussed MTB Docket HM-109; notice 75-3, which proposed to permit a hand brake bracket to pass through a hole in the head shield so that the bracket could be mounted on the tank head rather than on the shield. The Bureau withdrew that notice on the basis of comments indicating that the requirement for adding a 3/8-inch thick steel pad on the tank head to support the bracket would be costly and the bracket reinforcement would locally rigidize the area. This could cause poor tank steel impact resistance. The Bureau has not re-opened this matter in this docket since it was disposed of in Docket HM-109.

Likewise, commenters suggested certain changes to the specific head shield specifications contained in § 179.100-23. The Bureau believes that these suggestions, which were raised in one form or another under proceedings in HM-109, were adequately handled in that docket.

Paragraph (c) describes the test protocol to be followed in verifying a tank head puncture resistance system. One commenter questioned the requirement that the coupler of the ram car be perpendicular to the impacted car upon impact. This commenter contended that in reality, the ram car coupler would usually be at a lesser angle and in most cases would strike the impacted car a glancing blow. The Bureau agrees that the ram car coupler will often be at a lesser angle to the impacted car in actual impacts. However, impacts can occur (and indeed have been observed in the FRA/RPI/AAR Switchyard Impact Program) in which the ram car coupler is perpendicular to the impacted car. Since the perpendicular impact is the most severe situation, the Bureau believes it should be used in the test procedure. Also, having the ram car coupler strike the impacted car at some other angle would unduly complicate both conducting the test and interpreting the data.

SECTION 179.105-6 COUPLER VERTICAL RESTRAINT SYSTEM

In the notice, § 179.105-6 proposed standards and specifications for coupler vertical restraint systems. The purpose of such systems is to resist vertical dis-

engagement of coupled couplers so as to reduce tank head puncture. The section has been somewhat reorganized in this rule from the way that the paragraphs were published in the notice, but the basic content remains the same. These paragraphs are captioned:

- (a) Performance standard;
- (b) Test certification and approval (entitled test verification in the notice);
- (c) Coupler vertical restraint tests (proposed as paragraph (d) in the notice); and
- (d) Listing of approved couplers (proposed as paragraph (c) in the notice).

Most commenters endorsed the proposal to apply a coupler restraint system to 112 and 114 tank cars. Several suggested that § 179.14 entitled *Tank Car Couplers* be revised to include "E-shelf" and "F-shelf" couplers in the list of couplers approved by the Federal Railroad Administrator. Since the notice did not address couplers on all tank cars (§ 179.14) but rather was limited to couplers on 112 and 114 tank cars, this suggestion is not being adopted in this proceeding. However, it is being considered by the FRA and the Bureau and may be adopted in the future.

Some commenters questioned the use of buff loads in the required testing. They indicated that it is a less severe test of the coupler's ability to avert coupler disengagement than a test without buff loads. Some commenters have also questioned the extreme difficulty in conducting tests with the required buff loads in existing facilities. In requiring buff loads, it was the Bureau's intent to insure that introduction of potentially higher levels of vertical loads in combination with the range of feasible buff loads did not produce other undesirable failures. The 2,000-pound buff load was meant to provide full buff engagement of the couplers while the vertical strength was tested. The intent of the specified 725,000-pound buff application with vertical loading was to insure that the coupler would not fail as a result of the combination of stresses. The Bureau is satisfied that the lower level buff load will adequately test the vertical restraint system and sees no reason to enter into testing requirements of other portions of the coupler system in this specification, particularly in view of the difficulty in applying the higher levels of buff loading in conjunction with the vertical loads testing. Accordingly, paragraphs 179.105-6(a) and (c) (3) have been revised.

In accordance with information furnished by the AAR, F-top shelf couplers are designated SF70CHT and SF70CHTE in this amendment.

SECTION 179.105-7 SAFETY RELIEF VALVES

Section 179.105-7 in the notice proposed to require the relieving or discharge capacity of safety relief valves on thermally protected cars to be at least the same as on non-insulated tank cars. The effect of this proposal would have been to permit existing safety relief valves to be retained on cars retrofitted with thermal protection and to require

the same safety relief valve capacity on newly built 112 and 114 thermally protected tank cars.

Several commenters recommended the development of a formula which takes into account the insulating effect of thermal protection. Other commenters either thought that the valve size could be reduced with increases in thermal protection or wanted an explanation of the Bureau's thinking to assist design engineers.

The Bureau, after a thorough reexamination, has confirmed that the proposed safety relief valve requirement is correct for the *minimum* thermal protection requirements of the specification. This safety relief valve requirement is consistent with the 100-minute, 800° F pool fire performance standard and other overall system considerations in protecting the tank car from premature rupture. In response to the commenter concerns, the Bureau is permitting a modified sizing equation to reflect the contribution of additional or higher thermal insulation properties of the cars covered under this specification. The application of a modifying factor to the established uninsulated tank equations, prescribed in section A8.01 of Appendix A of the "AAR Specifications for Tank Cars," supports the previously published result at the minimum required thermal insulation level, and further allows determination of appropriately reduced safety relief capacities at higher than minimum levels of thermal protection.

Thus, the rule permits a reduction in the safety relief valve capacity on a thermally insulated car in proportion to the total number of minutes the tank is protected in the pool-fire test as related to the 100-minute standard. However, owners may continue to use the current safety relief valves on retrofitted and on newly built cars if they so desire.

SECTION 179.105-8 STENCILING

Mandatory stenciling reflecting the installation of tank head puncture resistance and thermal protection systems is prescribed in § 179.105-8. The rule differs from the notice in that the provision is retained for 112S and 114S tank cars, e.g., 112 and 114 tank cars equipped with a tank head puncture resistance system, but not equipped with a thermal protection system.

Several commenters suggested that instead of using alternative letters in place of the "A" in the specification (in other words instead of using 112J in lieu of 112A to indicate a 112 car having jacketed thermal insulation), the Bureau use new specification numbers such as 122A and 124A. The Bureau has not adopted this suggestion. Since head shield equipped cars are required to be stenciled 112S and 114S, and over 600 cars have been so stenciled, the Bureau believes that continuation of this system to embrace thermal protection systems is logical. New specification numbers would necessitate additional regulatory wording in § 173.31 as well as in other

sections of Part 179, for example, § 179.100. The use of differing letters indicating specific applied systems will accomplish the same identification function in an easier manner.

Some commenters stated that the "A" is a "spacer" and persons do not expect to obtain information from this letter. Tank car specification 103 and proposed specification 113 use letters to denote information about the car design. For example, a DOT103CW tank car has a stainless steel tank and a proposed DOT113C120W tank car is designed to be capable of handling cold temperature product loadings such as encountered with liquefied natural gas.

For these reasons, the stenciling system proposed in the notice is being retained along with the current requirement for 112S and 114S stenciling.

DISCUSSION OF OTHER COMMENTS

SPECIFICATION 105 TANK CARS

Several commenters mentioned that many DOT specification 105 tank cars are used to transport the same products as are transported in 112 and 114 tank cars. The commenters believe that the 105 tank car may not have as good thermal and tank head puncture resistance protection as is being specified for the 112T/J and 114T/J cars. This matter is beyond the scope of this docket. Therefore, the Bureau will consider the matter of safety standards for specification 105 tank cars and may initiate rulemaking in the future.

TANK CAR STEEL

One commenter stated that a report by Dr. W. S. Pellini entitled, "Fracture Properties of Tank Car Steels—Characterization and Analysis" was not part of the references cited in the notice of proposed rulemaking. The report was not included because the report was not available to the Bureau at the time of the publication of the notice. However, the views of Dr. Pellini were known to the Bureau and were used in evaluating the overall tank car problem. On February 24, 1975, Dr. Pellini gave a presentation

on tank car steels to representatives of DOT and industry. Also, on several occasions Dr. Pellini has discussed his views on tank car steels with DOT staff members. Based upon the work conducted by the National Bureau of Standards, the Battelle Columbus Laboratories, and Dr. Pellini, the Bureau concluded that existing tank car steels, are adequate. Accordingly, the Bureau did not propose any change to existing tank car steel specifications in this proceeding.

DOCKET HM-125

As was indicated in the notice, with the promulgation of standards and specifications upgrading existing specification 112 and 114 so as to improve design and construction, the Bureau will withdraw notice No. 75-4, under Docket HM-125.

ECONOMIC IMPACT

Several commenters took exception to the estimated cost projections stated in the notice. The principal objection was the use of minimum imposed costs rather than maximum possible costs. The use of minimum costs is considered to be the only practicable means for calculation of the economic impact of a rule. Any other calculations would of necessity be based on the anticipated decisions of car owners as to the options they choose to comply with the rule. However, the costs for protective head shields are included as suggested by several commenters even though they were required by an earlier rule (Amendment No. 179-15, 39 FR 27572, July 30, 1974). Also, updated information on the costs for couplers and the purging of cars has been used in the revised calculations. Adjustments have also been made to take into account that certain of the requirements proposed in the notice are not included in this rule.

The implementation of this rule will require a cash outlay of \$107.9 million in 1976 dollars.

The following summarizes the per unit tank car investment costs of the rule and the number of tank cars thought to be affected.

Car type and utilization	Additional protection	Minimum cost	Number of tank cars
(112T/J, 114T/J) flammable gases, anhydrous ammonia, nonflammable gases, hazardous liquids.	Thermal, head, and couplers.	\$6,900	15,300
(112S, 114S) anhydrous ammonia, nonflammable gases, hazardous liquids.	Head and couplers.	1,900	2,700
(112A, 114A) nonflammable gases, hazardous liquids.	Couplers.	500	2,000

The Bureau believes that the foregoing costs will be offset not only by reductions in the number of accidents involving property loss and damage, but also by the magnitude of dollar losses sustained. This does not take into account the social benefits—and to the extent they can be quantified, the economic benefits—public safety that will be derived by significantly reducing the number of deaths, injuries and evacuations that have characterized the accident experience of 112 and 114 tank cars. Since 1969, more than 500 of these tank cars have been involved in derailments of which more

than 170 of these cars lost some or all of their lading. These occurrences resulted in 20 deaths, 855 injuries, and 45 major evacuations involving more than 40,000 persons. Four of these accidents resulted in estimated losses of more than \$100,000,000.

The Bureau considers that the requirements set forth in this rule represent a cost-effective solution to the safety problems presented by 112 and 114 tank cars over the past several years.

In addition to the substantive matters discussed above, the Bureau has also made several editorial changes to certain

regulatory language proposed in the Notice for the purpose of clarity. These changes in language, unless discussed as part of a substantive provision, do not alter the requirements of any proposal made in the Notice and adopted herein.

Primary drafters of this document are William F. Black, Leavitt A. Peterson, Edward F. Conway, Jr. (Chief Counsel's Office) of the Federal Railroad Administration, Alan I. Roberts and Joseph S. Nalevanko of the Materials Transportation Bureau, and George W. Tenley, Jr. of the Office of the Assistant General Counsel for Materials Transportation Law.

In consideration of the foregoing, Parts 173 and 179 of Title 49 Code of Federal Regulations are amended as follows:

1. In § 173.31 paragraph (a) (3) is revised; paragraph (a) (5) is added to read as follows:

§ 173.31 Qualification, maintenance, and use of tank cars.

(a) * * *

(3) Unless otherwise specifically provided in this Part—

(i) When class DOT-105A, 105AL, 106A, 109A-AL, 110A, 111A, 112A, 112S, 112T, 112J, 114A, 114S, 114T, or 114J tank car tanks are prescribed, the same class tanks having higher marked test pressures than those prescribed may also be used.

(ii) When class DOT-111AW1 tank car tanks are prescribed, class 111AW3 tank car tanks may also be used.

(iii) When class DOT-112A tank car tanks are prescribed, classes DOT-112S, 112T, and 112J tanks having equal or higher marked test pressures than those prescribed may also be used.

(iv) When class DOT-112S tank car tanks are prescribed, classes DOT-112T and 112J tanks having equal or higher marked test pressures than those prescribed may also be used.

(v) When class DOT-114A tank car tanks are prescribed, classes DOT-114S, 114T, and 114J tanks having equal or higher marked test pressures than those prescribed may also be used.

(vi) When class DOT-114S tank car tanks are prescribed, classes DOT-114T, and 114J tanks having equal or higher marked test pressures than those prescribed may also be used.

(5) After June 30, 1979, each specification 112 and 114 tank car built before January 1, 1978, must be equipped with shelf couplers in accordance with § 179.105-6 of this subchapter.

2. In § 173.314 paragraph (c) Table Note 23 is revised and reference thereto in Column 3 opposite Anhydrous ammonia is deleted; Note 24 is added and reference thereto is made in Column 3 opposite Anhydrous ammonia in the space provided by the deletion of Note 23 as follows:

§ 173.314 Requirements for compressed gases in tank cars.

Kind of gas	Maximum permitted filling density, note 1 (in percent)	Required tank car ¹
Anhydrous ammonia	50.0	DOT-106A500-X, note 7.
	57.0	DOT-105A300W.
	57.0	DOT-112A400-F, 112A340-W, 114A340-W, notes 15 and 24.
	58.8	DOT-112A400-F, 112A340-W, 114A340-W, notes 15 and 24.

¹ See sec. 173.31(a) (2) and (3).

NOTE 23.—After Dec. 31, 1981, each specification 112 and 114 tank car built before Jan. 1, 1978, used for the transportation of flammable compressed gases must be equipped with thermal protection and tank head puncture resistance systems in accordance with sec. 179.106 of this subchapter.

NOTE 24.—After Dec. 31, 1981, each specification 112 and 114 tank car built before Jan. 1, 1978, used for the transportation of anhydrous ammonia must be equipped with a tank head puncture resistance system in accordance with sec. 179.105 of this subchapter.

3. Section 179.105 is added immediately following § 179.104 to read as follows:

§ 179.105 Special requirements for Specifications 112 and 114 tank cars.

§ 179.105-1 General.

(a) In addition to the requirements of this section, each tank car built under specification 112 and 114 must meet the applicable requirements of §§ 179.100, 179.101, 179.102, and 179.103.

(b) Notwithstanding the provisions of §§ 179.3, 179.4, and 179.6, AAR approval is not required for changes in or additions to specifications 112 and 114 tank cars necessary to comply with this section.

(c) Notwithstanding the provisions of § 173.8 of this subchapter, after December 31, 1981, each specification 112 and 114 tank car manufactured to specifications promulgated by the Canadian Transport Commission that is not equipped as described in this section may not be used to transport compressed gases in the United States.

§ 179.105-2 New cars.

(a) Each specification 112A and 114A tank car built after December 31, 1977, shall be equipped with a coupler restraint system that meets the requirements of § 179.105-6.

(b) Each specification 112S and 114S tank car built after December 31, 1977, shall be equipped with:

(1) A coupler restraint system that meets the requirements of § 179.105-6; and

(2) A tank head puncture resistance system that meets the requirements of § 179.105-5.

(c) Each specification 112T, 112J, 114T, and 114J tank car built after December 31, 1977, shall be equipped with:

(1) A coupler restraint system that meets the requirements of § 179.105-6;

(2) A tank head puncture resistance system that meets the requirements of § 179.105-5;

(3) A thermal protection system that meets the requirements of § 179.105-4; and

(4) A safety relief valve that meets the requirements of § 179.105-7.

(d) Each specification 112 and 114 tank car shall be stenciled as prescribed in § 179.105-8.

§ 179.105-3 Previously built cars.

(a) After June 30, 1979, each specification 112 and 114 tank car built before January 1, 1978, shall be equipped with a coupler restraint system that meets the requirements of § 179.105-6.

(b) Each tank car built before January 1, 1978, required to meet specification 112S and 114S, shall be equipped with a tank head puncture resistance system in accordance with the requirements of paragraph (d) of this section and § 179.105-5, and be stenciled as prescribed in § 179.105-8.

(c) Each tank car built before January 1, 1978, required to meet specification 112J, 112T, 114J, and 114T, shall:

(1) Be equipped with a thermal protective system that meets the requirements of § 179.105-4;

(2) Be equipped with a tank head puncture resistance system that meets the requirements of § 179.105-5;

(3) Be equipped with a safety relief valve that meets the requirements of § 179.105-7; and

(4) Comply with paragraph (d) of this section.

(5) Be stenciled as prescribed in § 179.105-8.

(d) Each tank car owner shall equip its tank cars which are subject to paragraphs (b) and (c) of this section in accordance with the following schedule:

(1) At least 20 percent of those cars owned on January 1, 1979, must be so equipped by that date;

(2) At least 50 percent of those cars owned on January 1, 1980, must be so equipped by that date;

(3) At least 80 percent of those cars owned on January 1, 1981, must be so equipped by that date; and

(4) All of those cars owned on January 1, 1982, must be so equipped by that date.

§ 179.105-4 Thermal protection.

(a) Performance standard. Each specification 112T, 112J, 114T, and 114J tank car shall be equipped with a thermal protection system that prevents the release of any of the car's contents (except release through the safety relief valve) when subjected to:

(1) A pool fire for 100 minutes; and

(2) A torch fire for 30 minutes.

(b) Test verification. Except as provided in paragraph (c) of this section,

compliance with the requirements of paragraph 'a' of this section shall be verified by testing and analyzing the thermal protection system in accordance with paragraphs 'd', 'e', and 'f' of this section. A complete record of each test verification shall be made, retained and, upon request, made available for inspection and copying by authorized representatives of the Department.

'c' *Excepted systems* The Department maintains a list of thermal protection systems which comply with the requirements of paragraphs 'd' and 'e' of this section and which are excepted from the test verification requirement of paragraph 'b' of this section. Information necessary to equip tank cars with one of these systems, is available in the Section of Dockets, Room 6500, Trans Point Building, 2100 Second Street SW, Washington, D.C. 20590.

'd' *Simulated pool fire test* '1' A pool fire environment shall be simulated in the following manner:

'i' The source of the simulated pool fire shall be a hydrocarbon fuel. The flame temperature from the simulated pool fire shall be at 1,600° F plus-or-minus 100° F throughout the duration of the test.

'ii' An uninsulated square steel plate with thermal properties equivalent to tank car steel shall be used. The plate dimensions shall be not less than one foot by one foot by nominal $\frac{3}{8}$ -inch thick. The plate shall be instrumented with not less than nine thermocouples to record the thermal response of the plate. The thermocouples shall be attached to the surface not exposed to the simulated pool fire, and shall be divided into nine equal squares with a thermocouple placed in the center of each square.

'iii' The pool fire simulator shall be constructed in a manner that results in total flame engulfment of the front surface of the bare plate. The apex of the flame shall be directed at the center of the plate.

'iv' The steel plate holder shall be constructed in such a manner that the only heat transfer to the back side of the plate is by heat conduction through the plate and not by other heat paths.

'v' Before the plate is exposed to the simulation pool fire, none of the temperature recording devices shall indicate the plate temperature in excess of 100° F nor less than 32° F.

'vi' A minimum of two thermocouples devices shall indicate 800° F after not less than 12 minutes nor more than 14 minutes of simulated pool fire exposure.

'2' A thermal insulation system shall be tested in the simulated pool fire environment described in paragraph 'd' '1' of this section in the following manner:

'i' The thermal insulation system shall cover one side of a steel plate identical to that used to simulate a pool fire under paragraph 'd' '1' 'ii' of this section.

'ii' The uninsulated side of the steel plate shall be instrumented with not less

than nine thermocouples placed as described in paragraph 'd' '1' 'ii' of this section to record the thermal response of the steel plate.

'iii' Before exposure to the pool fire simulation, none of the thermocouples on the thermal insulation system steel plate configuration shall indicate a plate temperature in excess of 100° F nor less than 32° F.

'iv' The entire insulated surface of the thermal insulation system shall be exposed to the simulated pool fire.

'v' A pool fire simulation test shall run for a minimum of 100 minutes. The thermal insulation system shall retard the heat flow to the steel plate so that none of the thermocouples on the uninsulated side of the steel plate indicates a plate temperature in excess of 800° F.

'vi' A minimum of three consecutive successful simulation fire tests shall be performed for each thermal insulation system.

'e' *Simulated torch fire test* '1' A torch fire environment shall be simulated in the following manner:

'i' The source of the simulated torch shall be a hydrocarbon fuel. The flame temperature from the simulated torch shall be 2,200° F plus-or-minus 100° F throughout the duration of the test. Torch velocities shall be 40 miles per hour plus-or-minus 10 miles per hour throughout the duration of the test.

'ii' An uninsulated square steel plate with thermal properties equivalent to tank car steel shall be used. The plate dimensions shall be not less than four feet by four feet by nominal $\frac{3}{8}$ -inch thick. The plate shall be instrumented with not less than nine thermocouples to record the thermal response of the plate. The thermocouples shall be attached to the surface not exposed to the simulated torch, and shall be divided into nine equal squares with a thermocouple placed in the center of each square.

'iii' The steel-plate holder shall be constructed in such a manner that the only heat transfer to the back side of the plate is by heat conduction through the plate and not by other heat paths. The apex of the flame shall be directed at the center of the plate.

'iv' Before exposure to the simulated torch, none of the temperature recording devices shall indicate a plate temperature in excess of 100° F or less than 32° F.

'v' A minimum of two thermocouples shall indicate 800° F in a time of 4.0 plus-or-minus 0.5 minutes of torch simulation exposure.

'2' A thermal insulation system shall be tested in the simulated torch fire environment described in paragraph 'e' '1' of this section in the following manner:

'i' The thermal insulation system shall cover one side of a steel plate identical to that used to simulate a torch fire under paragraph 'e' '1' 'ii' of this section.

'ii' The back of the steel plate shall be instrumented with not less than nine thermocouples placed as described in

paragraph 'e' '1' 'ii' of this section to record the thermal response of the steel.

'iii' Before exposure to the simulated torch, none of the thermocouples on the thermal insulation system steel plate configuration shall indicate a plate temperature in excess of 100° F nor less than 32° F.

'iv' The entire outside surface of the thermal insulation system shall be exposed to the simulated torch fire environment.

'v' A torch simulation test shall be run for a minimum of 30 minutes. The thermal insulation system shall retard the heat flow to the steel plate so that none of the thermocouples on the uninsulated side of the steel plate indicates a plate temperature in excess of 800° F.

'vi' A minimum of two consecutive successful torch simulation tests shall be performed for each thermal insulation system.

'f' *Analysis* The analysis required by paragraph 'b' of this section must verify that the entire surface of the tank car, including discontinuous structures (e.g., stub sills, protective housings, etc.), complies with the requirements of paragraph 'a' of this section.

'g' *Exterior tank color* Notwithstanding the provisions of § 179.101-1'a, Table, Note 4, each specification 112 and 114 tank car equipped with thermal protection that complies with the requirements of paragraph 'a' of this section need not be painted white.

§ 179.105-5 Tank head puncture resistance.

'a' *Performance standard* Each specification 112S, 112T, 112J, 114S, 114T, and 114J tank car shall be capable of sustaining, without loss of contents, coupler-to-tank head impacts within the area of the tank head described in § 179.100-23 at relative car speeds of 18 miles per hour when:

'1' The weight of the impact car is at least 263,000 pounds.

'2' The impacted tank car is coupled to one or more "backup" cars which have a total weight of at least 480,000 pounds and the hand brakes are applied on the first car; and

'3' The impacted tank car is pressurized to at least 100 psi.

'b' *Test verification* Compliance with the requirements of paragraph 'a' of this section shall be verified by full scale testing or by the alternate test procedures prescribed in paragraph 'c' of this section. However, protective head shields that meet the requirements of § 179.100-23 or full tank head jackets that are at least $\frac{1}{2}$ -inch thick and made from steels specified in § 179.100-23'a' '1' need not be verified by testing.

'c' *Tank head puncture resistance test* A tank head resistance system shall be tested under the following conditions:

'1' The ram car used shall weigh at least 263,000 pounds, be equipped with a coupler, and duplicate the condition of a conventional draft sill including the draft yoke and draft gear. The coupler shall protrude from the end of the ram

car so that it is the leading location of perpendicular contact with the standing tank car.

(2) The impacted test car shall be loaded with water at six percent outage with internal pressure of at least 100 psi and coupled to one or more "backup" cars which have a total weight of 480,000 pounds with hand brakes applied on the first car.

(3) At least two separate tests shall be conducted with the coupler on the vertical centerline of the ram car. One test shall be conducted with the coupler at a height of 21 inches, plus-or-minus one-inch, above the top of the sill; the other test shall be conducted with the coupler height at 31 inches, plus-or-minus one-inch above the top of the sill. If the combined thickness of the tank head and any additional shielding material at any position over the area described in § 179.105-23 is less than the combined thickness on the vertical centerline of the car, a third test shall be conducted with the coupler positioned so as to strike the thinnest point.

(4) One of the following test procedures shall be applied:

Minimum weight of ram car plus attached cars (in pounds):	Minimum velocity of impact (in miles per hour)	Restriction
283,000	18	1 ram car only.
343,000	16	1 ram car or 1 ram car plus 1 rigidly attached car.
666,000	14	1 ram car plus 1 or more rigidly attached cars.

(5) A test is successful if there is no visible leak from the standing tank car within one hour after impact.

§ 179.105-6 Coupler vertical restraint system.

(a) *Performance standard.* Each specification 112 and 114 tank car shall be equipped with couplers capable of sustaining, without disengagement or material failure, vertical loads of at least 200,000 pounds applied in upward and downward directions in combination with buff loads of 2,000 pounds, when coupled to cars equipped with couplers that do have this vertical restraint capability, and cars equipped with couplers that do not have this vertical restraint capability.

(b) *Test verification and approval.* Except as provided in paragraph (d) of this section, compliance with the requirements of paragraph (a) of this section shall be achieved by verification testing of the coupler vertical restraint system in accordance with paragraph (c) of this section, and approval of the Federal Railroad Administrator.

(c) *Coupler vertical restraint tests.* A coupler vertical restraint system shall be tested under the following conditions:

(1) The test coupler shall be tested with: A mating coupler (or simulated coupler) having only frictional vertical force resistance at the mating interface;

a mating coupler (or simulated coupler) having the capabilities described in paragraph (a) of this section.

(2) The testing apparatus shall simulate the vertical coupler performance at the mating interface and may not interfere with coupler failure or otherwise inhibit failure due to force applications and reactions.

(3) The test shall be conducted as follows:

(i) A minimum of 200,000 pounds vertical downward load shall be applied continuously for at least five minutes to the test coupler head simultaneously with the application of a nominal 2,000-pound buff load;

(ii) The procedures prescribed in paragraph (c) (3) (i) of this section shall be repeated with a minimum vertical upward load of 200,000 pounds;

(iii) A minimum of three consecutive successful tests shall be performed for each load combination prescribed in paragraphs (c) (3) (i) and (c) (3) (ii) of this section. A test is successful when a vertical disengagement or material failure does not occur during any of the prescribed load combinations.

(d) *Listing of approved couplers.* The following classes of couplers have been approved by the Federal Railroad Administrator and need not be verified by the testing requirements of paragraph (c) of this section:

(1) E top and bottom shelf couplers designated by the Association of American Railroads' Catalog No. SE60CHT or SE60CHTE; or

(2) F top shelf couplers designated by the Association of American Railroads' Catalog No. SF70CHT or SF70CHTE.

§ 179.105-7 Safety relief valves.

Notwithstanding the provisions of § 179.105-4, each 112 and 114 tank car shall be equipped with safety relief valves that meet the requirements of Appendix A of the AAR Specifications for Tank Cars. However, the relieving or discharge capacity shall be calculated in accordance with Section A8.01 of Appendix A for compressed gases in non-insulated tanks. If the thermal protection demonstrates that in a pool fire simulation the thermocouples on the back of the steel plate do not indicate a plate temperature in excess of 800°F. for a time period exceeding 100 minutes, the relieving or discharge capacity may be reduced in proportion to the ratio of 100 minutes to the total time in minutes of the steel plate required to exceed 800°F. by at least one thermocouple.

§ 179.105-8 Stenciling.

(a) Each 112 and 114 tank car that is equipped with a tank puncture resistance system as specified in § 179.105-5 shall have the letter "S" substituted for the "A" in the specification marking.

(b) Each 112 and 114 tank car that is equipped with a thermal protection system enclosed in a metal jacket shall have the letter "J" substituted for the "A" and "S" in the specification marking.

(c) Each 112 and 114 tank car that is equipped with a non-jacketed thermal

protection system shall have the letter "T" substituted for the "A" and "S" in the specification marking.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e).)

Note.—The Materials Transportation Bureau has determined that this document does not contain a major proposal requiring the preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107 or an environmental impact statement under the National Environmental Policy Act (42 U.S.C. 4321 et seq.).

Issued in Washington, D.C., on September 9, 1977.

JOHN J. FEARNSIDES,
Acting Director,

Materials Transportation Bureau.

[FR Doc. 77-26774 Filed 9-14-77; 8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of Audubon National Wildlife Refuge, N. Dak., to Deer Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to deer hunting of Audubon National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: November 11, 1977, through November 20, 1977.

FOR FURTHER INFORMATION CONTACT:

David C. McGlauchlin, Refuge Manager, Audubon National Wildlife Refuge, Coleharbor, N. Dak. 58531. Phone 701-442-5474.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas

Dear Gun Hunting is permitted on the Audubon National Wildlife Refuge, N. Dak., only on the areas designated by signs as being open to hunting. These areas comprising 13,387 acres are delineated on maps available at the refuge headquarters and from the office of the Area Manager, 1500 Capitol Avenue, Bismarck, N. Dak. 58501. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

(1) Hunting is permitted from 12 noon, C.S.T. November 11, 1977 to sunset that day, and from sunrise to sunset each day from November 12 through November 20, 1977.

(2) All hunters must exhibit their hunting license, deer tag, game, and vehicle contents to Federal and State officers upon request.

(3) Vehicular traffic, including the use of boats, is prohibited by hunters on the refuge during the deer season.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

DAVID C. MCGLAUCHLIN,
Refuge Manager, Audubon National Wildlife Refuge, Cole-harbor, N. Dak.

SEPTEMBER 8, 1977.

[FR Doc.77-26765 Filed 9-14-77;8:45 am]

PART 32—HUNTING

Opening of DeSoto National Wildlife Refuge, Nebr., to Muzzleloader Deer Hunting
AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to muzzleloader deer hunting of the DeSoto National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: December 17, 1977, through December 21, 1977, both dates inclusive.

FOR FURTHER INFORMATION CONTACT:

George Gage, Refuge Manager, DeSoto National Wildlife Refuge, R-1, Box 114, Missouri Valley, Iowa 51555. Telephone AC 712-642-4121.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Muzzleloader hunting of deer on the DeSoto National Wildlife Refuge, Nebr., is permitted only on the area designated by signs as being open to hunting. This area contains approximately 3,350 acres.

All hunting shall be accordance with applicable state regulations subject to the following conditions:

1. A total of 100 special permits will be issued for the hunt by the Nebraska Game and Parks Commission. Only those persons possessing a valid permit will be allowed to enter the open area;

2. Muzzleloader rifles are the only weapons allowed and deer are the only legal wildlife species that may be taken during the hunt;

3. Discharging firearms from or across all roads open to vehicle traffic, including adjacent rights-of-way, is prohibited;

4. Parking is restricted to designated parking areas and road shoulders of unpaved roads. Parking on shoulders of paved roads is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuges generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 7, 1977.

GEORGE E. GAGE,
Refuge Manager.

[FR Doc.77-26857 Filed 9-14-77;8:45 am]

PART 32—HUNTING

Opening of Flint Hills National Wildlife Refuge, Kans., to Sport Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to sport hunting of Flint Hills National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Hunting seasons as determined by applicable State and Federal laws.

FOR FURTHER INFORMATION CONTACT:

Michael J. Long, P.O. Box 128, Hartford, Kans. 66854. Telephone No. 316-364-8381.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of mourning doves, rails, woodcock, and Wilson's snipe, on the Flint Hills National Wildlife Refuge, Kans., is permitted only on the area designated by signs as open to hunting. This open area is delineated on maps available at refuge headquarters, Hartford, Kans., and from the Area Manager, U.S. Fish and Wildlife Service, Federal Building, Room 1748, 601 East 12th Street, Kansas City, Mo. 64106. Hunting seasons are in accordance with Kansas State regulations, and all applicable State and Federal hunting laws and regulations apply.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under

Executive Order 11949 and OMB Circular A-107.

Dated: September 8, 1977.

MICHAEL J. LONG,
Refuge Manager.

[FR Doc.77-26764 Filed 9-14-77;8:45 am]

PART 32—HUNTING

Opening of Loxahatchee National Wildlife Refuge, Boynton Beach, Fla., to Duck and Coot Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to public duck and coot hunting on Loxahatchee National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: See State regulations.

FOR FURTHER INFORMATION CONTACT:

Thomas W. Martin, Refuge Manager, South Florida Complex, Rt. 1, Box 278, Boynton Beach, Fla. 33437. Telephone 305-732-3684.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; big games; for individual wildlife refuge areas.

Public duck and coot hunting is permitted on Loxahatchee National Wildlife Refuge, Fla., only on the areas designated by signs as being open to public hunting. These areas comprising 29,000 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive NE., Atlanta, Ga. 30329. Duck and coot hunting shall be in accordance with all applicable State and Federal regulations subject to the following conditions:

1. Daily Bag Limits: See State regulations.

NOTE.—Only ducks and coots may be taken on the refuge.

2. Open Season: See State regulations.

3. Daily Shooting Hours: One-half hour before sunrise to sunset.

4. All hunters must possess a refuge permit to hunt on Loxahatchee National Wildlife Refuge. Apprehension for violation of any hunt regulations will result in revocation of this permit.

5. All air-thrust boat operators must possess a valid refuge permit for operating on Loxahatchee National Wildlife Refuge. This permit will be revoked upon apprehension for a violation of any hunt regulation.

6. Entry to Refuge: Hunters are required to enter and leave the refuge from the headquarters landing or the S-39 landing (Loxahatchee Recreation Area). Air-thrust boats may be launched at the

headquarters landing only. Use of the refuge is limited to the hours from one and one-half hours before sunrise to one hour after sunset. Hunters must use the designated routes of travel to and from the hunting area. These routes are those portions of Canal 40 and Canal 39 (Hillsboro Canal) immediately east and south of the hunting area. The refuge marsh near the headquarters and S-39 landing lying between the hunting area and said portions of the above canals may also be used for travel. No hunting is permitted in these canals or the marsh off-sets.

7. Firearms: Hunters must carry unloaded shotguns that are dismantled or cased over the routes stated under Item 6 in traveling to and from the hunting area.

8. Only steel shot ammunition may be used. The possession or use of shotgun shells with lead or other toxic shot is prohibited.

9. Hunting Dogs: Hunters are permitted to use dogs for the purpose of retrieving dead or wounded birds.

10. All Boats: For safety reasons all boats must display a light when traveling to and from the hunting area when traveling in darkness. All boats operating within the public hunting area are required to fly a flag 12" x 12" ten feet above the bottom of the boat.

11. Blinds: Only temporary blinds constructed of native vegetation are permitted.

12. Posted Areas: The public hunting area has been designated by red signs with black lettering. Other signs designated closed areas.

13. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Dated: September 8, 1977.

HAROLD W. BENSON,
Acting Regional Director.

[FR Doc. 77-26766 Filed 9-14-77; 8:45 am]

PART 32—HUNTING

Opening of Wassaw Island National Wildlife Refuge, Ga., to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Wassaw Island National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: December 7, 8, and 9, 1977.

FOR FURTHER INFORMATION CONTACT:

John P. Davis, Refuge Manager, Savannah National Wildlife Refuge Complex, P.O. Box 4623, Savannah, Ga. 31402. Telephone 912-232-4321, ext. 415.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Hunting is permitted on the Wassaw Island National Wildlife Refuge, Ga., only on the areas designated as being open to hunting. These areas comprising 2,000 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, 17 Executive Park Drive, NE., Atlanta, Ga. 30329. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. Entry on the refuge will not be permitted more than one day in advance of the opening date of the hunt period. Participants will be confined to the camping area until the morning of the first day of the hunt period, and must be off the Island the day following the last day of the hunt period.

2. All camping will be at designated areas only. Fires must be confined to the camping area.

3. Hunters must check in at the Wassaw Refuge Headquarters and leave their boats at the refuge dock.

4. Only antlerless deer may be taken the first hunt day. Deer of either sex may be taken on other hunt days. All State Regulations and bag limits will be enforced. A maximum of two deer may be taken.

5. Hunting hours are according to State regulations. During the periods from 7 a.m. until 9:30 a.m. and from 3 p.m. until 5:35 p.m. each day, hunters must be on their stands. No movement during these hours will be tolerated.

6. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile, but in no case should one adult have more than two juveniles under his/her supervision.

7. Blazing, driving spikes, painting, applying tape, or damaging or destroying trees and shrubbery in any manner is prohibited. Deer stands which will damage trees are not permitted.

8. All forms of litter should be placed in trash receptacles for proper disposal.

9. Transportation is not provided to and from the Islands or on the Islands. Any movement after reaching Wassaw Island must, of necessity, be by foot. You are not allowed to leave by boat to go to the other parts of Wassaw Island.

10. A Federal permit is required. Only hunt participants with proper licenses and permits will be permitted on the refuge to hunt and camp.

11. Only rifles and shotguns 20 gauge or larger using slugs may be used during the gun hunt. Handguns and buckshot

are prohibited. Target practice during the gun hunt is prohibited. Weapons must be unloaded and cased except during the daily hunting periods.

12. Gun hunters must wear outer garments containing at least 500 square inches of daylight fluorescent orange colored material above the waistline.

14. The Wassaw Island National Wildlife Refuge will be closed to the general public December 6-9, 1977.

The provisions of this special regulations supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 8, 1977.

HAROLD W. BENSON,
Acting Regional Director.

[FR Doc. 77-26767 Filed 9-14-77; 8:45 am]

PART 32—HUNTING

Opening of Yazoo National Wildlife Refuge, Mississippi to Big Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to big game hunting of Yazoo National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: White Tail Deer (Archery): November 1, 1977 through November 12, 1977 (Sundays excluded). White Tail Deer (Gun): December 26, 1977 through December 31, 1977.

FOR FURTHER INFORMATION CONTACT:

James M. Dale, Refuge Manager, Route 1, Box 286, Hollandale, Mississippi 38748, telephone 601-839-2638.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Deer hunting is permitted on the Yazoo National Wildlife Refuge, Mississippi, in wooded areas only, including wooded areas not designated by signs as closed to hunting. The open areas comprising 7,800 acres are delineated on a map along with special regulation sheets and are available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, N.E., Atlanta, Georgia 30329. Big game hunting shall be in accordance with all State regulations subject to the following conditions:

RULES AND REGULATIONS

1. Bag limit: One deer of either sex during the archery hunt. One buck with antlers 4 inches or longer during the gun hunt.

2. Weapons: Archery, long bows only with broadhead arrows. Use or possession of drugged arrows is prohibited. Gun—Shotguns, 20 gauge and larger, and centerfire rifles .22 caliber or larger. No handguns are permitted.

3. A refuge deer hunting permit is required. Entry of hunting area without permit is prohibited. Submission of more than one application or applications containing false information is prohibited.

4. Firearms may not be discharged within 250 yards of residences or the refuge headquarters. Carrying of loaded firearms in vehicles and shooting from or across County or State roads are prohibited.

5. All deer killed must be checked out at refuge checking station.

6. Hunters may enter the hunting area no earlier than 1 hour before sunrise. Archery hunters must depart the hunting area immediately after sunset. Gun hunters must depart the hunting area no later than 1 hour after sunset.

7. Each hunter under age 18 must be under the close supervision of an adult bearing a permit. For safety reasons, the ratio should be one adult to one juvenile. In no case should one adult have more than two juveniles under his/her supervision.

The provisions of this special regulation supplement the regulations which govern big game hunting on wildlife

refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 8, 1977.

HAROLD W. BENSON,
Acting Regional Director.

[FR Doc.77-26768 Filed 9-14-77;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 981]

HANDLING OF ALMONDS GROWN IN CALIFORNIA

Administrative Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule reduces the tolerance for inedible almonds to improve the quality of almonds entering the market. The rule also changes certain reporting requirements for handlers of California almonds by simplifying procedures and adapting reports to current needs.

DATE: Written comments to this proposal must be received by September 30, 1977.

ADDRESS: Written comments should be submitted in duplicate to the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

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: Notice is given to amend Subpart—Administrative Rules and Regulations (7 CFR 981.441-981.481; 42 FR 3159, 5341, 5677, 19371) by revising §§ 981.442, 981.473 and 981.474. The subpart is issued under the marketing agreement, as amended and Order No. 981, as amended (7 CFR Part 981), regulating the handling of almonds grown in California. The marketing agreement and order are collectively referred to as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The proposals are based on a unanimous recommendation of the Almond Board of California.

Section 981.42 provides for each handler to cause to be determined, through the inspection agency, and at the handler's expense, the percent of inedible kernels in each variety of almonds received by him, and report this determination to the Board. The quantity of inedible kernels in each variety in excess of two percent of the kernel weight received, constitutes a weight obligation to

be accumulated in the course of processing and shall be delivered to the Board, or Board accepted crushers, feed manufacturers, or feeders. Section 981.42 also authorizes the Board, with the approval of the Secretary, to change this percentage for any crop year, and to establish rules and regulations necessary and incidental to the administration of this provision, including, among other things, that the Board for good cause may waive portions of obligations for those handlers not generating inedible material from such sources as blanching or manufacturing. Section 981.442 implements § 981.42 and specifies the manner in which the inedible kernelweight of almonds is to be determined and methods by which a handler can satisfy his inedible kernelweight obligation. It also provides procedures for waiving a portion of the disposition obligations of those handlers not blanching almonds or manufacturing almond products.

Currently, § 981.442(a) (4) requires disposition of the weight of inedible kernels in excess of two percent of the kernel weight reported to the Board. As a means of further improving the quality of almonds entering trade channels, the Board recommended reduction of this percentage to one and one-half percent. Therefore, the proposal is to revise §§ 981.442 (a) (4) and (a) (6) by lowering the percentage prescribed in each subparagraph to one and one-half percent. Section 981.442(a) (6) deals with the partial waiver of a handler's disposition obligation.

Section 981.61 provides the basis by which volume and financial obligations of handlers are determined. This is known as the redetermination of kernelweight. This section prescribes when a handler must file redetermination reports and the method to be used in calculation of the redetermination of kernelweight.

Section 981.473 Redetermination reports, elaborates on the information required under § 981.61. Currently, § 981.473(f) requires a handler to report, as part of his redetermination report, his undelivered sales. This is a report of all almonds sold but not delivered, showing the weight of such almonds and whether they are unshelled or shelled. The Board indicated this information is unnecessary for the purposes of redetermination.

However, the Board needs information on deliveries of almonds to Board accepted crushers, feed manufacturers or feeders for the purpose of establishing assessment obligation. Thus, paragraph (f) would be revised to require a handler to report the weight of all almonds he must deliver to such outlets to meet his disposition obligation pursuant to § 981.42 (a). The revision would ease the burden

on a handler in paying assessments which would subsequently be refunded. This occurs because § 981.442(a) (5) permits a handler to satisfy his disposition obligation no later than July 30 of the succeeding crop year in which the obligation has been incurred, but § 981.73 requires that handlers file redetermination reports by July 15. Thus, the proposal removes the need for the Board to readjust a handler's assessment obligation on the basis of his subsequent deliveries of almonds to exempt outlets. It would also enable the Board to determine its financial position at an early date after the end of the crop year.

Section 981.474 prescribes other reports the handler must file. These include reports of shipments, export sales and deliveries, and diversions, and intentions to divert reserve almonds to non-competitive outlets.

Section 981.474 would be revised to update these reports and make them more understandable to handlers. It would also give the Board ready access to information it needs. In order to describe the true nature of its contents, the proposal changes the title of that section from "report of shipments" to "report of shipments and commitments". Also, § 981.474(a) would be revised to require each handler to report his commitments (almonds not shipped but sold or otherwise obligated) to the Board on ABC Form 25. These commitments would be reported as domestic contract, export contract, and noncontract, and as inshell, shelled, or manufactured.

Section 981.474(b) pertains to the reporting of export sales. This information is necessary in those crop years when a handler is permitted to satisfy his reserve obligation by exporting almonds pursuant to § 981.67. Paragraph (b) would be revised so that it would not apply whenever export shipments are included with domestic shipments in the estimated trade demand for a crop year. In that event, handlers would still report export shipments, by countries of destination on ABC Form 25 pursuant to paragraph (a) of § 981.474.

The proposals to amend Subpart-Administrative Rules and Regulations are as follows:

1. Revise § 981.442(a) (4) and (6) to read as follows:

§ 981.442 Quality Control.

(a) * * *

(4) *Disposition obligation.* The weight of inedible kernels in excess of one and one-half percent of the kernel weight reported to the Board of any variety received by a handler shall constitute his disposition obligation. If a variety other

than Peerless is used as bleaching stock, the weight so used may be reported to the Board and the disposition obligation for that variety reduced proportionately.

(6) *Partial waiver of obligations.* Any handler generating inedible kernels only in the form of pickouts after shelling, may petition the Board for a waiver of the difference between this inedible weight and his disposition obligation. The petition will be granted only if the handler certifies to the Secretary and the Board that (i) he did not engage in any blanching, cutting, chopping, or other processing of almond kernels during the crop year (ii) all almonds shelled by or for him were hand-picked on belts and the visibly inedible almonds removed, and (iii) that he did not place into trade channels any almonds with more than one and one-half percent inedibles. However, no waiver shall be granted for more than 30 percent of the handler's inedible disposition obligation.

2. Revise § 981.473(f) to read as follows:

§ 981.473 **Redetermination reports.**

(f) *Exempt outlet deliveries.* A report showing the quantity of almonds delivered by a handler to Board accepted crushers, feed manufacturers, or feeders, and—for the purpose of establishing the assessment obligation—the quantity of almonds the handler must deliver to the Board approved outlets to meet his disposition obligation pursuant to § 981.42(a).

3. Revise § 981.474 to read as follows:

§ 981.474 **Report of shipments and commitments.**

(a) Each handler shall report on ABC Form 25 the following: (1) All shipments of almonds, inshell and shelled and by classification (domestic, and export by countries of destination); and (2) all commitments (almonds not shipped, but sold or otherwise obligated) whether domestic contract, export contract, or non-contract. If the destination of any export is unknown to the handler, he shall have the broker/exporter furnish this information to the Board. In support of this report, the handler shall keep invoices on the shipments, or such other documentation as may be acceptable to the Board. The reports shall be filed with the Board within five business days after the close of each month of the crop year.

(b) At the time of each export sale, each handler shall report it to the Board on ABC Form 18 and upon delivery into export shall report this on ABC Form 19. If any export is not made directly by the handler, he shall send the ABC Form 19 to the broker-exporter and request him to make the report to the Board. These forms shall include the number and type of container, net weight, variety and whether inshell or shelled, time of export and destination. In years of minimum export prices applicable to

reserve almonds, ABC Form 19 shall include the grade and size, the inspection certificate number, the price and any terms defining the price. Whenever export shipments are included with domestic shipments in the estimated trade demand for a crop year, this paragraph shall not apply.

Dated: September 12, 1977.

CHARLES R. BRADER,
Deputy Director,
Fruit and Vegetable Division.

[FR Doc. 77-26934 Filed 9-14-77; 8:45 am]

[7 CFR Part 989]

RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Proposed Addition of Australia to the List of Countries to Which Reserve Tonnage Raisins May Be Exported

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice of proposed rulemaking invites written comments on making Australia eligible for sales of reserve tonnage raisins under the Federal marketing order for California raisins. This would provide raisin handlers with another available export outlet for reserve raisins, additional flexibility in selling such raisins overseas, and could facilitate exports of California raisins. The proposal was recommended by the Raisin Administrative Committee.

DATES: Comments must be received prior to September 30, 1977.

ADDRESSES: Comments should be addressed to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250. Two copies of all written comments should be submitted, and they will be available for public inspection at the office of the Hearing Clerk during regular business hours.

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:

The proposal is to revise the list of countries to which raisin handlers may sell reserve raisins to permit sales to Australia. This list is contained in § 989.221 of Subpart—Supplementary Regulations (7 CFR 989.231). The Subpart is operative pursuant to the marketing agreement, as amended, and Order No. 989, as amended (7 CFR Part 989; 42 FR 37200), regulating the handling of raisins produced from grapes grown in California (hereinafter referred to collectively as the "order"). The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

Currently, all countries outside of the Western Hemisphere except Australia are eligible outlets for reserve raisins. The Western Hemisphere is defined to exclude Greenland. Rather than preparing a list containing hundreds of countries, the countries are specified by hemisphere. Section 989.67(c) of the order requires the Committee to review the list of countries annually and recommend changes as conditions warrant. It recommended that Australia be made eligible for sales of reserve raisins to provide raisin handlers another available export outlet for reserve raisins, additional flexibility in selling such raisins overseas, and to facilitate exports of California raisins.

The proposal is to revise § 989.221 to read as follows:

§ 989.221 **Countries to which sale in export of reserve raisins may be made by handlers.**

The countries to which sale in export of reserve raisins may be made by handlers shall be all of those countries outside of the Western Hemisphere. For purposes of this section "Western Hemisphere" means the area east of the international dateline and west of 30 degrees W. longitude but excluding all of Greenland. All of the countries covered by this section to which sale in export of reserve raisins may be made shall be deemed listed in this section for the purposes of § 989.67(c).

Dated: September 12, 1977.

CHARLES R. BRADER,
Deputy Director,
Fruit and Vegetable Division.

[FR Doc. 77-26935 Filed 9-14-77; 8:45 am]

Farmers Home Administration

[7 CFR Part 1822]

[FmHA Instruction 444.5]

RENTAL ASSISTANCE FOR LOW INCOME TENANTS

Rural Rental Housing Loan and Grant Policies, Procedures, and Authorizations

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration proposes to add a new Exhibit F-5A and Exhibits R, R-1, R-2, R-3, and R-4, and to revise Exhibit J-2 and Form FmHA 444-7, which will provide for a new Rental Assistance Program. This action is brought about by a need in rural communities for additional assistance to low income families and senior citizens who cannot pay the monthly rental rate with 25 percent of their income. The intended effect is to provide rental assistance for qualified individuals occupying eligible rural rental housing, rural cooperative housing, and labor housing projects.

DATES: Comments must be received on or before October 17, 1977.

ADDRESSES: Submit written comments to the Office of the Chief, Directives

Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, South Building, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above during regular business hours (8:15 a.m. to 4:45 p.m.).

FOR FURTHER INFORMATION CONTACT:

Mr. Paul R. Conn, Director, Multiple Family Housing Loan Division, 202-447-7207.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration proposes to add new Exhibits F-5A, R, R-1,

R-2, R-3, and R-4 to Subpart D of Part 1822, Title 7, Code of Federal Regulations. Exhibit J-2 is revised to provide a Project Worksheet for computing tenants' rental rates and the amount of rental assistance. The benefits provided by Exhibit R will supplement the benefits available to tenants under the interest credit program which is outlined in Exhibit J to Subpart D. The objective of the rental assistance program is to reduce the rent paid by low income families.

As proposed, Exhibits F-5A, R, R-1, R-2, R-3, and R-4 are added to Subpart D of Part 1822 and Exhibit J-2 and Form FmHA 444-7 are revised and read as follows:

FmHA Instruction 444.5
Exhibit F-5A
Page 1

HOUSING ALLOWANCES FOR
UTILITIES AND OTHER PUBLIC SERVICES

NAME OF BORROWER

LOCATION AND IDENTIFICATION OF PROJECT

PART I

Monthly Dollar Allowances

UTILITY OR SERVICE	0-BR	1-BR	2-BR	3-BR	4-BR	5-BR
HEATING						
a. Natural Gas						
b. Bottle Gas						
c. Oil						
d. Electric						
AIR CONDITIONING						
COOKING						
a. Natural Gas						
b. Electric						
c. Bottle Gas						
OTHER ELECTRIC LIGHTING, REFRIGERATION, ETC.						
WATER HEATING						
a. Natural Gas						
b. Electric						
c. Bottle Gas						
d. Oil						
WATER						
SEWER						
TRASH COLLECTION						
OTHER (Specify)						

PREPARED BY: _____
Borrower or Agent Title Signature Date

APPROVED BY FARMERS HOME ADMINISTRATION

Name Title Signature Date

PROPOSED RULES

FmHA Instruction 444.5
Exhibit F-5A
Page 2

HOUSING ALLOWANCES FOR UTILITIES AND OTHER SERVICES

PART II

BLOCK A		BLOCK B	
TO:		ALLOWANCE FOR UTILITIES AND SERVICES BILLED DIRECTLY TO AND PAID BY TENANT	
Name of Tenant			Per Month
Address of Tenant			
No. of Bedrooms		Heating	\$ _____
		Air Conditioning	_____
		Cooking	_____
		Other Electric	_____
		Water Heating	_____
		Water	_____
		Sewer	_____
		Trash Collection	_____
		Other (Specify)	_____
		TOTAL	\$ _____
Signature of Borrower or Agent			
Date			

You will be billed direct for the utility and service charges as listed in this PART BLOCK B. The amount in total is the same amount as shown in your lease which is credited toward the total monthly rental rate for the unit you are occupying.

FmHA INSTRUCTION 444.5, EXHIBIT F-5A

INSTRUCTIONS FOR PREPARATION AND USE OF HOUSING ALLOWANCES FOR UTILITIES AND OTHER PUBLIC SERVICES

I. *General.* These are instructions for completing Exhibit F-5A for the establishment and use of approved utility allowances for tenants. All allowances established for the housing units shall be based on the average cost of utilities and services paid by occupants of similar size and type housing in the same locality. Allowances shall not be based on energy consumption or costs of above average or below average income families. The objective shall be to establish allowances at levels that will apply to the majority of the families assigned to the proper size unit.

II. *Determining Allowances.* A. In general, the borrower shall to the extent possible use local sources of information on the cost of utilities and services. The following local sources should be contacted:

1. Electric utility suppliers.
2. Natural gas utility suppliers.
3. Water and sewer suppliers.
4. Fuel oil and bottle gas suppliers.
5. Public service commissions.
6. Real estate and property management firms.
7. State and local agencies including public housing authorities.

B. Allowances approved by FmHA or HUD for nearby localities with essentially the same type of housing stock should also be examined and may be used if determined adequate. In most cases fuel or utility rates normally will not vary appreciably in neighboring communities, and where data is not available in small communities, approved al-

lowances for larger nearby communities may be used.

Data from other housing projects in the area may be used, providing the housing units are of similar size and type and serve comparable size families.

C. Separate heating and cooling allowances shall be established for the various types of multiple family housing financed by FmHA in the locality for which there are significant differences in fuel costs for the same number of bedrooms. For example, separate allowances may be needed for duplexes, row or townhouses, garden and low and medium rise apartments. In addition to establishing different heating and cooling allowances for various types of structures, attention should be given to different allowances for water, depending on whether tenants will have responsibilities for lawn care.

D. The data to be solicited from the local sources shown in paragraph II A should be as close as possible in form and detail to the format of Exhibit F-5A. If possible, all consumption data should be obtained for each unit size and type. If data is available only for an average unit size (2.5 bedrooms), multiply the utilities costs for the average unit by the following factors:

Size of unit:	Factor
No bedroom.....	0.5
1 bedroom.....	.7
2 bedrooms.....	.9
3 bedrooms.....	1.1
4 bedrooms.....	1.4
5 bedrooms.....	1.6

Example: Natural gas heating cost for average sized unit is \$18 per month. The al-

lowance for a four-bedroom unit will be $1.4 \times \$18 = \25 (rounded to nearest dollar).

E. Allowances for air conditioning shall be established only for those projects which are cooled by a central air conditioning system and for projects that are equipped with wall or portable units as a part of the permanent equipment.

F. The cost of gas and electricity varies according to amounts consumed as shown on the appropriate rate schedules of the supplier. It is not possible to compute exactly the cost of electricity for any given function without knowing the total electrical usage for a unit. However, because neither the borrower nor the families know beforehand just what will be the combination of utilities for any unit rented, it will be necessary to approximate the allowances for each function (e.g., heating, cooking, etc.) as follows: for electricity the rates used for lighting, refrigeration and appliances should be from the top of the rate schedule or the higher unit costs. Allowances for electric cooling, water heating and space heating and cooling should be computed from the middle or lower steps in the rate schedules. Similarly, allowances for gas used for water heating and cooking should be computed using rates from the top of the rate schedule and for heating from the lower steps.

III. *Preparation.* A. Exhibit F-5A will be completed in the original and three copies for each different type of unit in a project in all instances when a "Statement of Budget, Income, and Expense" is required to be completed. This form will establish the allowances for all type and size units in the project. The allowances shall be adequate for all utilities and any authorized services which are or will be available to the tenants, except telephone and cable TV. The allowances for utilities as determined in Part I of this form will be the basis of the operating expenses used in budget preparation. The forms will be signed by the borrower. The original and two copies of the form will be submitted to FmHA. Backup data and necessary documentation should be included with the submission.

B. If FmHA finds the allowances acceptable, the approval portion of Part I will be completed on all copies and the original and one copy returned to the County Supervisor. The County Supervisor will keep a copy for the county office file and return the original to the borrower. The borrower will complete Part II of the form and provide copies to each tenant to be attached to and become a part of the lease entered into by the borrower and tenant. The form will provide the family with the amount of allowance for each of the utilities and services which are to be paid by the family. If all utilities and services are paid by the borrower, Part II Block B of the form will show "none".

IV. *Submission of Supporting Data to FmHA.* The applicant will submit to FmHA adequate data to justify the utility allowance for the project. The data will include the following:

- A. Completed Exhibit F-5A.
- B. List of local sources contacted for information and copies of any data provided by such sources.
- C. Any data on allowances already established for the area.
- D. Complete narrative statement and computations on method used in arriving at the allowances.

WARNING
Section 1081 of Title 18, United States Code provides: "Whoever, at any meeting within the jurisdiction of any department or agency of the United States knowingly and willfully... makes any false, fictitious or fraudulent statement or representation, or makes or causes any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both."

FmHA Instruction 444.5
Exhibit J-2
Page 1

PROJECT WORKSHEET FOR INTEREST CREDIT
AND RENTAL ASSISTANCE

PART I

Borrower Name (18)	
Case Number (19)	Location of Project (20)

Kind of Loan (Check appropriate block) (21)

RRH RCH LH

Plan of Operation (Check appropriate block) (22)

Profit Plan I Plan I S &
 Plan II Plan II RA Plan RA

This report is for the month of _____, 19__

In accordance with Farmers Home Administration's formula and procedures, all rental units are occupied by families who have executed Form FmHA 444-8, "Tenant Certification" and are farmworkers if this is a labor housing project or if this is a rental housing project, have incomes within the limitations as set forth in FmHA regulations or the project has written permission from FmHA to rent to ineligible occupants on a temporary basis. The amount of payment, overage, surcharge, credit to the payment and/or request for payment for the loan(s) for this project is as follows:

1 Payment Amount	2 Loan Number	3 Overage or Surcharge	4 Total Payment	5 Rental Asst. Payment Due Borrower	6 No. Units Rec'ing Rent Asst
(23)	(24)	(25)	(26)	(27)	(28)
			(29)		

I certify that the statements made above and in Part II are true to the best of my knowledge and belief and are made in good faith.

(30)
(Date)

(31)
(Signature-Borrower or Borrower's Representative)

County Office Schedule No.

--	--	--

 (32)

FmHA INSTRUCTION 444.5, EXHIBIT J-2, PAGE 1
INSTRUCTIONS FOR PREPARATION

*Project Worksheet for Interest Credit
and Rental Assistance*

This exhibit will be used by all RRH, RCH, and LH borrowers when making scheduled payments to the County Office. The exhibit is composed of two parts, Part I and Part II. Borrowers who are obtaining neither interest credit or rental assistance will complete only Part I. Part I and Part II will be completed by borrowers who are operating under any plan which involves overages, surcharges or rental assistance. This completed exhibit provides the borrower and FmHA with a uniform worksheet for preparation of the Form FmHA 444-9, "Multiple Housing Certification and Payment Transmittal". The exhibit will be prepared by the borrower in original and one copy. The original will be signed by the borrower and forwarded to the County Office. The copy will be retained by the borrower.

The project worksheet will be completed in accordance with the following:

(1) If more than one page of Part II is needed, number the pages such as 1 of 2, 2 of 2.

(2) Enter borrower's name. (Use the same name as shown on the note.)

(3) Enter the month and year for which the worksheet is prepared. Reports should show the status of all tenants on the first day of each month.

(4) Enter apartment number or other identification of the rental units.

(5) Enter size of the unit i.e. 0 BR (for efficiency, 1 BR, 2 BR, etc.

(6) Enter name of tenant who is head of the household. If unit is leased to two or more unrelated persons, show the surname of each person. (Separate Forms FmHA 444-8, "Tenant Certification," should be obtained from each.)

(7) Enter number of persons occupying the unit. (Note limitations contained in Rental Assistance Agreement).

(8) For RRH projects operating in accordance with Plan II, enter the basic monthly rental rate as determined by the budget, including cost of all utilities for the unit whether paid by the owner or by the tenant. Leave blank for RRH direct loans, RRH insured loans approved prior to August 1, 1968, and LH loans.

(9) Enter market monthly rental rate as determined by the budget, including cost of all utilities for the unit whether paid by the owner or by the tenant.

(10) Enter 25 percent of the tenant's adjusted monthly income.

(11) A. For Projects Operating without Rental Assistance. 1. For RRH projects operating in accordance with interest credit Plan II, enter the amount the tenant is required to pay, including the cost of all utilities for the unit whether paid by the owner or by the tenant. This amount will be 25 percent of the family's adjusted monthly income but never less than the basic rent shown in item (8), nor more than the market rent shown in item (9).

2. For those RRH projects operating in accordance with Plan I, all LH, direct RRH loans and insured RRH loans approved prior to August 1, 1968, enter the amount the tenant is required to pay, including the cost of all utilities for the unit whether paid by the owner or by the tenant. This amount will be the same as in item (9).

B. For Project Operating with Rental Assistance. 1. For those tenants utilizing rental assistance in RRH projects operating in accordance with interest credit Plan II, enter the amount the tenant is required to pay, including the cost of all utilities for the unit whether paid by the owner or by the

tenant. This amount will be the same as in item (10). For those tenants not obtaining rental assistance, enter the amount that the tenant will be required to pay, including the cost of all utilities for the unit whether paid by the owner or by the tenant. This amount will never be less than the basic rent shown in item (8), nor more than the market rent shown in item (9).

2. For all LH, direct RRH loans, and insured RRH loans approved prior to August 1, 1968, enter the amount the tenant will be required to pay, including the cost of all utilities for the unit whether paid by the owner or by the tenant. For those tenants obtaining rental assistance this amount will be the same as in item (10). For those tenants not obtaining rental assistance this amount will be the same as in item (9).

C. For Plan I Projects with Ineligible Tenants. For ineligible tenants occupying a unit in a project being operated in accordance with Plan I, except for a project with all units under Section 8 Contract, the amount of tenant's monthly rental payment will be 120 percent of the market monthly rental for the units as shown in item (9) regardless of the tenants monthly income shown in item (11).

(12) For Projects utilizing FmHA rental assistance payments program only.—A. For those RRH projects operating in accordance with Plan II enter the amount of rental assistance which is the difference between the amount shown in item (8) and item (10) when the amount in item (10) is less than the amount in item (8).

B. For all LH, direct RRH, and insured RRH loans approved prior to August 1, 1968, enter the amount of rental assistance which is the difference between the amount shown in item (9) and item (10) when the amount in item (10) is less than the amount in item (9).

(13) For projects operating in accordance with Plan I the amount to be entered for ineligible tenant families is 20 percent of the market rental rate shown in item (9). For projects operating in accordance with Plan II, enter the difference between basic rent, item (8), and 25 percent of the adjusted monthly family income, item (10), when the amount in item (10) is greater than item (8).

(14) Enter the amount of monthly utility allowance for the unit as determined during the budget preparation and approved by FmHA. Indicate when tenant pays the utility by the letter "U" after the amount.

(15) This column will be completed only for units utilizing FmHA rental assistance payments program. An amount will be shown only when a payment is due the tenant to pay utilities when utilities are billed to and paid by the tenant and the monthly utility allowance shown in item (14) is greater than the amount in item (10). The amount to enter will be the difference between the amount in item (10) and item (14) when the amount in item (10) is less than the amount in item (14).

(16) For projects utilizing FmHA rental assistance payments program only, enter the sum of the amounts in item (12).

(17) Enter the sum of the amounts in item (13).

To Complete Part I:

(18) Enter name as it appears on the promissory note(s).

(19) Enter case number.

(20) Enter location, include address if need to identify the project.

(21) Check appropriate block indicating type of loan.

(22) Check appropriate blank indicating the plan under which the project is operating.

(23) Enter the amortized payment on the note as follows:

A. For Annual Payment Notes.—1. For LH, RCH, and direct RRH loans and insured RRH loans approved prior to August 1, 1968, enter $\frac{1}{2}$ of the annual payment as shown on the note.

2. For RRH and RCH loans operating in accordance with Interest Credit Plan II, enter $\frac{1}{2}$ of an annual payment on the note as though the note was written with a one percent interest rate.

B. For a Monthly Payment Notes.—1. For all projects not eligible to operate in accordance with Interest Credit Plan II but which are receiving rental assistance, enter monthly amortized payment as shown on the note. For all projects operating in accordance with Interest Credit Plan II, enter the amount of the monthly payment as though the note was written with a one percent interest rate.

(24) Enter the loan code for each loan on the project. The top line will always be used for the initial loan for the project.

(25) Enter overage or surcharge due. All overages and surcharges will be shown on the initial loan line for the project.

(26) Enter the total payment due for each loan. This will be the sum of the amount(s) in item (23) and (25) for the line.

(27) Enter the amount of rental assistance provided as determined in Part II of the worksheet. This is the amount due from the government.

(28) Enter number of units occupied by tenants receiving rental assistance.

(29) Enter total amount of payment being transmitted.

(30) Enter date signed.

(31) The form must be signed by the borrower or the borrower's representative.

(32) The County Office will enter the schedule number of the Form FmHA 444-9 used to transmit the borrower's payment to the Finance Office.

EXHIBIT R

RENTAL ASSISTANCE PROGRAM

I. General. The objective of the rental assistance program is to reduce the rents paid by low income families. This exhibit sets forth the policies and procedures and delegates authority under which rental assistance (RA) will be extended to eligible tenants occupying eligible Rural Rental Housing (RRH) and Rural Cooperative Housing (RCH) projects financed by FmHA. This exhibit also applies to Farm Labor Housing (LH) projects when the borrower is a broadly-based nonprofit organization, nonprofit organization of farm-workers or a State or local public Agency. Rental assistance will supplement the benefits available to tenants under the interest credit program outlined in Exhibit J to Part 1822 Subpart D.

II. Definitions.—A. Adjusted Annual Income.—This is the total planned income of the family for the next 12 months as defined in § 1822.3(n) of Part 1822 Subpart A less 5 percent, thereof, and less an additional \$300 for each minor person, excluding the husband and wife, who is a member of the family and lives in the rental unit.

B. Adjusted Monthly Income. This is the amount obtained by dividing the Adjusted Annual Income by 12.

C. Eligible Tenants. Any low-income family or senior citizen that is unable to pay the approved monthly rental rate for an eligible FmHA RA unit within 25 percent of their adjusted monthly income and whose annual adjusted income does not exceed \$10,000.

D. Eligible Projects.—1. All projects, except (a) LH loans and grants, and (b) direct RRH loans approved prior to August 1, 1968, must convert to Interest Credit Plan II before they are eligible to receive rental assistance. All

new RRH projects must also operate under Plan II in order to receive rental assistance. For a borrower to have an eligible project the loan must be:

(a) RRH insured or direct loan made to a broadly-based nonprofit organization, or State or local agency or

(b) RRH insured loan to an individual or organization who has or will execute a Loan Resolution or Loan Agreement agreeing to operate the housing on a limited profit basis as defined in Part 1822 Subpart D or

(c) RCH insured or direct loan or

(d) LH loan, or an LH loan and grant combination, made to a broad-based nonprofit organization or nonprofit organization of farmworkers or a State or local public Agency.

2. Projects with all or a part of the units under contract with the Department of Housing and Urban Development (HUD) developed under the Section 8 program for new construction or rehabilitation by either the dual or single track processing procedures will not be considered an eligible project. This exemption does not prohibit the borrower from utilizing HUD's Section 8 Housing Assistance Payments Program for existing housing and FmHA rental assistance for other eligible families in the same project.

E. Rental Assistance. Rental assistance, as used in this exhibit, is the difference between 25 percent of the family's adjusted monthly income and the approved monthly rate for the unit being occupied by the family and further defined as:

1. For projects operating on Interest Credit Plan II, it is the difference between 25 percent on the family's adjusted monthly income and the basic rent for the unit.

2. For all direct RRH loans, insured RRH loans approved prior to August 1, 1968, and all eligible LH loans, it is the difference between 25 percent of the family's adjusted monthly income and the approved market rental rate for the unit.

F. Approved Rental Rate. The rental rate (basic and/or market rent) determined by the budget for the project and approved by FmHA. Rental rates will be considered approved if the budget for the year has been approved in accordance with Part 1802 Subpart G and utility allowances have been determined and approved in accordance with paragraph VIII B of this exhibit. The rental rate includes the amortized principal and interest payments, operating and maintenance costs, required deposits to the reserved account and a return on the owner's initial investment when allowed by FmHA regulations. The allowance for all utilities, except telephone and cable TV, will be included or other public services in the operating and maintenance expenses to determine the approved rental rate regardless of whether the tenant or the owner pays utilities.

G. Utility Allowance. The allowance approved by FmHA to cover the cost of utilities which are payable directly by the families. In the case of a project where the families must pay directly for one or more utilities or public services, the amount allowed for these charges is deducted from the approved rental rate for all tenants. (See Exhibit F-5A.)

III. Eligibility of Borrower. All borrowers who meet the eligible project definition in II D of this exhibit are eligible and are encouraged to utilize the rental assistance program and receive rental assistance payments on behalf of low-income tenants as provided for in accordance with this exhibit. Generally, the borrower will initiate the processing of a rental assistance application. A borrower who does not request rental assistance may be petitioned by 20 percent or more of the families eligible for rental assistance in an eligible project to obtain rental assistance

on their behalf. The petitions shall be in writing to the borrower and contain the signature of the head of the household of each family who is paying more than 25 percent of their adjusted monthly income for rental and desiring rental assistance. A copy of the petition will be submitted to the County Supervisor.

IV. Eligibility of Tenants. All tenants as defined in II C of this exhibit, are eligible to receive the benefits of rental assistance when occupying a rental unit in an eligible project providing the project owner has agreed to provide such assistance in accordance with this exhibit and there are RA units available.

V. Priority of Rental Assistance Applications. The National Office may establish a State quota on the number of units that may receive rental assistance in any fiscal year. The State Director will limit the approval of rental assistance to no more than the number of units allocated to the State. Unless otherwise stated by the National Office, the State allocation will indicate the number of units for existing projects and the number of units to be used with the applications for loans. The priority in allocating units will be as follows:

A. Allocation to Projects Within a State. The State Director will distribute any units allocated to the State in accordance with any specific instructions from the National Office and approve requests for rental assistance to projects in accordance with the provisions of this exhibit. The number of units to be granted in any project will be based on the number of tenants in the project needing rental assistance up to the maximum allowed. The maximum number of units in a project to obtain rental assistance is limited to the following:

1. No limitation for eligible labor housing loan and grant projects. However, an eligible labor housing project with a loan only will be limited to not more than 20 percent (rounded to the nearest whole number) of the total number of units in the project.

2. No limitation for RRH, RCH or SCH projects designed and limited to housing for the elderly.

3. An RCH or RRH project designed and/or primarily occupied by low- and moderate-income families will be limited to not more than 20 percent of the total number of units in the project.

4. An RCH or RRH project planned and designed for a mix of senior citizen and low- and moderate-income families will be limited to not more than 20 percent of the total number of units designed for low- and moderate-income families and no limitations on the units designed for and occupied by senior citizens.

B. Granting Exceptions—1. State Directors Authority.—An exception to the 20 percent limitation indicated in V B 1, 3 and 4 of this exhibit may be granted by the State Director for up to 40 percent of the units in any particular project (rounded to the nearest whole number). However, the total number of units of rental assistance granted by the State Director including exceptions, cannot exceed the number of units allocated to that State. Exceptions will be granted only when units are or can be made available and the following conditions exist:

(a) When more than 20 percent of the units are occupied by families who are paying more than 25 percent of their adjusted income for rent, and such units are no larger than needed to meet the family's need, or

(b) The tenants in a project that is being assisted at the 20 percent level experience a hardship as a result of an income decrease or a rental increase and must obtain rental assistance to remain in the project, or

(c) The project is being developed in an area of extremely low income families and

the majority of the proposed tenants will be paying in excess of 25 percent of their income for rent.

2. National Office Authority. If the project is being developed in an area of extremely low families and the majority of the tenants will be paying in excess of 25 percent of their income for rent, the National Office may authorize the State Director to grant approval for a greater number of units on a case-by-case basis for up to 100 percent of the units to receive rental assistance. Such requests will be submitted to the National Office prior to loan approval.

C. Processing Exception Requests.—1. A request for an exception to the 20 percent limitation will be submitted by the borrower to the County Supervisor. The County Supervisor will submit the request with supporting documentation and recommendations to the State Office by memorandum for approval. Included in the memorandum will be the number and percentage of units in excess of the 20 percent limit and justification for the approval. When National Office authorization is required, the State Director will request this authorization by memorandum and will include (a) the borrowers case file, (b) complete data and documentation on the housing market situation, (c) the number of rental assistance units allocated to the State, (d) number of uncommitted units still available, and (e) recommendations. If the borrower requests authority to exceed the 40 percent limitation after the loan is approved, such requests will not be approved until the project is completed, and at least partially occupied and it is apparent that full rentup will not occur unless the 40 percent limitation is exceeded.

2. The State Director will maintain Form FmHA 444-28, "Record of Rental Assistance Agreements." The record will include the borrower's case number, fund code, loan number, number of units in the project, number of units for rental assistance authorized and the effective date of each agreement and amendment. This information will be obtained from Form FmHA 444-25, "Request for Rental Assistance Agreement", Form FmHA 444-26, "Request for Obligation of Rental Assistance", and Form FmHA 444-27, "Rental Assistance Agreement." Any changes which are made in the number of rental units assisted will be recorded in the Record of Rental Assistance Agreements. Exhibit R-3 may be used for keeping this record until Form FmHA 444-28 is available.

VI. Priority Among Eligible Families Within a Project Receiving Rental Assistance. The borrower will determine priority for RA among tenants living in a project and among families applying for occupancy in accordance with this paragraph.

A. In Existing Projects.—1. If the project is fully occupied at the time the rental assistance is granted, priority will be based on adjusted monthly income of the families occupying the units. The family having the lowest adjusted monthly income will receive the highest priority. However, no family eligible to occupy a unit in the project will be required to move from the project to allow a family applying for a unit who has a lower adjusted income to move in.

2. If the project has vacancies or vacancies occur and rental assistance is available, priority will be given to families already living in the project who are eligible for rental assistance before any new tenants are considered. Priority for new tenants will be based on the date of the family's application for occupancy. If more than one family applies for a unit on the same date, the applications will be time dated. If the family with the earliest date of application is unable or does not want to accept the rental assistance unit, the unit will be offered to the next earliest application. The application of a

family who is unable for personal reasons or does not want to accept a rental assistance unit when notified, will be redated as of the current date if the family still wishes to be considered for occupancy.

3. If the project has vacancies or vacancies occur and rental assistance is not available, a family eligible for rental assistance may accept occupancy but cannot receive rental assistance. Such families will be considered for rental assistance in accordance with paragraph VI A 1. If such families elect not to accept occupancy because rental assistance is not available, their application for a unit will retain its original date for priority.

4. Tenants receiving the benefits of rental assistance shall continue receiving such benefits as long as they remain eligible tenants and there is a rental assistance agreement in effect.

B. *In New Projects.* Applications for occupancy should be accepted during the construction phase of the project. Priority will be given based on the date of the family's application for occupancy. If all or a percentage of the units are authorized to receive rental assistance, such units will not be rented to families whose adjusted annual income exceeds \$10,000 without the written approval of the County Supervisor. The County Supervisor will not grant such approval until he has reviewed the borrower's method of advertising the units and has determined that families eligible for rental assistance are not available or do not desire occupancy.

VIII. *Responsibilities of Borrower in Administering the Rental Assistance Program.* Each borrower and management agent for each project that is to receive rental assistance should fully understand the responsibilities and requirements of carrying out the program. The borrower and management agent are the key to the successful operation of the program. The following guidelines will be followed:

A. Direct rental assistance payments will not be made to eligible tenants receiving rental assistance except in those instances when utilities are paid by the family and 25 percent of the family's monthly adjusted income is less than the allowance for utilities. In these cases, the borrower will pay the family that difference upon the family providing the borrower evidence that the utility bills are due or have been paid. (See paragraph VIII A, Payment of Utilities). The borrower will maintain an accurate accounting of each tenant's utility allowance and payments made to tenants.

B. The borrower must initially and annually submit Form FmHA 444-8, "Tenant Certification," or other certification form approved by FmHA for each tenant. The initial tenant certification will be submitted to the FmHA County Office with the next monthly payment following the date that the tenant occupies the unit. Subsequently, tenant certifications must be obtained during November and December and submitted to the county office not later than December 31 of each year. The borrower or management agent will establish an adequate recordkeeping system of tenant certifications to assure this responsibility is carried out.

C. The incomes reported by the tenants must be verified by the borrower. Such verifications may be obtained by:

1. The use of Form FmHA 410-5, "Request for Verification of Employment" or verification forms prepared by the borrower or other sources. Until the Form FmHA 410-5 is revised, it may be modified by deleting "Farmers Home Administration" in Part I 2. The borrower or management agent will insert the name and address to whom the form is to be returned. Also, in the first sentence of the applicant's statement in Part I Request, the words "applied for a Farmers Home Administration loan and" and in the last sentence the word "Loan" should be deleted.

2. In the case of the elderly or other persons whose income is not from wages or salary, by actually examining the income checks, check stubs or other reliable data the tenant possesses.

3. Until the Form FmHA 444-8 is revised, the borrower will make a notation on each tenant certification that "the tenant's income has been verified and found to be accurate". The notation will be dated and the name of the person making it will be shown.

D. Borrowers utilizing rental assistance must comply with FmHA Instruction 430.2, paragraph X. Rental assistance will be restricted to projects with operating budgets which have been approved by the FmHA State Office or the County Supervisor.

E. The borrower participating in the rental assistance program must have an FmHA approved lease with the assisted family.

1. Monthly or annual leases will be executed with each family occupying a rental unit. The State Director may issue State Instructions covering any special conditions or local customs affecting leasing arrangements. The lease form for projects operating under rental assistance in addition to other statements outlining the conditions of the lease, should contain the following statements:

"I understand and agree that the total monthly rental payment will be \$..... (the approved rental rate) per month. Of the total rent I will pay \$..... (25 percent of my adjusted monthly income) and the balance will be paid by FmHA as interest credit and/or rental assistance payments on my behalf. If I pay any or all utilities directly, (does not include telephone or cable TV), a utility allowance of \$..... will be deducted from the payment due for rent. If the utility allowance is in excess of 25 percent of my adjusted monthly income the lessor will pay me this excess.

I further agree to notify the lessor of any permanent increase in adjusted monthly income or change in the number of family members living in the household. I understand that should I receive rental assistance benefits to which I am not entitled that I may be required to make restitution and I agree to pay any amount of benefits received to which I was not entitled.

I also understand and agree that my monthly rental payment under this lease may be raised or lowered, based on changes in family income and changes in the number and age of family members living in my household. The rental payment will be the lesser of 25 percent of my adjusted monthly income or the approved rent established for the unit."

2. Lease clauses which fall within the classifications listed below shall not be included in any lease.

(a) *Confession of Judgment.* Prior consent by tenant to any lawsuit the landlord may bring against him in connection with the lease and to a judgment in favor of the landlord.

(b) *District for Rent or Other Charges.* Authorization to the landlord to take property of the tenant and hold it as a pledge until the tenant performs any obligation which the landlord has determined the tenant has failed to perform.

(c) *Exculpatory Clause.* Agreement by tenant not to hold the landlord or landlord's agents liable for any acts or omissions whether intentional or negligent on the part of the landlord or the landlord's authorized representative or agents.

(d) *Waiver of Legal Notice by Tenant Prior to Actions for Eviction or Money Judgments.* Agreement by tenant that the landlord may institute suit without any notice to the tenant that the suit has been filed.

(e) *Waiver of Legal Proceedings.* Authorization to the landlord to evict the tenant or hold or sell the tenant's possessions whenever the landlord determines that a breach or default has occurred, without notice to the tenant or any determination by a court of the rights and liabilities of the parties.

(f) *Waiver of Jury Trial.* Authorization to the landlord's lawyer to appear in court for the tenant and to waive the tenant's right to a trial by jury.

(g) *Waiver of Right to Appeal Judicial Error in Legal Proceedings.* Authorization to the landlord's lawyer to waive the tenants right to appeal on the ground of judicial error in any suit or the tenant's right to file a suit in equity to prevent the execution of a judgment.

(h) *Tenant Chargeable with Costs of Legal Actions Regardless of Outcome.* Agreement by the tenant to pay attorney's fees or other legal costs whenever the landlord decides to take action against the tenant even though the court finds in favor of the tenant. (Omission of such clause does not mean that the tenant, as a part to a lawsuit, may not be obligated to pay attorney's fees or other costs if he loses the suit).

3. A copy of a completed Exhibit F-5A, "Housing Allowances for Utilities and Other Services," and a copy of the established rules and regulations for the project will be provided to the tenant as attachments to the lease.

VIII. *Handling Utility Allowances and Determining the Amount of Rent—A. Payment of Utilities.*—All units in projects to be constructed will be individually metered for utilities unless adequate justification is provided to show that it would be infeasible or excessively costly. In an existing project which is not individually metered, the project will be converted to individual meters if feasible and an energy savings can be achieved. In every case, the approved rents for the projects must include a utility allowance for all utilities (except telephone and charges for cable TV) whether paid by the tenant or the owner. In a project where the tenant is billed directly for the utilities, the tenant receiving the benefit of rental assistance will pay the owner as rent the difference between the established allowance for utilities which the tenant pays and 25 percent of the family's adjusted monthly income. If, however, the family's adjusted

monthly income is less than the monthly allowance for utilities, the owner will pay the tenant that difference as prescribed in paragraph VII A. In a project where the owner pays all the utilities, the tenant will pay the owner the full 25 percent of his adjusted monthly income toward the approved rent for the unit being occupied. For those tenants not receiving RA that pay utilities directly, their rent shall be reduced by the amount allowable for such utilities.

B. Determining the Allowance.—The utility allowance will be determined and recorded by the use of Exhibit F-5A to Part 1832 Subpart D and submitted to FmHA for approval. The data will be analyzed by the FmHA State Office to determine the allowances that will be permitted. The utility allowance is to be approved on a project-by-project basis. If the allowances are reasonable for the project, the Exhibit F-5A will be approved. The allowable amounts will be indicated in each lease agreement between the owner and tenant.

C. Changes in Allowances.—The utility allowance will be changed to reflect changes in cost. Normally, allowances will be adjusted on an annual basis if necessary when the owner submits a new budget for approval.

IX. Terms of the Rental Assistance Agreement—A. Effective Date.—The effective date of the Agreement will be the 1st day of the month it is executed unless assistance is granted under appeal in accordance with paragraph XII of this Exhibit; then, the effective date will be retroactive to the first of the month in which assistance was denied.

B. Term.—1. For New Construction. The term of the agreement shall be for a period of twenty (20) years from the effective date of the agreement.

2. For Existing. The term of the agreement shall be for a period of five (5) years from the effective date of the agreement.

3. Prior to the termination date of any agreement a new Form FmHA 444-25, "Request for Rental Assistance," may be submitted. Exhibit R-1 will be used until the Form FmHA 444-25 is available. If a new agreement is consummated, it will be made for a period not to exceed five (5) years.

X. Processing of Rental Assistance Applications.—All requests for rental assistance will be processed in accordance with this paragraph and may be approved by the State Director.

A. Existing Projects.—1. A borrower with an eligible project in which there are tenants paying in excess of 25 percent of their income for rent is encouraged to file Form FmHA 444-25, "Request for Rental Assistance," with the County Supervisor. A separate Form FmHA 444-25 will be submitted for each project. (Exhibit R-1, "Request for Rental Assistance," will be used until the Form FmHA 444-25 is available.) The borrower should include the following with each request.

(a) Form FmHA 444-29, "Project Worksheet for Interest Credit and Rental Assistance" with columns 1 through 12 completed for each tenant in the project. (Exhibit J-2 will be used until the Form FmHA is available).

(b) Approved or proposed budget for the year with Exhibit F-5A attached.

2. The County Supervisor will review the budget, Exhibit F-5A and Form FmHA 444-25 submitted by the borrower to assure that the items are complete and accurate. The County Supervisor will complete Form FmHA 444-25 and submit all data provided by the borrower to the State Director.

B. Projects to be Funded.—1. Applicants requesting funding under the RRH or LH programs planning to utilize the rental assistance program should submit a completed Form FmHA 444-25, "Request for Rental Assistance," to the County Supervisor when submitting a preapplication or application for funding.

2. The number of units of rental assistance requested should be based on the market data for the area, the proposed rental rates as reflected in a budget for the project, and the income levels of the prospective tenants.

C. State Director Action on Requests for Rental Assistance.—1. If the State Director determines that rental assistance can be granted, he will prepare Form FmHA 444-26, "Request for Obligation of Rental Assistance." Exhibit R-4 may be used until Form FmHA 444-26, "Request for Obligation of Rental Assistance," is available. Form FmHA 444-26 will be prepared and distributed in accordance with the Forms Manual Insert. The Form FmHA 444-27, "Rental Assistance Agreement," will not be executed until the Request for Obligation of Rental Assistance has been returned from the Finance Office indicating that the requested number of units have been obligated for the project.

2. Once rental assistance has been obligated by the Finance Office, the State Director will prepare an original and three copies of Form FmHA 444-7, "Interest Credit and Rental Assistance Agreement," and an original and two copies of Form FmHA 444-27. The State Director will keep one copy of the Forms in the State Office borrower file. The original and two copies of Form FmHA 444-7 and the original and one copy of Form FmHA 444-27 will be sent to the County Office with a covering memorandum authorizing the County Supervisor to execute the agreements. Both originals and copies will be executed by the borrower and County Supervisor. The County Supervisor will retain the original of Form FmHA 444-27 in the borrower file and the executed copy will be given to the borrower. The County Supervisor will send the original of Form FmHA 444-7 to the Finance Office, retain a copy in the borrowers file and an executed copy will be given to the borrower.

3. If rental assistance cannot be provided, the State Director will by letter, through the County Supervisor, inform the borrower in writing of the reasons.

XI. Method of Payment of Rental Assistance to Borrower.—The borrower will prepare a separate report for the project using Form FmHA 444-29. (Exhibit J-2 may be used until Form FmHA 444-29 is available.) The worksheet will be prepared and distributed in accordance with the instructions for preparation or the Forms Manual Insert. This information will be used by the County Supervisor in preparation of Form FmHA 444-9, "Multiple Housing Certification and Payment Transmittal." The form must be completed in accordance with the FMI. The required payment will be transmitted with the form to the Finance Office. The rental assist-

ance payment to the borrower will be made by the Finance Office within 15 working days of receipt of a properly completed Form FmHA 444-9. The payment will be sent to the County Supervisor for delivery to the borrower.

XII. Rights for Appeal if Rental Assistance is not Granted by Farmers Home Administration.—A. Families who have requested rental assistance in writing but have been denied such assistance (whether in whole or in part) either by the borrower or County Supervisor are to be notified in writing of the specific reasons why they have been denied rental assistance. If a family has requested rental assistance directly to the borrower in writing, the borrower is responsible for notifying the family in writing of the reasons why rental assistance was not made available.

B. Borrowers who have requested rental assistance and are denied such assistance, in whole or in part by the Farmers Home Administration, will be notified in writing of the specific reasons why such assistance was denied. The letter informing the borrower of the denial will advise the borrower that it may appeal the decision by writing to the Administrator.

C. The letter informing the family or borrower of the denial of assistance and the reasons therefor must include:

1. In case the determination was made by the borrower, that the decision is subject to appeal to the FmHA County Supervisor giving name and address.

2. In case the decision was made by the County Supervisor, that an appeal may be made to the State Director giving name and address.

3. In case the decision was made by the State Director, that an appeal may be made to the Administrator giving name and address.

4. A statement that "any appeal must be filed within 45 days of the date of this notice of denial of assistance."

D. If the State Director denies an appeal for assistance, the borrower or family may appeal that decision to the Administrator, Farmers Home Administration, Washington, D.C. 20250. The Administrator upon review of the appeal shall either affirm or reverse the decision.

E. If at any time, it is determined that a borrower or a family was eligible to receive assistance and assistance could have been made available in accordance with this exhibit, the provision of the assistance will be retroactive to the first of the month in which assistance was initially denied.

F. All actions by FmHA officials must be within 30 days of receipt of an appeal.

XIII. Forms and Exhibits.—Incorporated as a part of this regulation are exhibits R-1, R-2, R-4, F-5A, J-2, and Form FmHA 444-7, "Interest Credit and Rental Assistance Agreement."

WARNING

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

FmHA Instruction 444.3
Exhibit R-1
Page 1

REQUEST FOR RENTAL ASSISTANCE

1. Name of Borrower _____
2. Address _____
3. Location of Project _____
4. Total Number of Units in Project _____

Request is made for _____ units of rental assistance for the above project. I have determined that _____ families qualify for rental assistance as identified by the attached copies of Exhibit J-2, "Project Worksheet on Interest credit and Rental Assistance." I/We therefore request rental assistance for _____ units which represents _____ percent of the units in the project. The rental assistance, if granted, will be provided as follows:

NUMBER FOR		Number, Size, and Monthly Rental Rate*					
		OBR	1BR	2BR	3BR	4BR	5BR
Senior Citizen Families _____	Number	_____	_____	_____	_____	_____	_____
	Basic Rent	_____	_____	_____	_____	_____	_____
	Mkt. Rent	_____	_____	_____	_____	_____	_____
Low and Moderate Income Families _____	Number	_____	_____	_____	_____	_____	_____
	Basic Rent	_____	_____	_____	_____	_____	_____
	Mkt. Rent	_____	_____	_____	_____	_____	_____

I/We certify that the above information and attachments are true and correct to the best of my/our knowledge and belief.

_____ Date

BORROWER: _____

*Monthly rental rates include utility allowances.

by _____
SIGNATURE

State _____
County _____
Case # _____
Type Loan _____

_____ TITLE

For FmHA Use Only

SUBJECT: County Office Review of Request for Rental Assistance

TO: State Director

1. From the information submitted by the borrower and available from the files, it appears rental assistance _____ can _____ cannot be provided.
(State reason if assistance cannot be provided)

2. The project is presently operating on a: (Check all that apply)

- _____ Direct loan basis
- _____ Profit basis. The loan was approved _____ INSERT DATE
- _____ Nonprofit basis
- _____ Limited Profit basis
- _____ Interest Credit Plan I
- _____ Interest Credit Plan II
- _____ Section 8 Rental Assistance Payments Program for new construction for _____ units.
- _____ Section 8 Rental Assistance Payments Program for existing housing with _____ families

3. I have discussed with the borrower that if rental assistance is granted that the project will be operated on a nonprofit or limited profit basis when applicable in accordance with existing instructions.

4. It is my determination that the budget has been approved and the rental rates are acceptable.

5. Other Comments

_____ by _____ SIGNATURE

_____ DATE

_____ COUNTY SUPERVISOR

_____ FARMERS HOME ADMINISTRATION

PROPOSED RULES

Case No. _____
Loan Code _____

RENTAL ASSISTANCE AGREEMENT

For: (Check appropriate block)
 New Construction project
Term, 20 Years
 Existing project
Term, 5 years

This Agreement effective on the 1st day of _____, 19____ (herein called "the borrower") and its successors and the United States of America acting through the Farmers Home Administration pursuant to Section 521 (a) (2) (A) of Title V of the Housing Act of 1949 as amended. (Herein called "the Government") Witnesseth:

In consideration of the Mutual Covenant hereinafter set forth, the parties hereto agree as follows:

Section 1 The Government agrees to provide rental assistance in accordance with its governing rules and regulations for _____ units of housing for the project located at _____ and known as _____ consisting of _____ units. The Government will pay the difference between 25 percent of the families' adjusted monthly income and the Government approved rents for the project.

Section 2 The borrower agrees to abide by the present and future regulations of the government in the administration of this program.

Section 3 Borrower agrees to use due diligence in the verification and certification of tenants incomes.

Section 4 In the event that any tenant suffers a hardship because rental assistance may not be available in the project because of the limitations set forth on the number of units in Section 1, borrower may make requests to the government for additional units. In the event additional units can be provided and are approved by the government, a rider shall be executed by the parties and attached to this agreement. The rider will be in the following form:

FmHA Instruction 444.5
Exhibit R-2
Page 2

"Rider to Rental Assistance Agreement between _____ (Borrower) _____ (loan code) _____ and the United States of America acting through the Farmers Home Administration.

Section 1 of the above described agreement is amended to provide that _____ units may be assisted rather than _____.

The effective date of this change is _____, 19 _____.

By: _____ (Borrower)

By: _____ (Signature)

(Name and title)

(Date)

FARMERS HOME ADMINISTRATION

By: _____

(Name and title)

(Date)

The rider shall be dated and signed by the borrower and the County Supervisor.

Section 5. Borrower will not permit any tenant to initially occupy a unit and receive rental assistance (or interest credit) if the number of authorized persons in the units is less or in excess of the following:

Occupants	Paragraph VI of Exhibit R to FmHA Instruction 444.5.)
0-bedroom	1
1-bedroom	1 2
2-bedroom	2 4
3-bedroom	4 6
4-bedroom	6 8
5-bedroom	8 10

Section 7. Provisions Applicable if Housing Owner is a Cooperative—(a) As used in this agreement the term "tenant or occupant" may mean a member of a cooperative, and the term "rent" shall mean the charges under the occupancy agreement between the member and the cooperative.

(b) A member of a cooperative that obtains approval for rental assistance shall be required, as a condition of receiving such, to agree that upon a sale of such membership

Section 6. In the selection of tenants in the project that will receive rental assistance, the borrower agrees to comply with the Government priorities of selecting tenants. (See

any equity increment accumulated through rent supplement payments will be turned over to the cooperative and will be remitted to the Government.
Section 8. Renegotiation, Modification, Termination.—If, at any time during the life of this agreement the Parties find that it would be to their best interests and to the best interests of the rental assistance program, the provisions of the agreement may be modified, amended, or the entire agreement be terminated, upon written agreement of the Parties.
Section 9. Term of the Agreement.—(a) Definitions:
(1) New construction project as used in this agreement is any project for which a request for obligation of rental assistance is made prior to completion of the project and any unit in the project occupied. The project will continue to be considered new construction for the complete term of the initial rental assistance agreement.
(2) Existing project as used in this agreement is any project in which units have been occupied.

(b) In the case of a new construction project this agreement is for a period of twenty (20) years from the effective date mentioned in this agreement. The term of any attached rider which changes the number of units will be for the period beginning on the effective date of the rider and ending twenty (20) years from the effective date of the initial agreement.
(c) In the case of an existing project this agreement is for a period of five (5) years from the effective date mentioned in this agreement. The term of any attached rider which changes the number of units will be for the period beginning on the effective date of the rider and ending five (5) years from the effective date of the initial agreement.

(d) This agreement is not renewable. If a need exists for rental assistance beyond the term of this agreement the borrower may, prior to the termination date of this agreement, submit a Form FmHA 444-25, "Request for Rental Assistance." If a new agreement is consummated it will be made for a period not to exceed five (5) years.
Section 10. Special Conditions.—The following special conditions shall be applicable to this Agreement:

FmHA Instruction 444.5
Exhibit R-2
Page 5

(Seal)

(Borrower)

By: _____
(Title)

(Signature)

Date: _____
FARMERS HOME ADMINISTRATION

By: _____

Date: _____

FmHA Instruction 444.5
Exhibit R-3

RECORD OF RENTAL ASSISTANCE AGREEMENTS

Borrower name and case number	Number of units allocated for Fiscal Year 19 (1)	For Existing (2)		For New (3)					Date of obligation request (12)	F/O obligation date (13)	Effective date of Agreement (14)	
		Fund and loan code (5)	No. units in proj. (6)	Number units of rental assistance		I or C (11)	RRH	E				N
				LH	N							
(4)		(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	
Number of projects: (20)		Total	(15)	(16)	(17)	(18)	(19)	TOTAL: Existing (21)	New (22)			

FmHA Instruction 444.5
Exhibit R-4

REQUEST FOR OBLIGATION OF RENTAL ASSISTANCE

BORROWER NAME	STATE CODE (1) 00									
	FUND CODE LOAN NO.									
LOAN TYPE (5)	LH	PBH	PBH-SC	RCH	RCH-SC	(3)				(4)
						CASE NO.				(4)

REQUEST FOR OBLIGATION: (To be completed only for initial obligation)

NEW PROJECT (6) EXISTING PROJECT (6)

NUMBER OF UNITS IN PROJECT (7)

NUMBER OF UNITS TO RECEIVE RENTAL ASSISTANCE (8)

ESTIMATED EFFECTIVE DATE OF RENTAL ASSISTANCE (9)

REQUEST FOR CHANGE OF OBLIGATION: (To be completed only for a change in obligation)

NUMBER OF UNIT PREVIOUSLY OBLIG (10)	CHANGE (11)	NO. NOW TO RECEIVE RENTAL ASSISTANCE (12)	Existing Project (13)	New Project
DATE OF ORIGINAL OBLIGATION (14)		ESTIMATED EFFECTIVE DATE (15)	(16)	

CERTIFICATION:

I have reviewed the borrower's request for rental assistance for the project and request obligation or change in obligation for the above units.

(17) APPROVAL DATE _____ (18) SIGNATURE OF REQUESTING OFFICIAL _____

FINANCE OFFICE USE: _____ (19) TITLE _____

(20) The above units have been obligated

(21) The above units were not obligated due to units not being available

DATE OF OBLIGATION _____ (21)

INSTRUCTION FOR PREPARATION

Only an original copy need be maintained by the State Office. No signatures are required. The record will be maintained on a current basis to reflect data and status of requests. Each item should be completed as follows:

- (1) Enter the fiscal year.
- (2) Enter the number of existing units allocated to the state for use in the fiscal year indicated.
- (3) Enter the number of new construction units allocated to the state for use in the fiscal year indicated.
- (4) Enter borrowers name and case number.
- (5) Enter fund and loan code, such as 84-01. Use loan number of initial loans only.
- (6) Enter the total number of units in the project.
- (7) Enter number of existing rental housing units to obtain rental assistance.
- (8) Enter number of new rental housing units to obtain rental assistance.
- (9) Enter number of existing labor housing units to obtain rental assistance.
- (10) Enter number of new labor housing units to obtain rental assistance.
- (11) Enter "I" to indicate the initial transfer for rental assistance. Enter "C" to indicate...

70: _____ (22)

icate a request for a change in the number of previously authorized.

(12) Enter the date that the Request for Obligation for Rental Assistance is prepared. The date should be the same as shown in item (17) of the FMI for Form FmHA 444-26.

(13) Enter the date of obligation of the units after the Finance Office has acted on and returned Form FmHA 444-96. The date shown must be the same date as in item (20) of the FMI for Form FmHA 444-26. At the same time, correct items (7), (8), (9), and (10) if previous entries differ.

(14) Enter effective date as shown on Form FmHA 444-27, "Rental Assistance Agreement."

(15), (16), (17), (18), and (19) Enter the sum for each column.

(20) Enter the number of projects granted rental assistance during the current fiscal year.

(21) Enter the number of existing units of rental assistance granted during the fiscal year. This is the sum of items (16) and (18).

(22) Enter the number of new construction units of rental assistance granted during the fiscal year. This is the sum of items (17) and (19).

As of this date, _____, this is notice to you that your application for financial assistance from the Farmers Home Administration has been approved as indicated on the reverse side of this form, subject to the availability of funds and other conditions required by the Farmers Home Administration.

INSTRUCTIONS FOR PREPARATION

PROCEDURE REFERENCE : FMHA Instruction 444.5

PREPARED BY : State Director

NUMBER OF COPIES : Original and three

SIGNATURES REQUIRED : State Director

DISTRIBUTION OF COPIES: Original and one copy to the Finance Office; copy to borrower at time of submission to the Finance Office; copy to be retained in the State Office pending receipt of the approved request from Finance.

- (1) Enter the state office code.
- (2) Insert the borrower's name as it appears on the promissory note.
- (3) Enter the borrower's case number using the first two boxes for state code, the next three boxes for county code, and the last ten boxes for the borrower number. All the boxes should be completed.

Example:

0	1	1	0	0	0	0	1	2	3	4	5	6	7
---	---	---	---	---	---	---	---	---	---	---	---	---	---

- (4) Enter the correct loan code, such as 84-01. The loan code for the request should be the code for the initial loan of the project.
- (5) Indicate the total number of units under each category for which rental assistance is being requested. The total number will include those previously obligated and the change being requested if applicable.
- (6) Indicate whether the project is new (no unit in the project has been occupied) or existing (one or more units in the project has been occupied).
- (7) Enter the total number of units in the project.
- (8) Enter the number of units to receive rental assistance.
- (9) Indicate the estimated date on which rental assistance will be effective.

PROPOSED RULES

- (10) Enter the number of units to receive rental assistance shown on the last approved request.
- (11) Indicate the difference (+ or -) in the number of units receiving rental assistance.
- (12) Enter the number of units now to receive rental assistance.
- (13) Indicate whether the project was reported as new or existing on the last approved request.
- (14) Enter the date of obligation as shown on the last approved request.
- (15) Indicate the effective date of the initial rental assistance agreement.
- (16) Insert the estimated effective date that the increase or decrease in number of units will be effective.
- (17) Show the date the form was signed.
- (18) Signatures of the requesting officials.
- (19) Title of the requesting official.
- (20) The Finance Office will indicate whether or not the units were obligated for rental assistance.
- (21) Finance will indicate the date the units were obligated for the project.
- (22) The reverse side of the form is to be completed and mailed to borrower before or no later than the time the forms are sent to the Finance Office.

Form Manual Insert
USDA-FmHA
Form FmHA 444-7
(Rev.)

State

(1a) _____
 INTEREST CREDIT AND RENTAL ASSISTANCE AGREEMENT County _____
 (1b) _____
 (1c) _____
 Loan Code _____
 (1d) _____

1. This Agreement to be effective on 1st day of _____, 19____
 between the United States of America, acting through the Farmers Home
 Administration pursuant to Section 521 of the Housing Act of 1949, (herein
 called "the Government") and _____ (3)
 (herein called "Borrower) supplements a promissory note in the principal
 amount of \$ (4a) _____, dated _____ (4b) _____ which was drawn in _____ (5) a
 single advance (5) multiple advances.
 2. Subject to the provisions of this agreement, the Government will compute
 interest on the Borrower's account at the rate specified for the plan
 of operation selected below:

(6) PLAN I. The effective interest rate is three (3) percent plus
 surcharge as determined by the Government formula or
 procedure based on the income of the family.

(6) PLAN I S. S. For a profit type operation with a HUD Section 8 Housing
 Assistance Payment Contract in effect on all or a part of the units
 in the project.

The effective interest rate is _____ percent as
 determined by the Government formula or procedure based on
 market and contract rental rates.

(6) PLAN II. For non-profit and limited profit type operation with or
 without a HUD Section 8 Housing Assistance Payments contract in
 effect on a part of the units in the project.

The effective interest rate is one (1) percent plus all
 rental income over basic rent as determined by the Government
 formula or procedure for the program.

(6) PLAN II PA. For non-profit and limited profit type operations
 utilizing the Rental Assistance Payments Program.

The Government agrees to credit the account or make a cash
 payment to the borrower in accordance with Government formula
 and procedure for the program.

(6) PA. For labor housing loans, direct RHH loans and insured
 RHH loans approved prior to August 1, 1968, utilizing the Rental
 Assistance Payments Program.

The Government agrees to credit the account or make a cash
 payment to the borrower in accordance with Government formula
 and procedure for the program.

3. Borrower shall submit to the Government, as required by the Government
 in form prescribed or approved by it, proof of Borrower's income and
 expenses for the previous calendar year or other designated periods,
 and any information on the family size and income of the occupants
 of the housing financed with the loan evidenced by the note.

4. If the Government should determine that the Borrower has defaulted
 under any terms or conditions of this agreement, the note, Borrower's
 related Loan Resolution, and supplementary or related agreements,
 or any related security instrument, or violates any program
 regulations, at its option the Government may terminate this
 agreement as of any specified date following the default.

5. No credit to the Borrower's account provided for in paragraph 2
 shall be made following any termination date specified pursuant
 to paragraph 4.

6. The Government shall credit annually or more often to Borrower's
 account, and/or pay the borrower in case of rental assistance
 so long as there is no default in any obligation of Borrower
 to the Government, amounts equal to the difference, determined
 in accordance with a formula and procedure prescribed by the

Government, between the payment that would be required in accordance with the terms of the note and the payment required under such formula and procedure.

- 7. No terms or conditions of the note or any related security or other instrument shall be affected by this agreement except as expressly set forth herein.
- 8. This agreement is subject to the present regulations of the Farmers Home Administration, and to its future regulations not inconsistent with the express provisions hereof.
- 9. Upon request, the borrower will permit representatives of FmHA (or other agencies of the Department of Agriculture authorized by the Department) to inspect and make copies of any records of borrower pertaining to FmHA loans and this agreement.
- 10. If the borrower has received any excessive credit or payment, in addition to any other rights of recovery, the Government may deduct the amount from any subsequent credit or payment.

(CORPORATE SEAL) _____ (8) (NAME OF BORROWERS)

_____. (9) & (10) (SIGNATURE & TITLE OF EXECUTIVE OFFICIAL)

(11) (SIGNATURE OF ATTESTING OFFICIAL) _____ (13) (P. O. BOX OR STREET ADDRESS)

(12) (TITLE OF ATTESTING OFFICIAL) _____ (14) (CITY, STATE, AND ZIP CODE)

UNITED STATES OF AMERICA
FARMERS HOME ADMINISTRATION
By _____ (14)

(15) (DATE OF EXECUTION) _____ (15) (TITLE)

PROCEDURE REFERENCE : FmHA Instruction 444.4 and 444.5

PREPARED BY : County Supervisor except by State Director when Form FmHA 444-27, "Rental Assistance Agreement" is required for rental assistance.

NUMBER OF COPIES : Original and two except original and three for rental assistance.

SIGNATURES REQUIRED : All copies by Official authorized to sign for the organization and the person authorized to act as attesting official and also by the County Supervisor or other authorized FmHA official.

DISTRIBUTION OF COPIES : Original retained in County Office; Copy to borrower; Copy to Finance Office. Unsigned Copy retained in State Office when prepared for rental assistance.

INSTRUCTIONS FOR PREPARATION

- (1) Insert (a) State and (b) County in which property is located, (c) borrower's case number, (d) borrower's loan code, and (e) check type of loan.
- (2) Insert date the Agreement is effective which is the first day of the month of execution.
- (3) Type name of borrower as it appears in the promissory note.
- (4a) Insert amount of loan in figures as shown in the promissory note.
- (4b) Insert the date of the promissory note.
- (5) Check whichever is appropriate: single or multiple advances.
- (6) Check appropriate block to indicate the Plan the borrower will follow. When "Plan II RA" or "RA" is checked indicating that rental assistance is available to the project, Form FmHA 444-27, "Rental Assistance Agreement", will be completed and attached to the borrower's and County Office copy of this form.

(7) Insert the effective interest rate which is applicable to the loan.

(a) For a project with all units under Section 8, the interest rate may be reduced by 1 or 2 percentage points below the note rate of interest in accordance with FmRA Instruction 444.5.

(b) For a mixed project operating for profit the interest rate may be reduced a proportionate part of 1 or 2 percentage points in accordance with FmRA Instruction 444.5. The proportionate amount of 1 or 2 percent (as appropriate) will be in direct ratio as the number of units under Section 8 are to the total units in the project.

(8) Same as (3).

(9) Signature of official of organization authorized to sign.

(10) Insert title of official signing the agreement.

(11) Signature of attesting official.

(12) Insert title of attesting official.

(13) Insert address of borrower.

(14) Signature of FmRA Official.

(15) Insert title of FmRA Official.

(16) Insert date the agreement is executed. If the borrower is to receive interest credit, this agreement should not be executed until the provisions of Exhibit J of FmRA Instruction 444.5 are met. In other cases the agreement will be executed at the same time Form FmRA 444-27 (Exhibit R-2) is executed.

(42 U.S.C. 1480; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.)

NOTE.—The Farmers Home 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: September 12, 1977.

JAMES E. THORNTON,
Acting Administrator,
Farmers Home Administration.

[FR Doc. 77-26747 Filed 9-14-77; 8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration
[14 CFR Part 39]

[Docket No. 77-NE-16]

AIRWORTHINESS DIRECTIVES

Sikorsky S-58 Model Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule-making.

SUMMARY: This notice proposes to amend Airworthiness Directive 74-15-06, Amendment 39-1390, as amended, to require replacement of magnesium tail rotor input and intermediate housings with aluminum housings by February 1, 1978, because strengthened housings are now in production and past inspections have not been completely successful in preventing failures.

DATES: Comments must be received on or before October 7, 1977.

ADDRESSES: Send comments on the proposals in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, New England Region, Attention: Rules Docket No. 77-NE-16,

12 New England Executive Park, Burlington, Mass. 01803.

FOR FURTHER INFORMATION CONTACT:

Martin Buckman, Propulsion Section (ANE-214), Engineering and Manufacturing Branch, Flight Standards Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Mass. 01803; telephone 617-273-7347.

SUPPLEMENTARY INFORMATION:

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. The proposals contained in this notice may be changed in the light of comments received. All communications will be available, both before and after the closing date for comments, in the rules docket, for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rule making will be filed in the public regulatory docket. Persons desiring copies of this NPRM should contact:

Docket Clerk, Office of the Regional Counsel (ANE-7), Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Mass. 01803.

AD 74-15-06, Amendment 39-2447 (40 FR 56883), appeared in the FEDERAL REGISTER on December 5, 1975, and became effective on December 10, 1975. The AD was issued to require one-time and repetitive inspections of housings in the tail rotor gearbox and its attaching hardware. At the time, the input and intermediate housings were being redesigned as aluminum castings with local reinforcement at a critically stressed area of the intermediate housing. As the strengthened housings are now in production, and since the inspections have not been completely successful in preventing failures, AD 74-15-06 is being revised to require removal of magnesium tail rotor input and intermediate housings and replacement with the new stronger aluminum housings.

In addition, a minor typographical error is also corrected. A reference paragraph D(3) has been changed to A(1).

DRAFTING INFORMATION

The principal authors of this document are Martin Buckman, Propulsion Section, Engineering and Manufacturing Branch, and George L. Thompson, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13), Amendment 39-2447 (40 FR 56883), AD 74-15-06 as follows:

1. Change second sentence of first paragraph by adding "equipped with magnesium input and/or intermediate housings" to read as follows:

"Applies to all S-58 model series helicopters equipped with magnesium input and/or intermediate housings."

2. Change compliance paragraph to include "magnesium" before "input and/or intermediate housings" to read as follows:

"Compliance required as indicated unless already accomplished. To preclude possible failure of the magnesium input and/or housings of the * * *"

3. Change paragraph 4 to read "Section 2, paragraph A(1)" instead of "Section 2, paragraph D(3)."

4. Change existing paragraph No. 6 to 7.

5. Substitute a new paragraph 6:

6. Remove from service prior to February 1, 1978, magnesium input and intermediate housings, P/Ns S1635-64009-3N, S1635-64074, S1635-64009, S1635-64010, and replace with aluminum input and intermediate housings, S1635-64009-101 and S1635-64074-103 respectively.

Note.—Sikorsky Service Bulletin No. 58B35-25 covers this subject. (Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement

PROPOSED RULES

under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Burlington, Mass., on August 31, 1977.

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

[FR Doc. 77-26621 Filed 9-14-77; 8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77-SW-38]

TRANSITION AREA

Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to designate a transition area at Mexia, Tex., to provide controlled airspace for aircraft executing a proposed instrument approach procedure to the Mexia-Limestone County Airport, using the newly established NDB located on the airport. Coincident with this action, the airport will be changed from VFR to IFR.

DATES: Comments must be received by October 17, 1977.

ADDRESSES: Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101.

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Tex. 76106.

An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

John A. Jarrell, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: Subpart G 71.181 (42 FR 440) of FAR Part 71 contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting IFR activity. Designation of the transition area at Mexia, Tex., will necessitate an amendment to this subpart.

COMMENTS INVITED

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation

Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, or by calling 817-624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed above.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a transition area at Mexia, Tex. The FAA believes this action will enhance IFR operations at the Mexia-Limestone County Airport by providing controlled airspace for aircraft executing a proposed instrument approach procedure using the newly established NDB on the airport. Subpart G of Part 71 was republished in the FEDERAL REGISTER on January 3, 1977 (42 FR 440).

DRAFTING INFORMATION

The principal authors of this document are John A. Jarrell, Airspace and Procedures Branch, and Robert C. Nelson, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 440) by adding the Mexia, Tex., transition area as follows:

MEXIA, TEX.

That airspace extending from 700 feet above the surface within a 6.5-mile radius of Mexia-Limestone County Airport (latitude 31°38'20" N., longitude 96°30'52" W.) and within 3.5 miles each side of the 155° bearing from the NDB (latitude 31°38'16" N., longitude 96°30'43" W.) extending from the 6.5 radius area to a point 12 miles southeast of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1349(a)); and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655 (c)).)

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

Issued in Fort Worth, Tex., on September 1, 1977.

PAUL J. BAKER,
Acting Director,
Southwest Region.

[FR Doc. 77-26611 Filed 9-14-77; 8:45 am]

[14 CFR Part 91]

[Docket No. 1357; Reference Notice No. 74-8]

TWO-WAY RADIO COMMUNICATIONS FAILURE DURING IFR OPERATIONS

Withdrawal of Proposal for Pilots To Commence the Approach at the Expected Approach Clearance Time Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rule making.

SUMMARY: This notice withdraws Notice No. 74-8, that was published in the FEDERAL REGISTER on February 26, 1974 (39 FR 7431). That notice proposed amending the Federal Aviation Regulations (FARs) to provide that a pilot flying under Instrument Flight Rules (IFR), who loses two-way radio communications after receiving a holding instruction and an expected approach clearance time, must commence the approach at the expected approach clearance time received. This withdrawal is issued since the subject of two-way radio communications failure during IFR operations will be further handled under the Federal Aviation Administration's Part 91, Subpart B, Regulatory Review Program. All prior comments received will be considered during the Regulatory Review Program.

EFFECTIVE DATE: September 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Cathy Carroll, Air Traffic Rules Branch (AAT-220), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-426-3128.

SUPPLEMENTARY INFORMATION: Section 91.127 of Part 91 prescribes the flight procedures that a pilot, flying under Instrument Flight Rules, should follow after his two-way radio communication with Air Traffic Control (ATC) has failed. Paragraph (c) (4) of that section provides, among other things, that if a pilot's two-way radio communications fails after he has received holding instructions and an expected approach clearance time, he shall "leave the hold-

¹ Map filed as part of original.

ing fix in order to arrive over the fix from which the approach begins as close as possible to the expected approach clearance time."

However, current ATC procedures provide that controllers shall issue an expected approach clearance time only where the holding fix is itself a designated initial, intermediate, or final approach fix for the approach in use. Thus, only one fix (i.e., a combined holding and approach fix) is involved in situations in which an expected approach clearance is given. (ATC issues an expect further clearance time where the holding fix is not one of the fixes designated as a part of the approach procedure in use.)

Because of this, the FAA issued Notice No. 74-8 proposing to amend the rule to provide that a pilot must commence the approach at the expect approach clearance time received. However, the FAA has since issued Notice No. 77-2, published in the FEDERAL REGISTER (41 FR 14) on January 21, 1977, announcing the initiation of its Part 91, Subpart B Regulatory Review Program (hereafter called 'program'). Although the notice invited the public to submit proposals for consideration in the program, it stated that FAA's earlier proposal, contained in Notice No. 74-8, concerning two-way radio communications failure during IFR operations, would be pursued to a conclusion or withdrawn outside the program. However, public response to Notice No. 77-2 included proposals concerning two-way radio communications failure, including issues presented in Notice No. 74-8.

Review of these public responses to Notice No. 77-2 indicates that the proposals contained in Notice No. 74-8 may be unnecessarily complex and that a more effective and simpler approach to the problem of two-way radio communications failure during IFR operations may be achieved in a manner reflected in the proposals submitted under the program.

Accordingly, the FAA intends to pursue the subject of two-way radio communications failure during IFR operations within the program. Thus, the subject and issues contained in Notice No. 74-8 are hereby consolidated with the program.

As announced in the FEDERAL REGISTER on July 28, 1977 (42 FR 38390), the FAA has scheduled a program conference for September 13-16, 1977. It will be held at the Sheraton National Motor Hotel, Columbia Pike and Washington Boulevard, Arlington, Va. On September 13, the conference hours will extend from 9 a.m. to 5 p.m. and, on all other days, from 8:30 to 5 p.m. There is no admission fee or other charge to participate in the conference. All conference sessions will be open on a space available basis, to all interested persons who register to attend.

DRAFTING INFORMATION

The principal authors of this document are Cathy Carroll, Air Traffic Rules Division, and Gloria J. Willingham, Office of the Chief Counsel.

THE WITHDRAWAL

For the reasons stated above, Notice No. 74-8, published in the FEDERAL REGISTER on February 26, 1974 (39 FR 7431) is hereby withdrawn, effective immediately.

(Secs. 307, 313(a) and 601, Federal Aviation Act of 1958, as amended (49 U.S.C. §§ 1348, 1354(a) and 1421); and sec. 6(c), Department of Transportation Act (49 U.S.C. § 1655 (c)).)

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

Issued in Washington, D.C., on September 7, 1977.

GLEN D. TIGNER,
Acting Director,
Air Traffic Service.

[FR Doc. 77-26612 Filed 9-14-77; 8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 241]

[EDR-335; Docket No. 30240; Dated September 1, 1977]

AIRLINE LOBBYING COSTS

Accounting and Reporting Requirements

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Aviation Consumer Action Project (ACAP) has asked the Board to require the airlines to report the amount of money they spend on lobbying and institutional advertising, and not to permit the airlines to pass these costs on to their passengers. This notice proposes to amend the Board's accounting and reporting regulations to require the airlines to report all lobbying expenses in a separate nonoperating account, thus eliminating these expenses from the costs on which fares and rates are based. The ratemaking treatment of advertising expenses is the subject of a separate advance notice of proposed rulemaking, EDR-336/PSDR-50, Docket 31333.

DATES: Comments by October 14, 1977.

ADDRESSES: Comments should be sent to Docket 30240, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Docket comments may be examined at the Docket Section, Civil Aeronautics Board, Room 711, Universal Building, 1825 Connecticut Avenue, NW, Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Richard Juhnke, Rates and Agreements Division, Civil Aeronautics Board, 1825 Connecticut Avenue, NW, Washington, D.C. 20428 (202-673-5436).

SUPPLEMENTARY INFORMATION:

ACAP represents that the certificated air carriers spend large sums for lobbying and institutional advertising both on their own and through their trade asso-

ciation, the Air Transport Association of America (ATA). While acknowledging that the ATA budget does not specify lobbying costs, ACAP states that ATA minutes filed with the CAB indicate that the majority of ATA's objectives for 1976 would require some changes in federal or state law, and concludes from this that the bulk of the \$7.47 million in annual dues collected from the airlines is allocated to lobbying expenditures. ACAP concludes that the expenditures made by airlines in their individual lobbying efforts are substantial since, even under the standards of the 1946 Lobbying Act,¹ the carriers admit paying corporate officers, law firms and public relations consultants to lobby.

Section 1002(e)(2) of the Federal Aviation Act of 1958 provides that the Board, in exercising its ratemaking powers, shall consider among other factors " * * * (2) the need in the public interest of adequate and efficient transportation of persons and property by air carriers at the lowest cost consistent with the furnishing of such service." ACAP argues that, in accordance with this provision, expenditures for lobbying should not be included in the costs allowable for ratemaking purposes, but instead, should be classified as "nonoperating expenses." Part 241, Section 8(d), of the Board's Economic Regulations (14 CFR Part 241) distinguishes between operating and non-operating expenses as follows:

(2) *Operating Expenses.* (1) This primary classification shall include expenses of a character usually and ordinarily incurred in the performance of air transportation-related services * * *.

(3) *Nonoperating income and expense-net.* This primary classification (8100) shall include * * * other revenues and expenses attributable to financing or other activities which are extraneous to and not an integral part of air transportation or its incidental services * * *.

ACAP argues that lobbying is clearly extraneous to the provision of air transportation or any of its services. According to ACAP, expenditures in pursuit of such goals as "defeating proposals authorizing low cost charter service, capturing special corporate tax benefits and heading off regulatory reform"² further the interests of corporation officers and stockholders and afford no benefit whatsoever to airline customers. These expenditures should not be classified as operating expenses and thus included in the fares charged to passengers.

ACAP sees the Board's policy of excluding political contributions and certain legal expenses from operating accounts,³ as well as statutes, regulations

¹ The 1946 Federal Regulation of Lobbying Act, 2 U.S.C. 266, requires persons who lobby Congress to register and file reports with the Secretary of the Senate and the Clerk of the House of Representatives. The Act has been interpreted to cover only direct communications with members of Congress by individuals or organizations whose principal purpose is lobbying. ACAP's view of the scope of lobbying activity is much broader.

² ACAP Petition, p. 5.

³ ACAP Petition, p. 5, citing 14 CFR Part 241, Accounts 74, 89, 1830 and Orders 76-8-103, 78-3-146, and 75-5-102.

and practices of several states, the Federal Power Commission, and the Federal Communications Commission, as further support for its position.

The Federal Power Commission (FPC) segregates lobbying expenses and requires these expenses to be treated as nonoperating expenses in interstate ratemaking. The uniform system of accounts prescribed by the FPC has a classification Account 426.4 "Expenditures for Certain Civic, Political and Related Activities" which states:

This account shall include expenditures for the purpose of influencing public opinion with respect to the election or appointment of public officials, referenda, legislation, or ordinances * * * or for the purpose of influencing the decisions of public officials, but shall not include such expenditures which are directly related to appearances before regulatory or other governmental bodies in connection with the reporting utility's existing or proposed operations.⁴

The Federal Communications Commission (FCC) recently required certain carriers under its jurisdiction to disclose lobbying expenditures for the purpose of influencing the public to support the Consumer Communications Reform Act. These expenditures are defined to include the costs of printed materials, postage, media advertising, consultants' fees and allocation of salaries and expenses of employees who routinely spend one hour or more per week on legislative activities.

ACAP requests that a new nonoperating account, "Lobbying and Legislative Public Relations," be defined in the Board's Uniform System of Accounts, and that the carriers be required to allocate expenses "for the purpose of influencing legislators or public opinion with respect to federal or state legislation" to this account. ACAP suggests that this account be modeled after the FPC account 426.4 and that a report form formulated by the FCC and approved by GAO be used as a starting point for a full and precise definition of the costs related to legislative and lobbying activity.⁵ In addition ACAP asserts that all dues paid to ATA (except that portion directly related to technical and traffic operations), the cost of administering political action committees, and all costs related to airline "federal affairs" offices should be considered lobbying expenses.

ATA has filed a response in opposition to ACAP's petition on its own behalf and that of certain member carriers.⁶ ATA

contends that the petition is untimely because Congress is actively reviewing the framework of air transportation regulation, and could soon undercut the regulatory assumptions of the proposed rulemaking proceeding. ATA further argues that lobbying, airline advertising in general, and joint advertising by ATA are ordinary and necessary business expenses for tax purposes, and the Board therefore must consider them "expenses of a character usually and ordinarily incurred" in providing air transportation under section 1002(e) (5) of the Act, i.e., operating expenses. Finally, according to ATA, there is no parallel to be drawn in this entire matter between public utility regulation and air transportation regulation.⁷

The Board is aware of the increasing public attention being focused on the amounts expended by various industries in attempts to influence legislation of interest to them. We have also noted the steps taken by other Federal regulatory bodies, particularly the Federal Power Commission, to require the disclosure of lobbying expenses. In light of this increasing public concern and in response to ACAP's petition for rulemaking requesting relief in this area, we have decided to propose an amendment to the Board's accounting and reporting requirements which would require the certificated air carriers to allocate all expenditures related to lobbying activity to a new nonoperating account, thus excluding these expenditures from the costs allowable for ratemaking purposes. We have decided to consider the issue of the ratemaking treatment of advertising expenses in a separate advance notice of proposed rulemaking.

The Board is of the tentative view that the costs of advancing corporate interests should be borne by stockholders and not by airline passengers and shippers. Although these expenses may in fact be ordinary and necessary business expenses, as ATA argues, the Board has no statutory mandate to allow all such expenses for ratemaking purposes.

lines, Inc., Northwest Airlines, Inc., Pan American World Airways, Inc., Piedmont Aviation, Inc., Ozark Air Lines, Inc., Southern Airways, Inc., Texas International Airlines, Inc., Trans World Airlines, Inc., United Air Lines, Inc., Western Air Lines, Inc., and Wien Air Alaska, Inc.

⁴ On February 4, 1977 ACAP filed a Motion for Leave to File an Otherwise Unauthorized Document, Reply by Aviation Consumer Action Project to Clarify the Record. ACAP argues that ATA distorted certain features of the rule requested by ACAP in its response to the ACAP petition for rulemaking, and that clarification is necessary to eliminate confusion. On its own behalf and that of certain member carriers ATA has filed a Motion for Leave to File an Otherwise Unauthorized Document, Opposition to ACAP Motion and the filing of the Reply on the grounds that the Reply neither clarifies nor adds anything new to pleadings already before the Board. We have decided to grant both motions to file otherwise unauthorized documents and have considered both ATA's Reply and ACAP's Opposition in deciding to issue a notice of proposed rulemaking.

In the "Domestic Passenger Fare Investigation" the Board affirmed its right to establish ratemaking standards for determining the revenue needed for the provision of adequate and efficient service under section 1002(e). The application of these standards results in the disallowance of certain expenses incurred by the airlines in the course of conducting ordinary operations.

We propose to establish a new objective nonoperating Account 89.2 "Lobbying" to include all costs expended for the purpose of influencing legislators and/or public opinion with respect to the election or appointment of public officials, referenda, legislation, or ordinances (either with respect to the possible adoption of new or repeal or modification of existing referenda, legislation, or ordinances); or for the purpose of influencing the decisions of public officials, with the exception of costs directly related to appearances before regulatory or other governmental bodies in connection with the air carrier's existing or proposed operations. We are also proposing to amend the reporting instructions of Account 64 "Memberships" to exclude from this account that portion of membership dues and related special assessments defined as lobbying expenses.

At the present time, all certificated air carriers are required to file with the Board an annual Schedule G-43, "Compensation and Expenses of Persons and Firms (Other than Directors, Officers and Employees) Earning \$20,000 or More During the Calendar Year," which requires that air carrier payments which exceed in aggregate \$20,000 during the calendar year be reported on schedule G-43. A review of these filings disclosed that carriers have not been reporting trade association dues on schedule G-43. Nor have they been reporting on schedule G-43 memberships in other organizations, such as chambers of commerce, when the aggregate calendar year expenditures exceed \$20,000. In order to close this gap we are proposing to amend the reporting instructions of schedule G-43 to clarify that all memberships charged to Account 64 "Memberships" and Account 89.2 "Lobbying" should be separately reported on schedule G-43 when the aggregate calendar year expenditures exceed \$20,000.

We agree with ACAP that the establishment of an account for lobbying expenses requires a clear definition of the specific activities which the terms lobbying and legislative activity encompass, as well as a precise definition of the costs related to these activities. A standard form which may be used for carrier analysis of these costs is attached as Appendix C. Carrier completion of this form for domestic operations for the calendar year 1976 will help the Board to refine the definitions before taking final action on the proposed rule. We recognize that there may be problems associated with allocating certain expenses between lobbying activities at the legislative level and activities at the regulatory level. However, we expect comments

⁴ Federal Power Commission's Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act, Account 426.4. (18 CFR Part 101.)

⁵ ACAP Petition, p. 9.

⁶ The form is attached as Appendix B.

⁷ Response by the Air Transport Association and Certain of Its Members to the Rulemaking Petition of the Aviation Consumer Action Project, authorized by Alaska Airlines, Inc., Allegheny Airlines, Inc., American Airlines, Inc., Braniff Airways, Continental Air Lines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., The Flying Tiger Line, Inc., Frontier Airlines, Inc., North Central Air-

in response to this notice to suggest reasonable means for minimizing the administrative problems inherent in any allocation process. We also invite suggestions and discussions of feasible methods for allocating various lump sum payments, such as ATA membership dues, other ATA assessments, and outside counsel fees, between lobbying and other activities. The Board is particularly interested in developing a practicable mechanism for determining the

proportions of carrier payments to ATA which are related to expenditures for lobbying activity, and should, therefore, be allocated to a nonoperating account.

PROPOSED RULE

It is proposed to amend Part 241 of the Economic Regulations (14 CFR Part 241) as follows:

1. Amend Section 7.—Chart of Profit and Loss Accounts, to read in pertinent part as follows:

SECTION 7.—Chart of profit and loss accounts

Objective classification of profit and loss elements	Functional or financial activity to which applicable (00)		
	Group I carriers	Group II carriers	Group III carriers
89 Other nonoperating income and expense—net:			
89.0 Income from nontransport ventures	81	81	81
89.1 Intercompany transaction adjustment—credit	81	81	81
89.2 Dividend income	81	81	81
89.3 Net unrealized gain or loss on marketable equity securities	81	81	81
89.4 Net realized gain or loss on marketable equity securities	81	81	81
89.5 Capital gains and losses—operating property	81	81	81
89.6 Capital gains and losses—other	81	81	81
89.7 Unapplied cash discounts	81	81	81
89.8 Other miscellaneous nonoperating credits	81	81	81
89.9 Intercompany transaction adjustment—debit	81	81	81
89.0 Lobbying	81	81	81
89.9 Other miscellaneous nonoperating debits	81	81	81

INCOME TAXES

Section 12 [Amended]

2. Amend Section 12—Objective Classification—Operating Revenues and Expenses, by revising account 64 to read as follows:

64 Memberships.

Record here the cost of membership dues in trade associations, chambers of commerce, or other business associations and organizations together with related special assessments. That portion of membership dues and related special assessments defined as lobbying expenses shall not be charged to this account but to nonoperating income and expense account 89.2 Lobbying.

Section 14 [Amended]

3. Amend Section 14—Objective Classification—Nonoperating Income and Expense to add a new subaccount for lobbying costs by revising account 89 to read as follows:

89 Miscellaneous Nonoperating Debits.

(a) Record here all debits of a nonoperating character not provided for otherwise, such as fines or penalties imposed by governmental authorities; costs related to property held for future use; donations for charitable, social or community welfare purposes; costs of lobbying; losses on reacquired and retired or resold debt securities of the air carrier; losses on uncollectible nonoperating receivables or accruals for uncollectible nonoperating receivables; and intercompany debt adjustments. This account shall be charged with amortization of amounts carried in balance sheet account 1870 Property Acquisition Adjust-

ment, unless otherwise approved or directed by the Civil Aeronautics Board.

(b) This account shall be subdivided as follows by all air carrier groups:

89.1 Intercompany Transaction Adjustment-Debit. Record here all intercompany debits for any differences between amounts at which transactions between the air carrier and its nontransport divisions or associated companies are initially recorded and are to be settled as provided under section 2-18.

89.2 Lobbying. Record here all direct and indirect expenditures for the purpose of influencing legislators and/or public opinion with respect to the election or appointment of public officials, referenda, legislation, or ordinances (either with respect to the possible adoption of new or repeal or modification of existing referenda, legislation, or ordinances); or for the purpose of influencing the decisions of public officials; however, expenditures which are directly related to appearances before regulatory or other governmental bodies in connection with the air carrier's existing or proposed operations shall not be recorded in this account but shall be recorded in their respective objective accounts.

89.9 Other. Record here all other miscellaneous nonoperating debits not included in subaccounts 89.1 Intercompany Transaction Adjustment-Debit and 89.2 Lobbying.

Section 26 [Amended]

4. Amend Section 26—General Corporate Elements, by revising paragraph (d) of schedule G-43 to read as follows:

Schedule G-43—Compensation and Expenses of Persons and Firms (Other than Directors, Officers and Employees) Earning \$20,000 or More During the Calendar Year.

(d) Compensation and expenses to be reported in this schedule shall include fees, retainers, gifts, commissions, contributions, allowances for expenses or any form of payments or accruals amounting in the aggregate to \$20,000

or more during the year. In addition to expense reimbursements paid or to be paid directly to the recipients reflected in column 1, this schedule shall include expenses incurred by the persons or firms named in column 1 which have been paid or are to be paid directly to vendors by the air carrier. Expenses to be reported in this schedule shall encompass payments and accruals such as for legal, medical, engineering, memberships, lobbying, trade associations, advertising, accounting, statistical, educational, or charitable purposes, but shall exclude payments and accruals for services which both as to their nature and amount may reasonably be regarded as ordinarily connected with the routine physical operation or maintenance of an air carrier, such as payments and accruals for rent of buildings or property, for heat, light, power, telegraph and telephone or, as applicable, payments or amounts to be paid to other carriers for interchange of equipment or settlement of interline traffic balances.

Section 36 [Amended]

5. Amend Section 36—General Corporate Elements, by revising paragraph (d) of schedule G-43 to read as follows:

Schedule G-43—Compensation and Expenses of Persons and Firms (Other than Directors, Officers and Employees) Earning \$20,000 or More During the Calendar Year.

(d) Compensation and expenses to be reported in this schedule shall include fees, retainers, gifts, commissions, contributions, allowances for expenses or any form of payments or accruals amounting in the aggregate to \$20,000 or more during the year. In addition to expense reimbursements paid or to be paid directly to the recipients reflected in column 1, this schedule shall include expenses incurred by the persons or firms named in column 1 which have been paid or are to be paid directly to vendors by the air carrier. Expenses to be reported in this schedule shall encompass payments and accruals such as for legal, medical, engineering, memberships, lobbying, trade associations, advertising, accounting, statistical, educational, or charitable purposes, but shall exclude payments and accruals for services which both as to their nature and amount may reasonably be regarded as ordinarily connected with the routine physical operation or maintenance of an air carrier, such as payments and accruals for rent of buildings or property, for heat, light, power, telegraph and telephone or, as applicable, payments or amounts to be paid to other carriers for interchange of equipment or settlement of interline traffic balances.

6. Amend CAB Form 41 schedule P-3 to reflect the foregoing changes and attached hereto as Appendix A and made a part hereof.

REQUEST FOR COMMENTS

Interested persons may take part in this rulemaking by submitting 20 copies

PROPOSED RULES

of written data, views, or arguments on the subjects discussed. All relevant material received by the dates shown at the beginning of this notice will be considered by the Board before taking final action on the proposed rules.

Individual members of the general public who wish to express their interest as consumers by informally taking part in this proceeding may do so by submitting comments in letter form to the

Docket Section, without having to file additional copies.

(Secs. 204, 403, 404, 407 and 1002, Federal Aviation Act of 1958, as amended; 72 Stat. 743, 758, 760, 766, and 788, as amended (49 U.S.C. 1324, 1373, 1374, 1377, 1482; and 5 U.S.C. 552))

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOB,
Secretary.

APPENDIX A

Item	Air Carrier _____ Operation _____ Period Ended _____		Air Carrier _____ Operation _____ Period Ended _____	
	Quarter		12 Months to Date	
TRANSPORT REVENUES	1966		1966	
Passenger-first class	01.1		01.1	
Passenger-coach	01.2		01.2	
U. S. Mail—priority	05.1		05.1	
U. S. Mail—nonpriority	05.2		05.2	
Foreign mail	05.3		05.3	
Property—express	06.1		06.1	
Property—freight	06.2		06.2	
Property—excess passenger baggage	06.3		06.3	
Charter and special-passenger	07.1		07.1	
Charter and special-property	07.2		07.2	
Reservations cancellation fees	19.1		19.1	
Miscellaneous operating revenues	19.9		19.9	
Total transport revenue (per Sched. P-1)	2989		2989	
DEPRECIATION AND AMORTIZATION	1966		1966	
Ob. and del. prov.—exp. parts (per Sch. P-5) ..	72		72	
Amortization—developmental and prod. exp. ..	74.1		74.1	
Amortization—other intangibles	74.2		74.2	
Depreciation—flight equip. (per Sched. P-5) ..	75.6		75.6	
Depreciation—mainf. equip. and hangars	75.7		75.7	
Depreciation—general ground property	75.9		75.9	
Amortization—capital leases	76		76	
Total deprec. and amort. (per Sched. P-1) ..	709		709	
NONOPERATING INCOME AND EXPENSE—NET	1966		1966	
Interest expense—long term debt	31.1		31.1	
Interest expense—short term	31.2		31.2	
Inputed interest—capitalized-debt	32.1		32.1	
Inputed interest—deferred-debt	32.2		32.2	
Inputed interest—deferred—credit	32.3		32.3	
Interest—capitalized—credit	32.4		32.4	
Capitalized interest (per Schedule P-1)	32.5		32.5	
Amortization of discount and expense on debt ..	34.1		34.1	
Amortization of premium on debt	34.2		34.2	
Amortization of debt discount, premium and expense (per Schedule P-1)	34.3		34.3	
Income from nontransport vehicles	36.3		36.3	
Intercompany transaction adjustments—credit ..	38.1		38.1	
Dividend income	38.2		38.2	
Net unrealized gain or loss on marketable equity securities	38.3		38.3	
Net realized gain or loss on marketable equity securities	38.4		38.4	
Capital gains and losses—operating property ..	38.5		38.5	
Capital gains and losses—other	38.6		38.6	
Unapplied cash discounts	38.7		38.7	
Other miscellaneous nonoperating credits	38.8		38.8	
Intercompany transaction adjustments—debit ..	39.1		39.1	
Lobbying	39.2		39.2	
Other miscellaneous nonoperating debits	39.9		39.9	
Other income and expense—net (per Sched. P-1)	41.9		41.9	

*Denotes lesser amount, in excess \$100 denotes total amount.
Schedule P-3

CAB Form 41
(Rev. 7-77)

PROCEDURES TO BE FOLLOWED IN REPORTING
COSTS INCURRED IN SUPPORT OF THE PROPOSED
CONSUMER COMMUNICATIONS REFORM ACT

All identifiable expenditures for the purpose of influencing the public to support the Consumer Communications Reform Act shall be charged to account 323, "Miscellaneous Income Charges," and shall be reported.

Such expenditures include:

- (a) Costs of preparing and printing statements or pamphlets addressing the Consumer Communications Reform Act urging shareholders, employees or customers to support the legislation.
- (b) Postage or distribution costs when such material is mailed or otherwise distributed as communication to shareholders, employees or customers.
- (c) Costs for media advertising, meetings, speeches or fees to consultants for promoting the Consumer Communications Reform Act.
- (d) Salaries, travel and other expenses of employees who prepare, distribute or promulgate material to promote the Consumer Communications Reform Act through shareholders, employees, customers or the public in general.
- (e) Salaries, travel and other expenses of employees who, while not assigned solely to this program, incur such expenses on behalf of it.

If portions of any published or printed material are devoted to the above activities, where such proportion is 10% or more of the content of the material, the appropriate share of the costs shall be identified and reported.

Salary costs shall be identified and accounted for in those cases where an average of one hour or more weekly is routinely devoted

to such efforts; or in the case of random activities, whenever any individual employee devotes as much as five hours in any bi-weekly period to such efforts. In the case of employee group meetings designed to promote the legislation, the salaries and/or wages of all employees shall be allocated where any such meeting is of 1/2 hour or more in duration.

The reports shall also include the costs of preparing testimony and testifying before legislative bodies in connection with the Consumer Communications Reform Act.

Items of a strictly informative character, such as reports of the status of the legislation, are not required to be reported.

Notes to Analysis of Costs

1.	Cost to:	
	Prepare this Report	Screen this data on a recurring basis
	Direct Labor \$ _____	\$ _____
	Data Processing \$ _____	\$ _____
	Printing/Copying \$ _____	\$ _____
	Overhead \$ _____	\$ _____

[FR Doc.77-26721 Filed 9-14-77;8:45 am]

[14 CFR Parts 241, 399]

[EDR-336/PSDR-50; Docket No. 31333;
Dated: September 1, 1977]

CERTIFICATED AIR CARRIERS

Appropriate Treatment of Advertising Expenses for Ratemaking Purposes

AGENCY: Civil Aeronautics Board.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Aviation Consumer Action Project (ACAP) has asked the Board to require the airlines to report the amount of money they spend on lobbying and institutional advertising, and not to permit the airlines to pass these costs on to their passengers. This advance notice affords the Board the opportunity to seek comments on the appropriate treatment of advertising expenses for ratemaking purposes. The Board is also issuing a notice of proposed rulemaking, EDR-335, Docket 30240, to require the airlines to report all lobbying expenses in a separate nonoperating account.

DATES: Comments by October 14, 1977.

ADDRESSES: Comments should be sent to Docket 31333, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Docket comments may be examined at the Docket Section, Civil Aeronautics Board, Room 711, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Richard Juhnke, Rates and Agreements Division, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428 (202-673-5436).

SUPPLEMENTARY INFORMATION:

The Aviation Consumer Action Project (ACAP) has petitioned the Board to issue rules which would require the certificated air carriers to disclose and to classify as nonoperating expenses all sums directly or indirectly expended for lobbying and institutional advertising. In a notice of rulemaking proposing to amend the Board's accounting regula-

tions to provide the relief requested by ACAP with respect to lobbying expenses, we noted that the Board wanted to explore further the appropriate treatment of advertising expenses for ratemaking purposes. We are therefore granting ACAP's petition with respect to institutional advertising in the form of an advance notice of proposed rulemaking, in order to afford the Board the opportunity to receive comments and additional information and proposals prior to formulating a specific proposed rule.

ACAP argues that institutional advertising is a lobbying activity and thus expenditures for this type of advertising should be eliminated from the costs allowable for ratemaking purposes. ACAP defines institutional advertising as advertising which is designed "to create, enhance, or sustain an airline's image or goodwill in regard to the general public or its customers."¹ ACAP contrasts this with information advertising which is designed to attract passengers by telling them about schedules, prices and other airline services. ACAP contends that all advertising by the air carriers' trade association, the Air Transport Association of America (ATA), is institutional advertising.

ACAP see support for its position in the fact that public utility commissions in eight states have prohibited or restricted promotional and institutional advertising.² ACAP notes that in disallowing the cost of promotional, community affairs, and image advertising the Arkansas Public Utility Commission declared:

It is the opinion of this Commission that these expenditures are made for purposes which offer no direct benefit to the ratepayer. They will, therefore, be removed as expense items in the operating income statement submitted.³

¹ ACAP Petition, p. 4, citing Connecticut Public Act No. 75-588.

² Arkansas, California, Connecticut, Indiana, Iowa, Michigan, South Carolina, Washington. ACAP Petition, p. 7, citing The Power Line, June/July 1976, Environmental Action Foundation, Washington, D.C., p. 4.

³ ACAP Petition, p. 7, citing Order of the Arkansas Public Service Commission, Docket No. U-2649, April 21, 1976, p. 28.

ATA has filed a response in opposition to ACAP's petition on its own behalf and that of certain member carriers.¹ ATA contends that the treatment afforded advertising expenses by state public utility commission is in no way relevant here since the airline industry, in contrast to public utility companies, is not guaranteed a rate of return and is characterized by intra-industry and intermodal competition.

We find that the concept of institutional advertising is not well developed in ACAP's petition, nor does ACAP's material indicate its regular use. We have particular difficulty with institutional advertising as defined by ACAP, insofar as this definition does not provide a clear set of criteria for distinguishing between institutional and informational advertising. The series of ATA advertisements which ACAP offers as an example of institutional advertising provides an excellent example of how difficult it can be to make this distinction. Some of these advertisements could reasonably be characterized as "modal." Since it appears that ACAP would characterize advertising which attempts to divert passengers from one air carrier to another as informational, it would follow that advertising which seeks to generate air traffic by diverting passengers from other modes should not be considered institutional advertising.

Formulation of a proposed rule would require a clear definition of institutional advertising. Carriers may complete the attached form for the analysis of advertising expenses, Appendix A, to assist the Board in this regard. The instructions for completing this form include definitions for informational, promotional and institutional advertising in order to insure comparability of data among carriers. These definitions are by no means final, however, and we expect the response to this advance notice to include suggestions for refinements.

As a practical matter, any regulation requiring the separate disclosure of expenditures for institutional advertising could be difficult to administer, since any classification of advertising expenses according to type would be somewhat judgmental, even if the various types of advertising are clearly defined. In light of this, we have decided to seek comments and additional information before

taking any action to require the exclusion of institutional advertising expenses from the costs allowable for ratemaking purposes.

The Board also intends to consider a broader approach to the ratemaking treatment of advertising costs by exploring the desirability of establishing a ratemaking standard for these expenses.² The Board currently determines the reasonableness of the passenger fare level on the basis of costs which reflect the application of ratemaking standards such as the 55.0 percent load-factor standard and seating configuration standards. A ratemaking standard for advertising expense would be designed to ensure that the users of air transportation are not burdened by advertising costs in excess of what is required to inform airline customers of prices and services and to allow the carriers to operate effectively in a competitive environment. We invite comments on the desirability of establishing a ratemaking standard for advertising expenses as an alternative to requiring the disclosure of institutional advertising expenses in a nonoperating account.

In sum, the Board expects comments in response to this advance notice to: (1) Define institutional advertising and discuss the extent to which this type of advertising should be considered a lobbying activity; (2) discuss whether institutional advertising expense should be treated as a non-operating expense and thus excluded from costs for ratemaking purposes; (3) discuss the merits of establishing a ratemaking standard for advertising expenses; and (4) the problems involved in deciding how much advertising is desirable, particularly in light of the fact that advertising and promotion are necessary if there is to be effective competition and for the introduction of new routes and experimentation with new rates and fares.

Interested persons may take part in this rulemaking by submitting 20 copies of written data, views, or arguments on the subject discussed. All relevant material received by the dates shown at the beginning of this notice will be considered by the Board before taking final action on the proposed rules.

Individual members of the general public who wish to express their interest as consumers by informally taking part in this proceeding may do so by submitting comments in letter form in the Docket Section, without having to file additional copies.

(Secs. 204, 403, 404, 407, 1002, Federal Aviation Act of 1958, as amended; 72 Stat. 743, 758, 760, 766, 788, as amended (49 U.S.C. 1324, 1272, 1374, 1377, 1482; 5 U.S.C. 552).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

¹"Response by the Air Transport Association and Certain of Its Members to the Rulemaking Petition of the Aviation Consumer Action Project," authorized by Alaska Airlines, Inc., Allegheny Airlines, Inc., American Airlines, Inc., Braniff Airways, Inc., Continental Air Lines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., The Flying Tiger Line Inc., Frontier Airlines, Inc., Hawaiian Airlines, Inc., Hughes Airwest, National Airlines, Inc., North Central Airlines, Inc., Northwest Airlines, Inc., Pan American World Airways, Inc., Piedmont Aviation, Inc., Ozark Air Lines, Inc., Southern Airways, Inc., Texas International Airlines, Inc., Trans World Airlines, Inc., United Air Lines, Inc., Western Air Lines, Inc., and Wien Air Alaska, Inc.

²For example, advertising expenses allowable for ratemaking purposes could be limited to a standard percentage of revenues.

Analysis of Costs - Domestic Operations 1/
for the 12 months ended December 31, 1976

Form 41 Objective Accounts No.	Advertising 2/		Remaining Balance in Form 41 Account	Synopsis of types of items included in remaining balance	Total per Form 41
	Institutional	Promotional			
Totals					

Analysis of Advertising Costs by type of media used:

- T.V.
- Radio
- Newspaper
- Magazine
- OMG
- Telephone Directory
- Other

Total

100%

1/ When statistical sampling or estimating is used in the analysis of costs, a footnote describing the procedures and assumptions should be presented.
2/ For this report only, advertising costs should be categorized according to the definitions of institutional, informational and promotional advertising given on page 2, this Appendix. If You believe an advertisement fits more than one of the categories listed, include those costs in only one category, and indicate in a footnote the amount, in which category it is included and the elements of the advertisement that cause you to believe it fits in more than one category.

Definition of Terms for Use Only
on this Appendix

INSTITUTIONAL ADVERTISING - public communications of all kinds designed to create, enhance, or sustain an airline's corporate image or goodwill as viewed by the general public or its customers.

INFORMATIONAL ADVERTISING - public communications designed to inform passengers or shippers about flight times, prices, or other services offered by the airline.

PROMOTIONAL ADVERTISING - public communications designed to attract passengers or shippers from other air carriers or modes of travel to the advertising carrier.

Notes to Analysis of Costs

	Cost to:	
<u>Prepare this Report</u>		<u>Screen this data on a recurring basis</u>
Direct Labor	\$ _____	\$ _____
Data Processing	\$ _____	\$ _____
Printing/Copying	\$ _____	\$ _____
Overhead	\$ _____	\$ _____

[FR Doc.77-26720 Filed 9-14-77;8:45 am]

TENNESSEE VALLEY AUTHORITY

[18 CFR Part 304]

STRUCTURES ON TENNESSEE RIVER SYSTEM

Amendments to Regulations Governing Approval of Construction and Regulation

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Proposed rule.

SUMMARY: This proposed rule prescribes changes in the existing regulations governing approval of construction and the regulation of structures which affect or would affect navigation, flood control or public lands or reservations along or in the Tennessee River or its tributaries. Most of the amendments are designed only to clarify or update the existing regulations in light of new circumstances, but several would result in changes in the scope or effect of the present regulations.

PROPOSED EFFECTIVE DATE: January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

John S. Rozek, Director of Property and Services, 109 West Cumberland Building, Knoxville, Tenn. 37902 (615-632-3151).

SUPPLEMENTARY INFORMATION: The first of the substantive changes occurs in § 304.101, under which the Board currently reserves to itself the determination of all applications for structures or activities which may result

in any "discharge" into "navigable waters" of the United States, as those terms are defined in the Federal Water Pollution Control Act Amendments of 1972 (FWPCA). The only exceptions to this reservation are applications which involve marine toilets. Under the proposed § 304.101, authority to approve or disapprove all applications will be delegated to TVA's Director of Property and Services.

A second change is the addition of a new subsection (c) to § 304.103 in order to make it explicit that each flotation device subject to the regulations must be firmly affixed to the structure it supports with materials capable of withstanding prolonged exposure to wave wash and weather conditions. If this is not done, individual flotation devices will escape, causing a navigation hazard to vessels on TVA reservoirs.

Another alteration contained in the proposed amendments concerns § 304.108 (c), which currently provides that plans for fixed boathouses, piers, and docks will not be approved if they include toilets, living or sleeping quarters, or enclosed spaces with floor area in excess of 25 square feet. Floating boathouses are similarly restricted by the terms of § 304.204. In order to make coverage complete, the scope of this prohibition will be expanded to cover floats, rafts, and all other structures subject to approval under section 26a except those structures which are subject to section 26a only because they are located upon land subject to TVA flowage easements as provided in § 304.109. At the same time the present authority of the Di-

rector to modify these restrictions for piers and docks which are a part of public or commercial recreation facilities is to be expanded to any structure, not just piers and docks, and to any public or commercial facility, not just recreational ones.

In the course of reorganizing § 304.109 for greater clarity and simplicity, it was redrafted to apply to flowage easements on all TVA reservoirs instead of Fort Loudoun and Douglas Reservoirs only. Experience has shown that, although to a lesser extent, problems do occur on the flowage easements for the other reservoirs and this change will provide uniform application and facilitate a more complete implementation of TVA's policies of flood damage prevention and water pollution control. The special provision under which the Director could exempt certain structures from the effect of the section if he determined that they were not subject to serious damage from flooding has been deleted. The provision was of little benefit to applicants because in order to determine the potential for flood damage the Director needs nearly as much information from them as for a regular approval, and in addition there is the possibility that a structure could be immune to flood damage itself and yet hamper the effectiveness of the reservoir under emergency conditions.

The final major proposed alteration concerns the definition of navigable houseboats in § 304.201. Currently, a houseboat may qualify as navigable if it is on a boat hull, pontoons, or "other comparable flotation devices," but there is no provision as to the alignment or the shape of the flotation devices. Yet, if they are placed crosswise to the direction of travel or are not shaped to facilitate movement through the water, they are likely to come loose and escape, endangering the craft being supported and creating navigation hazards for other vessels on the reservoir. These dangers are also increased when flotation is rendered by numerous small devices. Under the proposed regulations, therefore, flotation for a navigable houseboat may come from a boat hull or pontoons only, and a definition of "ponton" has also been provided under which a flotation device must run fore and aft for the full length of the vessel and have a sloped or molded bow. Existing houseboats which have qualified as navigable under the current regulations, but would not under the proposed amendments, are to continue to be treated as navigable for all purposes except for being subject to the prohibition in § 304.230(d) against replacing or rebuilding nonnavigable houseboats.

These amendments are proposed pursuant to section 26a of the Tennessee Valley Authority Act of 1933, as amended. Interested persons may submit written data, views, arguments, comments, or objections in regard to the proposed rule-making, preferably in duplicate, to the Tennessee Valley Authority, Attention: Office of the General Counsel, 400 Commerce Avenue, Knoxville, Tenn. 37902.

All relevant material received not later than October 17, 1977, will be considered prior to the adoption of a final rule. Revisions may be made in the rule as finally adopted in the light of material received. Copies of all such material received will be available for public examination during regular business hours at the following locations:

- TVA Technical Library, Room E2A1, 400 Commerce Avenue, Knoxville, Tenn.
- TVA Technical Library, Room 100, 401 Building, Chattanooga, Tenn.
- TVA Technical Library, Room 100, National Fertilizer Development Center, Muscle Shoals, Ala.
- TVA Technical Library, Forestry Building, Norris, Tenn.

Accordingly 18 CFR Part 304 is proposed to be amended as follows:

1. The Table of Contents to Part 304 is amended to read:

TABLE OF CONTENTS

Section 26a of the TVA Act, as amended:

PART 304—APPROVAL OF CONSTRUCTION IN THE TENNESSEE RIVER SYSTEM AND REGULATION OF STRUCTURES

Subpart A—General Requirements

- Sec.
- 304.1 Definitions.
- 304.2 Scope and intent.
- 304.3 Flotation devices and material.
- 304.4 Treatment of sewage.
- 304.5 Removal of unauthorized or unsafe structures.

Subpart B—Approval of Construction

- 304.100 Scope and intent.
- 304.101 Delegation of authority.
- 304.102 Application.
- 304.103 Contents of application.
- 304.104 Little Tennessee River; date of formal submission.
- 304.105 Determination of application.
- 304.106 Appeals.
- 304.107 Conduct of hearings.
- 304.108 Conditions of approval.
- 304.109 Habitable and certain other enclosed structures within the flowage easement areas of TVA reservoirs.

Subpart C—Regulation of Boathouses, Houseboats, Other Floating Structures, and Harbor Limits

- 304.200 Scope and intent.
- 304.201 Definitions.
- 304.202 Designation of harbor areas at commercial boat docks.
- 304.203 Houseboats.
- 304.204 Floating boathouses.
- 304.205 Approval of plans for floating boathouses and nonnavigable houseboats.
- 304.206 Numbering and transfer of approved facilities.

AUTHORITY.—16 U.S.C. secs. 831-831dd.

2. Section 304.1 is amended to read:

§ 304.1 Definitions.

Except as the context may otherwise require, the following words or terms, when used in this Part 304, have the meaning specified in this section.

Act means the Tennessee Valley Authority Act of 1933, as amended.

Applicant means the person, corporation, State, municipality, political subdivision or other entity making application.

Application means a written request for the approval of plans pursuant to section 26a of the Act and the regulations contained in this part.

Board means the Board of Directors of TVA.

Director means the Director of the Division of Property and Services of TVA.

TCA means the Tennessee Valley Authority.

3. Section 304.2 is amended to read:

§ 304.2 Scope and intent.

The Act among other things confers on TVA broad powers related to the unified conservation and development of the Tennessee River Valley and surrounding area and directs that property in TVA's custody be used to promote the Act's purposes. In particular, section 26a of the Act requires that TVA's approval be obtained prior to the construction, operation, or maintenance of any dam, appurtenant works, or other obstruction affecting navigation, flood control, or public lands or reservations along or in the Tennessee River or any of its tributaries. By way of example only, such obstructions include boat docks, piers, boathouses, rafts, buoys, floats, boat launching ramps, fills, and nonnavigable houseboats as defined in § 304.201. Any person considering constructing, operating or maintaining any such structure should carefully study these regulations before doing so. The regulations also apply to certain structures built upon land subject to TVA flowage easements. In the transfer or other disposition affecting shoreline lands within its custody, TVA has also retained land rights to carry out the Act's purposes including rights related to control of water pollution from the use of the land transferred. TVA uses and permits use of the lands and land rights in its custody alongside and adjacent to TVA reservoirs to carry out the purposes and policies of the Act. In addition, recent legislation, including the National Environmental Policy Act of 1969, as amended, (NEPA), 42 U.S.C. section 4321 et seq., and the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. section 1251 et seq., (FWPCA), have declared it to be congressional policy that agencies should administer their statutory authorities so as to restore, preserve and enhance the quality of the environment and should cooperate in the control of pollution. Unless otherwise noted, all references in this title to these statutes shall be deemed to include any future amendments to them. It is the intent of the regulations prescribed in this Part 304 to carry out the purposes of the Act and other statutes relating to these purposes, and this part shall be interpreted and applied to that end.

4. Section 304.3 is amended by amending paragraph (b) and adding a new paragraph (c) to read:

§ 304.3 Flotation devices and material.

(b) The only metal drums permitted are those which have been filled with plastic foam or other solid flotation materials and welded, strapped, or otherwise firmly secured in place prior to July 1, 1972, on existing facilities, but replacement of any metal drum flotation permitted to be used by this subsection must be with some type of permanent flotation device or material, for example, pontoons, boat hulls or other buoyancy devices made of steel, aluminum, fiberglass or plastic foam, not including filled metal drums.

(c) Every flotation device employed in the Tennessee River system must be firmly and securely affixed to the structure it supports with materials capable of withstanding prolonged exposure to wave wash and weather conditions.

5. Section 304.4 is amended to read:

§ 304.4 Treatment of sewage.

No person operating a commercial boat dock on or over real property of the United States in the custody and control of TVA, or on or over real property subject to provisions for the control of water pollution in a deed, grant of easement, lease, license, permit or other instrument from or to the United States or TVA shall permit the mooring on or over such real property of any watercraft or floating structure equipped with a marine toilet unless such toilet is in compliance with all applicable statutes and regulations, including the FWPCA and regulations issued thereunder.

6. Section 304.5 is amended to read:

§ 304.5 Removal of unauthorized, unsafe, and derelict structures.

If, at any time, any dock, wharf, floating boathouse, nonnavigable houseboat, outfall, or other fixed or floating structure or facility anchored, installed, constructed, or moored under a license, permit, or approval from TVA is not constructed in accordance with plans approved by TVA, or is not maintained or operated so as to remain in accordance with such plans, or is not kept in a good state of repair and in good, safe, and substantial condition, and the owner or operator thereof fails to repair or remove such structure (or operate or maintain it in accordance with such plans) within ninety (90) days after written notice from TVA to do so, TVA may cancel such license, permit or approval and remove such structure, or cause it to be removed, from the Tennessee River system and/or lands in the custody or control of TVA. Such written notice may be given by mailing a copy thereof to the owner's address as listed on the license, permit, or approval or by posting a copy on the structure or facility. TVA will remove or cause to be removed any such structure or facility anchored, installed, constructed, or moored without such license, permit, or approval, whether such license or approval has once been obtained and subsequently canceled, or whether it has never been obtained.

7. Section 304.100 is amended to read:

§ 304.100 Scope and intent.

Approval must be obtained with respect to each structure subject to section 26a of the Act prior to its construction, operation, or maintenance. This subpart prescribes procedures to be followed in any case where it is desired to obtain such approval.

8. Section 304.101 is amended to read:

§ 304.101 Delegation of authority.

The power to approve or disapprove applications under this part is delegated to the Director, subject to appeal to the Board as provided in § 304.105. In his discretion the Director may submit any application to the Board for its approval or disapproval. Administration of the handling of applications is delegated to the Division of Property and Services.

9. Section 304.102 is amended to read:

§ 304.102 Application.

Applications shall be addressed to Tennessee Valley Authority, Director of Property and Services, Knoxville, TN 37902.

10. Section 304.103 is amended to read:

§ 304.103 Contents of application.

(a) Each application must be accompanied by five (5) complete sets of plans for the construction, operation and maintenance of the proposed structure. The application shall be prepared according to "Instructions for Preparing An Application for An Approval of Plans for Proposed Structures Under Section 26a of the Tennessee Valley Authority Act." These instructions require that the application include, among other things: (1) Accurate maps showing the exact location where the structure is proposed to be built, moored, or installed, (2) plans, including layout, in scale, of the proposed structure, (3) statements of the plans formulated for the maintenance and operation of the structure when completed, (4) sufficient information to describe adequately all of the persons, corporations, organizations, agencies or others who propose to construct, own and operate such structure, and (5) a report of the anticipated environmental consequences resulting from the construction, operation, and maintenance of the proposed structure. This report of anticipated environmental consequences shall include a discussion of: (i) The probable impact of the proposed structure on the environment; (ii) any probably adverse environmental consequences which cannot be avoided; (iii) alternatives to the proposed structure; (iv) the relationship between the local short-term uses of the environment and the maintenance of long-term productivity which will result from the proposed structure; and (v) any irreversible or irretrievable commitments of resources which would be involved by virtue of the proposed structure.

(b) If construction, maintenance or operation of the proposed structure or

any part thereof, or the conduct of the activity in connection with which approval is sought, may result in any discharge into navigable waters of the United States, applicant shall also submit with the application, in addition to the material required by paragraph (a) of this section, a certification from the State in which such discharge would originate, or, if appropriate, from the interstate water pollution control agency having jurisdiction over the navigable waters at the point where the discharge would originate, or from the Environmental Protection Agency, that such State or interstate agency or the Environmental Protection Agency has determined after public notice of applicant's proposal that there is reasonable assurance that applicant's proposed activity will be conducted in a manner which will not violate applicable water quality standards. If construction or operation of the proposed structure will affect water quality but is not subject to any applicable water quality standards, applicant shall submit a written statement to that effect by such State, interstate agency, or the Environmental Protection Agency. The applicant shall further submit such supplemental and additional information as TVA may deem necessary for the review of the application, including, without limitation, information concerning the amounts, chemical makeup, temperature differentials, type and quantity of suspended solids, and proposed treatment plans for any proposed discharges.

(c) Detailed information concerning contents of applications, kinds and amounts of information required to be submitted for specific structures, and instructions are available at the address specified in § 304.102 or from the Manager of Properties, Division of Property and Services, Tennessee Valley Authority, at one of the following district offices:

1. Western District, Post Office Box 280, Paris, Tenn. 38242 (office location: 202 West Blythe Street).
2. Southern District, 601 First Federal Building, Muscle Shoals, Ala. 35660 (office location: 102 South Court Street).
3. Central District, Post Office Box 606, Athens, Tenn. 37303 (office location: 110 Congress Parkway).
4. Eastern District, 2611 West Andrew Johnson Highway, Morristown, Tenn. 37814.

11. Section 304.105 is amended to read:

§ 304.105 Determination of application.

(a) The Division of Property and Services conducts preliminary investigations; coordinates the processing of applications within TVA; notifies the applicant if preparation and review of an environmental statement are required under NEPA, and of what additional information must be submitted to TVA by applicant so that TVA may comply with the requirements of that statute and related legal requirements, and complete its review of the application; and arranges for notification to the Environmental Protection Agency of applications that request approval of plans for struc-

tures which may result in a discharge into navigable waters of the United States and are certified in accordance with the requirements of § 304.103(b).

(b) Hearings concerning approval of applications are conducted (in accordance with § 304.107) (1) when requested by the applicant, (2) when TVA deems that a hearing is necessary or appropriate in determining any issue presented by the application, or (3) when required under applicable provisions of the FWPCA.

(c) Upon completion of the investigation, coordination of the review of water quality aspects of the application under the FWPCA, completion of review under NEPA, if required, and hearing or hearings, if any, the Director approves or disapproves the application on the basis of the application and supporting documents, the report of investigation, the transcript of the hearing or hearings, if any be held, the recommendations of other agencies, the intent of this part, and the applicable provisions of the TVA Act, the FWPCA, NEPA, and other applicable laws or regulations. In his discretion the Director may refer any application and supporting materials to the Board for its approval or disapproval.

(d) Promptly following determination, the Director or the Board, as the case may be, furnishes a written copy of the decision to the applicant and to any parties of record pursuant to § 304.107. In the case of applications initially approved or disapproved by the Board, written requests for reconsideration may be made to the Board in the same manner as provided for appeals under § 304.106(a).

12. Section 304.106(a) and (b) are amended to read:

§ 304.106 Appeals.

(a) If the Director disapproves an application, the applicant may, by written request addressed to the Board of Directors, Tennessee Valley Authority, Knoxville, Tenn. 37902, and mailed within thirty (30) days after receipt of notification of such disapproval, obtain review by the Board of the determination of the Director disapproving the application.

(b) A party of record to any hearing before the Director who is aggrieved or adversely affected by any determination of the Director approving an application may obtain review by the Board of such determination by written request addressed and mailed as provided in paragraph (a) of this section.

13. Section 304.108 (b) and (c) are amended to read:

§ 304.108 Conditions of approvals.

(b) If an approval is granted under this subpart of a structure or facility with respect to which a certificate of compliance with applicable water quality standards has been obtained pursuant to the FWPCA and no additional or other Federal permit or license is required for

operation of such structure or facility, the holder of the TVA approval shall, prior to initial operation of such structure or facility, provide an opportunity for the certifying state or, if appropriate, the interstate agency or the Environmental Protection Agency to review the manner in which the structure or facility will be operated or conducted, for the purpose of assuring that applicable water quality standards will not be violated.

(c) Except for plans which must be approved only because the proposed structure is to be built upon land subject to a TVA flowage easement, as provided in § 304.109, no plans will be approved for any structure, including by way of example only, boat docks, piers, fixed boathouses, floats, or rafts, if they provide for toilets, living or sleeping quarters, or any type of enclosed floor space in excess of 25 square feet, not including walkways around boat wells or mooring slips. Such walkways shall not exceed 4 feet in width unless, in the sole judgment of the Director, the size of the well or slip justifies a greater width. For the purposes of this subsection, floor space shall not be deemed enclosed solely because of plans providing for the use of wire mesh or similar screening which leaves the interior of the structure or facility open to the weather: *And, provided, further,* That nothing contained in this paragraph shall be construed as prohibiting enclosure of the boat well or mooring slip proper. In the case of applications for structures to be used as part of a public boat dock, marina, or other public or commercial facility, the requirements of this paragraph (c) may be waived or modified by the Director if he considers such waiver necessary or desirable for proper development of the facility.

14. Section 304.109 is amended to read:

§ 304.109 *Habitable and certain other enclosed structures within the flowage easement areas of TVA reservoirs.*

In addition to all other requirements of this part, any structure built upon land subject to a flowage easement held by TVA shall be deemed an obstruction affecting navigation, flood control or public lands or reservations within the meaning of section 26a of the Act if it:

- (a) Is a fixed enclosed structure having a cost-in-place in excess of five thousand dollars; or
- (b) Is designed or used for human habitation, regardless of cost; or
- (c) Involves a discharge into the navigable waters of the United States.

Such obstructions shall be subject to all requirements of this subpart, but nothing contained in this section shall be construed to be in derogation of the rights of the United States or of TVA under any flowage easement held by TVA.

For purposes of this section "enclosed structure" shall mean a structure en-

closed overhead and on all sides so as to keep out weather.

15. The heading of Subpart C is amended to read:

Subpart C—Regulation of Boathouses, Houseboats, Other Floating Structures, and Harbor Limits

16. Section 304.200 is amended to read:

§ 304.200 *Scope and intent.*

This subpart prescribes regulations governing designation of harbor areas at commercial boat docks and the approval of structures and facilities which may be moored or installed in such areas and in other areas in the Tennessee River and its tributaries, all in such a manner as to avoid obstruction of or interference with navigation and flood control, avoid or minimize adverse effects on public lands and reservations, prevent the preemption of public waters by houseboats moored in permanent or semipermanent locations outside such harbors and used as floating dwellings, attain the widest range of beneficial uses of land and land rights owned by the United States of America, enhance reasonable recreational use of TVA reservoirs by all segments of the general public, protect lands and land rights owned by the United States alongside and adjacent to TVA reservoirs from trespass and other unlawful or unreasonable uses, and maintain, protect, and enhance the quality of the human environment.

17. Section 304.201 is amended to read:

§ 304.201 *Definitions.*

For the purposes of this subpart, in addition to any definitions contained elsewhere in this part, the following words or terms shall have the meaning specified in this section, unless the context requires otherwise:

Existing as applied to floating boathouses or other structures, except houseboats, means those which were moored, anchored, or otherwise installed on, along, or in a TVA reservoir on or before July 1, 1972. *Existing* as applied to houseboats shall mean those which were moored, anchored, or otherwise installed on, along, or in a TVA reservoir on or before January 1, 1973.

Floating boathouse means a floating structure or facility, any portion of which is enclosed, capable of storing or mooring any houseboat or other vessel under cover.

Houseboat means any vessel which is equipped with enclosed or covered sleeping quarters.

Navigable houseboat means any self-propelled houseboat having maneuverability which is (a) built on a boat hull or on two or more pontoons; (b) equipped with motor and rudder controls located at a point on the houseboat from which there is forward visibility over a 180° range; and (c) in compliance with all applicable State and Federal require-

ments relating to watercraft; provided, however, that any existing houseboat which was deemed navigable under the provisions of the former § 304.201, which became effective November 21, 1971, shall continue to be deemed navigable for all purposes of this subpart, except that such houseboats shall be subject to the provisions of § 304.203(d).

New as applied to houseboats, floating boathouses, floats, or other structures means all houseboats, floating boathouses, floats, or other structures, other than existing ones.

Nonnavigable houseboat means a houseboat not in compliance with one or more of the criteria defining a navigable houseboat.

Pontoon means an elongated watertight box or cylinder extending fore and aft for the full length of a vessel and having a sloped or molded bow to facilitate movement through the water.

Vessel means any watercraft or other structure or contrivance used or capable of use as a means of water transportation, such as a boat, floatboat, or houseboat.

18. Section 304.203 is amended to read:

§ 304.203 *Houseboats.*

(a) No new nonnavigable houseboat shall be moored, anchored, or installed in any TVA reservoir.

(b) Existing nonnavigable houseboats may remain in TVA reservoirs subject to the provisions of paragraph (d) of this section, but only if (1) they have flotation devices complying with § 304.3; (2) they are approved and numbered pursuant to §§ 304.205 and 304.206; and (3) they are moored in compliance with paragraph (c) of this section.

(c) Existing nonnavigable houseboats shall be moored:

(1) To mooring facilities provided by a commercial dock operator within the designated harbor limits of his dock; or

(2) To the bank of the reservoir outside the designated harbor limits of commercial boat docks, if the houseboat owner is the owner or lessee of the abutting property at the mooring location (or the licensee of such owner or lessee) and has requested and obtained from TVA, pursuant to § 304.205, written approval authorizing mooring at such location.

(d) Ordinary maintenance and repair of existing nonnavigable houseboats permitted to be moored pursuant to this section may be continued, including replacement of metal drum flotation as required by § 304.3, but such houseboats may not be structurally modified or expanded, nor may they be replaced, rebuilt, or returned to the reservoir when they have been abandoned, destroyed, or removed from the reservoir or have deteriorated or been damaged so as to be unusable and unrepairable.

19. Section 304.204 is amended to read:

§ 304.204 *Floating boathouses.*

(a) Floating boathouses may be moored in TVA reservoirs only if (1)

they have flotation devices complying with § 304.3; (2) they are approved and numbered pursuant to §§ 304.205 and 304.206; and (3) they are moored in compliance with paragraph (b) of this section.

(b) All floating boathouses shall be moored:

(1) To mooring facilities provided by a commercial dock operator within the designated harbor limits of his dock; or

(2) To the bank of the reservoir outside the designated harbor limits of a commercial boat dock, if the boathouse owner is the owner or lessee of the abutting property at the mooring location (or the licensee of such owner or lessee) and has requested and obtained from TVA, pursuant to § 304.205, written approval authorizing mooring at such location.

(c) Ordinary maintenance and repair of existing floating boathouses permitted to be moored pursuant to this section may be continued, including replacement of metal drum flotation as required by § 304.3, but such floating boathouses may not be structurally modified or expanded, or replaced, rebuilt, or returned to the reservoir when they have been abandoned, destroyed, or removed from the reservoir, or have deteriorated or been damaged so as to be unusable or unreparable; *Provided, however,* That such floating boathouses may be so structurally modified or expanded, replaced, rebuilt, or so returned to the reservoir if they comply with all the requirements of § 304.205(d) and approval is obtained under that section as for a new floating boathouse.

20. Section 304.205(b), (c) (d), and (e) are amended to read:

§ 305.205 Approval of plans for floating boathouses and nonnavigable houseboats.

(b) Persons proposing to moor new floating boathouses shall submit applications to TVA prior to commencement of construction or mooring thereof. Applications shall be accompanied by plans showing in reasonable detail the size and shape of the facility; the kind of flotation device; the proposed mooring locations thereof; whether a marine toilet is on the facility; and the name and mailing address of the owner. TVA shall be kept advised of any changes in the kind of flotation devices which may be made by the applicant after approval is granted. Plans described in this section shall be in lieu of the plans specified in § 304.103(a).

(c) If the proposed mooring location is outside the designated harbor limits of a commercial boat dock, the application and plans shall be accompanied by evidence satisfactory to TVA showing that the applicant is the owner or lessee of the abutting property at the proposed mooring location, or the licensee of such owner or lessee.

(d) Applications for new floating boathouses will be disapproved if the plans provide for toilets, living or sleeping quarters, or enclosed spaces with

more than 25 square feet of floor space, not including walkways around boat wells or mooring slips. Such walkways shall not exceed 4 feet in width unless, in the sole judgment of the Director, the size of the well or slip justifies a greater width. A new floating boathouse or part thereof shall not be deemed enclosed solely because of plans providing for the use of wire mesh or similar screening which leaves the interior of the structure open to the weather, and nothing contained in this subsection shall be construed as prohibiting enclosure of the boat well or mooring slip proper. Plans for any new floating boathouses will also be disapproved if the proposed flotation device includes metal drums in any form.

(e) Applications for mooring outside designated harbor limits will be disapproved if TVA determines that such proposed mooring location will be contrary to the intent of this subpart, of § 304.2, or of any applicable law. Applications will also be disapproved if marine toilets not in compliance with § 304.4 are proposed.

21. Section 304.206(a) is amended to read:

§ 304.206 Numbering and transfer of approved facilities.

(a) Upon approval of an application concerning a nonnavigable houseboat or floating boathouse, TVA will assign a number to such facility. The owner of the facility shall paint such number on, or attach a facsimile thereof to, a readily visible part of the outside of the facility in letters and figures not less than three (3) inches high. The placement of such number shall be consistent with the requirements of any State or Federal law or regulation concerning numbering of watercraft.

(16 U.S.C. 831-831dd)

NOTE.—TVA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 6, 1977.

LYNN SEEGER,
General Manager.

[FR Doc. 77-26777 Filed 9-14-77; 8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 177]

INDIAN COAL MINING REGULATIONS

Proposed Rulemaking

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Proposed rules.

SUMMARY: These proposed regulations implement the Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95-87) insofar as it requires the Secretary of the Interior to incorporate certain of the Act's performance and

reclamation standards in all existing and new coal mining leases on Indian lands. The intended effect of this proposed regulation is to bring surface coal mining activity on Indian land into compliance with the environmental safeguard and reclamation requirements imposed by the Act.

DATES: Written comments must be received on or before October 14, 1977. Public hearings dealing generally with proposed regulations designed to implement the Surface Mining Act will be held starting at 1 p.m. on September 20, 1977, and continuing, if necessary, at 9 a.m. on September 21 and 22, 1977. Public hearings will be held at the Department of the Interior Auditorium, 18th and C Streets NW., Washington, D.C.; Kiel Auditorium, 1416 Market Street, St. Louis, Mo.; Public Library Auditorium, 1347 Broadway, Denver, Colo.; and Morris Harvey College, Riggleman Hall, 2300 McCorkle Avenue, Charleston, W. Va. Additional public meetings dealing specifically with regulation of mining on Indian lands will be held on September 23, 1977, at the Phoenix, Ariz., Area Office; on September 26, 1977, at the Albuquerque, N. Mex., Area Office; and on September 28, 1977, at the Navajo Area Office in Window Rock, Ariz.

ADDRESSES: Comments should be sent to: Office of Trust Responsibilities, Bureau of Indian Affairs, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

David C. Harrison, Office of Rights Protection, 202-343-8018.

SUPPLEMENTARY INFORMATION: The Surface Mining Control and Reclamation Act of 1977, Pub. L. 95-87, requires the Secretary of the Interior to publish environmental protection regulations that are applicable to all coal mining operations.

Proposed initial regulations governing coal mining on non-Indian lands were published in the FEDERAL REGISTER on September 7, 1977 (42 FR 44920). This proposal is designed to implement the Act insofar as it requires the Secretary of the Interior to incorporate certain of the Act's performance and reclamation standards in all existing and new coal mining leases on Indian lands.

On April 5, 1977, proposed rulemaking governing mining on Indian lands was published in the FEDERAL REGISTER (42 FR 18083). The proposal was designed to revise 25 CFR Parts 171, 177, and 183, and to issue a new Part 182. Proposed Subpart B of 25 CFR Part 177 was intended to provide performance and reclamation standards for coal operations on Indian lands. That Subpart B proposal was withdrawn on August 24, 1977 (42 FR 42695), in view of the enactment of the Surface Mining Act and the applicability of certain of its provisions to Indian lands. The following proposal is intended to be a substitute for the earlier Subpart B proposal.

Section 710(c) of the Surface Mining Act requires that by December 16, 1977, all surface coal mining operations on Indian lands shall comply with reclamation and performance requirements at least as stringent as those imposed by certain provisions in Section 515 of the Act. The following proposal is designed to implement that requirement.

The proposed performance standards set out below are nearly identical to the standards found in proposed 30 CFR Part 715 published in the FEDERAL REGISTER on September 7, 1977 (42 FR 44920). While the proposed Indian coal standards are little different from those applicable to non-Indian lands, their application recognizes specific procedures and considerations which apply only to Indian lands. The proposed performance standards for Indian lands do not include any of the provisions governing use of explosives found in proposed 30 CFR 715.19. However, this proposal does include the standards for steep-slope mining found in proposed 30 CFR 716.2.

Proposed §§ 177.12 through 177.14 set up enforcement procedures similar to those found in 30 CFR Parts 721-723. However, the enforcement procedures published here differ from those in 30 CFR in their provision for tribal involvement in the process and their preservation of tribal remedies in the enforcement scheme.

Section 710(a) of the Surface Mining Act directs the Secretary of the Interior to study the question of the regulation of surface mining on Indian lands which will achieve the purpose of the Act and recognize the special jurisdictional status of these lands. The study report shall include proposed legislation designed to provide a mechanism which will allow Indian tribes to elect to assume full regulatory authority over the administration and enforcement of regulation of surface coal mining on Indian lands.

Future Indian coal mining regulations promulgated pursuant to the provisions of this Act may be expected to follow and implement the directives of the study report required by section 710(a) of the Surface Mining Control and Reclamation Act.

DRAFTING INFORMATION

These proposed regulations were drafted by members of the Office of Surface Mining Task Force and the Office of the Solicitor, Department of the Interior. The principal authors are identified by name in the preamble to the proposed surface coal mining reclamation and enforcement regulations published on September 7, 1977 (42 FR 44920).

NOTE.—The Department of the Interior 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: September 9, 1977.

LEO M. KRULITZ,
Solicitor of the Interior.

PART 177—PLANS FOR PROSPECTING AND MINING ON INDIAN MINERAL LANDS: RECLAMATION OF NONMINERAL RESOURCES

Subpart B—Coal Operations

Sec.	
177.100	Applicability.
177.101	Definitions.
177.102	General Obligations.
177.103	Signs and Markers.
177.104	Postmining use of land.
177.105	Backfilling and grading.
177.106	Disposal of spoil and waste materials in areas other than the mine workings or excavations.
177.107	Topsoil handling.
177.108	Protection of the hydrologic system.
177.109	Dams constructed of refuse materials.
177.110	Revegetation.
177.111	Steep-slope mining.
177.112	Inspections.
177.113	Enforcement procedures.
177.114	Civil penalties.

AUTHORITY: Secs. 201, 501, Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1201) (25 U.S.C. 396d).

Subpart B—Coal Operations

§ 177.100 Applicability.

(a) The performance standards in this subpart shall apply to all coal mining operations on Indian lands on or after December 16, 1977.

(b) The requirements of this subpart shall be incorporated in all existing and new contracts entered into for coal mining on Indian lands.

§ 177.101 Definitions.

As used throughout the regulations in this subpart, except where otherwise indicated—

Acid drainage means water with a pH of less than 6.0 discharged from active or abandoned mines and from areas affected by coal mining operations.

Acid-forming materials means earth materials that contain sulfide mineral or other materials which, if exposed to air, water, or weathering processes, will cause acids that may create acid drainage.

Act means the Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95-87).

Alluvial valley floors means unconsolidated stream-laid deposits holding streams where water availability is sufficient for subirrigation or flood irrigation agricultural activities but does not include upland areas which are generally overlain by a thin veneer of colluvial deposits composed chiefly of debris from sheet erosion, deposits by unconcentrated runoff or slope wash, together with talus, other mass movement accumulation and windblown deposits.

Approximate original contour means that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all high walls and spoil piles eliminated; water impoundments

may be permitted where the regulatory authority determines that they are in compliance with § 177.108.

Aquifer means a zone, stratum, or group of strata that can store and transmit water in sufficient quantities for a specific use.

Auger mining means a method of mining coal at a cliff or highwall by drilling holes laterally into an exposed coal seam from the highwall and transporting the coal along an auger bit to the surface.

Coal means combustible carbonaceous rock, classified as anthracite, bituminous, subbituminous, or lignite by A.S.T.M. designation 0-388-66.

Combustible material means organic material that is capable of burning either by fire or through a chemical process (oxidation) accompanied by the evolution of heat.

Compaction means the reduction of pore spaces among the particles of soil or rock, generally done by running heavy equipment over the earth materials.

Director means the Director, Office of Surface Mining Reclamation and Enforcement or his representatives.

Disturbed area means those lands that have been affected by surface coal mining and reclamation operations.

Diversion means a channel constructed for the purpose of transporting water from areas where it is in excess to areas where it can be used or disposed of safely.

Downslope means the land surface between a valley floor and the outcrop of the lowest coalbed being mined along each highwall.

Embankment means an artificial deposit of materials that is raised above the natural surface of the land and used to contain, divert, or store water, support roads or railways or for other similar purposes.

Ground water means subsurface water that fills available openings in rock or soil materials such that they may be considered water-saturated.

Highwall means the face of exposed overburden and coal in an open cut of a surface of underground coal mine.

Hydrologic balance means an accounting of the quality and quantity of inflow to, outflow from, and storage in a hydrologic unit such as a drainage basin, aquifer, soil zone, lake, or reservoir. It encompasses the relationship between precipitation, runoff, evaporation, and the change in ground and surface-water storage and is usually expressed by a hydrologic equation.

Hydrologic regime means the entire state of water movement in a given area. It is a function of the climate, and includes the phenomena by which water first occurs as atmospheric water vapor, passes into a liquid or solid form and falls as precipitation, moves thence along or into the ground surface, and returns to the atmosphere as vapor by means of evaporation and transpiration.

Imminent danger to the health and safety of the public means the existence of any conditions of practice, or any violation of permit or other requirement of

the Act in a surface coal mining and reclamation operation, which condition, practice, or violation could reasonably be expected to cause substantial physical harm to persons outside the permit area before such conditions, practice, or violation can be abated. A reasonable expectation of death or serious injury before abatement exists if a rational person, subjected to the same conditions or practices giving rise to the peril, would not expose himself to the danger during the time necessary for abatement.

Impoundment means a closed basin formed naturally or artificially built, which is dammed or excavated for the retention of water, sediment or waste.

Indian lands means all lands, including mineral interests, within the exterior boundaries of any Federal Indian reservation, notwithstanding the issuance of any patents, and including rights-of-way, and all lands including mineral interests held in trust for or supervised by an Indian tribe.

Indian Tribe means any Indian Tribe, band, group, or community having a governing body recognized by the Secretary.

Intermittent or perennial stream means a stream or part of a stream that flows continuously during all (perennial) or for at least one month (intermittent) of the calendar year as a result of ground-water discharge or surface runoff. The term does not include an ephemeral stream which is one that flows for less than one month of a calendar year and only in direct response to precipitation in the immediate watershed and whose channel bottom is always above the local water table.

Leachate means a liquid that has percolated through soil, rock, or waste and has extracted dissolved or suspended materials.

Office means the Office of Surface Mining Reclamation and Enforcement established under Title II of the Act.

Operator means any person, partnership, or corporation engaged in coal mining who removes or intends to remove more than 250 tons of coal from the earth by coal mining within 12 consecutive calendar months in any one location.

Outslope means the exposed area sloping away from a bench or terrace being constructed as a part of a surface coal mining and reclamation operation.

Overburden means material of any nature, consolidated or unconsolidated, that overlies a coal deposit, excluding topsoil which overlies the coal to be mined.

Permit, except as used in references to permits during the initial regulatory program, means a permit issued by the Secretary to conduct surface coal mining and reclamation operations on Indian lands.

Person means an individual, partnership, association, society, joint stock company, firm, company, corporation, or other business organization.

Premining land use means the highest and best use of the land, which could have been achieved, taking into account

the locally accepted best land management practices, prior to any mining.

Productivity means the vegetative yield produced by a unit area for a unit of time.

Recharge capacity means the ability of the soils and underlying materials to allow precipitation and runoff to infiltrate and reach the zone of saturation.

Regulatory authority means the Secretary.

Recurrence interval means the precipitation event expected to occur, in the average, once in a specified interval. For example, the 25-year 24-hour precipitation event would be that 24-hour precipitation event expected to be exceeded on the average once in 25 years. Magnitude of such events are as defined by the National Weather Service and Technical Paper No. 40, "Rainfall Frequency Atlas of the U.S.," May 1961, and subsequent amendments or equivalent regional or rainfall probability information developed therefrom.

Roads means access and haul roads constructed, used, reconstructed, improved or maintained for use in surface coal mining and reclamation operations, including use by coal-hauling vehicles leading to transfer, processing or storage areas. The term includes any such road used and not graded to approximate original contour within 45 days of construction other than temporary roads used for topsoil removal and coal haulage roads within the pit area. Roads maintained with public funds such as all Federal, State, tribal, and county roads are excluded.

Runoff water means precipitation that flows along the land surface before it enters a defined stream channel and becomes concentrated streamflow.

Secretary means the Secretary of the Interior or his representative.

Sediment means undissolved organic and inorganic material transported or deposited by water.

Settling pond means any natural or artificial structure or depression used to remove sediment from water and store sediment or other debris.

Significant, imminent environmental harm to land, air, or water resources is determined as follows:

(i) An environmental harm is any adverse impact on land, air, or water resources, including plant and animal life.

(ii) An environmental harm is imminent if a condition or practice exists which is causing or may reasonably be expected to cause such environmental harm if the condition or practice is not abated within a reasonable time.

(iii) An environmental harm may be significant even if it is repairable. An environmental harm is significant if that harm is appreciable and not readily repairable.

Slope means average inclination of a surface, measured from the horizontal. Normally expressed as a unit of vertical distance to a given number of units of horizontal distance (eg., lv to $5h = 20$ percent = 11.6 degrees).

Soil horizons means a soil profile that consists of two or more layers lying one below the other and parallel to the land surface. The layers are known as horizons and are differentiated on the basis of field characteristics and laboratory data. The three major soil horizons are:

(1) **A horizon.** The uppermost layer in the soil profile often called the surface soil. It is the part of the soil in which organic matter is most abundant, and where leaching of soluble or suspended particles is the greatest.

(2) **B horizon.** The layer immediately beneath the A horizon and often called the subsoil. This middle layer commonly contains more clay, iron or aluminum than the A or C horizons.

(3) **C horizon.** The deepest layer of the soil profile. It consists of loose material of weathered rock that is relatively unaffected by biologic activity.

Spoil means overburden that has been removed during surface mining.

Stabilize means any method used to prevent movement of soil, spoil piles or areas of disturbed earth and includes increasing bearing capacity, increasing shear strength, draining, compacting or revegetating.

Surface Coal Mining Operations means: (a) Activities conducted on the surface of lands in connection with a surface coal mine or subject to the requirements of section 516 surface operations and surface impacts incident to an underground coal mine, the products of which enter commerce or the operations of which directly or indirectly affect interstate commerce. Such activities include excavation for the purpose of obtaining coal including such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining, the uses of explosives and blasting, and in situ distillation or retorting, leaching or other chemical or physical processing, and the cleaning, concentrating, or other processing or preparation, loading of coal for interstate commerce at or near the mine site: *Provided, however,* That such activities do not include the extraction of coal incidental to the extraction of other minerals where coal does not exceed 16 $\frac{2}{3}$ per centum of the tonnage of minerals removed for purposes of commercial use or sale or coal exploration subject to section 512 of the Act; and (b) the areas upon which such activities occur or where such activities disturb the natural land surface. Such areas shall also include any adjacent land, the user of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, and excavations, workings, impoundments, dams ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities, or other property or materials on the sur-

face, resulting from or incident to such activities.

Surface coal mining and reclamation operations means surface coal mining operations and all activities necessary and incident to the reclamation of such operations. This term included the term "surface coal mining operations."

Surface water means water, either flowing or standing, on the surface of the earth.

Suspended solids means organic or inorganic materials carried or held in suspension in water that will remain on a 0.45 micron filter as differentiated from dissolved solids. Dissolved solids are solids that pass into solution.

Topsoil means the A soil horizon and underlying unconsolidated materials including those portions of the B and C soil horizons that have properties favorable for producing desirable vegetation.

Toxic-forming materials means earth materials or wastes which, if acted upon by air, water or weathering processes may produce chemical or physical conditions in soils or water that are detrimental to biota or uses of water.

Toxic-mine drainage means water that is discharged from active or abandoned mines and from other areas affected by coal mining operations and which contain a substance which through chemical action or physical effects is likely to kill, injure or impair an organism.

Watercourse means a natural stream course that heads in a given drainage basin and has a channel with a well defined bed between visible banks or through a definite depression in the land and has a permanent or periodic supply of water.

Water table means upper surface of a zone of saturation, where the body of ground water is not confined by an overlying impermeable zone.

§ 177.102 General obligations.

(a) **Authorizations to operate.** A copy of all current permits, licenses, approved plans or other authorizations to operate the mine shall be available for inspection at or near the mine site.

(b) **Mine Maps.** Any person conducting surface coal mining and reclamation operations on and after May 3, 1978, shall submit two copies of accurate maps of the mine and permit area at a scale not to exceed 1:1000, certified by a surveyor or engineer. The maps shall show as of May 3, 1978, the lands from which coal has not yet been removed, lands and structures which have been used or disturbed to facilitate mining. One copy of the mine map shall be submitted to the appropriate agency of the local governing Indian Tribe, and one copy shall be submitted to the Regional Director, OSM, before June 3, 1978.

§ 177.103 Signs and markers.

(a) **Specifications.** All signs required to be posted shall be of a standard design that can be seen and read easily from a distance of 100 feet and they shall be made of durable material. The signs and other markers required by paragraphs (b), (c), and (d) of this section

shall be maintained during all operations and until release of all bonds for the permit area. All signs and markers shall be displayed conspicuously within the permit area and conform to local ordinances and codes.

(b) **Mine and permit identification signs.** Signs identifying the mine area shall be displayed at all points of access to the mine property from public highways. Signs shall show the name, business address, and telephone number of the permittee or operator and identification numbers of mining and reclamation permits or other authorizations to operate.

(c) **Perimeter markers.** The perimeter of the mine property shall be clearly marked by durable markers that extend at least 3 feet above the ground. Permit numbers must be permanently affixed to the markers. On mine areas of 10 acres or more, the markers shall be spaced a maximum of 400 feet apart; on mine areas of less than 10 acres, the markers shall be spaced a maximum of 200 feet apart. Within the perimeter of the mine property, identification markers shall be established showing the boundary of coal which has not been removed prior to May 3, 1978. Temporary markers may be used during coal removal operations but the boundary shall be reestablished by permanent markers after final surface configuration in an area is established.

(d) **Buffer zone markers.** Buffer zones as defined in § 177.108 shall be marked at not more than 200-foot intervals along the interior boundary of the buffer zone. The signs shall read "Buffer Zone—Limited Access" and be placed so as to be seen by all persons employed on the mine property.

(e) **Blasting signs.** If blasting is necessary to conduct surface coal mining operations, signs reading "Blasting Area" shall be displayed conspicuously at the edge of blasting areas along access and haul roads within the mine property. Signs reading "Blasting Area" and explaining the blasting warnings and all-clear signals shall be posted at all entrances to the mine property.

(f) **Topsoil markers.** Where topsoil or other vegetation supporting material is segregated and stockpiled according to § 177.107(c), the stockpiled material shall be marked with signs that read "Topsoil." These signs shall remain in place until the material is removed.

§ 177.104 Postmining use of land.

(a) **General.** All disturbed areas shall promptly be restored (1) to conditions that are capable of supporting the uses which they were capable of supporting before any mining, and (2) to higher or better uses approved under criteria and procedures of paragraph (d) of this section.

(b) **Criteria for establishing premining use of land.** Criteria for establishing the premining use of the land shall be those uses which the lands have previously supported or were capable of supporting within the mine property, areas surrounding the mine property, or areas lo-

cated in similar terrain and climate within the region that have been managed using methods considered practicable for the region. The appropriateness of postmining land use plans shall not be judged on the basis of lands that (1) were previously mined and not reclaimed to meet the standards of this part, (2) were badly eroded or overgrazed so as to change the vegetation community to one unsuitable for grazing, or (3) are otherwise determined by the regulatory authority to have been poorly managed. However, if the lands within the mine property were previously mined and not reclaimed to the standards of this part, the postmining use of the land shall be evaluated against the highest possible use compatible with surrounding unmined lands. If the premining use of the land was changed within five years of the beginning of mining, the comparison of post mining use to premining use shall include a comparison to the historic use of the land as well as its use immediately preceding mining.

(c) **Land-use categories.** Proposed land uses will be considered subject to this section when they change from one to another of the land-use categories identified in this paragraph. The regulatory authority shall consider the following categories, at a minimum, to represent differing land uses. When an alternative postmining use is proposed the permittee or operator shall meet the requirements of paragraph (d) of this section and all other applicable environmental protection performance standards of this part.

(1) **Heavy industry.** Manufacturing facilities, powerplants, airports or similar facilities.

(2) **Light industry and commercial services.** Office buildings, stores, parking facilities, apartment houses, motels, hotels or similar facilities.

(3) **Public services.** Schools, hospitals, churches, libraries, water-treatment facilities, solid-waste disposal facilities, public parks and recreation facilities, major transmission lines, major pipelines, highways, roads, underground and surface utilities, and other servicing structures and appurtenances.

(4) **Residential.** Single- and multiple-family housing (other than apartment houses over three stories) with necessary support facilities. Support facilities may include commercial services incorporated in and comprising less than 5 percent of the total area of housing capacity, associated open space, and minor parking and recreation facilities supporting the housing.

(5) **Agricultural.**—(i) **Cropland.** Land used primarily for the production of cultivated crops for harvest. Land used for facilities in support of farming operations are included.

(ii) **Rangeland.** Land used for grazing by livestock and big game animals on which the climax (natural potential) plant community is dominated by grasses, grasslike plants, forbs and shrubs.

(iii) **Hayland or pasture.** Land used for meadow grasses which are cut and cured for livestock feed.

(iv) *Forest.* Land used primarily for the production of adapted wood crops.

(6) *Fish and wildlife habitat.* Wetlands, fish and wildlife habitat, and areas managed primarily for fish and wildlife; may include impoundments that have a capacity of less than 20 acre-feet and a surface area at the high-water mark of less than 2 acres.

(7) *Combined uses.* Any appropriate combination of land uses where one land use is designated as the primary land use and one or more other land uses are designated as secondary land uses.

(d) *Criteria for approving alternative postmining use of land.* An alternative postmining land use may be approved by the regulatory authority, after consultation with the land owner or the surface management agency on Federal lands, if the following criteria are met.

(1) The proposed land use is compatible with adjacent land use and, where applicable, with land-use policies and plans. A written statement of the views of local Tribal authorities for land-use policies and plans shall accompany the request for approval.

(2) Available data on the long-term expected need and market show that the proposed land use can be achieved and maintained.

(3) Specific and feasible plans have been prepared which include a time schedule showing how the proposed land use will be achieved within a reasonable time after mining and how the achieved land use will be sustained. The regulatory authority may require appropriate demonstrations to show that the planned procedures are feasible, reasonable, and integrated with mining and reclamation, and that the plans will result in successful reclamation.

(4) Completion of the necessary public facilities is assured as evidenced by appropriate letters of commitment to provide them in a manner compatible with the operator's plans.

(5) Specific and feasible plans for financing attainment and maintenance of the postmining land use including letters of commitment if the financing is to be provided by someone other than the permittee or operator.

(6) The plans are designed by a registered professional engineer, or other professional, who is knowledgeable about the proposed land-use category and will ensure that the plans conform to nationally accepted standards to assure adequate land stability, drainage, and vegetation cover, and will provide an appropriate aesthetic design for the postmining use of the site.

(7) The proposed use or uses will not present actual or probable hazard to public health or safety nor will they pose any actual or probable threat of water flow diminution or pollution.

(8) The use or uses will not involve unreasonable delays in reclamation.

(9) Necessary approval of measures to prevent or mitigate adverse effects on fish and wildlife has been obtained from the regulatory authority and appropriate Tribal and Federal fish and wildlife management agencies.

(10) Proposals to change from premining land uses of rangeland, fish and wildlife habitat, hayland, or pasture to a postmining cropland use, where the cropland would require continuous maintenance such as seeding, plowing, cultivation, fertilization, or other similar practices to be practicable or to comply with applicable Federal and Tribal laws, shall be reviewed by the regulatory authority to assure that—

(i) There is a firm written commitment by the permittee or by the land owner or land manager to provide sufficient crop management after release of applicable performance bonds to assure that the proposed postmining cropland use remains practical and reasonable, and will not pose an actual or probable threat of water diminution or pollution;

(ii) There is sufficient water available and committed to maintain crop production;

(iii) The quality and quantity of topsoil has been shown to be sufficient to support the proposed use over a period of years;

(iv) The proposed cropland use will be maintained after release of applicable bonds and is not proposed only as a temporary alternative to re-establishing the premining use of the land.

(11) The regulatory authority has provided by public notice not less than 45 days nor more than 60 days for interested citizens and local, Tribal and Federal agencies to review and comment on the proposed land use.

§ 177.105 Backfilling and grading.

In order to achieve the approximate original contour, the permittee or operator shall, except as provided in paragraphs (d), (e), and (g) of this section, transport, backfill, compact unless otherwise approved by the regulatory authority, and grade all spoil material to eliminate all highwalls, spoil piles, and depressions. Cut-and-fill terraces may be used only in those situations expressly identified in this section. Land above the highwall may be disturbed only in the amount necessary to comply with this section and § 177.108. The postmining graded slope must be determined by the premining average of natural slopes in the area as defined in paragraph (a) of this section.

(a) *Slope measurements.* (1) To determine the average natural slope of the area before mining, 10 slopes, or more as specified by the regulatory authority in accordance with site conditions, must be surveyed, measured, and recorded. Each measurement shall consist of an angle of inclination along the prevailing slope extending 100 linear feet above and below the coal outcrop; or, where this is impractical, at locations specified by the regulatory authority. Where the area has been previously mined, the measurements shall extend at least 100 feet beyond the limits of mining disturbances as determined by the regulatory authority to be representative of the premining configuration of the land.

(2) After the disturbed area has been graded and the topsoil replaced, the final

graded slopes shall be measured at the beginning and end of lines established on the prevailing slope at locations representative of premining slope conditions and approved by the regulatory authority. These measurements must not be made so as to allow unacceptably steep slopes to be constructed.

(b) *Moderate slopes.* Where natural slopes are determined according to paragraph (a) of this section to average less than 20 degrees, or such lesser slope as the regulatory authority requires, the final graded slopes shall not exceed either the average maximum natural slope or any lesser slope as specified by the regulatory authority based on consideration of soil, climate, or other characteristics of the surrounding area.

(c) *Steep slopes.* (1) While natural slopes are determined according to paragraph (a) of this section to average 20 degrees or more, or such lesser slope as the regulatory authority defines as "steep slope," the final graded slopes shall not exceed either the average maximum natural slope or any lesser slope as specified by the regulatory authority based on consideration of soil, climate, or other characteristics of the surrounding area.

(2) In order to conserve soil moisture and to control erosion on final graded slopes, cut-and-fill terraces along mine benches may be allowed if the terraces are compatible with the postmining land use approved under § 177.104, will prevent erosion, and are appropriate substitutes for construction of lower grades on the reclaimed lands. The terraces shall meet the following requirements:

(i) The width of the individual terrace bench shall not exceed 20 feet.

(ii) The vertical distance between terraces shall be as specified by the regulatory authority to prevent excessive erosion and to provide long-term stability.

(iii) The slope of the terrace face shall not exceed 1v:2h (50 percent).

(iv) The terrace shall have adequate slopes to divert drainage away from the face of the terrace and into drainage systems that are stabilized by vegetation or other stabilization methods that will require minimal maintenance after mining.

(v) Culverts and underground rock drains shall not be used on the terrace unless approved by the regulatory authority.

(3) All operations on natural slopes of 20 degrees or more as stated in paragraph (c)(1) of this section shall meet the provisions of § 177.111.

(d) *Mountaintop removal.* Where surface mining operations will remove entire coal seams in the upper part of a mountain, ridge, or hill by removing all of the overburden, final graded top plateau slopes on the mined area shall be less than 1v:5h so as to create a level plateau or gently rolling configuration and the out slopes of the plateau shall not exceed 1v:2h, except where engineering data substantiates and the regulatory authority finds that a minimum static safety factor 1.5 will be attained. Although the area need not be restored to approximate original contour, all high-

walls, spoil piles, and depressions except as provided in paragraph (e) of this section shall be eliminated.

(e) *Depressions.* The requirement of this section to achieve approximate original contour does not prohibit construction of small depressions if they are approved by the regulatory authority to minimize erosion, conserve soil moisture or promote revegetation. However, the depressions shall be compatible with the approved postmining land use and shall not be inappropriate substitutes for construction of lower grades on the reclaimed lands. Depressions approved under this section shall have a holding capacity of less than 1 cubic yard of water or, if it is necessary that they be larger, shall not restrict normal access to the area.

(f) *Definition of thin and thick re-stored overburden.* The thin overburden provisions of paragraph (g) of this section apply where the final thickness is less than 0.8 of the initial thickness. The thick overburden provisions of paragraph (h) of this section apply where the final thickness is greater than 1.2 of the initial thickness. Initial thickness is the sum of the overburden thickness and coal thickness. Final thickness is the product of the overburden thickness times the bulking factor to be determined for each mine area.

(g) *Thin overburden.* In surface coal mining operations carried out continuously in the same limited pit area for more than 1 year from the day coal-removal operations begin and where the volume of all available spoil and suitable waste materials is demonstrated to be insufficient to achieve approximate original contour, surface coal mining operations shall be conducted to meet the following standards:

(1) Transport, backfill, and grade, using all available spoil and suitable waste materials from the entire mine area, to attain the lowest practicable grade, which may not exceed the angle of repose, and to provide adequate drainage and long-term stability of the regraded areas.

(2) Eliminate highwalls by reshaping to stable slopes not exceeding 1v:2h (50 percent), or such lesser slopes as the regulatory authority may specify to reduce erosion, maintain the hydrologic balance, or allow the approved postmining land use.

(3) Transport, backfill, grade, and revegetate to achieve an ecologically sound land use compatible with the prevailing land use in unmined areas surrounding the permit area.

(4) Transport, backfill and grade to ensure that impoundments are constructed only where it has been demonstrated to the regulatory authority's satisfaction that all requirements of § 177.108 have been met and that impoundments have been approved by the regulatory authority as meeting the requirements of this part and all other applicable Federal and Tribal regulations.

(h) *Thick overburden.* In surface coal mining operations where the volume of

spoil is demonstrated to be more than sufficient to achieve the approximate original contour surface coal mining operations shall be conducted to meet the following standards:

(1) Transport, backfill, and grade all spoil and wastes not required in the surface mining areas to achieve approximate original contour to the lowest practicable grade.

(2) Deposit, backfill, and grade excess spoil and wastes only within the permit area and dispose of such materials in conformance with § 177.106.

(3) Transport, backfill, and grade excess spoil and wastes to maintain the hydrologic balances in accordance with § 177.108 and to provide long-term stability.

(4) Transport, backfill, grade, and revegetate wastes and excess spoil to achieve an ecologically sound land use compatible with the prevailing land uses in unmined areas surrounding the permit area.

(5) Eliminate all highwalls and depressions except as stated in paragraph (e) of this section by filling with spoil and suitable waste materials.

(i) *Regrading to remove rills and gullies.* When rills or gullies deeper than 6 inches form in areas that have been regraded and the topsoil replaced but vegetation has not yet been established, the permittee shall fill, compact, or otherwise stabilize the rills and gullies and reseed or replant the areas according to § 177-110.

(j) *Covering coal and acid-forming, toxic-forming, combustible, and other waste materials; stabilizing backfilled materials; and using waste material for fill—(1) Cover.*—All undisturbed coal seams and any acid-forming, toxic-forming, combustible materials or any other waste materials as identified by the regulatory authority that are exposed, used, or produced during mining shall be treated to neutralize potential toxicity and permanently covered with a minimum of 5 feet of nontoxic and noncombustible material, in order to prevent water pollution, adverse effects on plant growth and land uses, and sustained combustion.

(2) *Stabilization.* Backfilled materials shall be compacted wherever necessary to prevent leaching of toxic materials into surface or subsurface waters in accordance with § 177.108(g) and whenever necessary to ensure the stability of the backfilled materials. The equipment to be used, the method of compacting material and the design specifications shall be approved by the regulatory authority before the toxic materials are covered.

(3) *Use of waste materials as fill.* Before waste materials from a coal preparation of conversion facility or from other activities conducted outside the permit area such as municipal wastes are used for fill material, it must be demonstrated to the regulatory authority by means of chemical and physical analyses that use of these materials will not adversely affect water quality, water flow, and vegetation; will not present hazards to public health and safety; and will not cause instability in the back-filled area.

(k) *Grading along the contour.* All final grading, preparation of overburden before replacement of topsoil, and

placement of topsoil in accordance with § 177.107, shall be done along the contour to minimize subsequent erosion and instability. If grading along the contour would be hazardous to equipment operators, grading in a direction other than generally parallel to the contour may be approved by the regulatory authority.

§ 177.106 Disposal of spoil and waste material in areas other than the mine workings or excavations.

(a) *Disposal of spoil and wastes in other than valley or head-of-hollow fills.* Spoil and waste material not required to achieve the approximate original contour may be transported to and placed in a controlled (engineered) manner in disposal areas other than the mine workings or excavations only if all the following conditions, in addition to the other requirements of this part, are met:

(1) The disposal areas shall be within the permit area, and they must be approved by the regulatory authority.

(2) The disposal areas shall be located on the most moderate sloping and naturally stable areas available as approved by the regulatory authority.

(3) Where the slope in the disposal area exceeds 1v:5.5h (18 percent), or where otherwise required by the regulatory authority, structures such as keyway cuts (excavations to stable bedrock) or rock toe buttresses shall be used to stabilize the fill.

(4) The disposal area does not contain springs, natural water courses or wet weather seeps unless lateral drains are constructed from the wet areas to the main underdrains in such a manner that filtration of the water into the spoil pile will be prevented.

(5) The spoil and wastes shall be placed, compacted, covered, and graded to allow surface and subsurface drainage to be compatible with the natural surroundings, and to ensure long-term stability. The final configuration of the land must be suitable for land uses approved in accordance with § 177.104.

(6) The fill shall be designed using recognized professional standards and approved by a registered professional engineer.

(7) All organic material shall be removed from the disposal area and the topsoil must be removed and segregated before the surplus material is placed in the disposal area. However, if approved by the regulatory authority, organic material may be used as mulch or may be included in the topsoil.

(8) The fill shall not interrupt or encroach upon active drainage channels in a way that will impound water or cause an increase in suspended solids in the surface drainage outside the permit area over that existing before surface coal mining and reclamation operations.

(9) The fill shall be inspected for stability by a registered engineer or qualified professional specialist at least quarterly and during critical construction periods to assure removal of all organic material and topsoil, placement of underdrainage systems, and proper construction of terraces according to the

approved plan. The registered engineer shall provide a certified report, after each inspection that the fill has been constructed as specified by the design approved by the regulatory authority.

(b) *Disposal of spoil in valley or head-of-hollow fills.* Waste material must not be disposed of in valley or head-of-hollow fills. Spoil to be disposed of in natural valleys must be placed in accordance with the following requirements.

(1) The disposal areas shall be within the permit area, and they must be approved by the regulatory authority and be appropriately bonded.

(2) The disposal site shall be near the ridge top of valley selected to increase the stability of the fill and to reduce the drainage area above the fill.

(3) A system of underdrains constructed of durable rock shall be installed along the natural drainageways of the disposal area. The drainage system shall extend from the toe to the head of the fill and contain lateral drains to each area of potential drainage or seepage. In constructing the underdrains, a maximum of 10 percent of the rock must be less than 12 inches in size; however, no rock can be larger than 25 percent of the width of the drain. The minimum size of the main underdrain shall be:

Total amount of fill material	Pre-dominant type of fill material	Minimum size of drain in feet	
		Width	Height
Less than 1 million yd ³	Sandstone.....	10	4
Do.....	Shale.....	16	8
More than 1 million yd ³	Sandstone.....	16	8
Do.....	Shale.....	16	10

(3) Spoil shall be placed and compacted to designed densities in lifts that are less than 4 feet thick.

(4) Terraces shall be constructed to stabilize the face of the fill. The height of each terrace shall not exceed 50 feet and the width shall not be less than 20 feet.

(5) The tops of the fill and each terrace shall be graded no steeper than 1v:2h (5 percent) to drain surface water to the sides of the fill where stabilized surface channels shall be established off the fill to carry drainage away from the fill. Drainage shall not be directed over the face of the fill unless approved by the regulatory authority.

(6) All surface drainage from the undisturbed area above the fill shall be diverted away from the fill area into protected channels.

(7) The outslope of the fill shall not exceed 1v:2h (50 percent). The regulatory authority may require a flatter slope because of the physical, climatological, and other characteristics of the site.

(8) The fill shall be inspected for stability by a registered engineer or qualified professional specialist at least quarterly and during critical construction periods to assure removal of all organic material and topsoil, placement of underdrainage systems, and proper con-

struction of terraces according to the approved plan. The registered engineer shall provide a certified report, after each inspection, that the fill has been constructed and maintained as specified by the design approved by the regulatory authority.

§ 177.107 Topsoil handling.

To prevent topsoil from being contaminated by spoil and waste materials, the permittee or operator shall remove the topsoil as a separate operation from areas to be mined. Topsoil shall be immediately redistributed according to the requirements of paragraph (b) of this section on areas graded to the approved postmining configuration. If sufficient graded areas are not immediately available because of climatic conditions or size of the area on which topsoil can be distributed, the topsoil shall be segregated, stockpiled, and protected from wind and water erosion or contaminants which lessen its capability to support vegetation.

(a) *Topsoil removal.* (1) All topsoil to be salvaged shall be removed before drilling for blasting, blasting, or mining to prevent loss and contamination of the topsoil with undesirable materials. All topsoil shall be removed unless otherwise approved by the regulatory authority to provide for use of alternative soil horizon or to avoid retention of excessive B horizon material. Where the removal of topsoil results in erosion that may cause air or water pollution, the regulatory authority shall limit the size of the area from which topsoil may be removed at any one time and specify methods of treatment to control erosion of exposed overburden.

(2) Where the A horizon of the topsoil is identified by surveys and soil core (or equivalent) analyses to be of sufficient depth to permit separate removal and to be of high quality in terms of plant-growth medium or native-seed source, the regulatory authority shall require that the entire A-horizon be removed separately and segregated from the other soil horizons and replaced as the surface soil layer.

(3) Overburden may be used instead of, or as a supplement to, topsoil only where the available topsoil is of inadequate quantity or quality to sustain vegetation, and if all the following requirements are met:

(i) The permittee demonstrates that the overburden is more suitable for vegetation by the results of chemical and physical analyses, which shall include determinations of pH, percent organic matter, nitrogen, phosphorous, potassium texture class, water holding capacity, potential acidity or other analyses as required by the regulatory authority, and by the results of any field-site trials or greenhouse results required by the regulatory authority.

(ii) The chemical and physical analyses and the field-site trials are accompanied by a certification from qualified soil scientist.

(iii) The alternative overburden is removed, segregated, stockpiled, and replaced in conformance with this section.

(b) *Topsoil redistribution.* (1) After final grading and before the topsoil is replaced, regraded land shall be scarified or otherwise treated to eliminate slippage surfaces.

(2) Topsoil shall be redistributed in a manner that: (i) Achieves a uniform thickness throughout the regraded area. (ii) Prevents excess compaction of the spoil and topsoil; and (iii) Protects the topsoil from wind and water erosion before it is seeded or planted.

(3) Water erosion shall be minimized by spreading soil or finishing grading of soil along the contour, unless this action would be hazardous to equipment operators. Grading in a direction other than generally parallel to the contour shall be approved by the regulatory authority before final grading.

(c) *Topsoil storage.* If the permit allows storage of topsoil, the stockpiled topsoil shall be placed within the permit area where it will not be disturbed or be exposed to excessive water, wind erosion or contaminants which lessen its capability to support vegetation before it can be redistributed on terrain graded to final contour. If stockpiles are to be in place for more than 30 days, they shall be selectively placed and protected from wind and water erosion, unnecessary compaction, and contamination by undesirable materials either by a vegetation cover as defined in § 177.110(g) or by other methods that have been demonstrated to provide equal protection such as snow fences, chemical binders, and mulching. The regulatory authority may require more stringent standards if a high potential exists for loss of topsoil through erosion, and shall prohibit moving the topsoil once it is placed in a storage area until it is moved to a regraded area for redistribution.

(d) *Nutrients and soil amendments.* Nutrients and soil amendments in the amounts and analyses as determined by soil tests shall be applied to the topsoil to produce soil that will support the reclamation requirements of § 177.110.

§ 177.108 Protection of the hydrologic system.

The permittee shall plan and conduct coal mining and reclamation operations to minimize disturbance of and to prevent long-term changes in the prevailing hydrologic balance, on or off site. Changes in water quality and quantity, in the depth to ground water, or in the location of surface-water drainage channels will be limited to changes that do not violate applicable Federal and Tribal regulations and do not adversely affect the post-mining use of the disturbed lands. The permittee shall conduct all operations in such a way as to minimize water pollution and, where necessary, use treatment methods to control water pollution. Practices that will minimize pollution include but are limited to stabilizing disturbed areas through shaping and grading, diverting runoff, achieving quick growing stands of temporary vegetation, lining drainage channels with rock or vegetation, mulching topsoil, sealing off acid-forming and toxic-forming materials, and selectively placing

waste materials in backfill areas. If pollution can be controlled only by treatment, the permittee shall operate and maintain the necessary water-treatment facilities. However, the permittee shall emphasize mining and reclamation practices that will prevent or minimize water pollution in preference to water-treatment facilities.

(a) *Water-quality standards and effluent limitations.* All drainage from the disturbed area, including areas revegetated and not released from bond, shall be discharged through a settling pond, or a series of settling ponds. The regulatory authority may grant exemptions from this requirement only when the disturbed drainage area within the disturbed area is small and settling ponds are not necessary to meet water-quality standards and effluent limitations. Discharges from the entire permit area must meet all applicable Federal and Tribal water-quality standards and the following numerical effluent limitations:

Effluent characteristic	Maximum allowable ¹	Average of daily values for 30 consecutive discharge days ¹
Iron, total	7.0	3.5
Manganese, total	4.0	2.0
Total suspended solids	70.0	35.0
Hydrogen-ion concentration	Within the range 6.0 to 9.0	

¹ Based on a representative sampling schedule.

(1) Any overflow or other discharge of surface water from the permit area that would result from an event larger than a 25-year 24-hour frequency event will not be subject to these effluent standards.

(2) The permittee shall install, operate, and maintain adequate facilities to treat any water discharge that violates the standards and limitations of this paragraph or other applicable standards. If the pH of discharged waters normally is less than 6.0, and the mine normally produces more than 500 tons of coal per operating day, an automatic lime feeder or other neutralization device approved by the regulatory authority shall be installed, operated, and maintained.

(b) *Surface-water monitoring.* (1) Equipment necessary to measure the quality and quantity of surface-water discharges from the permit area and to identify the effects of surface mining and reclamation operations on the surface water shall be installed, maintained, and operated, and shall be removed when no longer required. Total iron, total manganese, total suspended solids, pH, and flow must be measured on a daily basis whenever a discharge occurs unless it can be demonstrated to the satisfaction of the regulatory authority that different analyses are required. The regulatory authority may require additional analyses.

(2) Daily samples shall, for all discharges that occur for more than 1 hour (continuous or intermittent flow), be comprised of at least four samples representative of actual conditions, composited for a daily analysis. Chemical

analysis must be performed as specified in 40 CFR Part 136. The results of these measurements shall be submitted to the regulatory authority on a monthly basis, but within 60 days of collection. However, if the discharge is subject to regulation by a Federal permit issued in compliance with section 301 of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1311), a copy of the completed reporting form supplied to meet the permit requirements may be submitted to the regulatory authority to satisfy the monitoring and reporting requirements of this paragraph, if the reported data meets the requirements of this paragraph. Violations of permit conditions must be reported to the regulatory authority immediately after receipt of analytical results by the permittee.

(c) *Diversion and conveyance of overland flow from disturbed areas.* In order to prevent acid and other toxic mine drainage from polluting surface and ground water and to minimize erosion, overland flow shall be diverted away from disturbed areas by means of temporary or permanent diversion structures, and the following requirements shall be met:

(1) Temporary diversion structures are those used during mining and reclamation. When no longer needed to protect disturbed areas, the structures shall be removed and the area reclaimed. They shall be constructed to safely pass the peak runoff from a precipitation event with a 10-year recurrence interval, or a larger event as specified by the regulatory authority.

(2) Permanent diversion structures are those remaining after mining and reclamation and approved for retention by the regulatory authority and other appropriate Tribal and Federal agencies. To protect fills and property and avoid danger to public health and safety, permanent diversion structures shall be constructed to safely pass the peak runoff from a precipitation event with a 100-year recurrence interval or a larger event as specified by the regulatory authority. Permanent diversions shall be constructed with gently sloping banks that are stabilized by vegetation. Asphalt, concrete, or other similar linings shall not be used unless specifically required to prevent seepage or to provide stability and are approved by the regulatory authority.

(3) Diversions shall be designed, constructed, and maintained in a manner that does not increase the total suspended solids leaving the permit area on a seasonal basis above those levels that existed before mining and in excess of requirements set by applicable Federal and Tribal law.

(4) Discharges from diversions that pass entirely through undisturbed areas shall meet applicable water-quality standards for the receiving streams. Discharges from diversions that pass through disturbed areas must comply with paragraph (a) of this section.

(5) Surface water shall not be diverted into underground mine workings unless

it is demonstrated to the satisfaction of the regulatory authority that such diversion will abate water pollution or otherwise eliminate public hazards resulting from underground mining.

(d) *Stream channel diversions.* (1) Flow from perennial, intermittent, and ephemeral streams within the permit area may be diverted only when the diversions are approved by the regulatory authority and they are in compliance with Tribal and Federal law and approved regulations. When streamflow is allowed to be diverted, the new stream channel shall be designed and constructed to meet the following requirements:

(i) The average stream gradient shall be maintained and the channel designed to remain stable after mining and reclamation operations are completed.

(ii) Channel, bank, and flood-plain configurations shall be adequate to safely pass the peak runoff of a precipitation event with a 10-year recurrent interval for temporary diversions and a 100-year recurrence interval for permanent diversions; or larger events as specified by the regulatory authority.

(iii) Channel banks shall be protected from erosion by measures such as seeding, planting and applying riprap.

(iv) Fish and wildlife habitat and water and vegetation of significant value for wildlife food or shelter shall be protected in consultation with appropriate fish and wildlife management agencies.

(v) Diversions shall be designed, constructed, and maintained in a manner that does not increase the total suspended solids leaving the permit area on a seasonal basis above those levels that existed before mining. Applicable Tribal and Federal water quality standards shall be met.

(2) All temporary diversion structures shall be removed before release of applicable bonds unless the regulatory authority approves the retention of those structures.

(3) *Buffer zone.* No land shall be disturbed within 100 feet of an intermittent or perennial stream not approved for mining unless authorized by the regulatory authority. The area not to be disturbed shall be designated a buffer zone and marked with signs as specified in § 177.103.

(e) *Settling ponds.* Settling ponds shall be constructed in appropriate locations in each drainage area prior to any mining in that drainage area in order to control sedimentation or otherwise treat water in accordance with paragraph (a) of this section. These ponds may be used individually or in a series, and they shall meet the following criteria:

(1) The minimum storage volume shall equal the sum of: (i) The volume of runoff to be controlled from the drainage area above the settling pond that results from a 10-year 24-hour precipitation event;

(ii) 0.2 acre-feet of storage for each acre of disturbed area within the upstream drainage area; and

(iii) Additional storage as necessary to meet the effluent standards of paragraph (a) of this section.

(2) An appropriate combination of principal and emergency spillways shall be provided to safely discharge the peak runoff from a precipitation event with a 25-year recurrence interval, or larger event as specified by the regulatory authority.

(3) All settling ponds shall be examined for structural weakness, erosion and other hazardous conditions in accordance with inspection requirements contained in 30 CFR 77.216.3.

(4) All settling ponds shall be removed and the disturbed areas regraded, revegetated, and stabilized before release of applicable bonds unless the regulatory authority approves retention of the ponds.

(5) Sediment shall be removed from settling ponds when the volume of sediment accumulates to 50 percent of the sediment storage volume required in paragraph (e)(1) of this section. The sediment shall be disposed of in a way that prevents it from entering surface water, contaminating subsurface water, and causing adverse effects due to its chemical and physical characteristics on infiltration, vegetation, or water quality. Sediment that has been removed from settling ponds and that meets the requirements for topsoil may be redistributed over graded areas in accordance with § 177.107.

(6) Discharges from settling ponds shall meet the water-quality and effluent requirements of paragraph (a) of this section.

(7) If a settling pond includes an embankment that is more than 20 feet in height, as measured from the upstream toe of the embankment to the crest of the emergency spillway, or has a storage volume of 20 acre-feet or more, the following additional requirements shall be met:

(i) An appropriate combination of principal and emergency spillways shall be provided to safely discharge the runoff from the design storm as specified by the regulatory authority. This design storm shall not have a recurrence frequency of less than 50 years.

(ii) Ponds shall be designed and constructed with a safety factor of at least 1.5 for embankment slope stability.

(iii) The minimum top width of the embankment shall not be less than the quotient of $H+35$ where H is the height

5

of the embankment as measured from the upstream toe to the top of the embankment.

(iv) Ponds shall have appropriate barriers to control seepage along conduits that extend through the embankment.

(8) All ponds shall be designed and constructed under the supervision of, and inspected and certified after construction for compliance with design requirements, by a registered professional engineer.

(f) *Discharge structures.* Discharges from settling ponds and diversions shall

be controlled using available technology, such as energy dissipators, surge ponds, and other devices to reduce erosion and prevent deepening and enlargement of stream channels.

(g) *Acid and toxic materials.* Drainage from acid forming and toxic forming mine materials into ground and surface water must be prevented by:

(1) Identifying and burying in the permit area spoil and waste materials that can be toxic or otherwise harmful to vegetation and can adversely affect water quality. The material shall be buried with a minimum of 5 feet of non-toxic material or using other procedures in accordance with § 177.105. Material shall not be buried or stored within 100 feet of any perennial or intermittent stream, or used in construction of dams, embankments or roads or where they will pollute surface and ground water.

(2) Burying all material within 30 days, or less if specified by the regulatory authority. If necessary to store the material, piles shall be stored on impermeable material and protected from erosion and contact with surface water.

(3) Casing, sealing, or otherwise managing boreholes, shafts, wells, and auger or other horizontal holes to prevent pollution of surface or ground water, and to prevent mixing of ground waters of significantly different quality (unless mixing is approved by the regulatory authority). All boreholes that are within the permit area but are outside the surface coal mining area or which extend beneath the coal to be mined and into aquifers, shall be plugged permanently in a manner approved by the regulatory authority.

(4) Taking such other actions as required by the regulatory authority.

(h) *Recharge capacity of reclaimed lands.* The disturbed area shall be reclaimed to restore approximate premining infiltration rates and to restore the ability of the reclaimed area to transmit water to the ground-water system. All available measures shall be used to ensure that the recharge capacity of the reclaimed land will support the approved postmining use of the land.

(i) *Restoration of ground-water systems.* Backfilled materials shall be selectively placed to reestablish ground-water systems to approximate premining conditions.

(j) *Alluvial valley floors west of the 100th meridian west longitude.* (1) Essential elements of the hydrologic functions of alluvial valley floors shall be preserved throughout the mining and reclamation process by maintaining or establishing:

(i) The gradient of streams;

(ii) Aquifers, aquicludes, capillary zones, and perched water zones;

(iii) Quantity and quality of surface and ground water;

(iv) Depth to, and seasonal fluctuations of, ground water where ground water supports a subirrigated vegetation system;

(v) Configuration and stability of the land surface in the flood plain as they

allow or facilitate irrigation with flood waters and maintain erosional equilibrium; and

(vi) Soil profiles, including physical and chemical characteristics of the substrate (or plant-growth medium) which provide moisture holding capacity and thereby provide for sustained vegetation growth through the dry months.

(2) Surface mining and reclamation operations conducted in or adjacent to alluvial valley floors located west of the 100th meridian west longitude shall not interrupt, discontinue, or preclude farming on these alluvial valley floors unless the permining lands use of such alluvial valley floors has been undeveloped rangeland with no regular cropping of hay or unless the area of the affected alluvial valley floor is of small acreage and provides negligible support for one or more farmer's production. This subparagraph (2) does not apply to those surface coal mining operations that:

(i) Were in production in the year preceding August 3, 1977, were located in or adjacent to an alluvial valley floor, and produced coal in commercial quantities in the period identified in this paragraph; or

(ii) Had specific permit approval by the Bureau of Indian Affairs before August 3, 1977, to conduct surface coal mining operations for an area within the affected alluvial valley floor.

(3) Before new surface mining and reclamation operations which may be authorized under subparagraph (2) of this paragraph are commenced, the permittee shall submit and the regulatory authority shall approve detailed surveys and baseline data to establish standards against which the requirements of subparagraph (1) of this paragraph can be measured. The surveys and data shall include:

(i) A map at a scale determined by the regulatory authority showing the location of the alluvial valley floor.

(ii) Baseline data covering a full water year for each of the hydrologic elements identified in subparagraph (1) of this paragraph.

(iii) Such other data as the regulatory authority may require.

(k) *Ground-water monitoring.* Ground-water levels and quality of the ground water shall be monitored as approved by the regulatory authority, to determine the effects of surface coal mining operations on ground water. When mining is done below the water table, the water levels shall be monitored in representative ground-water wells within the area which may be influenced by the mining or in such other wells that can adequately reflect changes in water levels. Where existing wells are inadequate to measure long-term changes, the permittee may be required by the regulatory authority to drill and complete wells to measure water quantity and quality in the permit area. When determined necessary by the regulatory authority, the permittee also may be required to drill and complete wells to measure water levels on and off site sub-

ject to surface owner consent. These wells must monitor all aquifers that may be affected by mining.

(1) *Hydrologic impacts of roads.*—(1) *General.* Access and haul roads and associated bridges, culverts, ditches, and road rights-of-way shall be constructed, maintained and reclaimed so as to control diminution or degradation of water quantity and quality. The land over which roads are constructed for surface coal mining and reclamation operations shall be reclaimed in accordance with this part, unless retention of a road is approved under § 177.104, as being an integral and contributing part of the postmining use of the land.

(2) *Construction.* (1) All roads, insofar as possible, shall be located on benches, ridges, or flatter and more stable slopes to minimize erosion. Stream fords are prohibited unless they are specifically approved by the regulatory authority as temporary routes across dry streams unrelated to coal haulage. Roads shall not be located in stream beds; nor shall they be located within the 100-year flood plain of any stream unless it can be demonstrated that the roads will not restrict the flow of the base flood (a flood that has a 1 percent or greater chance of occurring in any year), nor increase erosion or cause significant sedimentation or flooding. However, nothing in this paragraph will be construed as prohibiting relocation of stream channels in accordance with paragraph (d) of this section.

(ii) In order to minimize erosion and subsequent hydrologic disturbances, roads shall be constructed in compliance with the following grade restrictions, or other grade determined by the regulatory authority to be necessary to control erosion:

(A) The overall sustained grade shall not exceed 1v:10h (10 percent).

(B) The maximum grade greater than 10 percent shall not exceed 1v:6.5h (15 percent) for more than 300 feet.

(C) There shall not be more than 300 feet of maximum grade within each 1,000 feet.

(iii) All access and haul roads shall be adequately drained using structures such as, but not limited to, ditches, water barriers, cross drains, and ditch-relief drains. For access and haul roads that are to be maintained for more than 1 year, water-control structures shall be designed with a discharge capacity capable of passing the peak flow from a 25-year 24-hour precipitation event. Drainage pipes and culverts shall be constructed to avoid plugging or collapse and erosion at inlets and outlets. Drainage ditches shall be provided at the toe of all cut slopes formed by the construction of roads. Trash racks and debris basins shall be installed in the drainage ditches wherever debris from the drainage area could impair the functions of the structures. Ditch relief and cross drains shall be spaced according to grade. Drainage from access and haul roads shall meet the water-quality requirements of this section.

(iv) Access and haul roads shall be surfaced with durable material. Toxic or acid-forming substances shall not be used in the surface material. Vegetation may be cleared only for the essential width necessary for road and associated ditch construction and to serve traffic needs.

(3) *Maintenance.* (1) Access and haul roads shall be routinely maintained by measures such as, but not limited to, wetting, scraping, or surfacing.

(ii) Ditches, culverts, drains, trash racks, debris basins, and other structures serving to drain access and haul roads shall not be restricted or blocked in any manner that impedes drainage or adversely affects the intended purpose of the structure.

(m) *Hydrologic impacts of other transport facilities.* Railroad loops, spurs, siding or other transport facilities shall be constructed, maintained and reclaimed so as to control diminution or degradation of water quantity or quality.

§ 177.109 Dams constructed of refuse materials general.

(a) No mine or processing refuse materials shall be used in existing or new dams without the approval of the regulatory authority. The permittee or operator shall design, locate, construct, operate, maintain, modify, abandon, and remove all dams (used either temporarily or permanently) when constructed of mine refuse materials, tailings, coal processing wastes, or other liquid or solid wastes in accordance with the requirements of this section.

(b) *Definitions—Refuse materials.* Coal mine waste materials excavated or removed during surface coal mining and reclamation operations or separated from mined coal. The material may be a mixture of coal, slack coal, or waste coal; organic material; shale, claystone, sandstone, siltstone, or limestone, or related materials.

Safety factor. The ratio of the available shear strength to the developed shear stress on a potential surface of sliding determined by accepted engineering practice.

(c) *Dams constructed of refuse materials.* (1) Refuse shall not be used in the construction of dams unless demonstrated to have no adverse effect on stability.

(2) Plans for dams or impoundments shall be approved by the regulatory authority before construction and shall contain the minimum plan requirements established by the Mining Enforcement and Safety Administration pursuant to 30 CFR 77.216.2.

(3) Dams and impoundments subject to this paragraph shall meet the following requirements:

(i) Design of impoundments shall be based on the flood from the probable maximum precipitation event unless the permittee shows that the failure of the impounding structure would not cause loss of life or severe property or environmental damage, in which case a design based on a minimum flood event of 100-

year frequency may be approved by the regulatory authority. An intermediate-sized design flood may be required depending on site condition.

(ii) The design freeboard distance between the lowest point on an impounding structure and the maximum water elevation shall be at least 3 feet to avoid overtopping by wind and wave action.

(iii) Impounding structures shall have minimum stability factors as follows:

Case	Loading condition	Minimum safety factor
I	End of construction	1.3
II	Partial pool with steady seepage saturation	1.5
III	Steady seepage from spillway or decant crest	1.5
IV	Earthquake (uses II and III with seismic loading)	1.0

(iv) The dam, foundation, and abutments shall be stable under all conditions of construction and operation of the impoundment. Sufficient foundation investigations and laboratory testing shall be performed to determine the factors of safety of the dam for all loading conditions in subparagraph (3) (iii) of this paragraph and for all increments of construction.

(v) Seepage through the dam, foundation, and abutments shall be controlled to prevent excessive uplift pressures, internal erosion, sloughing, removal of material by solution, or erosion of material by loss into cracks, joints, and cavities. This may require the use of impervious blankets, pervious drainage zones or blankets, toe drains, or relief wells.

(vi) Allowances shall be made for settlement of the dams and the foundation so that the required freeboard will not be diminished.

(vii) Impoundments created by dams of refuse materials shall be subject to a minimum drawdown criteria that allows the facility to be evacuated by spillways or decants of 90 percent of the volume of water stored during the design precipitation event within 10 days.

(viii) Closed-circuit coal waste shall not be used in dams constructed of refuse materials unless demonstrated to maintain or enhance dam stability.

(ix) During construction of dams subject to this paragraph, the structures shall be periodically inspected by a registered professional engineer to ensure construction according to appropriate designs and upon completion of construction, the structure shall be certified as having been designed in accordance with accepted professional policies by a registered professional engineer.

(x) A permanent identification marker, at least 6 feet high and showing the dam number assigned pursuant to 30 CFR 77.215-1, and the name of the person operating or controlling the dam shall be located on or immediately adjacent to each dam within 30 days of certification of design pursuant to this section.

(4) All dams shall be routinely inspected by a registered professional engineer in accordance with MESA regulations pursuant to 30 CFR 77.216-3.

(5) All dams shall be routinely maintained. Vegetative growth shall be cut where necessary to facilitate inspection and repairs, ditches and spillways cleaned, any combustible materials present on the surface removed, and any other appropriate maintenance procedures follows.

(6) All dams subject to this section shall be recertified annually as having been constructed and modified in accordance with current prevalent engineering practices to minimize the possibility of failures. Any changes in the geometry of the impounding structure shall be included in the annual recertification report. The certification will include a report on existing and required monitoring procedures and instrumentation, the average and maximum depths and elevations of any impounded waters over the past year, existing storage capacity of impounding structures, any fires occurring in the material over the past year, and any other aspects of the structures affecting their stability.

(7) Any enlargements, reductions in size, reconstruction or other modification of dams shall be approved by the regulatory authority.

(8) All refuse dams shall be removed and the disturbed areas regarded, revegetated, and stabilized prior to the release of bond unless the regulatory authority approves retention of such dams as being compatible with an approved postmining land use (§ 177.104).

§ 177.110 Revegetation.

(a) *General.* (1) The permittee shall establish on all land that has been disturbed, a diverse, effective, and permanent vegetative cover of species native to the area of disturbed land or species that will support the planned postmining uses of the land approved according to § 177.104.

(2) Revegetation shall be carried out in a manner that encourages a prompt vegetation cover and recovery of productivity levels compatible with approved land uses. The vegetation cover shall be capable of stabilizing the soil surface with respect to erosion. All disturbed lands shall, regardless of the approved postmining land use, be seeded or planted to achieve a vegetation cover of the same seasonal varieties when it consists of disturbed land. If both the pre- and postmining land use is intensive agriculture, planting of crops normally grown will meet the requirement. Vegetation cover will be considered of the same seasonal varieties when it consists of a mixture of species of equal or superior utility for the intended land use when compared with the utility of naturally occurring vegetation during each season of the year.

(b) *Use of introduced species.* Introduced species may be substituted for

native species only if appropriate field trials have demonstrated that the introduced species will be of equal or superior utility for the approved postmining land use, or is necessary to achieve a quick, temporary and stabilizing cover. Introduced species shall meet applicable Tribal and Federal seed or introduced species statutes, and may not include poisonous or potentially toxic species incompatible with the approved postmining land use.

(c) *Timing of revegetation.* Seeding and planting of land that has been regraded and the topsoil replaced shall be conducted during the first normal period for favorable planting conditions after final grading. The normal period for favorable planting shall be that planting time generally accepted locally to meet specific site conditions and climate. Any disturbed areas, except water areas and surface areas of haul roads, which have been graded shall be planted with a temporary cover of small grains, grasses, or legumes at a commensurate level with that needed to establish adequate cover to control erosion. When rills or gullies, that would preclude the successful establishment of vegetation or the achievement of the postmining land use form in regraded topsoil and overburden materials as specified in § 177.105, additional regrading or other stabilization practices will be required before seeding and planting.

(d) *Mulching.* Mulch means vegetation residues or other suitable materials that aid in soil stabilization and soil moisture conservation, thus providing climate conditions suitable for germination and growth, and do not interfere with the postmining use of the land. Mulches shall be anchored to the soil surface where appropriate to ensure effective protection of the soil and vegetation. The minimum amounts of mulch to be applied per acre are: for straw or hay, 2,000 pounds; for wood fiber, 1,000 pounds; for bark materials, 30 cubic yards. If the permittee can demonstrate that other wood products, composted waste, or other materials are more suitable for achieving successful revegetation and erosion control, the regulatory authority may authorize substitution of such other materials. Mulch shall be used on all regraded and topsoiled areas to control erosion, to promote germination of seeds, and to increase the moisture retention of the soil. Annual grains such as oats, rye, and wheat may be used instead of mulch when it is shown to the satisfaction of the regulatory authority that the substituted grains will provide adequate stability and that they will later be replaced by species approved for the postmining land use.

(e) *Method of revegetation.* (1) The permittee shall use technical publications or the results of laboratory and field tests approved by the regulatory authority to determine the varieties, species, seeding rates, and soil amendment practices essential for establishment and self-

regeneration of vegetation. The revegetation procedures shall be designed to require only that degree of fertilization and maintenance procedures required to meet the standards of this section for the approved postmining use of the land.

(2) Where hayland, pasture, or rangeland is to be the postmining land use, the land shall be revegetated to the satisfaction of the regulatory authority. The species of grasses, legumes, or forbs for seeding or planting shall be selected by the permittee to provide a diverse, effective, and permanent vegetation cover with the seasonal variety, succession, and regeneration capabilities native to the area. Livestock grazing will not be allowed on reclaimed land until the seedlings are established and can sustain managed grazing. The regulatory authority, in consultation with the surface owner and permittee, shall determine when the revegetated area is ready for livestock grazing. When hoofed wildlife populations are large enough to cause damage, grazing by such wildlife must be controlled by appropriate methods until the seedlings are well established and can sustain normal grazing. The regulatory authority shall determine when the revegetated area is ready for wildlife grazing.

(3) Where an agricultural use that will require using tillage equipment such as plows, cultivators, and tractors is to be the postmining land use, the permittee shall use adequate erosion and sediment control practices approved by the regulatory authority.

(4) Where forests are to be the postmining land use, the permittee shall plant trees adapted for local site conditions and climate in combination with an herbaceous cover of grains, grasses, legumes, or forbs that provide a diverse, effective, and permanent vegetation cover with the seasonal variety, succession, and regeneration capabilities native to the area.

(5) Where wildlife habitat is to be included in the postmining land use, the permittee shall consult with appropriate Tribal and Federal wildlife management agencies and, upon the approval of the regulatory authority, shall select species to be seeded or planted. The permittee shall select those species that will fulfill the needs of wildlife, including food, water, cover, and space, and shall space and distribute plant groupings and water resources to fulfill the requirements of wildlife.

(6) Where development of residential, recreational, industrial, or public service uses is to be the postmining land use, the lands must be revegetated initially according to paragraph (a) of this section. Final revegetation requirements must be approved by the regulatory authority.

(f) *Standards for measuring success of revegetation.* (1) The revegetation standards in the following table are minimum requirements for revegetation of disturbed areas.

Standards for revegetation

[Herbaceous species—grass, legumes, and nonleguminous forbs; woody plants—woody shrubs, trees, and vines; ground cover—area covered by the combined aerial parts of plants and litter that are produced naturally on site, expressed as a percentage of the total area of measurement]

A. Areas planted only in herbaceous species (percent ground cover of herbaceous species at the end of the growing season)

Average annual precipitation, in inches	End of growing season—		
	1 yr	5 yrs	10 yrs
Up to 10.....	6	8	10
10.1 to 16.....	10	20	30
16.1 to 26.....	20	30	40
More than 26.....	50	70	NA

B. Areas planted to mixtures of herbaceous and woody species (percent ground cover of herbaceous species and number of plants per acre of woody species at the end of the growing season)

Average annual precipitation, in inches	1 yr		5 yrs		10 yrs	
	Percent ground cover	Number of woody plants per acre	Percent ground cover	Number of woody plants per acre	Percent ground cover	Number of woody plants per acre
Up to 10.....	6	2,500	5	2,000	4	1,500
10.1 to 16.....	7	800	10	800	15	1,000
16.1 to 26.....	20	400	25	400	30	400
More than 26.....	40	600	50	400	NA	NA

¹ On steep slopes, the minimum number of woody plants must be increased to 600 per acre.

(2) (1) When revegetation requirements are based on returning the permit lands to premining land uses of hayland, pasture, wildlife habitat, or rangeland, the regulatory authority may also require the permittee to set aside and fence enclosures of land not to be disturbed by mining activity or domestic livestock. These enclosures, which must be representative of geology, soils, slope, aspect, and vegetation in the permit area, will be used to estimate normal vegetation productivity, plant cover, species, plant succession, and plant self-regeneration. The regulatory agency shall approve the estimating techniques used to judge the

degree of success achieved in the revegetated areas. These enclosures and estimations may be required before revegetation procedures are approved.

(ii) When enclosures are required, the degree of progress and success in revegetating shall, at a minimum, meet the standards in the following table. More stringent standards may be established by the regulatory authority based on natural conditions in the area. The permittee and the regulatory authority shall use those standards as guides to indicate potentials for ultimate revegetation success and to determine whether remedial measures are necessary to improve chances for success.

Standards for revegetation when enclosures are required

[Ground cover—area covered by the combined aerial parts of plants and litter that are produced naturally on site, expressed as a percentage of the total area of measurement; biomass yield—the total yield of living plants above ground in an area at the end of the growing season]

Average annual precipitation, in inches	End of growing season—		
	1 yr	5 yr	10 yr
A. Number of adapted species in revegetated areas			
Up to 10.....	3	12	15
10.1 to 16.....	6	14	20
16.1 to 26.....	6	20	25
More than 26.....	8	25	30
B. Ground cover of perennial plants expressed as a percent of the ground cover in the enclosures			
Up to 10.....	65	80	85
10.1 to 16.....	70	80	85
16.1 to 26.....	70	80	90
More than 26.....	80	90	NA
C. Biomass yield of perennial plants expressed as a percent of the biomass yield in the enclosures			
Up to 10.....	90	80	80
10.1 to 16.....	70	80	85
16.1 to 26.....	70	80	90
More than 26.....	80	90	NA

(g) *Seeding of stockpiled topsoil.* Topsoil stockpiled in compliance with § 177.107 must (if not to be redistributed within 30 days) be seeded or planted with an effective cover of nonnoxious, quick growing annual and/or perennial plants or protected by other approved measures as specified in § 177.107.

§ 177.111 Steep-slope mining.

(a) The permittee conducting surface coal mining and reclamation operations on natural slopes that exceed 20 degrees, or on lesser slopes that require measures to protect the area from disturbance, as determined by the regulatory authority after consideration of soils, climate, the method of operation, and other regional characteristics, shall meet the following performance standards. The standards of this section do not apply where mining is done on a flat or gently rolling terrain with an occasional steep slope through which the mining proceeds and leaves a plain or predominantly flat area; or where the mining removes entire coal seams running through the upper fraction of a mountain, ridge, or hill by removing all of the overburden and creating a level plateau or gently rolling contour.

(1) Overburden or waste materials or debris, including that from clearing and grubbing, and abandoned or disabled equipment, shall not be placed or permitted to remain on the downslope. Material in excess of that required to meet the provisions of § 177.105 must be disposed of in accordance with the requirements of § 177.106.

(2) First-cut overburden shall be stored within the permit area. The storage piles must be designed and constructed to minimize erosion and to maximize stability. Any material temporarily stored for more than 30 days must be protected by an effective cover of nonnoxious, quick-growing annual and/or perennial plants or other approved means as specified in § 177.110.

(3) Where the backfilled slope is 50 feet or more in length, terraces when approved by the regulatory authority, shall be sloped to safely and quickly discharge runoff water to stable drainage channels located off the fill area and must be constructed to meet the requirements of §§ 177.105(c) and 177.108.

(4) Woody materials that can cause instability must not be mixed into the backfill.

§ 177.112 Inspections.

(a) *Extent.* The authorized representatives of the Secretary shall conduct inspections of surface coal mining operations subject to regulations under the Act.

(1) On the basis of information provided by a Tribe or any person which gives rise to a reasonable belief that the provisions of the Act, regulations, or per-

mit condition required by the Act are being violated, or that a condition or practice exists which creates an imminent danger to the health or safety of the public, or is causing, or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources; and

(2) On a random basis of at least one complete inspection each 6 months. A complete inspection is an onsite review of the entire area disturbed or effected by mining.

(b) *Right of entry.* (1) Authorized representatives of the Secretary, without advance notice and upon presentation of appropriate credentials and without a search warrant, shall have the right of entry to, upon, or through any surface coal mining and reclamation operations or any premises in which any records to be maintained are located.

(2) The authorized representatives may at reasonable times, and without delay, have access to and copy any records, inspect any monitoring equipment or method of operation required under this Act, the regulations, or the permit.

(c) *Inspections based on citizen requests.*—(1) *Citizen reports.* (i) Any person who suspects or knows of a violation of the Act, regulations, or permit conditions required by the Act or of any imminent hazard may report this information in writing to the Office of Surface Mining Reclamation and Enforcement office nearest to the surface coal mining operation to which the information relates or to any other Office of Surface Mining Reclamation and Enforcement office. Written complaints must be signed and include a phone number where the complaining party can be contacted. The complaint or other information shall be considered as having a reasonable basis if it alleges facts which, if proven to be true, would be sufficient to show a violation of the Act, regulations, or permit. Unless the Office has reason to believe that the information is incorrect, or determines that even if true it would not constitute a violation, the Office shall conduct an inspection.

(ii) The identity of any person supplying information to the Office relating to possible violations or imminent hazards shall remain confidential within the Office unless the person supplying the information consents in writing to disclosure.

(2) *Right to accompany the authorized representative of the Secretary.* (i) If a Federal inspection is conducted as a result of information provided to the Office, the person who provided the information shall be notified when the inspection is to occur and the person will be allowed to accompany the authorized representative during the inspection.

(ii) Any person accompanying an authorized representative of the Secretary has a right of entry to, upon and through the mining and reclamation operations about which he supplied information only if he is in the presence of and is

under the control, direction, and supervision of the authorized representative while on the mine property.

(3) *Notification of results of investigation.* Within 10 days of the inspection or, if no inspection, within 10 days of the complaint, the Office shall notify the person in writing of the following—

(i) The results of the investigation, including a description of any inspection which occurred and any enforcement action taken; copies of Federal inspection reports, notices of violation, and cessation orders may be forwarded to the person in satisfaction of this requirement.

(ii) If no inspection was conducted, an explanation of the reason for not inspecting.

(iii) A statement as to the person's right to informal review of the actions or inactions of the Office.

(iv) *Review of action of local offices.* A person who does not agree with the action taken by the Office on his report may request the Regional Director to review the complaint and actions taken. The Regional Director shall advise the person in writing of the results of the review.

(d) *Failure to give notice and lack of reasonable belief.* No notice of violation or cessation order may be vacated by reason of failure to give notice required by the Act prior to the inspection or by reason of a subsequent determination that prior to the inspection the Office did not have information sufficient to create a reasonable belief that a violation had occurred.

(e) *Tribal involvement.* (1) Whenever an authorized representative of the Secretary decides to conduct an inspection of any coal mining operation or any premises in which any records to be maintained are located, the appropriate representative of the local governing Indian Tribe shall be notified and invited to accompany the Secretary's representative on such an inspection.

(2) An Indian Tribe, or its authorized representatives, shall be entitled to all the protections of paragraph (c) of this section.

§ 177.113 Enforcement procedures.

(a) *Imminent hazards.* (1) If an authorized representative of the Secretary finds conditions, or practices, or violations of applicable performance standards, which create an imminent danger to the health or safety of the public the authorized representative shall immediately order a cessation of surface coal mining and reclamation operations or the portion thereof relevant to the condition, practice, or violation.

(2) If an authorized representative of the Secretary finds conditions or practices, or violations of applicable performance standards, which can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources, the authorized representative shall immediately order a cessation of surface coal mining and reclamation operations or the portion thereof

relevant to the condition, practice, or violation.

(3) An authorized representative of the Secretary shall impose affirmative obligations on an operator which the authorized representative deems necessary to abate the condition, practice or violation if:

(i) A cessation order is issued under subparagraph (1) or (2) of this paragraph; and

(ii) The cessation of mining or reclamation activities will not completely abate the imminent danger to public health or safety or the significant, imminent environmental harm or eliminate the practices or conditions that that contributed to the imminent danger or significant, imminent environmental harm.

(4) When imposing affirmative obligations under this subsection, the authorized representative shall require abatement of the danger or harm in the most expeditious manner physically possible. The affirmative obligation shall include a time by which abatement shall be accomplished and may include, among other things, the use of existing or additional personnel and equipment.

(5) An authorized representative of the Secretary may terminate a cessation order issued under subparagraph (1) or (2) of this paragraph by written order when the authorized representative of the Secretary determines that the conditions or practices or violations which caused the danger to life or the environment have been eliminated.

(b) *Non-imminent hazard violations.* (1) If an authorized representative of the Secretary finds a violation which is not an imminent hazard, the authorized representative shall issue a notice of violation fixing a reasonable time for abatement.

(2) An authorized representative may extend the time to abate a violation by written notice if the failure to abate within the time set was not caused by the permittee's or operator's lack of diligence.

(3) The total time for abatement as originally fixed and subsequently extended shall not exceed 90 days.

(c) *Failure to abate.* An authorized representative of the Secretary shall order cessation of surface coal mining and reclamation operations, or the portion relevant to the violation, when the authorized representative has issued a notice of violation under paragraph (b) of this section determines that the permittee or operator has failed to abate the violation within the time originally fixed or subsequently extended. In a cessation order issued under this subsection, the authorized representative shall impose affirmative obligations to abate the violation in the manner provided in paragraph (a) of this section.

(d) *Service of notice.* Notices and orders issued under this part shall be given to the permittee or operator or his designated agent. If no designated agent is at the mine site, service will be made upon any person who appears to be in charge of the mining or reclamation operations.

mation operation. The person receiving service shall be responsible for any immediate compliance actions required by the notice or order. Service is complete on delivery at the mine. However, a copy of each notice or order shall be mailed to the permittee or operator within 5 days.

(e) *Review of the minesite of cessation orders.* (1) Within 30 days after the permittee or operator has received any cessation order issued under this part, the District Manager or his delegate shall conduct an informal hearing at the minesite or within such reasonable proximity to the mine that it may be visited during the conduct of the hearing. No hearing will be required where the condition, practice or violation in question has been abated or the operator waives the hearing.

(2) Any request made to the Office of Surface Mining Reclamation and Enforcement for a substantial modification or vacation of a cessation order shall be deemed a request for an informal hearing under this section.

(3) Notice of the time, place and subject matter of the hearing shall be given to the operator or permittee, any citizen who filed a report which led to the cessation order to be reviewed, and appropriate officials of the local governing Indian Tribe. Notice of the hearing also shall be posted at the appropriate district or field office and at the mine site and, to the extent possible, shall be given by newspaper in the area of the mine.

(4) The requirements of section 554 of Title 5 of the United States Code shall not govern the conduct of the hearings required by this section. The District Manager or his delegate may accept oral or written arguments, presentations of evidence, or any other relevant information from any person attending.

(5) The District Manager or his delegate shall within 15 days of the close of the informal hearing affirm, modify or vacate the order. The decision shall be in writing and shall be sent to the permittee or operator, any citizen who filed a report which led to the cessation order reviewed and the appropriate agency of the local governing Indian Tribe.

(6) Informal review under this subsection shall not affect the rights of any person to request formal review as provided in section 525(a)(1) of the Act. A request for informal review shall not affect the 30 day time period for filing a request for formal review.

(f) *Inability to comply.* (1) Neither a notice of violation nor a cessation order issued under this part may be vacated because of inability to comply.

(2) A permittee or operator may not be deemed to have shown good cause for not suspending or revoking a permit by showing inability to comply.

(3) Unless caused by a lack of diligence, inability to comply may be considered in mitigation of the amount of a Civil penalty under § 177.114 and of the duration of the suspension or revocation of the permit under paragraph (g) of this section.

(g) *Pattern of violations.* (1) The regulations of this section set forth the procedures governing the suspension or revocation of permits based on a pattern of violations arising during Federal inspections during the initial regulatory program.

(2) *Definitions.* As used in this section:

(i) "Violations of the same or related requirements of the Act, regulations or permit conditions" means noncompliance with any single section of this part.

(ii) "Violations of different requirements of the Act, regulations or permit conditions" means noncompliance with different sections of this part.

(iii) "Unwarranted failure to comply" means the failure of a permittee to prevent the occurrence of any violation of his permit or any requirement of the Act or these regulations due to indifference, lack of diligence, lack of reasonable care, or the failure to abate any violation of such permit, the Act or regulations due to indifference, lack of diligence, or lack of reasonable care.

(iv) "Willful violation" means an intentional action or omission which violates the Act, regulations or permit conditions required under the Act.

(3) *Order to show cause.* (i) If a Regional Director of the Office determines that a pattern of violations exists or has existed and that such violations are caused by the unwarranted failure of the permittee or were willfully caused, the Regional Director shall issue an order to the permittee to show cause why the permit should not be suspended or revoked.

(ii) The Regional Director may determine that a pattern of violations exists, or has existed, after considering the circumstances, including:

(a) The number of willful violations or violations caused by unwarranted failure to comply with the same or related requirements of the Act, regulations or permit conditions during 2 or more Federal inspections.

(b) The number of willful violations or violations caused by unwarranted failure to comply with different requirements of the Act, regulations or permit conditions.

(c) The extent to which the violations were isolated departures from lawful conduct.

(iii) The Regional Director shall deem a pattern to exist if the number of willful violations or violations caused by unwarranted failure to comply with the Act, regulations or permit conditions is at a rate of 50 percent above the national norm during two months of any four month period. The national norm will be determined by comparing the number of willful and unwarranted violations issued per inspection day to permittees in the initial regulatory period. The norm will be determined semi-annually and the norm for the preceding half year will be utilized in determining whether a pattern exists. The national norm may be computed by a sampling or other statistically-valid method when the data exists for the computation.

(4) *Suspension or revocation of permit.* (i) The order to show cause shall

be issued and a public hearing, if requested, shall be conducted under the procedures of 43 CFR Part 4.

(ii) If the Secretary finds that a pattern of violations exists or has existed, the permit shall be either suspended or revoked and the permittee directed to complete necessary reclamation operations.

(h) *Other remedies preserved.* No provision in this section shall be interpreted as replacing or superseding any other remedies of the Indian mineral owner as set forth in the contract or otherwise available at law.

§ 177.114 Civil penalties.

(a) *Scope.* This section covers the assessment of civil penalties for violations of a permit condition, or any provision of the regulations in this subpart. This section governs when a civil penalty is assessed and how the amount is determined and sets forth applicable procedures. This section applies to cessation orders and notices of violation issued to permittees or operators under § 177.113 during a Federal inspection.

(b) *When assessment made.* (1) The Office will review each notice of violation and cessation order issued in accordance with the assessment procedures described in this section to determine whether a civil penalty will be assessed, the amount of the penalty and whether each day of a continuing violation will be deemed a separate violation for purposes of the total penalty assessed.

(2) The Office shall assess a civil penalty for each violation contained in a cessation order. If a cessation order is issued for a condition or practice which is not a violation, no civil penalty shall be assessed.

(3) In determining whether to assess a civil penalty the Office shall consider:

(i) The permittee or operator's history of previous violations at the particular coal mining operation;

(ii) The seriousness of the violation;

(iii) Whether the permittee or operator is negligent; and

(iv) The demonstrated good faith of the permittee or operator in attempting to achieve rapid compliance after notification of the violation. The Office shall make this determination by use of a point system described in paragraph (c) of this section.

(c) *When to assess after a notice of violation—(1) General.*—The Office determines whether to assess a penalty following the issuance of a notice of violation by a point system that takes into account the four criteria in paragraph (b)(3) of this section. Points are assigned based on each of the four criteria. If the total is more than 30 points, a penalty is assessed.

(2) *History of previous violations.* The Office shall assign one point for each past violation and five points for each past cessation order issued as a result of a violation up to a maximum of 30 points. Each violation which underlies a cessation order shall be counted separately from the cessation order itself. Violations and cessation orders which

shall be counted are those, resulting from a Federal inspection, that have not been vacated or dismissed at the time of the assessment being computed and that occurred or were issued within the year preceding the violation under consideration. The Office shall count each violation without regard to whether it led to a civil penalty assessment.

(3) *Seriousness.* The Office shall assign up to 30 points based on the seriousness of the violation according to the following schedules.

(i) *Probability of occurrence.* The probability of the occurrence of the event against which a standard is directed may account for a maximum of 15 penalty points. The Office shall use the following definitions and schedules.

(A) Probability of occurrence:

	Points
None or insignificant	0-5
Unlikely	5-10
Likely	10-15
Occurred	15

(ii) *Extent of potential or actual damage.* The extent of the potential or actual damage in terms of area and impact on the public or environment may account for a maximum of 15 penalty points based on the following—

(A) If the damage or impact against which the standard violated is designed to protect would remain within the permit area (or in the case of a deep mine, the area of surface structures), the Office shall assign zero to seven points depending on the duration and extent of the damage or impact.

(B) If the damage or impact, against which the standard violated is designed to protect, would extend outside the permit area (or in the case of a deep mine, the area of surface structures), the Office shall assign eight to fifteen points depending on the duration and extent of the damage or impact.

(C) The Office shall assign up to 15 points for seriousness for any failure to keep records, to give notice or to conduct any measuring or monitoring required by the regulations or a permit based upon the extent to which enforcement is obstructed. If the method of assigning points for seriousness under subdivision (i) and (ii) of this subparagraph produces more points, the higher points shall be assigned.

(4) *Negligence.* (i) The Office shall assign up to 25 points based on the negligence of the permittee or operator, either through act or omission, in causing or failing to correct the condition or practice which is a violation. A violation which occurs through no negligence shall not be assigned penalty points for negligence. A violation which is caused by negligence shall be assigned 12 points or less depending on the degree of negligence. A violation which occurs through a greater degree of fault than negligence shall be assigned 13 through 25 penalty

points depending on the degree of fault.

(ii) In determining the degree of negligence involved in a violation and the number of penalty points to be assigned, the following definitions apply—

(A) *No negligence* means an inadvertent violation of the regulations or permit conditions which was unavoidable by the exercise or reasonable care.

(B) *Negligence* means the failure of a permittee or operator to prevent the occurrence of any violation of his permit or any requirement of the regulations due to indifference, lack of diligence, or lack of reasonable care, or the failure to correct any violation of such permit or the Act or the regulations due to indifference, lack of diligence or lack of reasonable care.

(C) Examples of greater degree of fault than negligence are reckless, knowing or intentional conduct.

(iii) In calculating points to be assigned for negligence, the actions of all persons working on the mine site shall be attributed to the permittee or operator.

(5) *Good faith in attempting to achieve compliance.* (i) The Office shall subtract or add points based on the degree of good faith of the permittee or operator in attempting to achieve rapid compliance after notification of the violation. The points shall be assigned according to the following schedule—

Degree Of Good Faith:	Points
Rapid	-10
Normal	0
Lack of good faith	10

(ii) In determining the permittee's or operator's degree of good faith in attempting to achieve rapid compliance, the following definitions apply—

(A) *Rapid compliance* means that the permittee or operator took extraordinary measures to abate the violation in the shortest possible time and that abatement was achieved more rapidly than reasonably required.

(B) *Normal compliance* means the permittee or operator abated the violation within the time given for abatement.

(C) *Lack of good faith* means the permittee or operator did not show diligence in attempting to abate the violation and the violation was not timely abated.

(iii) If the consideration of this criteria is impractical because the length of the abatement period, the assessment may be made without considering this criteria. Any such assessment may be reconsidered upon the permittee or operator's request after abatement is completed.

(d) *Determination of amount of penalty.* The Office shall determine the amount of any civil penalty by converting the total number of points assigned under paragraph (c) of this section to a dollar amount according to the following schedule:

25 and below—\$500.	48—\$2,800.
26—\$600.	49—\$2,900.
27—\$700.	50—\$3,000.
28—\$800.	51—\$3,100.
29—\$900.	52—\$3,200.
30—\$1,000.	53—\$3,300.
31—\$1,100.	54—\$3,400.
32—\$1,200.	55—\$3,500.
33—\$1,300.	56—\$3,600.
34—\$1,400.	57—\$3,700.
35—\$1,500.	58—\$3,800.
36—\$1,600.	59—\$3,900.
37—\$1,700.	60—\$4,000.
38—\$1,800.	61—\$4,100.
39—\$1,900.	62—\$4,200.
40—\$2,000.	63—\$4,300.
41—\$2,100.	64—\$4,400.
42—\$2,200.	65—\$4,500.
43—\$2,300.	66—\$4,600.
44—\$2,400.	67—\$4,700.
45—\$2,500.	68—\$4,800.
46—\$2,600.	69—\$4,900.
47—\$2,700.	70 and above \$5,000.

(e) *Assessment of separate violations for each day.* (1) If a cessation order is issued for failure to abate a violation within the time set in a prior notice of violation or cessation order, the Office shall assess separately each day the violation underlying the cessation order remains unabated. The daily penalty shall be the amount assessed for the violation or \$750.00, whichever is greater. The daily assessment of a penalty shall not be made for any period that the obligation to abate is suspended.

(2) The Office may assess separately each day of any continuing violation. In making this determination, the Office shall consider the factors listed in paragraph (c) of this section and any economic benefit to the permittee or operator which resulted from a failure to comply.

(3) The Office shall separately assess a minimum of two days for any continuing violation which is assigned more than 70 points under subsection (c).

(f) *Procedures for assessment of civil penalties.* (1) Within 10 days of service of a notice or order, the permittee or operator may submit information in writing pertaining to the violation involved to the District Office with jurisdiction over the mine and to the inspector who issued the notice or order. The Office shall consider any information so submitted in determining the facts surrounding the violation and the amount of the penalty.

(2) The Office shall serve the permittee or operator, by certified mail return receipt requested, within 30 days of the issuance of the notice or order, with a copy of the proposed assessment and of the worksheets showing the computation.

(g) *Procedure for conference.* (1) If a written request from the permittee or operator is received within 15 days from receipt of a proposed assessment, the Office shall arrange for a conference to review the assessment. The permittee or operator may submit additional material for consideration during the con-

ference. The Office may contact the permittee or operator to discuss the assessment prior to the conference if necessary to expedite the review.

(2) The Office shall consider all relevant information on the violation in question presented by the permittee or operator and may recalculate either up or down or vacate the proposed penalty. No information as to which the permittee or operator claims confidentiality shall be considered as a basis for reduction of a proposed assessment. When new facts warrant the imposition of a higher penalty, it shall be proposed in the manner provided in paragraph (f) of this section. Every change in a proposed assessment shall be fully documented in the file including a written explanation of the reason the penalty has changed.

(3) Notice of the time and place of the conference shall be posted at the Office of Surface Mining Reclamation and Enforcement field office with jurisdiction over the mine at least five days prior to the conference. Any person shall have a right to attend the conference.

(4) If the issues are resolved, the agreement shall be in writing and signed by both parties. If payment is not received within 10 days, the Office may—

(i) Enter the agreed upon amount as a final order of the Secretary; or

(ii) Rescind the agreement and reinstate the original proposed assessment.

(5) A reduction of a proposed civil penalty assessment of more than 25 percent and more than \$500 agreed to during a conference shall be approved by the Regional Director or his designee before it is final and binding on the Secretary.

(h) *Request for hearing.* (1) Within 30 days from receipt of the proposed assessment, the permittee or operator may request a hearing before the Office of Hearings and Appeals by filing a petition and tendering full payment of the proposed assessment to be held in escrow.

(2) The timely filing of a request for a conference under paragraph (g) of this section suspends the running of the 30-day period for requesting a hearing. The suspension shall continue until the completion of the conference, which shall be held within 60 days from the date of the request for the conference. The permittee or operator shall have 15 days after completion of the conference to request a public hearing.

(3) The Office of Hearing and Appeals conducts the hearings and issues orders or otherwise terminates the petition pursuant to its procedures in 43 CFR Part 4. The Office of Hearings and Appeals may determine whether a violation occurred. When determining the amount of the penalty the Office of Hearings and Appeals shall use the point system and conversion table contained in this part.

(i) *Availability of records.* All records and files created or used in the assessment process under this part shall be available for public inspection.

(j) *Notice to tribe.* Appropriate officials of the local governing Indian tribe shall be notified of any hearings or con-

ferences conducted pursuant to this section, and shall be invited to attend.

[FR Doc.77-26772 Filed 9-14-77;8:45 am]

Mining Enforcement and Safety Administration

[30 CFR Part 77]

SURFACE COAL MINES AND SURFACE WORK AREAS OF UNDERGROUND COAL MINES

Proposed Mandatory Safety Standards

Objections Filed and Hearing Requested

AGENCY: Department of the Interior, Mining Enforcement and Safety Administration.

ACTION: Notice of Objections Filed and Hearing Requested.

SUMMARY: This is a notice that objections have been filed and hearings requested for proposed amendments to 30 CFR Part 77, which would amend, revise and establish new mandatory safety standards for surface coal mines and surface work areas of underground coal mines. The Secretary of the Interior will issue notice at a later date that will advise interested persons of the date and place set for the public hearing.

FOR FURTHER INFORMATION CONTACT:

Joseph O. Cook, Assistant Administrator, Coal Mine Health and Safety, MESA, Room 814, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203, (703-235-1140) or Herschel H. Potter, Chief, Division of Safety, Coal Mine Health and Safety, MESA, Room 802, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203 (703-235-1284).

The comments and objections which have been filed may be examined at, or copies obtained from, either of the above offices.

SUPPLEMENTARY INFORMATION: On January 13, 1977, there was published in the FEDERAL REGISTER (42 FR 2800) a Notice of Proposed Rulemaking containing proposed amendments to 30 CFR Part 77. These proposed amendments, amend and revise existing standards and will establish new mandatory safety standards for surface coal mines and surface work areas of underground coal mines.

Many comments, suggestions and objections were submitted to Assistant Administrator, Coal Mine Health and Safety, MESA concerning the proposed regulations. The comments and suggestions were varied and ranged from approval to disapproval of the proposed regulations. Hearings have been requested on all subparts of the proposed rules.

Notice is hereby given in accordance with section 101(f) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. § 811(f)), that objections have

been timely filed as well as requested for a hearing.

Pursuant to section 101(g) of the Act, the Secretary of the Interior will, at a later date, publish notice of the times and places at which public hearings will be held for the purpose of receiving relevant evidence on the issues raised by the comments and objections which have been filed.

Dated: August 29, 1977.

JOAN M. DAVENPORT,
Assistant Secretary
of the Interior.

[FR Doc.77-26778 Filed 9-14-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

[32 CFR Part 976]

COMMISSARIES

Resale Operations

AGENCY: Department of the Air Force, DOD.

ACTION: Proposed rule.

SUMMARY: The Department of the Air Force proposes to add regulations needed for commissary officers in the performance of their duties and in providing the best possible customer service in commissaries worldwide. The regulations are intended to keep customers and commissary employees better informed of resale procedures. These provisions were formerly contained in the Air Force Manual 145-1 and are being published now for public comment.

DATES: Comments must be received by October 17, 1977.

ADDRESS: Comments should be submitted to Mr. J. F. McGowan, Headquarters, Air Force Commissary Service (DOR), Kelly Air Force Base, Tex. 78241.

FOR FURTHER INFORMATION CONTACT:

Mr. J. F. McGowan, Air Force Commissary Service, Kelly Air Force Base, Tex. 78241, phone 512-925-6414, or Mr. Richard T. Dugger, Documentation Management Officer, Headquarters Air Force Engineering and Services Agency, Kelly Air Force Base, Tex. 78241, phone 512-925-7051.

SUPPLEMENTARY INFORMATION: This rule is issued under authority of 10 U.S.C. 8012.

This new part guides and directs commissary complex officers and commissary officers in the performance of their duties and in providing the best possible customer service. It applies to all Air Force Commissary Service (AFCOMS) operations worldwide. It also applies to all AFCOMS employees and base maintenance contractors and their employees operating AFCOMS commissaries.

Interested persons are invited to comment on this proposed rule. Comments and suggestions should be forwarded in writing.

Title 32 of the Code of Federal Regulations is amended by adding to Chapter VII a new Subchapter R—Commissaries containing a new Part 976 to read as follows:

SUBCHAPTER R—COMMISSARIES

PART 976—RESALE OPERATIONS

Sec.	Purpose.
976.1	Store section.
976.2	Authorized/identified customers.
976.3	Service to customers.
976.4	Shelf stocking by vendors.
976.5	Control of tax free items.
976.6	Sales and returns.
976.7	Support of disabled commissary patrons.
976.8	Surcharge.
976.9	Methods of payment.
976.10	Dishonored checks.
976.11	Food stamp program.
976.12	

AUTHORITY: 10 U.S.C. 8012.

§ 976.1 Purpose.

This part guides and directs commissary complex officers and commissary officers in the performance of their duties and in providing the best possible customer service. It applies to all Air Force Commissary Service (AFCOMS) operations worldwide. It also applies to all AFCOMS employees and base maintenance contractors and their employees operating AFCOMS commissaries.

§ 976.2 Store section.

(a) Vendor personnel may wait on commissary patrons in a fresh bakery outlet operated on a clerk service basis. Vendor personnel are limited to stocking and displaying merchandise, helping patrons with their selections, packaging and marking the price on purchases. Only commissary personnel will perform the functions of approving orders, receiving products, and supervising the bakery outlet. Customers will pay at the regular checkout area, not at the bakery section. Commissary officers will ensure procurement documents provide for credit or return to the vendor of unsold bakery products, except for special orders.

(b) A vendor operated meat department delicatessen is authorized to enhance customer service. The criteria in § 976.2(a) also apply to operation of the delicatessen.

(c) Commissary management must ensure bakery and delicatessen prices offer a significant savings over normal commercial store prices in the local area. Savings of at least 20 percent over local prices are considered significant.

§ 976.3 Authorized/identified customers.

(a) Although patron identification and control is the responsibility of the installation commander (32 CFR Part 823), the commissary officer will ensure all persons seeking to enter the store are authorized patrons before they are permitted in the store. Authorized commissary patrons are listed in (32 CFR Part 823). Military personnel abusing their commissary privileges are subject to disciplinary action under the Uniform Code of Military Justice in addition to the loss

of store privileges. Violations by authorized persons not subject to military law will provide a basis for suspension of store privileges.

(b) Authorized patrons assigned to remote locations may use a group shopping service when approved by the remote installation commander. This service permits an authorized agent (a person authorized commissary privileges) to purchase the combined shopping needs of the group. The person so appointed will have a letter of authorization signed by the remote installation commander or his representative. The appointment letter will list all principals by name, rank and serial number.

(c) Commissary employees authorized commissary privileges are subject to the following restrictions:

(1) Employees will shop only during normal store operating hours and only when off duty.

(2) Employees will remove all merchandise from the commissary at time of purchase, including purchases made during lunch periods. Employees will not store or bring back into the commissary items in original pack or container.

(3) Checkers will not process purchases of a member of their family.

§ 976.4 Service to customers.

Commissary management will:

(a) Prepare a monthly calendar using AFCOMS Form 12, Customer Information Calendar, pointing out items of interest to the patron. Include hours of operation, special sales, paydays, family shopping night, etc.

(b) Ensure that customers are told of changes in store operations which affect them. Publicize closing for holidays. Post signs in a prominent place well in advance of the holiday.

(c) Place a suggestion box in a convenient location near the identification checker. Ensure AFCOMS Form 13, Customer Suggestion Form, is available for patron use. Review the suggestions and reply to them by letter or telephone. Customer satisfaction will be enhanced by outlining the suggestions placed into effect on the store bulletin board. Ensure that a record is kept on all suggestions answered by telephone. Record and sign the reply made on the reverse of suggestion form.

§ 976.5 Shelf stocking by vendors.

(a) The commissary officer is authorized to accept voluntary offers for shelf stocking service by vendors for the following product groups:

- (1) Baby foods.
- (2) Fresh bakery products.
- (3) Blind made products
- (4) Refrigerated dairy products.
- (5) Spices, seasonings, extracts, herbs, food coloring, and dehydrated sauces.
- (6) Soft drinks.
- (7) Snack items (chips, nuts, crackers, cookies, and pretzels).
- (8) Prepackaged luncheon meats.
- (9) Light bulbs.
- (10) Candy and gum.
- (11) Frozen foods.

(12) Macaroni and pasta products (excluding prepared dinners).

(b) Stocking of store shelves by vendor stockers of categories listed above is authorized when the commissary officer determines that definite benefits will result and the service is offered voluntarily.

(c) The commissary officer will set up procedures to control vendors or their representatives who stock shelves at the commissary store. The store manager will prepare a time log on each vendor or representative who stocks at the store. Keep a separate entry for each company represented. Ensure that commissary personnel record the time in and out, and forward the time logs to the control section at the end of each month. Ensure only productive shelf stocking time is logged. The control section will total man-hours on a quarterly basis and report the vendor stocker man-hours on the AF Form 1011, Commissary Operating Statement, to the AFCOMS region.

(d) The commissary officer will ensure that the following conditions are met by vendors or their representative/vendor stockers:

(1) The vendor will furnish a letter to the store manager, prepared by the company representative and approved by the commissary officer, before stocking a product group.

(2) The store manager will log, number and issue all vendor stockers identification badges, which identifies them as authorized stockers. Store management will ensure that vendor stockers wear the badges while stocking the store.

(3) Commissary employees (civilian or military) or members of their immediate family are not authorized to stock shelves for the vendor for payment, wages, or any other form of remuneration.

(e) Any violations of the conditions listed below are a basis for revoking shelf stocking permits:

(1) Stocking a product other than those specifically authorized.

(2) Offering gratuitous gifts or items of value to commissary personnel.

(3) Moving or interfering in any way with competitive products.

(4) Pilferage or destruction of merchandise.

(5) Conduct deemed inappropriate for personnel working in a "customer service" function.

(6) Failure to provide service as agreed by the vendor and commissary officer.

(f) Commissary management will not discriminate against vendors who do not provide shelf stocking service.

(g) Commissary personnel will control all movement of stock, in or out of sales area. Do not allow vendor stockers to in-check or sign for commissary merchandise.

(h) Customer demand will continue to be the primary basis for item selection. The availability of shelf stocking service is not a factor in stockage determination. The commissary officer is responsible for adequate shelf stock replenishment of all merchandise, including vendor stocked items.

§ 976.6 Control of tax free items.

General policy for tax free cigarettes. Establish a quantity limit not to exceed four cartons per customer present at the time of sale. Grand total per family shall not exceed 10 cartons. All customers purchasing cigarettes or having them purchased on their behalf must be of legal age to make such purchases in the state where the commissary is located.

(a) Exceptions may be granted to the normal quantity limit in unusual circumstances, such as infrequent shopping, long distance to the commissary, etc. In these cases the maximum shall not exceed 10 cartons per customer present at time of sale or a grand total quantity of 15 cartons per family. The store manager or his representative may approve properly prepared AF Forms 183, Cigarette Purchase Certificate, § 976.13. Once initially approved, the form can be used for successive purchases without additional approval. File the AF Forms 183 alphabetically at the identification desk. Furnish patrons the forms upon request for presentation to the checkers. Checkers record the date of purchase and number of cartons bought on the reverse of the form, keep the forms and return them to the identification desk at close of business. Store management will review the forms to ensure tax free privileges are not abused.

(b) *Policy for tax free cigarettes with State limit.* In these cases, establish a two carton limit or the state limit, whichever is greater, per customer present at time of sale. Customers purchasing cigarettes or having them purchased on their behalf must be of legal age to make such purchases.

(c) *Policy for tax free cigarettes outside the United States.* Cigarette sales in commissaries located outside the United States are regulated by status of forces agreements.

§ 976.7 Sales and returns.

Individual customers will pay cash (includes checks) for all sales. Upon the correct payment for the sale, the merchandise becomes the property of the customer, who assumes full responsibility at that time. However, merchandise paid for and removed from the store may be returned. Such items may be exchanged for like items or a cash refund.

§ 976.8 Support of disabled commissary patrons.

(a) Authorized commissary patrons include retired personnel, hospitalized veterans, and totally disabled veterans. Many of these individuals are confined to wheelchairs or are blind. The commissary officer will ensure these patrons are accommodated with the least possible inconvenience or embarrassment.

(b) Commissary management will provide one or more checkout aisles wide enough to accommodate wheelchair patrons. In addition, these patrons will be afforded a convenient method of entering of exiting the store.

(c) Seeing eye dogs are permitted entry to the commissary sales store.

Blind and severely disabled patrons may designate persons of their choice as agents to assist them in purchasing (see CFR 32 Part 823). This does not mean that agents must be authorized commissary patrons.

§ 976.9 Surcharge.

A four percent surcharge will be made on all sales and issues made from the grocery, meat, and produce departments with the exception of issues made to appropriated fund dining facilities and nonappropriated fund essential feeding facilities. Application of surcharge rates for these activities is outlined in Air Force Commissary Service Regulation 145-4.

§ 976.10 Methods of payment.

(a) Commissary stores will accept payment for commissary purchases by authorized individuals and activities only in the following forms: Cash (currency and coin); U.S. Treasury checks; certified checks; cashier's checks, and bank drafts; uncertified personal or nonappropriated fund payroll checks; traveler's checks; postal or bank money orders.

(b) The commissary will not accept personal second party checks, postdated checks, or cash checks as a matter of convenience.

(c) Inside the United States, the commissary will accept only checks drawn on U.S. banks located within the United States. In overseas areas, the commissary will accept U.S. Treasury checks and personal checks drawn on local banks or banks located in the United States. All checks accepted in overseas areas are payable in U.S. dollars.

(d) The store manager will ensure acceptance of vendor coupons. Commissary stores will accept unexpired coupons from customers for merchandise regularly stocked in the store. The commissary will accept coupons only for merchandise manufactured in the United States.

§ 976.11 Dishonored checks.

(a) Upon receipt of a dishonored check, the commissary officer will make two aggressive telephone demands for redemption of the check if required. If the drawer cannot be contacted by telephone, he will contact the drawer by certified mail with return receipt requested; a follow up letter will be sent two work-days after receipt of the first letter has been acknowledged. The commissary officer will not retain a dishonored check in his possession for more than 20 work-days.

(b) If returned checks are not redeemed after taking actions in § 976.11 (a) they will be forwarded to the AFO who will then process for collection against the drawer's pay through the appropriate commander, if drawer is on active duty. For further action on other cases, the AFO will process them through Air Force Accounting and Finance Center/PMFR, under Air Force Manual 177-102, Table 3-2.

§ 976.12 Food stamp program.

(a) Commissary stores in the United States will participate in the Department of Agriculture Food Stamp Program by accepting food stamp coupons in exchange for eligible food items.

(b) Coupons will be accepted only for purchases of food or food products for human consumption, not for tobacco products, pet foods, nonfood items, or deposit on bottles or returnable food containers.

(c) The commissary store may make change with \$1 uncanceled and unen-

dorsed coupons which were previously accepted in payment for eligible foods. Commissary stores will not return cash as change in food stamp transactions. When the amount of change due is less than \$1, it is the food stamp customer's option to:

- (1) Accept a credit slip (Air Force Form 461) for 99 cents or less (indicating food stamp credit), or
- (2) "Trade-out" for eligible foods, or
- (3) Pay the store the difference in cash.

§ 976.13 Cigarette purchase certificate (Air Force Form 183).

CIGARETTE PURCHASE CERTIFICATE (THIS FORM IS AFFECTED BY THE PRIVACY ACT OF 1974 - See Reverse)	
THIS CERTIFICATE IS FOR THE PROTECTION OF THE PRIVILEGE TO PURCHASE STATE TAX FREE CIGARETTES AND IS PART OF A PERMANENT ACCUMULATIVE RECORD OF PURCHASES THAT IS SUBJECT TO INVESTIGATION BY OFFICE OF SPECIAL INVESTIGATION WHEN ABUSE IS INDICATED.	
I certify that I am purchasing cigarettes for myself and authorized dependents.	NUMBER OF CARTONS
REASON FOR PURCHASING MORE THAN TWO CARTONS	
NAME (Please Print)	CITY
ADDRESS	DATE
SIGNATURE OF PURCHASER	SIGNATURE OF AUTHORIZING INDIVIDUAL

AF FORM 183 PREVIOUS EDITION IS OBSOLETE
AUG 77

FRANKIE S. ESTEP,
Air Force Federal Register Liaison
Directorate of Administration.

[FR Doc. 77-26793 Filed 9-14-77; 8:45 am]

DEPARTMENT OF THE INTERIOR

National Park Service

[36 CFR Part 7]

MINUTE MAN NATIONAL HISTORICAL PARK, MASS.

Drinking of Alcoholic Beverages and Maintenance of Vehicles

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The purpose of the regulations proposed is to control the consumption of alcoholic beverages within Minute Man National Historical Park which has proven to be deleterious to the experience of other visitors to the Park, and to eliminate nonconforming uses, such as, washing and repairing motor vehicles within the Park.

DATES: Written comments, suggestions, or objections regarding this proposal will be accepted until October 17, 1977.

ADDRESSES: Comments should be directed to: Superintendent, Minute Man National Historical Park, P.O. Box 160, Concord, Mass. 01742.

FOR FURTHER INFORMATION CONTACT:

Robert Nash, Superintendent; telephone 617-484-6156.

SUPPLEMENTARY INFORMATION: A limited amount of parking is available within the Park. During periods of agreeable weather, virtually all available parking spaces are occupied. It has been found that many persons entering the Park during such periods are doing so for purposes other than an interest in the historical values of the site. Specifically, the two activities which are prevalent, and which cause the greatest degree of interference with use of the Park as a location preserving an important historic site, are the consumption of alcoholic beverages and the maintenance of vehicles. The prevalence of the former activity is thought to be largely because of the laws of local towns prohibiting the consumption of alcohol in public places and the strict enforcement of these circumstances, Minute Man National Historical Park has become an attraction to many people simply because it is a place where drinking is not prohibited. Additionally, the use of alcohol

leads, in many cases, to disruptive behavior which conflicts with other uses of the Park. The maintenance of vehicles activity is frequently associated with drinking and constitutes another widespread use of the park which is in no way related to the historic values of the Park.

It is felt that the implementation of regulations restricting these two activities will significantly reduce problems which have been associated with heavy use of Minute Man National Historical Park. This will have the effect of making the park more readily available for visitors studying its history and will maintain a more peaceful atmosphere in keeping with an area of great historical significance.

(16 U.S.C. 3, 410w, 462; 245 DM-1 (42 FR 12931); National Park Service Order No. 77 (38 FR 7478), as amended.)

IMPACT ANALYSIS

The National Park Service 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.

The Regional Director for the North Atlantic Regional Office of the National Park Service has determined, pursuant to the National Environmental Policy Act of 1969 and pertinent guidelines, that the proposed regulations are not a major Federal action which will have significant effect on the quality of the human environment and, therefore, no environmental impact statement is required.

It is, therefore, proposed to amend 36 CFR Part 7 in the manner set forth below:

1. A new § 7.31 would be added as follows:

§ 7.31 Minute Man National Historical Park.

(a) *Alcoholic beverages.* The drinking of alcoholic beverages in any public place, except in the designated picnic area is prohibited, except with the written permission of the Superintendent.

(b) *Maintenance of Vehicles.* Washing, cleaning, waxing, or lubricating motor vehicles or repairing or performing any mechanical work upon motor vehicles, except in emergencies, in any public place is prohibited.

(c) *Definition.* As used in paragraphs (a) and (b) of this section, the term "public place" shall mean any place, building, road, picnic area, parking space, or other portion of Minute Man National Historical Park to which the public has access.

ROBERT NASH,
Superintendent, Minute Man
National Historical Park.

SEPTEMBER 1, 1977.

[FR Doc. 77-26748 Filed 9-14-77; 8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 790-2]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS—MASSACHUSETTS

Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of Comment Period.

SUMMARY: This notice extends the period for comments on the notice, published August 3, 1977 (42 FR 39235), proposing a change to the State Implementation Plan (SIP) which would increase the allowable sulfur content of fossil fuel burned by sources in the Berkshire Air Pollution Control District (geographic equivalent of the Berkshire Intrastate Air Quality Control Region). The comment period is being extended in order to provide sufficient time for affected sources and other interested parties to review EPA's evaluation of the air quality impact of the SIP revision and submission of comments and/or additional technical information.

DATES: Comments must be received on or before October 2, 1977.

ADDRESSES: Comments should be submitted to the Regional Administrator, Region I, Environmental Protection Agency, Room 2203, JFK Federal Building, Boston, Massachusetts 02203.

FOR FURTHER INFORMATION CONTACT:

Wallace D. Woo, Air Branch, EPA Region I, Room 2113, JFK Federal Building, Boston, Massachusetts 02203 (617-223-5609).

Dated: September 7, 1977.

WILLIAM R. ADAMS, Jr.,
Regional Administrator.

[FR Doc.77-26728 Filed 9-14-77;8:45 am]

[40 CFR Part 52]

[FRL 790-5]

NEBRASKA

Proposed Revision to Air Quality Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On December 27, 1976, and April 4, 1977, the Governor of the State of Nebraska submitted proposed amendments to the Nebraska State Implementation Plan (SIP). These amendments will adopt as part of the SIP the local air pollution control ordinances for the City of Omaha, City of Lincoln, and Lancaster County. This notice is to advise the public of the receipt of the proposed changes and to request public comments.

DATES: Comments must be received before October 17, 1977.

ADDRESS: Comments should be sent to Dwayne E. Durst, Chief, Air Support Branch, Air and Hazardous Materials Division, Region VII, 1735 Baltimore, Kansas City, Missouri 64108.

FOR FURTHER INFORMATION CONTACT:

Karen M. Solari, telephone 816-374-3791.

SUPPLEMENTARY INFORMATION: The City of Omaha Air Quality Control Ordinance and the City of Lincoln Air Pollution Control Ordinance and Regulations and Standards were adopted as part of the SIP by the Nebraska Environmental Control Council at a public hearing on December 10, 1976. The Lancaster County Air Pollution Control Resolution was adopted by the council on March 18, 1977. With certain exceptions, the local air pollution control ordinances are consistent with the Nebraska Air Pollution Control Rules and Regulations.

The Omaha and Lincoln ordinances, which were included in the SIP submitted on January 20, 1972, will now incorporate the revisions made to the ordinances since that time. Sections of the Lincoln ordinance which were found inadequate according to § 52.1424 and § 52.1429 have been revised. These sections deal with the authority to require recordkeeping and reporting and provisions for periodic testing and inspection of sources.

Certain New Source Performance Standards have been adopted by reference in each of the three local ordinances. The Lincoln and Lancaster County ordinances also include prevention of significant deterioration regulations. Emission standards for inorganic fluoride compounds from brick manufacturing plants have been specified in the Lincoln and the Lancaster County ordinances.

These changes constitute a proposed revision to the Nebraska SIP, pursuant to § 51.8 of this chapter. Relevant comments concerning the proposed revision and compliance with the requirements of Section 110 of the Clean Air Act and 40 CFR Part 51 will be considered by the Regional Administrator in her decision to approve or disapprove the plan revision.

Copies of the proposed revision are available for public inspection during normal business hours at the following locations: Environmental Protection Agency, Region VII, 1735 Baltimore, Kansas City, Missouri 64108; Public Information Reference Unit, Library Systems Branch (PM-213) Environmental Protection Agency, Washington, D.C. 20460; and the Department of Environmental Control, 1424 P Street, Lincoln, Nebraska 68509.

(42 U.S.C. 1857e-5.)

Dated: September 2, 1977.

CHARLES V. WRIGHT,
Acting Regional
Administrator.

[FR Doc.77-26731 Filed 9-14-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 61]

[Docket No. 21005]

INTERFACE OF THE INTERNATIONAL TELEX SERVICE WITH THE DOMESTIC TELEX AND TWX SERVICES

Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Extension of time.

SUMMARY: This order extends at the request of RCA Global Communications, Inc., the deadline for filing Reply Comments in Docket No. 21005.

DATE: Reply Comments must be filed on or before September 19, 1977.

ADDRESS: Federal Communications Commission, 1919 M Street NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

John F. Copes, International Program Staff, Common Carrier Bureau, 202-632-3214.

SUPPLEMENTARY INFORMATION: Adopted: September 8, 1977.

Released: September 9, 1977.

In the matter of Interface of the International Telex Service with the Domestic Telex and TWX Services; (42 FR 43108).

1. By Order in this proceeding released August 23, 1977, we set September 12, 1977, as the date for filing reply comments herein. We have before us for consideration a Motion for Extension of Time filed by RCA Global Communications, Inc. (RCA) on September 2, 1977, in which RCA seeks extension of the time to file such replies until September 19, 1977. In support of its motion, RCA cites conflicting procedural dates in other Commission proceedings and the absence of key personnel. The motion was not opposed.

2. We believe that a grant of a one-week extension is reasonable and that it will not unduly delay resolution of this proceeding.

3. Accordingly, it is ordered, That the above-referenced Motion for Extension of Time of RCA Global Communications, Inc. is GRANTED.

4. It is further ordered, That the time for filing Reply Comments in this proceeding is extended until September 19, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
WALTER R. HINCHMAN,
Chief, Common Carrier Bureau.

[FR Doc.77-26922 Filed 9-14-77;8:45 am]

[47 CFR Part 67]

[Docket No. 21263; FCC 77-615]

COMMUNICATIONS BY AUTHORIZED COMMON CARRIERS BETWEEN THE UNITED STATES, MAINLAND AND HAWAII, ALASKA, AND PUERTO RICO/ VIRGIN ISLANDS

Integration of Rates and Services; Nominations for State Commissioner Representatives; Notice of Board Meeting

AGENCY: Federal Communications Commission.

ACTION: Supplemental Joint Board Notice, Docket No. 21263.

SUMMARY: In this action the Commission accepts the nominations for State Commissioner representatives to this proceeding, appoints the Commission members to the Board, and schedules the first formal meeting of the Board. In addition the Commission denies the request of Hawaiian Telephone Company to clarify the original notice of inquiry.

DATE: The Joint Board will meet on September 22, 1977, at 9:00 a.m. in the Commission's Offices at 1919 M Street, NW., Washington, D.C.

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

FOR FURTHER INFORMATION CONTACT:

Francis L. Young, Common Carrier Bureau, (632-5550).

SUPPLEMENTARY INFORMATION: In the matter of Integration of rates and services for the provision of Communications by authorized Common Carriers between the United States Mainland and Hawaii, Alaska, and Puerto Rico/ Virgin Islands, Docket No. 21263, First Supplemental Notice.

Adopted: September 2, 1977.

Released: September 7, 1977.

1. In a *Notice of Inquiry, Proposed Rule Making and Creation of Federal-State Joint Board*, FCC-77-365, released June 7, 1977 (42 FR 30221, June 13, 1977), we gave notice of the convening of a Federal-State Joint Board pursuant to Section 410(c) of the Communications Act of 1934, as amended, 47 U.S.C. § 410(c). This Joint Board was convened to prepare a recommended decision for the purpose of establishing the separations procedure(s) applicable to Alaska and Hawaii. Before us for consideration are: (a) The State Commissioner nominations submitted by the National Association of Regulatory Utility Commissioners (NARUC); and (b) a Petition for Clarification, filed June 9, 1977, by Hawaiian Telephone Company.

2. Pursuant to Section 410(c) of the Communications Act of 1934, as amended, 47 U.S.C. § 410(c), the following State Commission members of the Joint Board have been nominated by NARUC and submitted for our approval: Edwin R. Lundborg, Colorado Public Utilities Commission; William Symons, Jr., California Public Utilities Commission; Albert Q. Y. Tom, Hawaii Public Utilities Commission; and Marvin R.

Weatherly, Alaska Public Utilities Commission. We hereby accept these very competent State Commissioners as members of the Joint Board. They will be joined by Commissioners Richard E. Wiley, Robert E. Lee, and Joseph R. Fogarty of this Commission.¹

3. The Hawaiian Telephone Company (HTC) notes that paragraphs 3 and 4 of the initial notice, supra, refers in part to settlements and that the purpose of the Joint Board is to prepare a recommended decision "... establishing the separations procedure(s) applicable to Hawaii and Alaska. ..." HTC asserts that the references to settlements are thus inappropriate and should be deleted. While we concur that the scope of the Joint Board proceeding is limited to separations, we do not believe that the use of the term settlements in the context used is inappropriate. In our reconsideration Memorandum Opinion and Order concerning rate integration, FCC 77-364, released June 6, 1977, we noted that settlements must be related to an established separations procedure(s). Since further petitions on this order, FCC 77-364, have been filed it would be inappropriate to modify the Joint Board order at this time. The present order is consistent with other Commission orders, is clear as to the scope of this Joint Board proceeding, and is not prejudicial to HTC. Thus, we will deny the request for clarification.

4. It is the further purpose of this notice to organize and establish a meeting place and date so that the Board may determine at that time procedures appropriate to the stated purpose of the creation of this Board. It is anticipated that the initial meeting will explore a schedule for a notice and comment procedure so that all interested parties will have an adequate opportunity to develop a record supporting what modifications, if any, should be made to the existing Separations Manual in order that it would be applicable to Alaska and Hawaii. In addition, we anticipate that the Board will address the procedures under which the Board will operate including ex parte rules.

5. Accordingly, it is ordered, That Edwin R. Lundborg, William Symons, Jr., Albert Q. Y. Tom, Marvin R. Weatherly, Richard E. Wiley, Robert E. Lee and Joseph R. Fogarty are appointed to the Federal-State Joint Board mentioned herein and the first meeting of such board shall be held on September 22, 1977, at 9:00 a.m. in the offices of this Commission at 1919 M Street, NW., in Washington, D.C.

6. It is further ordered, That the petition for clarification, filed June 9, 1977, by Hawaiian Telephone Company is denied.

FEDERAL COMMUNICATIONS
COMMISSION,

VINCENT J. MULLINS,
Secretary.

[FR Doc.77-26746 Filed 9-14-77;8:45 am]

¹ Commissioner Abbott M. Washburn is designated as an alternate to this Joint Board.

[47 CFR Part 91]

[Docket No. 21342; RM-2792]

TRANSMISSION OF PULSED CARRIER EMISSIONS ON THE FREQUENCIES 154.570 AND 154.600 MHZ

Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order extending time to file comments and reply comments.

SUMMARY: This order is in response to a motion for extension of time made by Ag Nav, Inc., to allow it to submit comments in the matter of amendment of section 91.554 (a) and (b) of the Commission's rules and regulations. (Docket No. 21342, RM-2792.)

An extension of time is needed by Ag Nav for filing comments from August 29, 1977, to September 16, 1977, and reply comments from September 9, 1977, to September 30, 1977, because the initial dates will not allow sufficient time for the preparation and submission of comments based on its field studies.

DATES: Comments must be received on or before September 16, 1977, and reply comments must be received on or before September 30, 1977.

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

FOR FURTHER INFORMATION CONTACT:

Mr. John Wood, Industrial and Public Safety Rules Division, Safety and Special Radio Services Bureau, 202-832-6497.

SUPPLEMENTARY INFORMATION:

Adopted: September 8, 1977.

Released: September 9, 1977.

In the matter of amendment of section 91.554 (a) and (b) of the Commission's rules and regulations to allow transmission of pulsed carrier emissions on the frequencies 154.570 and 154.600 MHz (42 FR 41143).

1. Ag Nav, Inc. has asked for an extension of the period for filing comments and reply comments in this proceeding from August 29, 1977, and September 9, 1977, respectively, to September 16, 1977, and September 30, 1977. Ag Nav cites the constraints imposed by the limited operational experience acquired thus far and indicates that it needs the additional period for the preparation of meaningful comments.

2. It appears that the additional period requested is reasonable. Accordingly, it is ordered, pursuant to the authority contained in sections 0.331 and 1.46 of the Commission's rules, that the time for filing comments in this proceeding is extended to September 16, 1977, and reply comments to September 30, 1977.

ARLAN K. VAN DOORN,
Deputy Chief, Safety and Special
Radio Services Bureau.

[FR Doc.77-26926 Filed 9-14-77;8:45 am]

**DEPARTMENT OF
TRANSPORTATION**

Materials Transportation Bureau

[49 CFR Part 175]

[Docket No. HM-152; Notice 77-6]

CARRIAGE BY AIRCRAFT**Carriage by Aircraft; Requirements for
Radioactive Materials Extension of Time
To File Comments**

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Extension of time to file comments.

SUMMARY: Three commenters have requested a 60-day extension of time to file comments in this Docket (42 FR 37427, July 21, 1977) indicating that extra time is needed to properly assess and analyze data now being collected which will serve as the basis for their comments. We believe that additional time should be allowed for this purpose; therefore, the time for filing comments is extended as indicated.

DATE: The time for filing comments in Docket HM-152; Notice 77-6 is extended from September 20, 1977 to November 21, 1977.

ADDRESSES: Dockets Section, Office of Hazardous Materials Operations, De-

partment of Transportation, Washington, D.C. 20590. Five copies should be submitted.

FOR FURTHER INFORMATION CONTACT:

Alan I. Roberts, 2100 Second St. SW., Washington, D.C. 20590 (202-426-0656).

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e) and paragraph (a) (4) of App. A to Part 102)

Issued in Washington, D.C., on September 8, 1977.

ALAN I. ROBERTS,
Director, Office of

Hazardous Materials Operations.

[FR Doc.77-26955 Filed 9-14-77;8:45 am]

notices

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

DEPARTMENT OF AGRICULTURE

ALGAECIDE TREATMENT OF SNOW & QUEMADO LAKES

Notice of 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 Algaecide Treatment of Snow and Quemado Lakes in New Mexico, USDA-FS-R3 FES Adm 77-01.

The environmental statement considers probable environmental effects of the proposed project.

The final environmental statement was transmitted to CEQ on September 8, 1976.

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

USDA, Forest Service, S. Agriculture Bldg., Rm. 3230, 14th and Independence Ave., SW., Washington D.C. 20250.

USDA, Forest Service, Southwestern Region, 517 Gold Avenue, SW., Albuquerque N. Mex. 87102.

Gila National Forest 2610 North Silver St., Silver City, N. Mex. 88061.

Single copies are available upon request to Forest Supervisor, Gila National Forest, 2610 North Silver Street, Silver City, New Mexico, 88061. Please refer to the name and number of the environmental statement when ordering.

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

M. J. HASSELL,
Regional Forester,
Region 3.

GARY E. CARGILL,
Acting Regional
Forester, Region 3.

SEPTEMBER 8, 1977.

[FR Doc. 77-26806 Filed 9-14-77; 8:45 am]

CIVIL AERONAUTICS BOARD

[Order 77-9-19; Docket 27573; Agreement C.A.B. 26867, R-1 through R-8]

JOINT TRAFFIC CONFERENCES OF THE INTERNATIONAL AIR TRANSPORT ASSOCIATION

Agreement Relating to Specific Commodity

ORDER

SEPTEMBER 7, 1977.

An agreement has been filed by the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act)

and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers and other carriers, foreign air carriers and other carriers embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

Agreement C.A.B.	Specific commodity item No.	Description and rate ¹
26867:		
R-1.....	1084	Turkey hatching eggs 96¢/kg., ² minimum weight 500 kgs. New York to Bremen.
R-2.....	8350	Dental, surgical, measuring, testing and drawing instruments 319¢/kg., ³ minimum weight 100 kgs. 302¢/kg., ⁴ minimum weight 500 kgs. New York to Dubai.
R-3.....	0006	Foodstuffs, spices and beverages 110¢/kg., ⁵ minimum weight 500 kgs. Osaka to Honolulu.
R-4.....	0050	Chocolate manufactures 84¢/kg., ⁵ minimum weight 1,000 kgs. Honolulu to Tokyo. 89¢/kg., ⁵ minimum weight 1,000 kgs. Honolulu to Osaka.
R-5.....	1408	Floral and/or nursery stock, seeds and cut flowers—excluding bulbs and/or tubers, carnation cuttings, gladioli ⁶ 120¢/kg., ³ minimum weight 100 kgs. Los Angeles to Papeete.
R-6.....	4206	Sporting boat parts and accessories 145¢/kg., ³ minimum weight 1,000 kgs. Melbourne to Los Angeles.
R-7.....	4706	Milking machines and accessories 114¢/kg., ³ minimum weight 500 kgs. Auckland to Los Angeles.
R-8.....	8100	Dental, medical and/or surgical instruments 190¢/kg., ³ minimum weight 1,000 kgs. Melbourne to New York.

¹ Subject to applicable currency conversion factors as shown in tariffs.

² Expires Dec. 31, 1977.

³ Expires Sept. 30, 1978.

⁴ New description.

Pursuant to authority delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that the agreement is adverse to the public interest or in violation of the Act, provided that approval is subject to the conditions ordered.

Accordingly, it is ordered that: Agreement C.A.B. 26867, R-1 through R-8, is approved, provided that (a) approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publications; (b) tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing; and (c) where a specific commodity rate is published for a specified minimum weight at a level lower than the general commodity rate applicable for such weight, and where a general commodity rate is published for a greater minimum weight at a level lower than such specific commodity rate, the specific commodity rate shall be extended to all such greater minimum weights at the applicable general commodity rate level.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

The agreement names seven specific commodity rates under existing commodity descriptions and adds one rate with a new commodity description as set forth below, reflecting reductions from general cargo rates; and was adopted pursuant to unopposed notice to the carriers and promulgated in IATA letters between July 23 and July 27, 1977.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 77-26896 Filed 9-14-77; 8:45 am]

[Order 77-9-17; Docket 27573; Agreement C.A.B. 26815, R-1 through R-3; Docket 27573, Docket 29123; Agreement C.A.B. 26816, R-1 and R-2]

TRAFFIC CONFERENCES OF THE INTERNATIONAL AIR TRANSPORT ASSOCIATION Agreements Relating to Passenger Fares, Cargo Rates and Currency Matters

ORDER

SEPTEMBER 7, 1977.

Agreements have been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA). The agreements, adopted by mail vote, have been assigned the above C.A.B. agreement numbers.

Both agreements are of a technical nature. Agreement C.A.B. 26816 would indefinitely extend the preclusion of passenger and cargo services within the area comprised of Australia/Papua New Guinea/Djajapura/British Solomon Islands Protectorate from the application of IATA resolutions governing such serv-

ices to/from that area. Agreement C.A.B. 26815 would amend the cargo rate currency conversion procedures pertaining to traffic destined for Japan from TC1 (Western Hemisphere), TC2 (Europe/Middle East/Africa) and TC3 (Asia/Pacific). In effect, Japanese currency payments for collect shipments would be reduced by about 3.8 percent from the levels provided by Agreement C.A.B. 26703, which was approved by Order 77-8-114 (August 23, 1977).

Since the agreements involve either rates from U.S. points, or rates and fares which are combinable with rates and fares to/from U.S. points, they have application in air transportation as defined by the Act, and will be approved. However, we caution the carriers that ap-

proval of Agreement C.A.B. 26815 is subject to the conditions imposed by Order 77-2-22 (February 3, 1977), whereby U.S. dollar rates for U.S.-originating collect shipments must be converted at the market rate of exchange when payment is made in another currency.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14:

1. It is not found that the following resolutions, which have direct application in air transportation as defined by the Act, are adverse to the public interest or in violation of the Act provided that approval is subject, where applicable, to conditions previously imposed by the Board:

Agreement CAB	IATA No.	Title	Application
26815:			
R-1.....	022a	TC3 Special Rules for Sales of Cargo Air Transportation (Amending).	3 (Asia/Pacific).
R-3.....	022p	JT31 (North and Central Pacific) Special Rules for Sales of Cargo Air Transportation (Amending).	2/1;2/3.

2. It is not found that the following resolutions, which have indirect application in air transportation as defined by the Act, are adverse to the public interest or in violation of the Act:

Agreement CAB	IATA No.	Title	Application
26815:			
R-2.....	002b	JT23/JT123 Special Rules for Sales of Cargo Air Transportation (Amending).	2/3;1/2/3.
26816:			
R-1.....	002	Standard Revalidation Resolution (Amending).....	3 (Asia/Pacific).
R-2.....	004d	Restriction of Applicability—Papua New Guinea (Readopting and Amending).	Do.

Accordingly, it is ordered that: Agreements C.A.B. 26815 and C.A.B. 26816, set forth in finding paragraphs 1 and 2 above, are approved.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-26897 Filed 9-14-77;8:45 am]

CIVIL RIGHTS COMMISSION

WASHINGTON

Public Hearing

Notice is hereby given pursuant to the provisions of the Civil Rights Act of 1957, 71 Stat. 634, as amended, that a public hearing of the U.S. Commission on Civil Rights will commence on October 19, 1977, at the Federal Building, Courtroom 514, 915 Second Avenue, Seattle, Wash. An executive session, if appropriate, may be convened at any time before or during the hearing.

The purpose of the hearing is to collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice, particularly concerning American Indians; to appraise the laws and policies of the Federal Government with respect to denials of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice, particularly concerning American Indians; and to disseminate information with respect to denials of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice, particularly concerning American Indians.

Dated at Washington, D.C., September 9, 1977.

ARTHUR S. FLEMMING,
Chairman.

[FR Doc.77-26791 Filed 9-14-77;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

FOREIGN EXCESS PROPERTY

Revision of General Determination No. 1 (Revised)

AGENCY: Domestic and International Business Administration.

ACTION: Amendment of General Determination No. 1 (Revised) (38 FR 20484 et seq.).

SUMMARY: This action amends Foreign Excess Property General Determination No. 1 (Revised) by broadening the scope of certain categories of property presently covered by general determination and by including new categories of property, the importation of which would relieve domestic shortages or otherwise be beneficial to the economy of this country.

DATE: This amendment shall become effective on September 15, 1977.

FOR ADDITIONAL INFORMATION CONTACT:

Mr. Frank Creel, who can be reached by telephone on 202-377-4913.

SUPPLEMENTARY INFORMATION:

On August 5, 1977, there was published in the FEDERAL REGISTER (42 FR 39693 et seq.; corrected, August 10, 1977, 42 FR 40473) a notice in which the Deputy Assistant Secretary for Resources and Trade Assistance stated his intention to revise General Determination No. 1 (Revised) (38 FR 20484 et seq.) pursuant to Section 302.4 of the Department of Commerce Foreign Excess Property Regulations (15 CFR Part 302). Interested parties were invited to submit written comments concerning the proposed amendments on or before August 19, 1977. Five written comments were received, two of which expressed general approval of the proposal.

One party suggested that special equipment such as air compressors, boring machines and so forth which are mounted on vehicles subject to the General Determination also be included. This suggestion was adopted, but additional clarification was inserted to exclude discrete accessories which were not deemed to satisfy the conditions for inclusion on the General Determination. The same party suggested that the General Determination should also encompass track laying vehicles such as the M-4 and M-5 high-speed tractors. Further research indicated that such vehicles would not satisfy the conditions for inclusion and the suggestion was not adopted. Finally, this party thought that the provision for used parts and components for non-combat military motor vehicles should be broadened to include unused parts and components as well. While the Department agrees that many excess vehicles are obsolete and for that reason can be considered to be in short supply, it was determined that this is not always the case and that unused parts and components should, therefore, continue to be subjected to case-by-case review.

Another party suggested that the proposal include Bailey-type prefabricated steel bridge components and erection equipment. Upon consideration, it was determined that such bridges are current military procurement items and that certain components are available on order. The suggestion was, therefore, not adopted.

Another party suggested that photographic film and paper be included. In considering this suggestion it was found that the photographic industry has a program for reclamation of the silver content of such materials, and the suggestion was adopted in modified form.

Other Federal agencies commenting informally on the proposal expressed general approval. The Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, noted that the citations for its statutory and regulatory authority had been superseded. Correct citations have been provided.

Accordingly, General Determination No. 1 (Revised) is hereby amended to read as follows:

GENERAL DETERMINATION No. 1

Importation of foreign excess property consisting of the following items would relieve domestic shortages or would otherwise be beneficial to the economy of this country. Consequently, subject to the conditions of this general determination and to the requirements of § 302.4 of the Foreign Excess Property Regulations (15 CFR 302), foreign excess property specified below may be imported into the United States, unless otherwise prohibited by law.

(a) Used non-combat military motor vehicles. Used non-combat military motor vehicles, irrespective of rated capacity, including but not limited to general purpose trucks such as cargo, carry-all, chassis, panel, pickup, dump, platform, prime mover and stake; special purpose trucks such as shop van, medical van, laboratory, fluid tank, wrecker, and ambulance; and jeeps. This provision does not include passenger cars or track laying vehicles.

(b) Used parts and components for non-combat military motor vehicles, except parts and components for vehicles not included in (a) above. Includes special equipment mounted on vehicles (wrecker assemblies, winches, air compressors, boring machines) but excludes discrete accessories such as tow chains, tire chains, carrier racks, and jacks.

(c) Combat military motor vehicles and parts and components thereof. Note: Military motor vehicles enumerated on the U.S. Munitions Import List are also subject to the import permit requirements of the Department of the Treasury pursuant to the Arms Export Control Act (Pub. L. 94-329, which supercedes the Mutual Security Act of 1954). See 27 CFR 47.

(d) Pneumatic tires and inner tubes, excluding passenger car tires and inner tubes. Unused tires subject to this General Determination shall prior to entry into the customs territory of the United States (i) be branded with the letters "N.F.C." (Not First Class) in one inch type on each sidewall of each tire so as to be clearly visible above the bead area, or (ii) be buffed so as to remove from each sidewall thereof the name of the manufacturer and trade name(s). Inner tubes must be stamped with indelible ink in one inch block type with the letters "N.F.C."

(e) Used power transformers, 10001 kilovolt-amperes and above.

(f) Compressed gas cylinders.

(g) Metal scrap, ferrous and non-ferrous.

(h) Used ships, boats, floating equipment (including barges, dry docks and pontoons), and parts and components thereof. (Excludes battleships, cruisers, aircraft carriers, destroyers and submarines which are not subject to the provisions of the Federal Property and Administrative Services Act of 1949, as amended; 40 U.S.C. 472(d)(2).)

(i) Photofilm and photopaper which is being imported solely for reclamation of the silver content.

Any of the property described above may be entered into the economy of the United States on presentation of the original FEP Import Authorization to the District Director of Customs for his endorsement at the time of entry; *Provided*, the requirements in paragraph (d) above relating to the unused pneumatic tires and inner tubes are complied with to the satisfaction of the District Director of Customs at the port of entry.

Nothing in General Determination No. 1 shall be construed to exempt the importer from presentation of such other entry documents, or conforming with any procedures, required by the U.S. Customs Service.

Effective September 15, 1977, General Determination No. 1 as published in 38 FR 20484 (1973), is revoked.

General Determination No. 1 may be amended or withdrawn by the Deputy Assistant Secretary and notice of such amendment or withdrawal shall be published in the FEDERAL REGISTER (15 CFR 302.4).

Effective Date: September 15, 1977.

ROBERT E. SHEPHERD,
Deputy Assistant Secretary for
Resources and Trade Assistance.

[FR Doc. 77-26817 Filed 9-14-77; 8:45 am]

Domestic and International Business Administration

DUTY FREE ENTRY OF ELECTRON MICROSCOPES

Consolidated Decision on Applications

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 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially Section 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: 77-00176. Applicant: University of California, San Diego, Dept. of Neurosciences, School of Medicine, La Jolla, Calif. 92093. Article: Electron MI-

croscope, Model JEM-100C with side entry goniometer and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article will be used to study the structure of biological cells and tissues which include nerve tissues and phenomena associated with neurological diseases; the supramolecular structure of excitable membranes; and serial sections of subcellular regions of neurons, suitable for computer reconstruction. All of the materials and phenomena will be biological in origin and in some instances derived from patients suffering from neuromuscular diseases. In addition, the article will be used in the course "Workshop in Electron Microscopy" in which students will be taught modern electron microscopic techniques in order that they may successfully be able to undertake relevant projects without further supervision. Application received by commissioner of customs: March 24, 1977. Advice submitted by the Department of Health, Education, and Welfare on: June 24, 1977. Article ordered: February 25, 1977.

Docket Number: 77-00186. Applicant: New York Medical College, Department of Anatomy, Basic Science Building, Valhalla, N.Y. 10995. Article: Electron Microscope, Model JEM 100C with side entry goniometer. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article will be used for electron microscopic examination of biological tissues from normal and experimental animals, such as pancreas, liver, muscle, and blood platelets. Blood platelets before and after exposure to thrombin will be examined to determine the intracellular translocation of calcium related to secretion. Studies of fine filaments will be made to relate these to morphologic changes in cell shape and, particularly, to the formation of long pseudopodia. Low magnification studies of undistorted, flat-field cells will be performed. These will be used for light microscopic—electron microscopic correlations which will permit visualization of the same cells by both instruments. The article will also be used in an electron microscopy course to train graduate and medical students in the use of electron microscopes as a tool for research and service in the field of diagnostic medicine. Application received by commissioner of customs: April 1, 1977. Advice submitted by the Department of Health, Education, and Welfare on: June 24, 1976. Article ordered: March 28, 1977.

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 such purposes as these articles are intended to be used was being manufactured in the United States at the time the articles were ordered.

Reasons: Each article provides a eucentric goniometer stage with ± 60 degree tilt and a guaranteed resolution of 7 Angstroms point to point. The Department of Health, Education, and Welfare (HEW) advises in the respectively cited memoranda, that the features described above are pertinent to the purposes for

which each of the foreign articles to which these applications relate is intended to be used. HEW also advises that it knows of no domestic instrument which provided the pertinent features of each article 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.

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

[FR Doc. 77-26818 Filed 9-14-77; 8:45 am]

DUTY-FREE ENTRY OF NUCLEAR MAGNETIC RESONANCE SPECTROMETERS

Consolidated Decision on Applications

The following is a consolidated decision on applications for duty-free entry of Nuclear Magnetic Resonance Spectrometers pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-551, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially section 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: 77-00159. Applicant: Northeastern University, Department of Chemistry, 360 Huntington Avenue, Boston, Mass. 02115. Article: High Resolution Fourier Transformation Multi-Nuclear Magnetic Resonance Spectrometer, Model JNM/FX60Q and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article will be used in the following research projects which involve the determination of NMR spectra of hydrogen, carbon-13, and fluorine nuclei:

- Inorganic and bioinorganic reaction mechanisms—solution kinetics.
- Separation methods, application of NMR to forensic chemistry and drug analysis.
- Structure of natural products derived from plants.
- NMR in analysis of drugs of abuse.
- Synthesis of natural products.
- Structural and synthetic medicinal chemistry of aporphines.
- Structure and chemistry of natural anti-tumor agents.
- Study of electronic structure of transition metal systems. Measurements of magnetic exchange using Knight shifts. Magnetic and structural properties of transition metal complexes containing fluorine.
- Thermal rearrangements of organic molecules.
- NMR applied to the study of pharmaceuticals.

- Chemistry of anti-plaque agents.
- Mechanism of reductive ring-enlargement from cyclopropenes to cyclobutenes.
- Paterno-Buchi photovalence isomerization as a means for storing solar energy.
- Binuclear bridging C.H. complexes.
- ¹³C labelling studies in the investigation of hydrocarbons pyrolysis mechanisms.
- Intermolecular interactions in clathrate complexes.
- Biochemical structure investigations.
- Structural determination of organic radiation-chemical products.
- Solution magnetic susceptibility studies using the Evans NMR method.
- Fluxionality—Stereochemical non-rigidity as a function of temperature.

The article will also be used in the course "Identification of Organic Compounds" (Chem. 12.253) to teach the application of various analytical techniques in determination of molecular structure and identification of unknown organic compounds. Application received by Commissioner of Customs: March 17, 1977. Advice submitted by the Department of Health, Education, and Welfare on July 4, 1977. Article ordered August 2, 1976.

Docket Number: 77-00172. Applicant: Frederick Cancer Research Center, P.O. Box B, Frederick, Md. 21701. Article: NMR Spectrometer, Model JNM/FX-60 and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article will be used for the following individual research activities which involve ¹³C and ¹H NMR spectroscopy:

- Structural studies of antibiotics isolated from fermentation broth, by ¹³C and ¹H NMR spectroscopy.
- Structural studies of antibiotics isolated in minute quantities (2 to 4 milligram) by ¹³C and ¹H NMR Spectroscopy.
- Structural studies of antibiotics isolated from plant materials by ¹³C and ¹H NMR spectroscopy.
- Stereo chemical assignments made on antibiotics by a combination of ¹³C and ¹H NMR studies.
- Structure elucidation studies on biotransformed antibiotics by combination of ¹³C and ¹H NMR studies.
- Structure verification studies on derivatives of antibiotics by combination of ¹³C and ¹H NMR studies.

Most of the materials to be studied will be antitumor compounds, hopefully candidates to cure cancer in clinics. Some of these materials are available in small quantities (2-4 milligrams) as isolated from limited resources and need to be studied by a microprobe system of an NMR instrument. Application received by Commissioner of Customs: March 22, 1977. Advice submitted by the Department of Health, Education, and Welfare on July 11, 1977. Article ordered February 24, 1977.

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 dual frequency (for ¹³carbon and pro-

ton), variable temperature, 10 millimeter sample probe. The Department of Health, Education, and Welfare (HEW), advises in its respectively cited memoranda that the specification of each article described above is pertinent to the purposes for which each of the foreign articles to which the foregoing applications relate is intended to be used. HEW also advises that it knows of no domestic instrument which provided the pertinent specification at the time the articles were ordered.

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.

RICHARD M. SEPPA,
Director, Special Import
Programs Division.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

[FR Doc. 77-26819 Filed 9-14-77; 8:45 am]

NORTHWESTERN U. MED. SCH.

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-551, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 77-00206. Applicant: Northwestern University Medical School, Department of Pharmacology, 303 E. Chicago Avenue, Chicago, Ill. 60611. Article: Recording Oscilloscope Camera. Manufacturer: Nihon Kohden Kogyo Co., Ltd., Japan. Intended use of article: The article is intended to be used for studies of bioelectric potential changes from excitable tissues. Membrane potential and membrane current are recorded from nerve and muscle tissues displayed on an oscilloscope, and photographed on a film. Membrane electrical properties including ionic conductances are then measured from the recorded film.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides capabilities for continuous recording on 35 millimeter film in a lighted room. The Department of Health, Education, and Welfare (HEW) advises in its memoran-

dum dated July 11, 1977, that the features of the article described above are pertinent to the applicant's intended purposes. HEW also advises that domestic instruments do not provide the pertinent features.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

RICHARD M. SEPPA,
Director, Special Import
Programs Division.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

[FR Doc.77-26820 Filed 9-14-77; 8:45 am]

RENSELAER POLYTECHNIC INST.

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 77-00042. Applicant: Rensselaer Polytechnic Institute, Materials Engineering Department, Troy, New York 12181. Article: Electro Microscope, Model JEM 100S. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in research concerned with the investigation of the austenite variables of composition, defect structure, stacking fault energy, process history, and properties as coupled phenomena and the relationship of these variables to the structure, transformation kinetics, and properties of the resultant martensite. Studies will be carried out in the area of corrosion fatigue of aluminum alloys and copper alloys requiring extensive transmission electron microscopy to determine changes in deformation substructures which accompany corrosive reactions. It is also planned to study phase separation in glasses and the graphite layer structure at the surface of high performance graphite fibers. In addition, the article will be used as a teaching instrument to expose students to the fundamentals of transmission electron microscopy in the courses: Structure and Properties of Materials II, Chemical Instrumentation, Electron Beam Analysis Techniques. The article will also be used in the course Electron Microscopy of Crystalline Materials to instruct students in the use of the microscope and its accessories.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (December 17, 1974).

Reasons: The foreign article is equipped with a ± 10 degree tilt stage having a guaranteed resolving power of 5 Angstroms. The most closely comparable domestic instrument available at the time the foreign article was ordered was the Model EMU-4C electron microscope manufactured by the Adam David Company. The Model EMU-4C can be equipped with a ± 30 degree tilt stage but the guaranteed resolving power of this stage is 8 Angstroms. (The lower the numerical rating in terms of Angstroms units, the better the resolving power.) The National Bureau of Standards (NBS) advises in its memorandum dated July 12, 1977, that the guaranteed resolving power of the tilt stage of the foreign article is pertinent to the applicant's research studies.

We, therefore, find that the Model EMU-4C electron microscope was not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used at the time the article was ordered. The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the foreign article was 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.77-26821 Filed 9-14-77; 8:45 am]

UNIVERSITY OF SOUTHERN CALIFORNIA, ET AL.

Application 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 (Public Law 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, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

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: 77-00323. Applicant: University of Southern California, University Park, Los Angeles, California 90007. Article: CO/CO, laser, type PL3 and components. Manufacturer: Edinburgh Instruments, United Kingdom. Intended use of article: The article is intended to be used for studies of vibrational circular dichroism in the infrared spectral region of chiral organic molecules with the aim of understanding of molecular structure. Application received by Commissioner of Customs: August 22, 1977.

Docket number: 77-00328. Applicant: National Institutes of Health, Building 36, Room 4B22, 9000 Rockville Pike, Bethesda, Maryland 20014. Article: Electron Microscope, Model EM 400 with high magnification goniometer electron microscope, single tilt holder and accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for studies of myelinated tracts or nerves obtained surgically. The main phenomena to be investigated includes the ultrastructure of myelin formation and maintenance as well as electron microscope features of experimentally altered or diseased myelin. Experiments to be conducted include the preparation of thin sections or freeze-fracture replicas of normal, experimentally altered and diseased myelin obtained surgically or by biochemical isolation techniques. Electron micrographs of these sections or replicas will be taken, processed and examined. The data obtained will be analyzed and published in research reports. Application received by Commissioner of Customs: August 9, 1977.

Docket number: 77-00329. Applicant: Stevens Institute of Technology, Castle Point Station, Hoboken, New Jersey 07030. Article: PLM-3 Platinum NMR Thermometer and Accessories. Manufacturer: Instruments for Technology, Finland. Intended use of article: The article is intended to be used for studying experimentally low temperature properties of helium-three with objective of furthering the conceptual understanding of the phenomenon of superfluidity. Application received by Commissioner of Customs: August 9, 1977.

Docket number: 77-00330. Applicant: Regents of the University of California, 405 Hilgard Avenue, Los Angeles, CA 90024. Article: Electron Microscope, Model JEM 100CX/SEG/SQH and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for investigations of crystalline and non-crystalline solids, including nickel-base alloys, titanium alloys, steels, glass-ceramics, oxides, sulphides and minerals. Experiments to be conducted involve characterization of defects in crystalline solids, determination of chemical composition of phases in minerals, glass-ceramics and alloys, and mechanisms of phase transformations in

the various materials mentioned above. In addition, the article will be used for educational purposes in the courses: Engr. 145-A. Introduction to Materials Characterization and Engr. 244. Transmission Electron Microscopy. Application received by Commissioner of Customs: August 9, 1977.

Docket number: 77-00331. Applicant: University of Utah, University of Utah Medical Center, Salt Lake City, Utah 84132. Article: Electron Microscope, Model JEM-100S with Sheet film camera. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to examine specimens of the nervous system suitably fixed, stained, embedded in plastic, thin sectioned and placed on formvar coated grids. Various fixation, embedding and staining procedures are used to reveal different structures in the nerve cells and glial cells in the intercellular matrix. The experiments are designed to reveal the cellular types and their three-dimensional architecture, including the intercellular relationships in the nervous system of fishes and frogs during development.

The article will be used by postdoctoral trainees, and will be part of their training. Application received by Commissioner of Customs: August 11, 1977.

Docket number: 77-00332. Applicant: Colorado State University, Fort Collins, CO 80523. Article: FX-100 NMR Spectrometer. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for a variety of studies of the molecular structure type, utilizing ^{13}C and ^1H nuclear magnetic resonance (NMR) in the Fourier transform (FT) mode. Specific research will include studies of the following:

- (1) Geometrical dependence of substituent effects on ^{13}C chemical shifts,
- (2) ^{13}C signal intensities in hydrocarbons.
- (3) The synthesis of complex organic systems,
- (4) Structural characterizations of natural products,
- (5) Biosynthesis of toxic plant nitro compounds, and
- (6) Polymer chemistry.

Application received by Commissioner of Customs: August 11, 1977.

Docket Number: 77-00333. Applicant: Regents of the University of California, 405 Hilgard Avenue, Los Angeles, Calif. 90024. Article: Electron Microscope, Model JEM-200 with High Resolution Universal Goniometer Double Tilting Stage, and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in the investigation of the microstructure of heavy-ion irradiated Ni-base alloys; deformation microstructure of ferrous and non-ferrous alloys and minerals such as quartz and olivine; and phase transformations in materials. Microstructural studies will be conducted in relation to mechanical and physical properties of metals, alloys, ceramics and minerals, and irradiation-induced swelling in alloys. The article will also be used for educational purposes in the courses: Engr. 145-A. Introduction to

Materials Characterization, Engr. 244. Transmission Electron Microscopy, and in Individual Graduate Study courses. The objectives of these courses are to familiarize the students with the principles, operation, and applications of the techniques of TEM, SEM, STEM, and X-ray microanalysis. Application received by Commissioner of Customs: August 12, 1977.

Docket Number: 77-00334. Applicant: University of Southern California, Department of Chemistry, University Park, Los Angeles, Calif. 90007. Article: TEA CO, Laser, Model DD-250 and accessories. Manufacturer: Gen-Tec., Canada. Intended use of article: The article is intended to be used for the study of the interactions of molecules with intense, coherent infrared radiation. The article will also be used for the training of Chemistry post-doctorates in advanced research techniques in the courses: Chemistry 490L and Chemistry 790L. Application received by Commissioner of Customs: August 12, 1977.

Docket Number: 77-00335. Applicant: National Bureau of Standards, Route 270 and Quince Orchard Road, Gaithersburg, Md. 20760. Article: Complete gas-fired, 1-cubic meter furnace, and accessories. Manufacturer: Ove Larsen Engineering and Trading Co., Denmark. Intended use of article: The article is intended to be used to investigate the response of construction materials and assemblies when exposed to a prescribed standard temperature-time exposure simulating a fire. The properties to be measured on small scale specimens include integrity, such as the development of cracks or openings, excessive deformation, and the transmission of heat, hot gases, and smoke. Application received by Commissioner of Customs: August 12, 1977.

Docket Number: 77-00336. Applicant: Michigan State University, East Lansing, Mich. 48824. Article: Electron Microscope, Model EM 201 and Plate Camera Lot and accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for instructional use by graduate students. However, research of these students as related to their M.S. or Ph. D. programs in biology, geology, metallurgy, biomedicine, etc. will be carried out. The article will be used in two courses: "Methods in Transmission Electron Microscopy" and "Special Problems in Electron Microscopy". These courses are intended to provide "hands on" experience so that future research activities can be carried out. Application received by Commissioner of Customs: August 12, 1977.

Docket Number: 77-00337. Applicant: University of California, San Francisco, 1438 Harbour Way South, Richmond, Calif. 94804. Article: Stereoscan 150 Scanning Electron Microscope and accessories. Manufacturer: Cambridge Instrument Co., United Kingdom. Intended use of article: The article is intended to be used in the investigation of surface changes in cells correlating with metabolic ac-

tivity or malignancy. The experiments to be conducted will involve alteration of organs, tissue, and cells by processes which either accelerate or retard events within the cells, transforming normal cells to cancer cells, critical examination of the normal vs. diseased tissue from animals and humans. In addition, the article will be used for educational purposes in medical and pharmaceutical histology, the study of normal organs, tissues, and cells: Anatomy 102 and Anatomy 115. Specifically, the article will be used to provide by direct visualization the normal arrangement of substructure, both internally and externally, of cells and how these cells are arranged to form tissues and organs. Application received by Commissioner of Customs: August 12, 1977.

Docket Number: 77-00338. Applicant: University of California, Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, N. Mex. 87545. Article: Image Converter Camera System with S-20 image tube. Manufacturer: Hadland Photonics Ltd., United Kingdom. Intended use of article: The article is intended to be used to photograph the behavior of a high velocity (up to 10^8 cm/sec) plasma stream emerging from a coaxial plasma gun. The phenomena to be studied will include the initial gas breakdown and subsequent behavior inside the gun (gun barrel phase) and the behavior of the plasma as it is injected into appropriate magnetic fields. Specific experiments to be conducted include the following:

- A. Studies of the initial gas breakdown in the gun.
- B. Study of the formation and subsequent behavior of the plasma stream in front of the gun nozzle.
- C. The injection of this plasma into a magnetic field.
- D. The measurement of the plasma properties such as axial velocity, transverse energy, temperature, impurity content, total energy.
- E. Experiments to optimize gun parameters for production of thermonuclear plasmas.

Application received by Commissioner of Customs: August 12, 1977.

Docket Number: 77-00339. Applicant: HEW, PHS, Center for Disease Control, 255 East Paces Ferry Road NE, Atlanta, Ga. 30305. Article: Gammacell 220 High Dose Rate Laboratory Irradiator and Accessories. Manufacturer: Atomic Energy of Canada, Ltd., Canada. Intended use of article: The article is intended to be used to study live viruses; specifically, live hemorrhagic fever viruses will be studied in the hope that gamma irradiation will inactivate these and make useable for standard laboratory diagnostic procedures. Gamma irradiation of the viruses under study will permit transport to field operations area so that diagnosis can be done in the field. Various animal models will be given wholebody irradiation to permit studies in the immunological aspects of these hemorrhagic fever viruses. Dose response investigations will be conducted in order to determine what dosages of irradiation will inactivate the viruses. Application received by Commissioner of Customs: August 12, 1977.

Docket Number: 77-00340. Applicant: University of California, Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, N. Mex. 87545. Article: 2 (each) Image Converter Camera Systems, and Accessories. Manufacturer: Hadland Photonics Ltd., United Kingdom. Intended use of article: The article is intended to be used to photograph the motion of the high-temperature plasma column in the Scylla IV-P theta-pinch device which is part of the U.S. program to produce energy for peaceful purposes through controlled nuclear fusion. Specific experiments to be conducted include the following:

- Studies of the phenomena involved in the plasma heating processes (shock, heating, and adiabatic compression heating).
- Studies of the plasma end-loss phenomena and various methods of reducing both the particle end-loss and the heat loss by axial thermal conduction.
- Determination of the detailed plasma properties such as temperature, density, and confinement time.
- Study of the nuclear fusion reactions which occur in the hot plasma.

Application received by Commissioner of Customs: August 15, 1977.

Docket Number: 77-00341. Applicant: University of California—Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, N. Mex. 87545. Article: Amplifier Module, Series 600A and Accessories. Manufacturer: Lumonics Research Ltd., Canada. Intended use of article: The article is an essential part of the research program in which a laser pulse amplification scheme has been developed which will make possible million-fold amplification via multiple optical passes in a single CO₂ amplifier unit. The article will be used to test these schemes for multipass light amplification on a reduced scale, with equipment matching as closely as possible the optical electronic and physical characteristics of the much larger amplifier systems in which these concepts will be implemented. Application received by Commissioner of Customs: August 22, 1977.

Docket Number: 77-00342. Applicant: University of Michigan, 1024 Chemistry, North University, Ann Arbor, Mich. 48109. Article: ASL A-7 fully automated AC Bridge. Manufacturer: Automated Systems Lab. Ltd., United Kingdom. Intended use of article: The article is intended to be used for the study and understanding of the energetic spectrum of matter; the chemical thermodynamic properties of matter including the entropy, enthalpy, tempered Gibbs energy function, etc.; the electronic, structural, as well as the molecular disordering and librational freedom of molecules are both immediate and indirect objectives. The materials to be studied include the following:

- Actinide pnictides (e.g., ThSb₃), chalcogenides (e.g., UOS), halides (e.g., UCl₃), Lanthanide trihydroxides (e.g., Gd(OH)₃), Transition element pnictides (e.g., Cu₃W₂S₄ djurietite).
- Molecular crystals (e.g., paraterphenyl, thiourea, etc.).
- Ionic crystals (e.g., PbF₂).
- Vitreous materials (e.g., B₂O₃).

The article will also be used for educational purposes in the courses Post-doctoral Research, Doctoral Research in Chemistry, and Honors Research in Chemistry. Application received by Commissioner of Customs: August 22, 1977.

Docket Number: 77-00343. Applicant: Baylor College of Medicine, Department of Cell Biology—1200 Moursund Avenue, Houston, Tex. 77030. Article: Electron Microscope, Model JEM-100CX with side entry goniometer and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for high resolution transmission and scanning transmission electron microscopic studies of the cytoskeletal changes associated with neoplastic progression in fibroblastic tissue and mammary epithelial cells. Specifically, the article will be used in conjunction with an energy dispersive spectrophotometer to perform microanalysis of particulate material within the fibroblasts and mammary epithelial cells both in normal and pathological samples. Studies will be conducted regarding the effects of estrogen on the synthesis of plasma lipoprotein produced in the cockeral as studied in the liver. The article will also be used for the training of medical and graduate students, faculty and technical staff in electron microscopy. Application received by Commissioner of Customs: August 22, 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.77-26823 Filed 9-14-77; 8:45 am]

UNIVERSITY OF TEXAS SYSTEM CANCER CENTER

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article 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). A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 77-00194. Applicant: The University of Texas System Cancer Center, 6723 Bertner Avenue, Houston, Tex. 77030. Article: Impulsecytometer, Model ICO-11. Manufacturer: Phywe Co., West Germany. Intended use of article: The article is intended to be used for high speed analysis of intracellular compounds by means of fluorescence. The material to be studied will be cultured human cells and biopsy material from patients with malignant diseases. The article will serve as a tool to assess the effect of physical and chemical agents on cell cycle progres-

sion of both cultured cells and human tumors in vivo. The objectives of such studies are to define the mechanism of action of new anti-tumor agents at the cellular level, to correlate cytotoxic effects, to utilize data on cell cycle progression as a potential predictor for in vivo tumor response, to develop combination chemo- and immuno-therapy protocols for patients with malignancies based on information provided in such studies.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (July 23, 1976). Reasons: The foreign article provides a flow system in which excitation is parallel to the sample flow minimizing cell geometry effects stable excitation and a band of ultraviolet wavelengths (390-400 nanometers) to allow optional choice of wavelengths excitation. The Department of Health, Education, and Welfare (HEW) advised in its memorandum dated July 11, 1977, that (1) the capabilities of the foreign article described above are pertinent to the applicant's intended uses, and (2) it knows of no domestic instrument that provided the pertinent features at the time the article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was 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.77-26822 Filed 9-14-77; 8:45 am]

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. B-77]

PHILADELPHIA PORT CORP.

Application and Public Hearing

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the Philadelphia Port Corp., a Pennsylvania corporation, Philadelphia, Pa., requesting a grant of authority for the establishment of a foreign-trade zone in the City of Philadelphia, within the Philadelphia Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81), and the regulations of the Board (15 CFR Part 400). It was formally filed on August 26, 1977. The applicant is authorized to make this proposal under Pennsylvania State Act No. 126 (Pub. L. 291), approved June 10, 1935.

The proposal calls for the establishment of general-purpose foreign-trade zone sites at Pier 78 South, Pier 78 South-Annex Buildings 1, 2, and 3, and Pier 98 South-Annex, all located on the Delaware River waterfront within the City of Philadelphia. These sites have existing facilities not presently being used, which would be activated to serve firms requiring zone services. The facilities include a two-story pier shed, a three-story bulkhead shed, and 9,450 square feet of land space at Pier 78 South, three existing warehouse facilities totaling about 250,000 square feet at Pier 78 South-Annex, and a 23.7 acre open storage yard at Pier 98 South-Annex. The Philadelphia Port Corp. leases the sites and facilities from the City of Philadelphia for port development purposes. The Port, which will both sponsor and operate the zone sites, is coordinating the project with the area's economic development agencies. The initiation of zone services is specifically part of the City's waterfront development plan.

The application contains economic data and information concerning the need for providing zone services to various firms in the Philadelphia area. Several firms have indicated their intention to use the zone for warehousing, exhibition, manipulation, and distribution activities. Among the initial zone users are firms involved with machine tools, electronic computer equipment, camping and recreation equipment, wigs, alcoholic beverages, and scientific apparatus.

In accordance with the Board's regulations, an Examiners Committee has been appointed to investigate the application and report thereon to the Board. The Committee consists of:

Hugh J. Delan (Chairman), Office of the Secretary, U.S. Department of Commerce, 14th and E Streets NW., Washington, D.C. 20230; John Noon, Director, Inspection and Control Division, U.S. Customs Region III, 40 S. Gay Street, Baltimore, Md. 21202; and Colonel Harry V. Dutchyhn, District Engineer, U.S. Army Engineer District Philadelphia, U.S. Custom House, 2nd and Chestnut Street, Philadelphia, Pa. 19106.

In connection with its investigation of the proposal, the Examiners Committee will hold a public hearing on October 5, 1977, beginning at 9 a.m., in the Civil Service Conference Room, 3rd floor, Federal Building, 600 Arch Street, Philadelphia. The purpose of the hearing is to help inform interested persons about the proposal, to provide an opportunity for their expression of views, and to obtain information useful to the examiners.

Interested persons or their representatives are invited to present their views at the hearing. Such persons should, by September 29, notify the Board's Executive Secretary, in writing at the address below, of their desire to be heard. In lieu of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the Examiners Committee, care of the Executive Secretary, at any time from the date of this notice through November 4, 1977.

Evidence submitted during the post-hearing period is not desired unless it is clearly shown that the matter is new and material and that there are good reasons why it could not be presented at the hearing. A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

Office of the Director, U.S. Department of Commerce District Office, Room 9448 Federal Building, 600 Arch Street, Philadelphia, Pa. 19106.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 6886-B, 14th and E Streets NW., Washington, D.C. 20230.

Dated: September 2, 1977.

JOHN J. DA PONTE, JR.,
Executive Secretary.

[FR Doc. 77-26635 Filed 9-13-77; 8:45 am]

National Oceanic and Atmospheric Administration

TIDAL DATUMS

Establishment of Gulf Coast Low Water Datum

AGENCY: National Oceanic and Atmospheric Administration, Commerce Department.

ACTION: Establishment of Gulf Coast Low Water Datum.

SUMMARY: In this document the National Ocean Survey, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, gives notice of the establishment of Gulf Coast Low Water Datum as Chart Datum for the Gulf Coast of the United States. This term will progressively replace the term Mean Low Water on all navigational products of the National Ocean Survey. The adoption of Gulf Coast Low Water Datum will provide one uniform low water datum name for the entire Gulf Coast and one continuous low water reference elevation based on the same tidal characteristics to eliminate vertical datum jumps and abrupt horizontal displacements of coastal boundaries.

ADDRESS: Director, National Ocean Survey, National Oceanic and Atmospheric Administration, 6001 Executive Boulevard, Rockville, Md. 20852.

FOR FURTHER INFORMATION CONTACT:

Steady D. Hicks, Physical Oceanographer, National Ocean Survey, National Oceanic and Atmospheric Administration, 6001 Executive Boulevard, Rockville, Md. 20852. Telephone 301-443-8254.

Pursuant to the authority contained in section 883(a) of Title 33 of the United States Code, the National Ocean Survey, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, designates Gulf Coast Low Water Datum as Chart Datum for the coastal waters of the Gulf Coast of the United States. The designation will become effective sixty days after publication of this

notice. Full implementation will take place over a period of approximately two years.

Gulf Coast Low Water Datum is defined as: Mean Lower Low Water when the type of tide is Mixed and Mean Low Water when the type of tide is Diurnal.

Gulf Coast Low Water Datum will be used:

- (a) As the base from which depths and contours on nautical charts and bathymetric maps are referred;
- (b) For determining the position of the low water line when depicted on large scale charts and maps;
- (c) As the base from which tide-prediction heights are referred; and
- (d) To fix those coastal boundaries that are formed by, based upon, or measured from (or points thereon) the low water line.

The demarcation between Chart Datum of the Atlantic Coast (Mean Low Water of the Semidiurnal type of tide) and Chart Datum of the Gulf Coast (Gulf Coast Low Water Datum) occurs at the boundary between the Semidiurnal tide of the Atlantic and the adjacent Mixed tide of the Gulf. The boundary from Mixed to Semidiurnal occurs where the value of the ratio of the principal Diurnal constituents of the tide of the principal Semidiurnal constituents becomes less than 0.25. The official boundary is represented by lines on the largest scale nautical charts of the National Ocean Survey extending:

(a) From the intersection of the most westerly segment of the southern border of Biscayne National Monument and the land (just south of Mangrove Point);

(b) Along the southwest segments of the southern border of the Monument to Old Rhodes Point on the southeast corner of Old Rhodes Key;

(c) Hence, from Old Rhodes Point to the northwest corner of the John Pennekamp Coral Reef State Park;

(d) Along the land of the northwestern border of the Park (with the exception of the coastal indentations of Largo Sound) to the southwest corner (just southwest of Rock Harbor); and

(e) Hence, from the southwest corner of the John Pennekamp Coral Reef State Park along its southwest border and continuing straight out to sea just south and beyond Molasses Reef.

Gulf Coast Low Water Datum extends from the demarcation outlined immediately above, around the southern extremity of Florida (including the Keys), hence along the coastal waters of the Gulf Coast to the border between the United States and Mexico.

The purpose for the adoption of Gulf Coast Low Water Datum is to provide:

- (a) One uniform low water datum name for the entire Gulf Coast; and
- (b) One continuous low water reference elevation based on the same tidal characteristics, in order to eliminate:

- (1) Vertical datum jumps; and
- (2) The resultant abrupt horizontal displacements of coastal boundaries.

This action does not eliminate the datums of Mean Low Water or Mean

Lower Low Water along the Gulf Coast. Furthermore, it does not affect any mid or high water datums directly or by inference.

For navigational purposes, the designation of Gulf Coast Low Water Datum as Chart Datum constitutes a change in name only. Due to:

(a) Roundoff procedures in hydrographic surveying and chart compilation;
(b) Thickness of the demarcation depicting the low water line on nautical charts;

(c) Deposition and/or erosion of the bottom between surveys; and

(d) Accretion and/or erosion of the shore between surveys, there will be no change in content or accuracy of any navigational product of the National Ocean Survey. However, the term Mean Low Water will be progressively replaced by the term Gulf Coast Low Water Datum on all navigational products of the National Ocean Survey over a period of approximately two years.

In future low water surveys, significant discrepancies may be found by the surveyor in the transfer from Mean Low Water to Gulf Coast Low Water Datum when the type of tide is Mixed. It has been determined that the maximum difference will not exceed 0.6 feet vertically, with the corresponding horizontal displacement being a function of the varying shore slope. However, the vertical jumps and abrupt horizontal displacements will be eliminated in the transfer.

Private and other Federal, State, and local government agencies concerned with surveying, mapping, marine, legal, and engineering activities are encouraged to use Gulf Coast Low Water Datum as appropriate to their respective interests.

Inquiries and comments are welcome and should be sent to the address set out above.

T. P. GLEITER,
Assistant Administrator
for Administration.

[FR Doc. 77-26758 Filed 9-14-77; 8:45 am]

COMMISSION OF FINE ARTS MEETING

The Commission of Fine Arts will meet in open session on Tuesday, September 27, 1977, at 10:00 a.m. in the Commission offices at 708 Jackson Place NW., to discuss various projects affecting the appearance of Washington, D.C.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to: Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address.

This confirms notice of January 11, 1977, published at 42 FR 2337.

Dated in Washington, D.C. September 12, 1977.

CHARLES H. ATHERTON,
Secretary.

[FR Doc. 77-26888 Filed 9-14-77; 8:45 am]

DEPARTMENT OF DEFENSE Air Force Department USAF SCIENTIFIC ADVISORY BOARD Meeting

SEPTEMBER 9, 1977.

The USAF Scientific Advisory Board Science and Technology Advisory Group, Standing Committee on Research, Air Force Systems Command, will hold meetings on October 11, 1977, from 8:30 a.m. to 5:00 p.m. and October 12, 1977, from 7:30 a.m. to 3:00 p.m., at Air Force Armament Test Laboratory, Eglin AFB, FL, Room 204, Building 1, Andrews Hall.

The Committee will receive briefings and participate in discussions related to United States Air Force research and research needs which support weapons development for conventional warfare.

The meeting concerns matters listed in section 552(b)(5) of Title 5, United States Code and, therefore, the meeting will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at 202-697-8404.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc. 77-26749 Filed 9-14-77; 8:45 am]

USAF SCIENTIFIC ADVISORY BOARD Meeting

SEPTEMBER 8, 1977.

The USAF Scientific Advisory Board Meeting of the ad hoc Committee on Cruise Missile Technology scheduled to be held on September 22, 1977, from 9:00 a.m. to 5:00 p.m. at Langley AFB, Va., has been changed to October 18, 1977. All other information is the same. This meeting was advertised in FR Vol. 42, No. 25119.

For further information contact the Scientific Advisory Board Secretariat at 202-697-4648.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc. 77-26750 Filed 9-14-77; 8:45 am]

Office of the Secretary of Defense DEPARTMENT OF DEFENSE WAGE COMMITTEE

Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, the Federal Advisory Committee Act, effective January 5, 1973, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, November 1; Tuesday, November 8; Tuesday, November 15; Tuesday, November 22; and Tuesday, November 29, 1977, at 9:45 a.m. in Room 1E801, the Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recom-

mendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) concerning all matters involved in the development and authorization of wage schedules for Federal prevailing rate employees pursuant to Pub. L. 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463, the Federal Advisory Committee Act, meetings may be closed to the public when they are "concerned with matters listed in section 552b of Title 5, United States Code." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the Chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by contacting the Chairman, Department of Defense Wage Committee, Room 3D281, the Pentagon, Washington, D.C.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

SEPTEMBER 12, 1977.

[FR Doc. 77-26763 Filed 9-14-77; 8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION ADVISORY COMMITTEE ON GEOTHERMAL ENERGY, RESOURCE SUBCOMMITTEE

Meeting

SEPTEMBER 9, 1977.

In accordance with provisions of Pub. L. 92-463 (Federal Advisory Committee Act), the Resource Subcommittee of the Advisory Committee on Geothermal Energy will hold its second meeting Thursday and Friday, September 29-30, 1977. The meeting on Thursday will take place from 8:30 a.m. to 5 p.m., Room 1408, University Club Building, 136 East South Temple Street, Salt Lake City, Utah. On Friday, as supplement to deliberations, the Subcommittee will tour a local in-

dustrial facility. The meeting will be open to the public. The purpose of this meeting is: to review plans and activities of the Division of Geothermal Energy, U.S. Energy Research and Development Administration; in particular, to discuss and to provide advice on programs and approaches to effective government-industry cooperation with respect to geothermal resource assessment problems in the development of geothermal energy.

The tentative agenda for the meeting is as follows:

- 8:30 a.m., Introductory Remarks—Dr. C. William Berge, Chairman.
- 8:45 a.m., Progress in the Development of Hot Dry Rock—Dr. R. Brownlee, Los Alamos Scientific Laboratory.
- 10 a.m., Current and Future Availability of Rigs and Service Personnel—Mr. W. A. Glass.
- 11 a.m., Geothermal Well Logging: The Need for Equipment Development, Calibration Wells, and Interpretation Criteria Appropriate to Igneous Rocks—Mr. R. B. Hyde, Jr.
- 12 noon, Lunch.
- 1:15 p.m., Resource Assessment—Dr. J. B. Combs.
- 2 p.m., Review of ERDA Geothermal Resource Exploration and Assessment Program—Chairman and Members.
- 4 p.m., Overview of Geology of Roosevelt, Cove Fort, and Sulphurdale Area—Dr. Stanley Ward, University of Utah.
- 5 p.m., Adjourn.

Practical considerations may dictate alterations in the above agenda. This will be a working meeting and the Chairman is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business.

With respect to public participation in agenda items, scheduled above, the following requirements shall apply:

(a) Persons wishing to submit written statements on agenda items may do so by mailing 12 copies thereof, postmarked no later than September 22, 1977, to the Director, Division of Geothermal Energy, U.S. Energy Research and Development Administration, 20 Massachusetts Avenue NW., Washington, D.C. 20545. Comment shall be directly relevant to the above agenda items. Minutes of the meeting will be kept open for 30 days for the receipt of written statements for the record.

(b) Information as to whether the meeting has been rescheduled or relocated can be obtained by a prepaid telephone call on September 26, 1977, to the Division of Geothermal Energy, Energy Research and Development Administration, Helen Krupovich on 202-376-4904 between 8:30 a.m. and 5 p.m., E.S.T.

(c) Questions at the meeting may be propounded only by members of the Subcommittee and ERDA officials assigned to participate with the Subcommittee in its deliberations.

(d) Seating to the public will be made available on a first-come, first-served basis.

(e) The use of still, movie, and television cameras, the physical installation and presence of which will not interfere with the course of the meeting, will be

permitted both before and after the meeting and during the recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) Copies of minutes will be made available for copying, following their certification by the Chairman in accordance with the Federal Advisory Committee Act, at the Energy Research and Development Administration's Public Document Room, 20 Massachusetts Avenue NW., Washington, D.C. 20545, upon payment of all charges required by law.

HARRY L. PEEBLES,
Deputy Advisory Committee
Management Officer.

[FR Doc. 77-26751 Filed 9-14-77; 8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[OPP-42015B; FRL 791-8]

HAWAII

Extension of Contingency Approval of State Plan for Certification of Pesticide Appli- cators

In accordance with the provisions of section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136) and 40 CFR Part 171 (39 FR 36445 (October 9, 1974) and 40 FR 11698 (March 12, 1975)), the Honorable George R. Ariyoshi, Governor of the State of Hawaii, submitted a State Plan for Certification of Pesticide Applicators to the Environmental Protection Agency (EPA) contingent upon promulgation of implementing regulations. On June 9, 1976, the Regional Administrator, EPA, Region IX, approved the Plan on a contingency basis, allowing one year for promulgation of the regulations. Notice of the approval was published in the FEDERAL REGISTER on July 13, 1976 (41 FR 28841).

Subsequently, on July 8, 1977, the State of Hawaii requested an extension of the period of the contingency approval in order to allow additional time to promulgate the regulations required for full approval. The Agency finds that there is good cause for approving this request and as such has granted an extension until December 31, 1977.

Dated: September 7, 1977.

PAUL DE FALCO, JR.,
Regional Administrator,
Region IX.

[FR Doc. 77-26938 Filed 9-14-77; 8:45 am]

[FRL 791-6]

HAZARDOUS WASTE MANAGEMENT Public Meetings

The Environmental Protection Agency will hold three identical public meetings in October to review and discuss the provisions of Subtitle C of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (Pub. L. 94-580), of 1976.

Subtitle C of the Act creates a regulatory framework to control hazardous

waste. Congress has found that such wastes present "special dangers to health and require(s) (sic) a greater degree of regulation than does nonhazardous solid waste" (Section 1002(b)(5)). Because of the seriousness of this solid waste management problem, Congress intended that the States develop programs to control it. In the event that States do not choose to operate this program, EPA is mandated to do so.

A series of seven guidelines and/or regulations is being developed under Subtitle C to implement the hazardous waste program. The principle subject areas are the following:

- Section 3001—identification criteria for and lists of wastes which are hazardous.
- Section 3002—standards applicable to generators of hazardous waste.
- Section 3003—standards applicable to transporters of hazardous waste.
- Section 3004—standards applicable to owners and operators of hazardous waste treatment, storage, and disposal facilities.
- Section 3005—regulations for issuing permits for treatment, storage, or disposal of hazardous waste.
- Section 3006—guidelines to assist States in the development of State hazardous waste programs.
- Section 3010—a program for notification by persons generating and/or transporting hazardous wastes, and/or owning or operating a facility for storage, treatment, and disposal of hazardous wastes.

Internal Agency working groups were constituted in February 1977 to develop these guidelines and/or regulations. The Agency has held a number of public meetings and workshops throughout the country to gain input for them. At this stage of the regulation development process, EPA would like to share the prospective outline of the draft guidelines and regulations for further public comment prior to formal proposal. Further Agency-wide deliberations will follow these meetings prior to proposal in the FEDERAL REGISTER. Therefore, the draft guidelines and regulations that will be discussed at these identical meetings, while reflecting the current Agency position, will be further analyzed by EPA based on the comments and reactions received at these meetings.

EPA Office of Solid Waste personnel will review and discuss the content of these draft guidelines and/or regulations at the three identical public meetings which will be held at the following locations:

October 11-12, 1977, Ramada Inn (Roslyn), 1900 North Ft. Myer Dr., Arlington, Va. 22209—time: 8 a.m. (registration).

October 13-14, 1977, The Chase-Park Plaza Hotel, 212 North Kingshighway Blvd., St. Louis, Mo., 63108—time: 12 noon (registration).

October 17-18, 1977, Safari Hotel, 4611 North Scottsdale Rd., Scottsdale, Ariz. 85251—time: 12 noon (registration).

Summaries of the materials that will be reviewed at these meetings will be available after September 20, 1977, by contacting: Mrs. Geraldine Wyer, Public Participation Officer, Office of Solid Waste, WH-462, U.S. Environmental

Protection Agency, Washington, D.C. 20460 (Phone: 202-755-9157).

Dated: September 7, 1977.

THOMAS C. JORLING,
Assistant Administrator,
Water and Hazardous Materials.

[FR Doc.77-26940 Filed 9-14-77;8:45 am]

[FRL 791-5; OPP-180147]

IDAHO STATE DEPARTMENT OF AGRICULTURE

Issuance of a Specific Exemption To Control Twospotted Spider Mite on Hop Crop

The Environmental Protection Agency (EPA) has granted a specific exemption to the Idaho State Department of Agriculture (hereafter referred to as the "Applicant") to use TEPP (tetraethyl pyrophosphate) for the control of twospotted spider mites which are threatening to destroy the commercial hop crop in Canyon County, Idaho. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St. SW., Room E-315, Washington, D.C. 20460.

According to the Applicant, the Twospotted Spider Mite (*Tetranychus urticae* Koch) has or is about to occur in hop yards in Idaho and no registered pesticide nor alternative method of control is available to suppress the mites.

Although several miticides are registered for use on hops, Idaho State University entomologists alleged that none of the registered miticides were viable options for one or more of various reasons: (1) The spider mites were resistant to the other miticides; (2) aerial applications were precluded because of ineffectiveness or labeling restrictions; and/or (3) the required pre-harvest interval excluded application at the time required. Ground pesticide applications were not feasible because of damage to hop foliage, lodged hops, and irrigation equipment. The Applicant stated that TEPP has prevented economic damage to the hop crop by this pest in previous years. The Applicant requested approval to treat the 1,500-acre commercial hop crop with two (2) pounds of actual TEPP per acre in a single aerial application to suppress populations of twospotted spider mite which are threatening this crop in Canyon County. The pesticide will be applied by State-licensed aerial applicators under the Applicant's supervision; the application will terminate no later than September 15, 1977. A three-day pre-harvest interval will be maintained.

The State of Idaho is producing 1,500 acres of the nation's early-maturing hop crop. The Applicant stated that the po-

tential crop yield loss attributable to the mites in Idaho is valued at \$700,000.

The applicant cited the following factors which contribute to a relatively low probability of exposure of man to harmful residues of TEPP from hops: (1) Raw hops are never consumed by humans and hops are kiln-dried following harvest; (2) one-fourth pound of hops is added to each thirty-one (31) gallons of beer, a 1:1,000 dilution by weight; and (3) fermentation in the brewing vats results in additional breakdown of pesticide residues. However, TEPP exhibits acute toxicity to fish and wildlife species, especially avian species. We have consulted with the Fish and Wildlife Service, U.S. Department of the Interior (USDI), and have been advised that two endangered species, the Arctic and American Peregrine Falcons, may be present in the Idaho counties where the pesticide is to be applied; however since neither species is known to frequent hop fields, no serious adverse effects on an endangered species and/or its habitat are expected to result from the use of TEPP. In order to minimize adverse effects on fish and wildlife resources we have required that liaison be established with the Idaho State Departments of Agriculture, and Fisheries and Game.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of twospotted spider mites has or is about to occur; (b) there is no pesticide presently registered and available for use to control the twospotted spider mites in Idaho; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the twospotted spider mites are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, The Applicant has been granted a specific exemption to use the pesticide noted above until September 15, 1977, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following restrictions:

- (1) Aerial applications of TEPP are limited to one (1) at the rate of two (2.0) pounds of active ingredient per acre;
- (2) Total acreage treated shall not exceed 1,500 acres;
- (3) A maximum of 3,000 pounds of active TEPP will be applied;
- (4) Treatment area is limited to Canyon County;
- (5) A three-day pre-harvest interval will be observed;
- (6) The Applicant is responsible for monitoring aerial applications of TEPP;
- (7) Liaison shall be established with the Idaho State Departments of Agriculture, and Fisheries and Game to minimize any adverse effects on fish and wildlife resources;
- (8) The EPA shall be immediately informed of any adverse effects resulting from the use of this pesticide in connection with this exemption;
- (9) All applicable directions, restrictions and precautions on EPA-registered label will be observed;
- (10) All precautions will be taken to avoid or minimize spray drift to nontarget areas; and

(11) Hops with residue levels not exceeding 0.1 ppm (part per million) may be offered in interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action.

Dated: September 8, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator
for Pesticide Programs.

[FR Doc.77-26736 Filed 9-14-77;8:45 am]

[FRL 791-4; OPP-180149]

MINNESOTA DEPARTMENT OF AGRICULTURE

Issuance of a Specific Exemption To Use Mesurol To Control Blackbirds on Wild Rice

The Environmental Protection Agency (EPA) has granted a specific exemption to the Minnesota Department of Agriculture (hereafter referred to as the "Applicant") to use Mesurol (3,5-dimethyl-4-(methylthio) phenyl methyl carbamate) to control blackbirds which are causing grain losses on commercial wild rice in thirteen counties in Minnesota. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St. SW., Washington, D.C. 20460.

According to the Applicant, blackbirds attack cultivated wild rice paddies every year; if not controlled, blackbird damage may cause well over 50 percent of the wild rice grain to be lost prior to harvest, and as a result, economic losses of from 1.5 to 2.0 million dollars may occur. The areas to be treated cover approximately 25,000 to 30,000 acres of commercial wild rice located in the following counties: Aitkin, Beltrami, Cass, Clearwater, Crow Wing, East Polk, Hubbard, Itasca, Koochiching, Lake of the Woods, Pennington, Red Lake, and Wadena. The Applicant will apply Mesurol aerially at a dosage rate of 1.5 to 3.0 pounds active ingredient per acre. At the lower rate, two applications may be made. The 75 percent WP formulation of Mesurol will be used; a 14-day pre-harvest interval will be observed.

Mesurol is currently registered as a seed treatment on corn for repelling blackbirds. Tolerances for Mesurol have been established on cherries (25 ppm) and peaches (15 ppm), in addition to corn (0.03 ppm). EPA has determined that only trace residues (less than 0.1 ppm) will occur in the human food processed wild rice. Since neither the processed by-products (husks, debris) nor straw are used as animal feed items, there is no expectation of finite residues of Mesurol in meat, poultry, and eggs. Therefore, a 0.1 ppm residue level of this

pesticide in or on processed wild rice grain will not constitute a human health hazard; in addition, wild rice constitutes a very small fraction of the human diet.

The Fish and Wildlife Service, U.S. Department of the Interior (USDI), has informed EPA that two endangered species, the Peregrine Falcon (*Falco peregrinus*) and the Wolf (*Canis lupus*), may be present in the Minnesota counties where the pesticide is to be applied; however, since neither species is known to frequent rice paddies, it is not believed that Mesuroil will cause any adverse effects in this respect. Because of the large acreage involved, there is also a possibility that some mortality to non-target song-birds will occur. However, most of these birds would ingest only enough to induce the repellancy effect of this substance; this effect would discourage the birds from ingesting further amounts of treated grain which would induce death. Finally, both the USDI and EPA agree that Mesuroil is acutely toxic to fish and aquatic invertebrates; accidental contamination of aquatic areas near these rice paddies will result in fish kills. Therefore, the utmost caution must be exercised by the applicators of this pesticide to avoid such contamination.

After reviewing the application and other available information, EPA has determined that (a) an emergency situation concerning blackbird damage to commercial wild rice crops has occurred; (b) there is no pesticide presently registered and available for this use to control blackbirds in Minnesota; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the blackbirds are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until September 15, 1977, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The Chemagro product, Mesuroil 75% WP, is authorized;
2. The dosage rate shall be 1.5 to 3.0 pounds active ingredient per acre; two applications may be made at the 1.5 pound rate. Total amount applied per acre must not exceed 3.0 pounds active ingredient;
3. Up to 30,000 acres in the thirteen counties listed in this notice may be treated;
4. Only State-certified and licensed commercial applicators may apply Mesuroil;
5. Aerial applications are authorized;
6. A residue level of Mesuroil in or on processed wild rice grain not exceeding 0.1 ppm has been deemed adequate to protect the public health; the Food and Drug Administration of the U.S. Department of Health, Education, and Welfare has been advised of this action. There will be a pre-harvest interval of 14 days;
7. Applicators must take careful measures to avoid contamination of adjacent aquatic areas or fish kills will occur;
8. The University of Minnesota should continue to monitor residue levels of Mesuroil in soil and wild rice in cooperation with

Chemagro. In addition, efficacy data should be collected so that a registration of this pesticide for use on wild rice may be obtained;

9. Any adverse effects of this pesticide in connection with this specific exemption must be reported to the EPA immediately. In particular, the Peregrine Falcon and the Wolf are endangered species that occur in north central Minnesota; utmost caution must be exercised to prevent contamination of areas frequented by these species. Mesuroil is also toxic to bees. Drift to nontarget areas must be avoided;

10. Applications are limited to drained wild rice fields; and

11. A report summarizing the results of this program must be submitted to the EPA by the end of 1977.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.)

Dated: September 8, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator
for Pesticide Programs.

[FR Doc. 77-26735 Filed 9-14-77; 8:45 am]

[FRL 701-2; OPP-180145]

MINNESOTA DEPARTMENT OF AGRICULTURE

Issuance of a Specific Exemption To Use Malathion To Control Wild Rice Worm on Commercial Wild Rice Crop

The Environmental Protection Agency (EPA) has granted a specific exemption to the Minnesota Department of Agriculture (hereafter referred to as the "Applicant") to use malathion to control populations of the Wild Rice Worm (*Apamea apamiiformis*) which are threatening the commercial wild rice crop in thirteen (13) counties in Minnesota. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M. St. SW., Room E-315, Washington, D.C. 20460.

According to the Applicant, approximately 30,000 acres of commercial wild rice require treatment with malathion to control damage caused by the wild rice worm. The rice crop to be treated is located in the following counties: Aitkin, Beltrami, Cass, Clearwater, Crow Wing, East Polk, Hubbard, Itasca, Koochiching, Lake of the Woods, Pennington, Red Lake, and Wadena. The wild rice worm appears to be a continuing pest of this food crop in Minnesota.

There appear to be no registered alternative pesticides nor alternative methods of control available to suppress this pest. The Applicant has previously submitted efficacy data which indicate

that malathion is effective in controlling the wild rice worm. Application of malathion E.C. on grain crops, including rice, is a registered use pattern. The recommended dosage rate for control of several insects on grains is one pound of active ingredient malathion per acre, which is the application rate the Applicant will use. There will be a single aerial application, and a 10-day pre-harvest interval. Without this application, the Applicant estimated that wild rice growers could lose 50 to 75 percent of the 1977 commercial crop to wild rice worm damage; estimated value of the potential loss is \$1,500,000 to \$2,000,000.

EPA has determined that wild rice bearing residues not in excess of 8.0 parts per million (ppm) will not pose a hazard to human health. The Fish and Wildlife Service, U.S. Department of the Interior (USDI), has advised EPA that one endangered species, the Timber Wolf (*Canis lupus lycaon*), is found occasionally in the counties listed; in addition, two endangered migratory avian species, the Whooping Crane (*Grus americana*) and the Arctic Peregrine Falcon (*Falco peregrinus tundrius*), pass through the area. However, both species will be located north of Minnesota during the rice growing season.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of wild rice worm has occurred; (b) there is no pesticide presently registered and available for use to control the wild rice worm on the commercial wild rice crop in Minnesota; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the wild rice worm is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until August 31, 1977, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. A malathion E. C. product bearing labeling appropriate for aerial application will be used;
2. The dosage rate shall not exceed one pound of actual malathion per acre per application;
3. A single application may be made;
4. The counties to be treated are limited to the ones listed in this notice;
5. Applications of malathion are prohibited within ten days of harvest;
6. Wild rice with malathion residues not exceeding 8.0 ppm will not pose a hazard to the public health and may be offered in interstate commerce. The Food and Drug Administration of the U.S. Department of Health, Education, and Welfare has been advised of this action;
7. All applicable directions, restrictions, and precautions on the EPA-registered label will be followed;
8. Every precaution shall be taken to avoid or minimize spray drift to non-target areas;
9. The EPA shall be immediately informed of any adverse effects resulting from the use of this pesticide in connection with this exemption;

10. EPA has been advised that one endangered species, the Timber Wolf, is found occasionally in the counties listed above; further, two endangered migratory avian species, the Whooping Crane and the Arctic Peregrine Falcon, pass through the area. Therefore, in order to prevent damage to those endangered species and their habitats, the Applicant must confer with the Endangered Species Program, Fish and Wildlife Service, USDI, prior to making applications of malathion to wild rice fields;

11. Treated water shall not be used to irrigate other crops or to water livestock;

12. Applications shall not be made to fish-bearing waters; and

13. A maximum of 30,000 pounds active malathion may be applied.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: September 8, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator
for Pesticide Programs.

[FR Doc. 77-26732 Filed 9-14-77; 8:45 am]

[FRL 790-3]

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Delegation of Authority to State of Wyoming

On December 23, 1971 (36 FR 24876), and March 8, 1974 (39 FR 9808), and August 6, 1974 (39 FR 33152), and September 23, 1975 (40 FR 43850), and October 6, 1975 (40 FR 46250), and December 22, 1975 (40 FR 59204), and January 15, 1976 (41 FR 2232 and 2332), and January 26, 1976 (41 FR 3826), and May 4, 1976 (41 FR 18501), pursuant to section 111 of the Clean Air Act, as amended, the Administrator promulgated regulations establishing standards of performance for twenty-four (24) categories of new stationary sources (NSPS).

Section 111(c) directs the Administrator to delegate his authority to implement and enforce NSPS to any State which has submitted adequate procedures. Nevertheless, the Administrator retains concurrent authority to implement and enforce the standards following delegation of authority to the State.

On February 23, 1977, the Governor of the State of Wyoming submitted to the EPA Regional Office a request for delegation of authority. Included in that request were procedures for NSPS and information on available resources to implement such review. Included in that request were copies of the State of Wyoming regulations which incorporate the federal emission standards and testing procedures set forth in 40 CFR Part 60, with certain exceptions. After a thorough review of that request and applicable State statutes, the Regional Administrator has determined that for the source categories set forth in paragraph A of the following official letter to the Governor of the State of Wyoming, delegation is appropriate subject to the conditions set forth in paragraphs 1 through 14 of that letter:

HON. ED HERSCHLER,
Governor of Wyoming,
Wyoming Executive Department,
Cheyenne, Wyo. 82001

DEAR GOVERNOR HERSCHLER: This is in response to your letter of February 23, 1977, requesting delegation of authority for implementation and enforcement of New Source Performance Standards (NSPS) to the Air Quality Division of the Wyoming Department of Environmental Quality.

We have reviewed the pertinent laws of the State of Wyoming and the Air Quality Standards and Regulations of the Wyoming Department of Environmental Quality and have determined that they provide an adequate and effective procedure for implementation and enforcement of the NSPS by the State of Wyoming. We have reviewed the resources and capabilities of the State of Wyoming. Therefore, we hereby grant delegation of NSPS to the State as follows:

A. Authority for all sources located in the State of Wyoming subject to the request for delegation contained in your letter of February 23, 1977. The categories of new sources covered by the delegation are fossil fuel-fired steam generators; incinerators; portland cement plants; nitric acid plants; sulfuric acid plants; asphalt concrete plants; petroleum refineries; storage vessels for petroleum liquids; secondary lead smelters; secondary brass and bronze ingot production plants; iron and steel plants; sewage treatment plants; primary copper smelters; primary zinc smelters; primary lead smelters; primary aluminum reduction plants; coal preparation plants; ferroalloy production; steel plants with electric arc furnaces; and in the phosphate fertilizer industry—wet process phosphoric acid plants, superphosphoric acid plants, diammonium phosphate plants, triple superphosphate plants, and granular triple superphosphate storage facilities.

This delegation is subject to the following conditions:

1. Semiannual reports, which include information for sources which receive approval to construct or begin operations, will be submitted to the Environmental Protection Agency (EPA) by the Air Quality Division of the Department of Environmental Quality.

2. The Air Quality Division of the Department of Environmental Quality and EPA will develop a system of communication sufficient to guarantee that each office is always fully informed and current regarding compliance status of the subject sources and interpretation of the regulations.

3. Enforcement of the NSPS in the State of Wyoming will be the primary responsibility of the Air Quality Division of the Department of Environmental Quality. If the Air Quality Division determines that such enforcement is not feasible and so notifies EPA, or if the Air Quality Division acts in a manner inconsistent with the terms of this delegation, EPA may exercise its concurrent enforcement authority pursuant to section 113 of the Clean Air Act, as amended, with respect to sources within the State of Wyoming subject to the NSPS.

4. Acceptance of this delegation of presently promulgated NSPS does not commit the State of Wyoming to accept delegation of future standards and requirements. A new request for delegation will be required for any standards not included in the State's Request of February 23, 1977.

5. Upon approval of the Regional Administrator of Region VIII, the Director of the Air Quality Division of the Department of Environmental Quality may subdelegate his authority to implement and enforce the NSPS to local air pollution control authorities in the State when such authori-

ties have demonstrated that they have equivalent or more stringent programs in force.

6. The delegation to the State of Wyoming does not include the authority to implement and enforce NSPS for sources owned or operated by the United States which are located in the State. This condition in no way relieves any Federal facility from meeting the requirements of 40 CFR Part 60 or any State or local regulation.

7. The State of Wyoming will at no time grant a variance or waiver from compliance with NSPS regulations. Should the Air Quality Division of the Department of Environmental Quality grant such a variance or waiver, EPA will consider the source receiving such relief to be in violation of the applicable federal regulation and may initiate enforcement action against the source pursuant to section 113 of the Clean Air Act. The granting of such relief by the Air Quality Division shall also constitute grounds for revocation of delegation by EPA. Except it is understood that Wyoming may, under State law, grant a variance from compliance with the applicable opacity standard. The granting of such a variance must comply with provisions 40 CFR 60.11(e)(1)-(4).

8. Actions in process at the time of delegation of authority shall be processed through to completion by the Regional Office. Subsequent enforcement requirements shall be performed by the delegates.

9. If at any time there is a conflict between a State regulation and a Federal regulation (40 CFR Part 60), the Federal regulation must be applied if it is more stringent than that of the State. If the State does not have the authority to enforce the more stringent Federal regulation, this portion of the delegation may be revoked.

10. The Air Quality Division of the Department of Environmental Quality will utilize the methods specified in 40 CFR Part 60 in performing source tests pursuant to the regulations.

11. If the Regional Administrator determines that a State procedure for enforcing or implementing the NSPS is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or in part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the Air Quality Division of the Department of Environmental Quality.

12. In implementing and enforcing the NSPS, the Air Quality Division of the Department of Environmental Quality will require quarterly reports under section 22(g)(3) to include the information specified in 40 CFR 60.7(c)(3) and (4).

13. Determinations of applicability such as those specified in 40 CFR 60.5 and 60.6 shall be consistent with those which already have been made by the EPA.

14. Waivers of performance and emission tests and the basis therefore shall be included in the semi-annual post delegation reports to EPA.

It is understood that although the Wyoming NSPS regulations do not contain provisions that are equivalent to 40 CFR 60.5 and 60.6, section 21 permit procedures allow owners and operators to obtain this information.

A Notice announcing this delegation will be published in the Federal Register in the near future. The Notice will state, among other things, that, effective immediately, all reports required pursuant to the Federal NSPS by sources located in the State of Wyoming should be submitted to the Air Quality Division of the Department of Environmental Quality Office, Hathaway Building, Cheyenne, Wyoming 82002. Any such reports which have been or may be received by EPA, Region VIII, will be promptly transmitted to the Air Quality Division.

Since this delegation is effective upon the date of this letter, there is no requirement that the State notify EPA of its acceptance. Unless EPA receives from the State written notice of objections within ten (10) days of the date of receipt of this letter, the State will be deemed to have accepted all of the terms of the delegation.

Best personal regards.

Sincerely yours,

JOHN A. GREEN,
Regional Administrator.

cc: RANDOLPH WOOD, Administrator, Air Quality Division,
Department of Environmental Quality,
Hathaway Building,
Cheyenne, Wyo. 82002.

Therefore, pursuant to the authority delegated to him by the Administrator, the Regional Administrator notified the Governor of the State of Wyoming on August 2, 1977, that authority to implement and enforce New Source Performance Standards (NSPS) was delegated to the State of Wyoming.

Copies of the request for delegation of authority are available for public inspection at the Environmental Protection Agency, Region VIII Office, 1860 Lincoln Street, Denver, Col. 80295.

Effective immediately, all reports required pursuant to the delegated New Source Performance Standards (NSPS) should not be submitted to the EPA Region VIII Office but instead should be submitted to the State Agency at the following address: Air Quality Division of the Department of Environmental Quality, Hathaway Building, Cheyenne, Wyo. 82002.

Applications for new source review in process at the time of this delegation shall be processed through to completion by the EPA Region VIII Office.

This Notice is issued under the authority of section 111 of the Clean Air Act, as amended, 42 U.S.C. 1857, 1857c-5, 6, 7 and g.

Date: August 25, 1977.

JOHN A. GREEN,
Regional Administrator.

[FR Doc. 77-26906 Filed 9-14-77; 8:45 am]

[FRL 791-1; OPP-180142]

UNITED STATES ARMY

Issuance of a Specific Exemption To Use Paranitrophenol To Control Fungi Which Deteriorate Leather

The Environmental Protection Agency (EPA) has granted a specific exemption to the U.S. Army (hereafter referred to as the "Applicant") to use paranitrophenol (PNP) to treat approximately twenty different types of leather military articles in order to prevent the rapid deterioration of these articles by fungi under high humidity conditions. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regula-

tion to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St. SW., Room E-315, Washington, D.C. 20460.

According to the Applicant, the Army has been treating various leather military articles, of which the most important were boots and shoes, for thirty years. However, this particular use of PNP—treating leather during manufacture for the end use protection of the product against fungal decay—has never been registered. The Applicant has formally applied for registration of PNP for the exclusive purpose of treating military leather articles; however, a registration for this purpose will probably not be issued in time for the current year contracts now up for bids. The Applicant was confronted with the problem of not having a registered product for use on leather and having a tight deadline for new contracts.

Without an efficient fungicide, the cost of replacing shoes would increase from 2.4 million dollars to 4.8 million dollars because of fungal decay, the Applicant estimated. In addition to replacement costs, the issuance of new shoes to recruits which amounts to 1.1 million dollars per month would also be delayed. Further delays in issuing contracts would thus progressively result in unsatisfied demands at the rate of 3.5 million dollars per month. This could result in the Applicant's inability to store sufficient stock to serve as protection against a national emergency (mobilization, etc.).

The Applicant will use paranitrophenol (PNP) at a dosage rate of 0.18 to 0.7 percent based on the dry weight of the leather. PNP will be applied during the tanning and/or fat liquoring of the leather or other operations of the tanners in preparing finished leather. PNP will be applied by personnel of the tanning company awarded a contract by the Applicant. The duration of application of PNP is not to exceed one year; either a formal registration of PNP for military use or an acceptable alternative registered fungicide is to be obtained.

At least thirteen genera of fungi are known to cause leather deterioration; damage from these fungi occurs not only in humid tropical regions but also in temperate or cold regions where the humidity is in excess of 65 percent. It is known that during the Korean War, leather shoes not treated with PNP lasted only 10 days in the field. While there are registered fungicide products for treating the surfaces of finished leather for mold/mildew prevention, the Applicant has stated that these products are not practical under field use. There appears to be no registered fungicide that (1) is applied during the manufacturing process, and (2) has a claim for preventing mold/mildew of the finished product. Many fungicides are applied to leather during the tanning process, but the intent is to protect the leather during this process and not for end use.

Paranitrophenol has been used by the Applicant for over thirty years. During this period, wear tests as well as skin patch tests were conducted on personnel and no adverse effects have so far been reported other than some irritation when treated leather was applied directly to the skin. There appear to be no significant health hazards associated with the use of PNP for this purpose. However, there is a potential human health hazard associated with mold/mildew on leather. One of the fungal genera, *Aspergillus*, is also capable of causing Aspergillosis, which is a disease of the lungs in humans.

After reviewing the application and other available information EPA has determined that (a) an emergency situation has occurred; (b) there is no pesticide presently registered and available for use to control these fungi during manufacture for end use protection; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic or potential health problems may result if the fungi are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until June 16, 1978, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. Paranitrophenol (PNP) may be used at a dosage rate of from 0.18 to 0.7 percent active ingredient PNP based on the dry weight of the leather;

2. In addition to boots and shoes, the following leather items may be treated with PNP: Footwear counters, money bags, pocket ammunition magazines, policeman's club carriers, side arm shoulder straps, police security belts, handcuff cases, first aid dressing cases, flagstaff, slings, cartridge belt holders, parachute cases, suitcases, and dispatch cases. Any article intended for prolonged direct skin contact must not be treated with PNP;

3. The personnel of various leather manufacturers are authorized to apply PNP provided they are awarded contracts by the Applicant to provide the same with military leather articles;

4. The EPA shall be immediately informed of any adverse effects resulting from the use of this pesticide in connection with this exemption;

5. The Applicant must either submit or initiate subacute and long term toxicity tests as well as teratology tests on PNP; and

6. This specific exemption will terminate either when the use of PNP becomes registered for use by the military or when a suitable alternative registered pesticide becomes available. In any event, this exemption will expire on June 16, 1978.

(Sec. 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.)

Dated: September 8, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator
for Pesticide Programs.

[FR Doc. 77-26733 Filed 9-14-77; 8:45 am]

[FRL 791-3; OPP-180144]

VIRGINIA DEPARTMENT OF
AGRICULTURE AND COMMERCE

Issuance of a Specific Exemption To Use
Botran 75W To Control Sclerotinia Blight
of Peanuts

The Environmental Protection Agency (EPA) has granted a specific exemption to the Virginia Department of Agriculture and Commerce (hereafter referred to as the "Applicant") to use no more than 4 to 5 pounds of Botran 75W per acre for two treatments for the control of *Sclerotinia* Blight on peanuts in Virginia. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St. SW., Room E-315, Washington, D.C. 20460.

According to the Applicant, the *Sclerotinia* Blight which is caused by the plant pathogen *Sclerotinia sclerotiorum* (syn. *S. minor*) is a relatively new disease on peanuts in the United States, being first reported in 1971.

S. sclerotiorum invades the tap root, lateral branches, and pegs at the soil line and eventually causes rotting of the peanut pods. Losses in yield in excess of 50 percent have been reported in North Carolina and Virginia due to this pathogen, the Applicant stated. In Virginia, the Applicant stated that nine (9) major peanut-growing counties located in the southeastern part of the State are likely to be subject to infection by this pest. The total acreage in these counties is 104,000; however, only 50 percent (52,000) of this acreage has been designated for treatment.

Several fungicides have been tested and shown to be effective for the control of *Sclerotinia* Blight on peanuts. Pentachloronitrobenzene (PCNB) when used at maximal label rates did control *S. sclerotiorum* in some instances, but not in others. Multiple applications of Benomyl also provided adequate control. Neither of these fungicides are registered although PCNB has a registration for peanut pod rot complex. For the control of this pest, Botran 75W was chosen by the Applicant because it was considered to be most efficacious for control of *S. sclerotiorum*. In addition, Botran 75W is registered for the control of *Sclerotinia* on several vegetable crops (beans, celery, cucumbers, lettuce, and onions).

The Applicant will use Botran 75W (EPA Reg. No. 1023-36), containing the active ingredient 2,6-dichloro-4-nitroaniline, at a dosage rate of 2 to 2.5 pounds of product per acre.

Two applications will be made at 10-14 day intervals. Total amount of Botran 75W will not exceed 4 to 5 pounds of

product per acre. Applications of Botran will be made by peanut growers. A total of 52,000 acres in the following counties will be treated: Brunswick, Dinwiddie, Greenville, Isle of Wight, Prince George, Southampton, Suffolk City, Surry, and Sussex. The diagnosis of this plant pathogen must be made before Botran 75W is applied. The Virginia Cooperative Extension Service recommends the following procedure in the application of Botran 75W. The product should be applied in 25-50 gallons of water over the row using a flat type spray nozzle (floodjet-nozzle or equivalent) that produces large droplets rather than a mist and with a pressure high enough to drive the chemical to the soil surface. Thorough coverage of the peanut plant and soil is essential. Copies of this procedure will be furnished to dealers marketing Botran.

In 1976, the total gross farm income from peanuts in the counties listed was \$65,026,000; the estimated income loss due to yield losses because of *S. sclerotiorum* was approximately 5 percent or \$3,250,000, according to the Applicant. Similar or higher losses are expected to occur this year if this pathogen is not controlled.

This use of Botran 75W will not pose a threat to the public health, since the residue expected to occur on peanut meat and hulls (less than 0.1 part per million (ppm)) is insignificant. It is recommended that treated peanut vines or hay should not be used as livestock feed items.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of *Sclerotinia* Blight has or is about to occur in Virginia; (b) there is no pesticide presently registered and available for use to control this pest in Virginia; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the pest is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until September 30, 1977, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. Two applications of Botran 75W (EPA Reg. No. 1023-36) at a dosage rate of 2 to 2.5 pounds of product/acre made at 10-14 day intervals are authorized. The total amount of Botran 75W must not exceed 4 to 5 pounds of product (3-3.75 pounds active ingredient) per acre for the two treatments;

2. A total of 52,000 acres of peanuts in the counties previously listed may be treated;

3. Applications may be made by peanut growers;

4. The use of Botran 75W in conjunction with this specific exemption is authorized only when personnel of the Virginia Cooperative Extension Service determine the presence of *Sclerotinia* Blight in a given growing field;

5. The Virginia Cooperative Extension Service recommendations concerning appli-

cation methods and equipment must be made available to growers;

6. A residue level of 2,6-dichloro-4-nitroaniline in or on peanut meat and hulls not exceeding 0.1 ppm has been deemed adequate to protect the public health. The Food and Drug Administration of the U.S. Department of Health, Education, and Welfare, has been advised of this action;

7. All label precautions must be followed; and

8. The EPA shall be immediately informed of any adverse effects as a result of the use of Botran 75W in conjunction with this exemption.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.)

Dated: September 8, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator
for Pesticide Programs.

[FR Doc. 77-26734 Filed 9-14-77; 8:45 am]

FEDERAL COMMUNICATIONS
COMMISSION

[Report No. I-388]

COMMON CARRIER SERVICES
INFORMATION

International and Satellite Radio
Applications Accepted for Filing

SEPTEMBER 12, 1977.

The Applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications if, upon further examination, it is determined they are defective and not in conformance with the Commission's rules, regulations and its policies. Final action will not be taken on any of these applications earlier than 31 days following the date of this notice. Section 309(d) (1).

FEDERAL COMMUNICATIONS
COMMISSION,

VINCENT J. MULLINS,
Secretary.

SATELLITE COMMUNICATIONS SERVICES

CORRECTIONS

442-DSE-P/L-77 Matrix Enterprises, Inc., Sugarland, Tenn. Coordinates should have been: Lat. 35°46'16" N., Long. 84°18'41" W.

586-DSE-P/L-77 West Texas Microwave Co., Midland, Tex. Coordinates should have been: Lat. 31°43'44" N., Long. 102°04'55" W.

631-DSE-MP-77 Southland Satellite Services, Inc., Merritt Island, Fla. The correct file number should have been: 631-DSE-P/L-77.

648-DSE-P-77 Memphis Community Television Foundation, Memphis, Tenn. The correct antenna size should have been: 10 meter antenna.

VA 654-DSE-P-77 Blue Ridge ETV Association, Roanoke, Va. For authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 37°14'54" N., Long. 79°58'36" W. Rec. freq: 3700-4200 MHz. Emission 38000P9. With a 10-meter antenna.

IL 655-DSE-P-77 The Board of Trustees of the University of Illinois, Urbana, Ill. For authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 40°06'53" N., Long. 88°13'24" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 10-meter antenna.

WI 656-DSE-P/L-77 WTMJ, Inc., d.b.a. Teltron Cable TV, Wausau, Wis. For authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 44°58'26" N., Long. 89°32'38" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 5-meter antenna.

MO 626-DSE-ML-77 International Telemeter Corp. and Columbia Cablevision, d.b.a. Atco Missouri Earth Station, a joint enterprise, Columbia, Mo. Modification of license to permit the reception of signals of the Christian Broadcasting Network.

[FR Doc.77-26898 Filed 9-14-77;8:45 am]

[FCC 77-617; Docket No. 20981]

IMPACT OF CUSTOMER PROVISION OF TERMINAL EQUIPMENT ON JURISDICTIONAL SEPARATIONS

Second Supplemental Notice

Adopted: September 8, 1977.

Released: September 9, 1977.

1. Presently before the Commission for consideration are: (a) The nomination submitted by the National Association of Regulatory Utility Commissioners (NARUC) of a State Commission member for appointment to this Joint Board; (b) the appointment of a member of this Commission to the Joint Board; and (c) the request to schedule the second formal meeting of the Joint Board.

2. Pursuant to section 410(c) of the Communications Act of 1934, as amended, 47 U.S.C. § 410(c), NARUC has nominated Alexander Kalinski, New Hampshire Public Utilities Commission to fill the vacancy created by resignation of Peter A. Bradford from the Maine Public Utilities Commission. We hereby accept this very competent State Commissioner as a member of the Joint Board. Commissioner Joseph R. Fogarty of this Commission will join the Joint Board to replace Benjamin L. Hooks who has resigned from this Commission.¹

3. Accordingly, it is ordered, That Alexander Kalinski and Joseph D. Fogarty are appointed to the Federal State Joint Board established in Docket No. 20981.

4. It is further ordered, That the second meeting of such Board shall be held on September 22, 1977, at 1:30 p.m. in the offices of this Commission at 1919 M Street NW., in Washington, D.C.

FEDERAL COMMUNICATIONS
COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-26918 Filed 9-14-77;8:45 am]

¹ Commissioner Margita E. White is designated as an alternate to this Joint Board.

FEDERAL ENERGY ADMINISTRATION

CASES FILED WITH THE OFFICE OF EXCEPTIONS AND APPEALS

Week of August 19 Through August 26,
1977

Notice is hereby given that during the week of August 19 through August 26, 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.

¹ APPENDIX.—List of cases received by the Office of Exceptions and Appeals, week of Aug. 19 through Aug. 26, 1977

Date	Name and location of applicant	Case No.	Type of submission
Aug. 10, 1977	First Chemical Corp., Washington, D.C. (If granted: First Chemical Corp. would receive a stay of the provisions under 10 CFR 241.106)(8)(b).)	FES-0069	Request for stay.
Do.....	Rayburn Garage, Columbia, Miss. (If granted: The Rayburn Garage would be supplied motor gasoline by C. C. Sullivan, a Chevron distributor, rather than its base period supplier, the Morris Oil Co.)	FEE-4653	Exception to change suppliers.
Aug. 22, 1977	Arkansas Louisiana Gas Co., Shreveport, La. (If granted: Arkansas Louisiana Gas Co. would receive an extension of the exception relief granted in the FEA's Feb. 18, 1977 decision and order and would be permitted to increase its prices to reflect nonproduct cost increases in excess of \$ 0.05 per gallon incurred in the production of natural gas liquid products at its Bismarck and Waskom plants.)	FXE-4733 FXE-4734	Extension of the relief granted in Arkansas Louisiana Gas Co., Case Nos. FEE-3537 and FEE-3560 (decided Feb. 18, 1977) (unreported decision).
Do.....	Atlantic Richfield Co., Dallas, Tex. (If granted: Atlantic Richfield Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of \$ 0.05 per gallon incurred in the production of natural gas liquid products at its Camargo, Crittendon, Grand Chenier, Indian Basin, and Refugio plants.)	FEE-4701— FEE-4706	Price exception (sec. 212.165).
Do.....	Atlantic Richfield Co., Dallas, Tex. (If granted: Atlantic Richfield Co. would receive an extension of the exception relief granted in the FEA's June 17, 1977, Mar. 31, 1977 and Feb. 22, 1977 decisions and orders and would be permitted to increase its prices to reflect nonproduct cost increases in excess of \$ 0.05 per gallon incurred in the production of natural gas liquid products at its Bayou Sale, Covington, Crane, Dayton, Drumright, Eldorado, Longview, Midland, North Dowden, Neeces River, Price, Seminole, Spivey, Stevens Caldon, and Swanson River plants.)	FXE-4688— FXE-4700	Extension of the relief granted in Atlantic Richfield Co., Case No. FEE-4282 (decided June 17, 1977) (unreported decision), Atlantic Richfield Co., Case Nos. FEE-3747 and FEE-3765 (decided Mar. 31, 1977) (unreported decision), Atlantic Richfield Co., Case No. FEE-3599 (decided Feb. 22, 1977) (unreported decision).
Aug. 22, 1977	Champlin Petroleum Co., Fort Worth, Tex. (If granted: Champlin Petroleum Company would receive an extension of the relief granted in the FEA's March 21, 1977 decision and order and would be permitted to increase its prices to reflect nonproduct cost increases in excess of \$ 0.05 per gallon incurred in the production of natural gas liquid products at its Witcher plant.)	FXE-4664	Extension of the relief granted in Champlin Petroleum Co., Case No. FEE-3704 (decided March 21, 1977) (unreported decision).
Do.....	Cheyenne Airways, Inc., Cheyenne, Wyo. (If granted: Cheyenne Airways, Inc. would be classified as a fixed base operator and would be entitled to certain non-product cost increases.)	FEE-4657	Price exception (sec. 212.93).
Do.....	Crystal Oil Co., Washington, D.C. (If granted: The order issued by the office of regulatory programs on June 17, 1977 would be rescinded and Crystal Oil Co. would not be required to include the crude oil runs to stills at the Adobe Refinery in its calculations for the entitlements program.)	FEA-1438	Appeal of the order issued by Office of Regulatory Programs on June 17, 1977.
Do.....	Funding Systems Corp., Funding Systems Refining Corp., and Funding Systems Leasing Corp., Washington, D.C. (If granted: The Order issued by the Office of Regulatory Programs on June 17, 1977 would be rescinded and Funding Systems Corp., Funding Systems Refining Corp., and Funding Systems Leasing Corp. would be classified as "refiners" as defined in 10 CFR 211.62 and would be permitted to include the crude oil runs to stills at the Adobe Refinery in its calculations for the entitlements program.)	FEA-1439	Do.
Do.....	Charles E. Gould, Wichita, Kans. (If granted: Mr. Gould would receive a temporary stay of a remedial order issued by FEA Region VII on Aug. 8, 1977, pending a determination on his applications for stay and appeal.	FRT-0049	Temporary Stay of FEA Region VII's Remedial Order.
Do.....	Charles E. Gould, Wichita, Kans. (If granted: The remedial order issued by FEA Region VII on Aug. 8, 1977 would be rescinded and Mr. Gould would not be required to refund the overcharges made in sales of crude oil produced from the Lowe Jones property located in Lyon County, Kans.	FRA-1437 FRS-1437	Appeal of the remedial order issued by FEA Region VII on Aug. 8, 1977. Stay Request.

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. FYG,
Acting General Counsel.

SEPTEMBER 8, 1977.

² APPENDIX.—List of cases received by the Office of Exceptions and Appeals, week of Aug. 19 through Aug. 26, 1977—Continued

Date	Name and location of applicant	Case No.	Type of submission
Do.....	William Joseph Kott, Newport, Beach, Calif. (If granted: The 2-load line of credit established between Mr. William Kott and Union Oil Co. during the base period would be reinstated.)	FSG-0654	Petition for special redress.
Do.....	Lyon County Cooperative Oil Co., St. Paul, Minn. (If granted: Lyon County Cooperative Oil Co. would receive a stay of a remedial order issued to the firm by FEA Region V on July 25, 1977 pending a determination of its appeal.)	FRE-1428	Stay of the remedial order issued by FEA Region V on July 25, 1977.
Do.....	McAlester Fuel Co., Magnolia, Ark. (If granted: McAlester Fuel Co. would be permitted to sell the crude oil produced from the New Mexico Federal "A" Lease in Lea County, N. Mex., at prices in excess of the lower tier ceiling price.)	FEE-4655	Price exception (sec. 212.73).
Do.....	M. J. Mitchell, Dallas, Tex. (If granted: M. J. Mitchell would receive an extension of the relief granted in the Feb. 25, 1977 decision and order and would be permitted to sell the crude oil produced from the Pickrel Ranch Mineralium Sand Unit in Campbell County, Wyo., at upper tier ceiling prices.)	FXE-4656	Extension of the relief granted in <i>M. J. Mitchell</i> , 5 FEA par. 83,078 (Feb. 25, 1977).
Do.....	Mobil Oil Corp., New York, N.Y. (If granted: Mobil Oil Corp. would receive an extension of the relief granted in the FEA's Apr. 1, 1977 and Mar. 4, 1977 decisions and orders and would be permitted to increase its prices to reflect nonproduct cost increases in excess of \$3.005 per gallon incurred in the production of natural gas liquid products at its Burnell-North Pettus, Chitwood, Dardemona, Dollanide, Electra, Hickok, Kermil, Kettleman North Dome, Nussers, Pegasus, Phillips Bradley, Rio Bravo, Shelem Alesham, Slaughter, and West Seminole plants.)	FXE-4713— FXE-4737	Extension of the relief granted in <i>Mobil Oil Corp.</i> , Case No. FEE-3674 (decided Mar. 4, 1977) (unreported decision), <i>Mobil Oil Corp.</i> , Case Nos. FXE-3680 and FXE-3698 (decided Apr. 1, 1977) (unreported decision).
Do.....	Shell Oil Co., Houston, Tex. (If granted: Shell Oil Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of \$3.005 per gallon incurred in the production of natural gas liquid products at its Enville, Fasing, Iowa Tet and Laverne plants.)	FEE-4682— FEE-4985	Price exception (sec. 212-165).
Do.....	Shell Oil Co., Houston, Tex. (If granted: Shell Oil Co. would receive an extension of the relief granted in the FEA's June 17, 1977, Mar. 21, 1977 and Mar. 11, 1977 decisions and orders and would be permitted to increase its prices to reflect nonproduct cost increases in excess of \$3.005 per gallon incurred in the production of natural gas liquid products at its Bayou Goula, Black Bayou, Bryans Mills, Canargo, Chalkley, KNDU Lirette, Mermentau, O'Keene, Prentice, Red Fish Bay, Selling, Tallahala, TXI, VAN, Weeks Island, and West Seminole plants.)	FXE-4665— FXE-4981	Extension of the relief granted in <i>Shell Oil Co.</i> , Case No. FEE-4228 (decided June 17, 1977) (unreported decision), <i>Shell Oil Co.</i> , Case Nos. FEE-3804, FEE-3803 through FEE-3819 (decided Mar. 11, 1977) (unreported decision), <i>Shell Oil Co.</i> , Case Nos. FEE-3780 through FEE-3880 (decided Mar. 21, 1977) (unreported decision).
Do.....	Standard Oil Co. of Indiana, Chicago, Ill. (If granted: Standard Oil Co. of Indiana would receive an extension of the relief granted in the FEA's Mar. 4, 1977 and Mar. 31, 1977 decisions and orders and would be permitted to increase its prices to reflect nonproduct cost increases in excess of \$3.005 per gallon incurred in the production of natural gas liquid products at its Beaver Creek, Kinsler, Midland Farms, Peoria, and South Pullerton plants.)	FXE-4639— FXE-4693	Extension of the relief granted in <i>Standard Oil Co. (Indiana)</i> , case No. FEE-3639 (decided Mar. 4, 1977) (unreported decision), <i>Standard Oil Co. (Indiana)</i> , case Nos. FEE-3811 through FEE-3823 (decided Mar. 31, 1977) (unreported decision).
Do.....	John W. Yerby, El Paso, Tex. (If granted: The service station recently leased by Mr. Yerby would be supplied motor gasoline by Chevron Oil rather than through the previous lessee, Piggy Bank Stations, Inc.)	FEE-4654	Exception to change suppliers.
Aug. 23, 1977	Coastal States Gas Corp., Houston, Tex. (If granted: Coastal States Gas Corp. would receive an extension of the exception relief granted in the FEA's May 13, 1977 decision and order and would be permitted to increase its prices to reflect nonproduct cost increases in excess of \$3.005 per gallon incurred in the production of natural gas liquid products at its Hidalgo plant.)	FXE-4735	Extension of the relief granted in <i>Coastal States Gas Corp.</i> , Case No. FEE-3982 (decided May 13, 1977) (unreported decision).
Do.....	Robert E. Davis, Great Bend, Kans. (If granted: The remedial order issued by FEA Region VII on July 13, 1977 would be rescinded and Mr. Davis would not be required to refund overcharges made in sales of crude oil produced from the Gartung lease located in Stafford County, Kans.)	FRA-1440 FRS-1440	Appeal of the remedial order issued by FEA Region VII on July 13, 1977. Stay request.
Do.....	Exxon International Co., New York, N.Y. (If granted: The FEA's information request denial issued on July 27, 1977 would be rescinded and Exxon International Co. would receive access to information on the purchase of commercial turbo fuel in 1976 by a number of air carriers.)	FFA-1441	Appeal of FEA's July 27, 1977 information request denial.
Do.....	Hank Martell Oil Co., Hamilton, Kans. (If granted: The Hank Martell Oil Co.'s Bennett Lease, located in Jackson County, Kans., would be classified as a stripper well property.)	FEE-4729	Price exception (sec. 212.73)
Do.....	Mountain West Aviation, Aspen, Colo. (If granted: Mountain West Aviation would be permitted to increase its prices for aviation gasoline and fuel above the maximum levels allowed the firm under the FEA Mandatory Petroleum Price Regulations.)	FEE-4728	Price exception (sec. 212.93).
Do.....	"STIX" Gas Co., Inc., Sinton, Tex. (If granted: "STIX" Gas Co., Inc. would be permitted to retroactively increase its prices for diesel fuel above the maximum levels allowed the firm under the FEA Mandatory Petroleum Price Regulations.)	FEE-4658	Do.

APPENDIX.—List of cases received by the Office of Exceptions and Appeals, week of Aug. 19 through Aug. 26, 1977—Continued

Date	Name and location of applicant	Case No.	Type of submission
Do.....	Wel-Gas, Inc. of Texas, Dallas, Tex. (If granted: Wel-Gas, Inc. of Texas would receive an extension of the exception relief granted in the FEA's July 25, 1977 decision and order and would be permitted to increase its prices to reflect nonproduct cost increases in excess of \$0.005 per gallon incurred in the production of natural gas liquid products at its Possin Kingdom Plant.)	FXE-4736	Extension of the relief granted in Wel-Gas, Inc., Case No. FEE-4282 (decided July 25, 1977) (unreported decision).
Do.....	Wilson Oil Co., Wabasha, Minn. (If granted: The remedial order issued by FEA Region V on Aug. 10, 1977 would be rescinded and Wilson Oil Co. would not be required to refund any overcharges made in its sales of motor gasoline and fuel oil.)	FRA-1442	Appeal of the remedial order issued by FEA Region V on Aug. 10, 1977.
Aug. 24, 1977	Champlin Petroleum Co., Fort Worth, Tex. (If granted: Champlin Petroleum Co. would receive an exception from the provisions of 10 CFR 211.67 to permit the firm to receive on a one-time basis additional entitlements sufficient to offset the additional cost incurred by the firm as it increases its crude oil inventory as required by Champlin's expanded refinery facilities.)	FEE-4730	Exception to the entitlements program (sec. 211.67).
Do.....	Cities Service Oil Co., Boston, Mass. (If granted: The remedial order issued by FEA Region I on Aug. 5, 1977 would be rescinded and Cities Service Oil Co. would not be required to maintain its supplier/wholesale purchaser relationship with Charles G. Marsland d.b.a. Muggsy and Chuck's Citgo.)	FRA-1443	Appeal of the remedial order issued by FEA Region I on Aug. 5, 1977.
Do.....	Leonard E. Belcher, Inc., Springfield, Mass. (If granted: The remedial order issued by FEA Region I on July 18, 1977 would be rescinded and Leonard E. Belcher, Inc. would not be required to refund overcharges made in sales of No. 2 fuel oil.)	FRA-4414	Appeal of the remedial order issued by FEA Region I on July 18, 1977.
Do.....	Mobil Oil Corp., New York, N.Y. (If granted: Mobil Oil Corp. would be permitted to increase its prices to reflect nonproduct cost increases in excess of \$0.005 per gallon for natural gas liquid products produced at its Cameron, Dewey County, Indian Basin, Shell-Seiling, South Sarapta, Spivey, and Tennessee-Annes plants.)	FEE-4706— FEE-4712	Price exception (sec. 212-165).
Do.....	Rancho Refining Co. of Texas, Houston, Tex. (If granted: Rancho Refining Co. would receive a stay of the firm's entitlements purchase obligations specified in the FEA Entitlements Notice published Aug. 24, 1977, pending corrective adjustments to be made by the Office of Regulatory Programs.)	FES-0104	Stay of the June entitlements notice published Aug. 24, 1977.
Do.....	Tennessee Oil Co., Houston, Tex. (If granted: Tennessee Oil Co. would receive an extension of the exception relief granted in the FEA's Feb. 25, 1977 decision and order and would be permitted to increase its prices to reflect nonproduct cost increases in excess of \$0.005 per gallon incurred in the production of natural gas liquid products at its Chesterville, Dover Hennessey, La Porte, Lake Bouef, Leabo, Mayfield, Mermentau, Normaona, Nueces River, Sea Robin, South Fullerton, Stephens, and Ward Plants.)	FXE-4736— FXE-4749	Extension of the relief granted in Tennessee Oil Co., Case Nos. FEE-3600 through FEE-3614 (decided Feb. 25, 1977) (unreported decision).
Aug. 25, 1977	Cities Service Oil Co., Tulsa, Okla. (If granted: The remedial order issued by FEA Region I on Aug. 12, 1977 would be rescinded and Cities Service Oil Co. would not be required to maintain its supplier/wholesale purchaser relationships with Fred's Citgo, John Buckley's Garage and Ted's Service Station.)	FRA-1444	Appeal of the remedial order issued by FEA Region I on Aug. 12, 1977.
Do.....	Midway Petroleum, Inc., Dundalk, Md. (If granted: Midway Petroleum, Inc. would be assigned a new supplier of motor gasoline to replace its base period supplier, the Petroleum Marketing Corp.)	FEE-4731	Exception to change suppliers.
Do.....	O'Meara Bros., New Orleans, La. (If granted: O'Meara Bros. would be permitted to sell crude oil produced from the Vinton Production Co. Lease located in Calcasieu Parish, La. at prices in excess of the lower tier ceiling price.)	FEE-4732	Price exception (sec. 212-73).
Do.....	O'Meara Bros., New Orleans, La. (If granted: The O'Meara Bros. would be permitted to sell the crude oil produced from the Louisiana State Lease 2152 at prices in excess of the lower tier ceiling prices.)	FEE-4750	Do.
Aug. 26, 1977.	U.S. Department of the Interior (Mariana Islands), Washington, D.C. (If granted: The provisions of a June 28, 1977 decision and order which permitted sales of residual fuel oil made by the Guam Oil & Refining Co. to the Government of the Northern Mariana Islands to be deemed to be sales made within the United States for purposes of 10 CFR 211.67(d)(2) [the old oil entitlements program] would be made retroactive to Apr. 1, 1976.)	FXA-1445	Appeal of the decision and order in U.S. Dept. of Interior for Government of Northern Mariana Islands, 6 FEA par. 83,026 (June 28, 1977).

[FR Doc.77-26614 Filed 9-14-77; 8:45 am]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Issuance of Notice of Effectiveness to Make Effective Previously Issued Prohibition Order

Pursuant to Section 2 of the Energy Supply and Environmental Coordination Act of 1974 (ESECA), as amended, 15 U.S.C. 791 et seq., and 10 CFR 303.37(d), the Federal Energy Administration (FEA) hereby gives notice that on Au-

gust 15, 1977, it issued a Notice of Effectiveness making effective the Prohibition Order previously issued on June 30, 1975 (40 FR 28430, July 3, 1975), to the below listed powerplants. The Notice of Effectiveness was issued under the authorities granted to FEA by Section 2 of the Energy Supply and Environmental Coordination Act of 1974, as amended, and pursuant to 10 CFR Parts 303 and 305.

Docket No.	Owner	Powerplant No.	Generating station	Location
OFU-022 FUO-023	Nebraska Public Power District...	1 and 2.....	Sheldon.....	Columbus, Nebr.

The Prohibition Order issued by FEA on June 30, 1975, to the above listed powerplants prohibits the powerplants from burning natural gas or petroleum products as their primary energy source. In accordance with the requirements of 10 CFR Parts 303 and 305, however, the order provided it would not become effective until FEA had considered the environmental impact of the order and until FEA had served the affected powerplants with a Notice of Effectiveness.

Subsequent to issuance of the Prohibition Order, FEA performed an analysis pursuant to 10 CFR 305.9 and 208.3, of the environmental impact of the issuance of the Notice of Effectiveness, including an assessment of the EPA Notifications dated December 15, 1976, for Number 1 and May 19, 1976, for Number 2, pursuant to Section 119(d)(1)(B) of the Clean Air Act, that these powerplants could burn coal on September 22, 1976, and April 8, 1976, respectively, and comply with all applicable air pollution requirements. That analysis resulted in a determination that it is clear that issuance of the Notice of Effectiveness making this Prohibition Order effective is not a "major Federal action significantly affecting the quality of the human environment" within the meaning of Section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C). Public notice of the negative determination and of the availability for inspection of this analysis was given in the FEDERAL REGISTER published May 23, 1977, in accordance with 10 CFR 208.4(c) and 208.15(a).

Upon completion of this environmental analysis, FEA issued a Notice of Effectiveness of the June 30, 1975, Prohibition Order to the above listed powerplants and served the Notice on the powerplants by registered mail on the same day. The Notice makes effective the Prohibition Order, prohibiting the powerplants from burning natural gas or petroleum products as their primary energy source.

Any person aggrieved by the now effective Prohibition Order may file an appeal with the FEA Office of Exceptions and Appeals in accordance with 10 CFR Part 303, Subpart H. The appeal shall be filed within 30 days after service of the Notice of Effectiveness. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant

to Subpart H of Part 303, and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Application may be made for modification or rescission of the Prohibition Order in accordance with the provisions of 10 CFR Part 303, Subpart J. An application for modification or rescission of a Prohibition Order based on "significantly changed circumstances," which circumstances occurred during the interval between issuance of the order and service of the Notice of Effectiveness, shall be filed within 30 days of service of such Notice. An application for modification or rescission of a Prohibition Order based on significantly changed circumstances occurring after that interval may be filed at any time after service of the Notice of Effectiveness.

All terms and conditions of the Prohibition Order and the Notice of Effectiveness may be the subject of either an appeal or an application for modification or rescission.

The Order made effective by the Notice of Effectiveness is effective against any persons that, as of the date of service of such Notice, own, lease, operate, or control the above listed powerplants and against any successors-in-interest or assignees of such persons.

The above listed powerplants have been served the Notice of Effectiveness by registered mail. In addition, copies of the document will be available for inspection by any interested members of the public at the FEA public docket room located in Room B-120, 2000 M Street N.W., Washington, D.C., from 1-5 p.m., Monday-Friday. Copies will also be available in the appropriate FEA regional office. The negative determination and environmental analyses are available upon request from the FEA National Energy Information Center, Room 1404, 12th Street and Pennsylvania Avenue N.W., Washington, D.C. 20461. Copies of the documents are also available for public review in the FEA Freedom of Information Reading Room, Room 2107, 12th and Pennsylvania Avenue N.W., Washington, D.C.

Any questions regarding this notice should be directed to the Director, Office of Coal Utilization, Federal Energy Administration, 12th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20461 (202-566-7941).

Issued in Washington, D.C., September 10, 1977.

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

[FR Doc.77-26784 Filed 9-14-77;8:45 am]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Issuance of Notice of Effectiveness To Make Effective Previously Issued Prohibition Order

Pursuant to Section 2 of the Energy Supply and Environmental Coordination

Docket No.	Owner	Powerplant No.	Generating station	Location
OFU-061 OFU-062 OFU-063	Carolina Power & Light Co.	1, 2, and 3.	Sutton.	Wilmington, N.C.

The Prohibition Order issued by FEA on June 30, 1975, to the above listed powerplants prohibits the powerplants from burning natural gas or petroleum products as their primary energy source. In accordance with the requirements of 10 CFR Parts 303 and 305, however, the order provided it would not become effective until FEA had considered the environmental impact of the order and until FEA had served the affected powerplants with a Notice of Effectiveness.

Subsequent to issuance of the Prohibition Order, FEA performed an analysis pursuant to 10 CFR 305.9 and 208.3, of the environmental impact of the issuance of the Notice of Effectiveness, including an assessment of the EPA Notification dated August 25, 1976, and the EPA Certification dated December 17, 1976, pursuant to Section 119(d) (1) (B) of the Clean Air Act, that July 20, 1976, was the earliest date that powerplants Number 1 and 2 could burn coal and comply with all applicable air pollution requirements, and that February 1, 1977, was the earliest date that powerplant Number 3 could burn coal and comply with the applicable regional limitation. That analysis resulted in a determination that it is clear that issuance of the Notice of Effectiveness making this Prohibition Order effective is not a "major Federal action significantly affecting the quality of the human environment" within the meaning of Section 102(2) (C) of the National Environmental Policy Act, 42 U.S.C. 4332(2) (C). Public notice of the negative determination and of the availability for inspection of this analysis was given in the FEDERAL REGISTER published July 1, 1977, in accordance with 10 CFR 208.4(c) and 208.15(a).

Upon completion of this environmental analysis, FEA issued a Notice of Effectiveness of the June 30, 1975, Prohibition Order to the above listed powerplants and served the Notice on the powerplants by registered mail on the same day. The Notice makes effective the Prohibition Order, prohibiting the powerplants from burning natural gas or petroleum products as their primary energy source.

Act of 1974 (ESECA), as amended, 15 U.S.C. 791 et seq., and 10 CFR 303.37(d), the Federal Energy Administration (FEA) hereby gives notice that on August 15, 1977, it issued a Notice of Effectiveness making effective the Prohibition Order previously issued on June 30, 1975 (40 FR 28430, July 3, 1975), to the below listed powerplants. The Notice of Effectiveness was issued under the authorities granted to FEA by Section 2 of the Energy Supply and Environmental Coordination Act of 1974, as amended, and pursuant to 10 CFR Parts 303 and 305.

Any person aggrieved by the now effective Prohibition Order may file an appeal with the FEA Office of Exceptions and Appeals in accordance with 10 CFR Part 303, Subpart H. The appeal shall be filed within 30 days after service of the Notice of Effectiveness. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H of Part 303, and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Application may be made for modification or rescission of the Prohibition Order in accordance with the provisions of 10 CFR Part 303, Subpart J. An application for modification or rescission of a Prohibition Order based on "significantly changed circumstances," which circumstances occurred during the interval between issuance of the order and service of the Notice of Effectiveness, shall be filed within 30 days of service of such Notice. An application for modification or rescission of a Prohibition Order based on significantly changed circumstances occurring after that interval may be filed at any time after service of the Notice of Effectiveness.

All terms and conditions of the Prohibition Order and the Notice of Effectiveness may be the subject of either an appeal or an application for modification or rescission.

The order made effective by the Notice of Effectiveness is effective against any persons that, as of the date of service of such Notice, own, lease, operate, or control the above listed powerplants and against any successors-in-interest or assignees of such persons.

The above listed powerplants have been served the Notice of Effectiveness by registered mail. In addition, copies of the document will be available for inspection by any interested members of the public at the FEA public docket room located in Room B-120, 2000 M Street NW., Washington, D.C., from 1-5 p.m., Monday-Friday. Copies will also be available in the appropriate FEA regional office. The negative determination and environmental analyses are avail-

able upon request from the FEA National Energy Information Center, Room 1404, 12th Street and Pennsylvania Avenue NW., Washington, D.C. 20461. Copies of the documents are also available for public review in the FEA Freedom of Information Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C.

Any questions regarding this notice should be directed to the Director, Office of Coal Utilization, Federal Energy Administration, 12th Street and Pennsylvania Avenue, NW., Washington, D.C. 20461, 202-566-7941.

Issued in Washington, D.C., September 10, 1977.

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

[FR Doc.26785 Filed 9-14-77;8:45 am]

PHILLIPS PETROLEUM CO.

Proposed Consent Order

I. INTRODUCTION

Pursuant to 10 CFR 205.197(c), the Federal Energy Administration (FEA) hereby gives Notice of a Consent Order which was executed between Phillips Petroleum Co. (Phillips) and the Federal Energy Administration (FEA) on August 5, 1977. In accordance with that Section, FEA will receive comments with respect to this Consent Order. Although FEA has signed and tentatively accepted this Consent Order, FEA may, after consideration of comments received, withdraw its acceptance and, if appropriate, attempt to negotiate an alternative Consent Order.

II. THE CONSENT ORDER

Phillips Petroleum Co., with its executive office located in Bartlesville, Okla., is an integrated refiner engaged in the production of crude oil and refining and marketing of petroleum products subject to FEA Regulations.

As a result of an audit conducted by FEA of Phillips' business practices in its sales of No. 2 heating oil and kerosene to Union Petroleum Corp. (Union), Revere, Mass. for the periods of January through May for the years 1974, 1975, and 1976, FEA advised Phillips that Phillips improperly removed Union from its rightful class of purchaser and placed Union in an improper class of purchaser resulting in Phillips charging prices to Union in excess of those permitted by and in violation of the price rule then contained in 10 CFR 212.82 (prior to its amendment on April 12, 1976), and that Phillips failed to deal with Union in accordance with "normal business practices," in violation of 10 CFR 210.62.

In resolution of the issues raised by the audit results, FEA and Phillips executed a Consent Order on August 5, 1977, the significant terms of which are as follows:

(1) Phillips, within 30 days of the effective date of the Consent Order, will refund to Union \$977,890.54 plus interest.

(2) The provisions of 10 CFR 205.197, including the publication of this Notice, are applicable to the Consent Order.

Further, FEA will issue an Ancillary Order to the Consent Order to Union requiring Union to recompute its increased product costs and redetermine its maximum allowable sales prices for No. 2 heating oil and kerosene by taking into account the refund it shall receive from Phillips as a reduction in cost ab initio. Union shall then make appropriate refunds to its customers.

III. SUBMISSION OF WRITTEN COMMENTS

Interested persons are invited to comment on this Consent Order by submitting such comments in writing to Mr. Wayne Gifford, Deputy Regional Administrator for Compliance, Region VI, Federal Energy Administration, P.O. Box 35228, Dallas, Tex. 75235. Copies of this Consent Order may be received free of charge by written request to this same address or by calling 214-749-7626.

Comments should be identified on the outside of the envelope and on documents submitted with the designation, "Comments on Phillips Consent Order". All comments received by 4:30 CDT, on or before October 17, 1977, will be considered by FEA in evaluating the Consent Order.

Any information or data which, in the opinion of the persons furnishing it, is confidential must be identified as such, and submitted in accordance with the procedures outlined in 10 CFR 205.9(f).

Issued in Washington, D.C. September 10, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc. 26788 Filed 9-14-77; 8:45 am]

STATE ENERGY CONSERVATION PLANS

Negative Determination of Environmental Impact; Vermont, Maryland, Kentucky, South Carolina, Kansas and Nebraska Energy Conservation Plans

Pursuant to 10 CFR 208.4, the Federal Energy Administration hereby gives notice that it has performed an analysis and review of the environmental impacts associated with the provision of Federal financial assistance for the implementation, by the States of Vermont, Maryland, Kentucky, South Carolina, Kansas and Nebraska, of their State Energy Conservation Plans. Federal funding is authorized by Part C of Title III of the Energy Policy and Conservation Act, 42 U.S.C. 6321, et seq.

Based upon assessment of environmental impacts that are expected to result from implementation of these plans, the FEA has determined that Federal financial assistance will not be a "major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C). Therefore, pursuant to 10 CFR 208.4(c), the Federal Energy Administration has determined that an environmental im-

pact statement is not required for these plans.

Single copies of the environmental assessments of the State Plans for Vermont, Maryland, Kentucky, South Carolina, Kansas and Nebraska are available upon request from the FEA National Energy Information Center, Room 1406, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Copies of the environmental assessments will also be available for public review in the Federal Energy Administration Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Copies of the State Plans are available for public review in the Office of State Energy Conservation Programs, Room 6437, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Interested persons are invited to submit data, views or arguments with respect to the environmental assessments to Executive Communications, Box PJ, Room 3317, Federal Energy Administration, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation, "Environmental Assessment—(Name of State) Energy Conservation Plan." Fifteen copies should be submitted. All comments should be received by FEA by 4:30 p.m. e.d.s.t., September 26, 1977, in order to receive full consideration.

Any information or data considered by the person submitting it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., September 10, 1977.

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

[FR Doc. 77-26786 Filed 9-14-77; 8:45 am]

STATE ENERGY CONSERVATION PLANS

Negative Determination of Environmental Impact; New Hampshire, Puerto Rico, Delaware, Alabama, Florida, Mississippi, and Missouri Energy Conservation Plans

Pursuant to 10 CFR 208.4, the Federal Energy Administration (FEA) hereby gives notice that it has performed an analysis and review of the environmental impacts associated with the provision of Federal financial assistance for the implementation, by the States of New Hampshire, Puerto Rico, Delaware, Alabama, Florida, Mississippi, and Missouri, of their State Energy Conservation Plans. Federal funding is authorized by Part C of Title III of the Energy Policy and Conservation Act, 42 U.S.C. 6321, et seq.

Based upon assessment of environmental impacts that are expected to result from implementation of these plans,

the FEA has determined that Federal financial assistance will not be a "major Federal action significantly affecting the quality of the human environment" within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C). Therefore, pursuant to 10 CFR 208.4(c), the FEA has determined that an environmental impact statement is not required for these plans.

Single copies of the environmental assessments of the State plans for New Hampshire, Puerto Rico, Delaware, Alabama, Florida, Mississippi, and Missouri are available upon request from the FEA National Energy Information Center, Room 1406, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Copies of the environmental assessments will also be available for public review in the FEA Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Copies of the State plans are available for public review in the Office of State and Local Programs, Room 6436, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Interested persons are invited to submit data, views or arguments with respect to the environmental assessments to Executive Communications, Box PM, Room 3317, Federal Energy Administration, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation, "Environmental Assessment—(Name of State) Energy Conservation Plan." Fifteen copies should be submitted. All comments should be received by FEA by 4:30 p.m. e.d.s.t., September 26, 1977, in order to receive full consideration.

Any information or data considered by the person submitting it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., September 10, 1977.

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

[FR Doc. 77-26787 Filed 9-14-77; 8:45 am]

STRATEGIC PETROLEUM RESERVE

Notice of Availability of the Draft Environmental Impact Statement for the Texoma Group of Storage Sites

Pursuant to section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C), the Federal Energy Administration (FEA) has prepared a draft environmental impact statement (EIS) on the proposed storage of crude oil at the Texoma group of storage sites.

The Texoma group of storage sites has been proposed as a key element of the Strategic Petroleum Reserve. The Re-

serve mandated by Part B of Title I, Energy Policy and Conservation Act, 42 U.S.C. 6231-6246) will be created for the storage of crude oil and/or petroleum products for use in the event of a Presidential determination of a severe energy supply interruption or a requirement to meet the obligations of the United States under the International Energy Program.

Single copies of the Texoma draft EIS (DES 77-8) may be obtained from the National Energy Information Center, Room 1404, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461. Copies of this draft EIS will also be available for public review in the FEA Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, between 8:00 a.m. and 4:30 p.m., Monday through Friday except Federal holidays.

Interested persons are invited to submit data, views, and arguments with respect to this EIS to Executive Communications, Box PN, Room 3317, Federal Energy Administration, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on the documents submitted to FEA Executive Communications with the designation "Texoma Draft EIS (DES77-8)." Fifteen copies should be submitted.

All comments should be received by FEA by October 31, 1977, in order to receive full consideration.

Any information or data, submitted in response to the Texoma draft EIS, considered by the person furnishing it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., on September 12, 1977.

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

[FR Doc.77-26924 Filed 9-14-77;8:45 am]

FEDERAL MARITIME COMMISSION

STRAITS/NEW YORK CONFERENCE

Notice of 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, La., San Francisco, Calif., and San Juan, P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Com-

mission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. 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:

Henry Noon & Co., Secretaries, Straits/New York Conference, P.O. Box No. 247, Ocean Building (18th Floor), Collyer Quay, Singapore 1.

Agreement No. 6010-21, entered into by the member lines of the Straits/New York Conference, modifies Article 15, entitled, "Nonconference Representation" whereby all references therein to "Port Swettenham" are changed to read "Port Kelang".

By Order of the Federal Maritime Commission.

Dated: September 9, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-26919 Filed 9-14-77;8:45 am]

UNITED STATES LINES, INC. AND OCEANIA LINE INC.

Notice of 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, La., San Francisco, Calif. and San Juan, P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before October 5, 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:

Mr. Jos. J. Panelli, Division Manager, Pricing and Conference Affairs, United States Lines, Inc., 1579 Middle Harbor Road, Oakland, Calif. 94607.

Agreement No. 10309, a cooperative working arrangement entered into between United States Lines, Inc., and Oceania Line, Inc., provides for the leasing of United States Lines' containers, chassis and other container equipment by Oceania Line, Inc., when performing interchanges at the Port of Guam, Mariana Islands. Such equipment shall be used by Oceania Line, Inc., in services between Guam, Mariana Islands, and the Trust Territory areas of the Mariana and Caroline Islands, in accordance with the terms and conditions set forth in the agreement.

By Order of the Federal Maritime Commission.

Dated: September 9, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-26920 Filed 9-14-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. RI77-120]

AMERICAN PETROFINA COMPANY OF TEXAS

Petition for Special Relief

SEPTEMBER 8, 1977.

Take notice that on August 29, 1977, American Petrofina Company of Texas (Petitioner), P.O. Box 2159, Dallas, Tex. 75221, in Docket No. RI77-120 filed a petition for special relief pursuant to section 2.76 of the Commission's General Policy and Interpretations (18 C.F.R. § 2.76). Petitioner requests an increase in rate from 28.7493 cents per Mcf to \$1.619810 per Mcf at 14.73 psia for natural gas sales to Texas Gas Transmission Corp. from the Lake Palourde Field, St. Martin Parish, La. Petitioner proposes to undertake new investment in order to improve the recovery of gas from the subject well.

Any person desiring to be heard or to make any protest with reference to said petition should on or before September 30, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein,

must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26834 Filed 9-14-77;8:45 am]

[Docket No. R177-115]

ART MACHIN & ASSOCIATES, INC.
Petition for Special Relief

SEPTEMBER 8, 1977.

Take notice that on July 18, 1977, as supplemented on August 19, 1977, Art Machin & Associates, Inc. (Petitioner), P.O. Box 1069, Longview, Tex. 75601, filed a petition for special relief seeking an increase in rate for natural gas sales to United Gas Pipe Line Co. from the G. A. Kelly Well No. 1, Willow Springs Field, Gregg County, Tex. Petitioner seeks an increase from the current rate of 41 cents per Mcf to a rate of 73.69 cents per Mcf. Petitioner states that the requested rate will provide adequate incentive to perform a work-over which would enhance production from the subject well.

Any person desiring to be heard or to make any protest with reference to said petition should on or before September 30, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26835 Filed 9-14-77;8:45 am]

[Docket No. ER76-556]

BOSTON EDISON CO.

Filing of Compliance Report and Supplement to Settlement Rate Schedule

SEPTEMBER 9, 1977

Take notice that Boston Edison Co. ("Edison"), on August 31, 1977, filed a refund compliance report as required by the Commission's order of July 20, 1977 in the captioned proceeding and a supplement to the settlement rate schedule approved by that Commission order. Edison indicates that the rate schedule supplement has the effect of applying certain provisions of the settlement to an additional transaction between the parties to the settlement, Edison and Braintree Electric Light Department, Mass.

Edison states that copies of the filing were served upon the parties to Docket No. ER76-556 including Braintree and the Massachusetts Department of Public Utilities. According to Edison, the filing was made with the consent and support of Braintree.

Any person desiring to be heard or to protest said application should file a 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 protests should be filed on or before September 22, 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. Copies of this application are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26838 Filed 9-14-77;8:45 am]

[Docket No. ER77-574]

CENTRAL VERMONT PUBLIC SERVICE CORP.

Proposed Tariff Change

SEPTEMBER 9, 1977.

Take notice that Central Vermont Public Service Corp. (Company) on August 31, 1977, tendered for filing proposed changes in its FPC Electric Service Rate Schedules Nos. 88 and 92. Company states that the proposed changes would increase revenues from jurisdictional sales and service by \$8,004 for the 12-month period ending October 31, 1977.

Company indicates that the change is proposed in accordance with Article V of the Company's agreements with the Vermont Electric Cooperative, Inc., and the Lyndonville Electric Department which provides that charges will be updated annually to incorporate the Company's purchased power cost experience for the preceding twelve months ending April and the Company's capacity cost associated with the company-owned generating facilities for the preceding calendar year.

According to Company, copies of the filing were served upon the Company's affected jurisdictional customers and the Vermont Public Service Board.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 19, 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.77-26845 Filed 9-14-77;8:45 am]

[Docket No. ER77-575]

CENTRAL VERMONT PUBLIC SERVICE CORP.

Proposed Tariff Change

SEPTEMBER 9, 1977.

Take notice that Central Vermont Public Service Corp. (Company) on August 31, 1977, tendered for filing proposed changes in its FPC Electric Service Rate Nos. 89 and 93. The Company indicates that the proposed changes would decrease revenues from jurisdictional sales and service by \$2,279 for the 12-month period ending October 31, 1977.

The Company states that the change is proposed in accordance with the provisions of Article VIII, as amended, of the Company's transmission service agreements with the Vermont Electric Cooperative, Inc., and the Lyndonville Electric Department, which provides that charges will be updated annually to incorporate the Company's cost experience for the preceding calendar year.

According to the Company, copies of the filing were served upon the Company's affected jurisdictional customers and the Vermont Public Service Board.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 19, 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.77-26846 Filed 9-14-77;8:45 am]

[Project No. 2795]

CITY OF SEATTLE, WASH.

Notice Granting Intervention

SEPTEMBER 7, 1977.

The National Marine Fisheries Service (NMFS) and the Sauk-Suiattle Tribe, Upper Skagit Tribe, and Swinomish Tribal Community (Tribes), on August 1, 1977; the U.S. Department of the Interior (Interior) on August 2, 1977; and the State of Washington Departments of Fisheries and Game, on July 22, 1977; filed petitions to intervene respecting the application by the city of Seattle for a preliminary permit for the proposed Copper Creek Project, FPC No. 2795. The project would be located on the Skagit River, in Skagit and Whatcom Counties, Washington, about 10 miles below the applicant's existing Skagit River Project, FPC No. 553.

NMFS states that it is the department of the Federal Government entrusted

with jurisdiction over food fish and marine recreational resources in and adjacent to the waters of the United States. It states further that the Skagit River System supports a major anadromous fishery resource providing substantial commercial and recreational benefits to citizens of the United States, and alleges the proposed Copper Creek Project will significantly affect this resource. NMFS requests that it be made a party to the proceeding so that it may participate in the determination of the impacts of the proposed project on the fishery resource and the programs necessary for protection, maintenance, and enhancement of this resource.

The Tribes state that they are federally recognized Indian Tribes holding adjudicated treaty rights to take anadromous fish throughout the Skagit River System and in Marine areas dependent on the Skagit System. They allege that construction of the project will cause serious impacts to the fishery at the site, and also downstream, causing irretrievable and irreplaceable losses of fish which constitute a direct violation of treaty rights. The Tribes request intervention in order to protect these rights and interests.

Interior cites its statutory authority over the fish, shellfish, and wildlife resources of the Nation, its trust responsibility for Indians, and also its authority over the Ross Lake National Recreation Area within which the project would be located. Interior notes the impacts which the project may have upon these various resources and requests intervention to assist the Commission in conditioning the preliminary permit to avoid conflicts with the Wild and Scenic Rivers Act and to ensure that proper baseline studies are undertaken.

Fisheries and Game assert their respective jurisdiction over the food fish resources, and game fish and wildlife resources, of the State of Washington. Fisheries and Game allege that the construction and operation of the project would damage the above noted resources both at, and downstream from, the project site. Intervention is requested to participate in the planning and conduct of studies to identify the project's impacts and to assert claims for measures to avoid losses to the aforesaid resources and for mitigation and enhancement measures where losses are unavoidable.

The applicant filed an answer to all the petitions to intervene on August 16, 1977. Applicant notes the limited purpose of a preliminary permit and thusly states that the interventions do not appear necessary or appropriate, particularly because of its intention to consult with these agencies during the course of its studies. While not conceding any jurisdictional assertions made by the Tribes, Applicant further states that it will cooperate with them in the course of its preliminary studies and examinations.

Pursuant to section 3.5(a)(30) of the Commission's general rules as promulgated by Order No. 557 (issued December 10, 1976), the National Marine Fish-

eries Service, the Sauk-Suiattle Tribe, the Upper Skagit Tribe, the Swinomish Tribal Community, the U.S. Department of the Interior, and the State of Washington Departments of Fisheries and Game are hereby permitted to intervene in the above-referenced proceeding subject to the rules and regulations of the Commission: *Provided, however*, That participation by the intervenors shall be limited to the matters affecting asserted rights and interests specifically set forth in the petition to intervene; *And provided further*, That the admission of such parties shall not be construed as recognition by the Commission that they might be aggrieved by any order entered in this proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26825 Filed 9-14-77; 8:40 am]

[Docket No. CP77-599]

COLUMBIA GAS TRANSMISSION CORP.
Notice of Application

SEPTEMBER 9, 1977.

Take notice that on September 1, 1977, Columbia Gas Transmission Corp. (Applicant), 1700 MacCorkle Avenue S.E., Charleston, W. Va. 25314, filed in Docket No. CP77-599 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of approximately 19.6 miles of 6-inch natural gas transmission pipeline extending from the outlet of a separation plant to a point on Applicant's existing transmission system near Clendenin Compressor Station, all located in Kanawha County, W. Va., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is indicated that the facilities proposed are part of a project to produce a high CO₂ (carbon dioxide) content gas from the Tuscarora Formation in the Indian Creek field located in Kanawha County, W. Va., and to separate the CO₂ from the gas stream to obtain commercially saleable gas having a heat content of approximately 900 Btu's per cubic foot.

It is said that the gas produced from the Tuscarora Formation will consist of approximately 65 percent carbon dioxide and 35 percent methane and that the project is estimated to consist of 53 wells, 57.3 miles of 2-inch through 8-inch well and gathering pipelines, a CO₂ separation plant, and the transmission line heretofore mentioned.

Applicant estimates that based upon the completion of five of the 53 wells planned to be drilled as part of this project, as well as other geologic, engineering and economic studies made for this project, that approximately 64,000,000 Mcf of 900 Btu gas, or the equivalent of 57,000,000 Mcf of 1000 Btu gas, can be made available to Applicant over the twenty-year life of the project. Applicant's cost of service estimates for this

period of the four basic components of this project are as follows:

(1) The wellmouth facilities are estimated at approximately \$62,856,500, or an average of approximately 109.9 cents per Mcf over the life of the property;

(2) The gathering facilities are estimated at approximately \$10,561,700, or 18.5 cents per Mcf;

(3) The CO₂ separation plant is estimated at approximately \$37,387,200, or 65.4 cents per Mcf; and

(4) The natural gas transmission pipeline, for which Columbia seeks certification herein, is estimated at approximately \$5,380,300, or 9.4 cents per Mcf.

The total cost-of-service of this project for the twenty-year period is thus estimated at approximately \$116,185,700, or 203.13 cents per Mcf, it is indicated.

Applicant states that it would include the total costs associated with this project in its future general rate filings and that the total wellmouth, gathering, and separation costs will be included in such future filings in the same manner as proposed in Applicant's pending proceeding in Docket No. RP75-106. While Applicant presently plans to vent the CO₂ which is removed from the gas stream, if it finds such CO₂ marketable, then Applicant would credit all net revenues received from its sale of CO₂ against its cost of service.

Applicant states that approximately 10,400 Mcf per day of gas would be produced from said project over the twenty-year period and that such gas is needed to offset the continuing decline in its supplies from existing sources. Applicant projects curtailments of 47.3 percent of its customers' Priority 2 requirements for the 1977 summer season and 54 percent curtailment for the 1977-78 winter season. It is stated that the gas is to be produced in the heart of Applicant's market area and can be quickly developed and made available and that said gas would be less expensive to produce than the average cost of production nationwide.

It is estimated that the cost of the construction of the proposed facilities is \$1,852,000 to be financed from internally-generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 4, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to

the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26847 Filed 9-14-77;8:45 am]

[Docket No. ER76-151]

**DELMARVA POWER & LIGHT CO. AND
SUBSIDIARIES**

Notice of Compliance Filing

SEPTEMBER 7, 1977.

Take notice that Delmarva Power & Light Co., Delmarva Power & Light Co. of Maryland and Delmarva Power & Light Co. of Virginia (Delmarva), on August 29, 1977, tendered for filing a Delmarva System Power Pool Agreement, incorporating in one composite document changes in FPC Rate Schedule No. 33 of Delmarva Power & Light Co., FPC Rate Schedule No. 10 of Delmarva Power & Light Co. of Maryland, and FPC Rate Schedule No. 5 of Delmarva Power & Light Co. of Virginia, all in compliance with the Order Approving Settlement issued by the Commission on July 28, 1977 in the docket herein.

Delmarva states that copies of this filing were served upon the appropriate commissions of Delaware, Maryland, and Virginia and that there are no jurisdictional customers except for the Delmarva companies which are parties to the agreement. Delmarva requests waiver of notice in order that these compliance filings may be accepted for filing at the earliest possible date.

Any person desiring to be heard or to protest said application should file a protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with § 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.10). All such protests should be filed on or before September 19, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26826 Filed 9-14-77;8:45 am]

[Docket No. ER77-90]

**HOLYOKE WATER POWER CO. AND
HOLYOKE POWER & ELECTRIC CO.**

Extension of Time

SEPTEMBER 7, 1977.

On August 31, 1977, Staff Counsel filed a motion to extend the time for filing comments on the settlement agreement tendered for filing by Holyoke Water Power Co. and Holyoke Power & Electric Co. on August 3, 1977, and noticed on August 15, 1977, in the above designated docket. The motion states that all parties have agreed to a three-week extension.

Upon consideration, notice is hereby given that the date for filing comments on the tendered settlement agreement is extended to and including September 21, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26827 Filed 9-14-77;8:45 am]

[Docket No. ER77-579]

KANSAS CITY POWER & LIGHT CO.

Proposed Change in Rate Schedule

SEPTEMBER 9, 1977.

Take notice that on September 6, 1977, Kansas City Power & Light Co. (KCPL) tendered for filing a proposed change in the General Participation Agreement in order to include Sunflower Electric Cooperative, Inc. as an additional Participant.

KCPL states that the following are presently Participants under the General Participation Agreement with the following FPC Rate Schedule Numbers: Kansas City Power & Light Co., Rate Schedule FPC No. 32. Missouri Public Service Co., Rate Schedule FPC No. 8. The Empire District Electric Co., Rate Schedule FPC No. 73. Kansas Gas & Electric Co., Rate Schedule FPC No. 94. The Kansas Power & Light Co., Rate Schedule FPC No. 7. Central Telephone & Utilities Corp., Rate Schedule FPC No. 53. Central Kansas Power Co., Inc., Rate Schedule FPC No. 2.

KCPL states that the other Participants under the General Participation Agreement filed certificates of concurrence to the proposed change with KCPL's submittal.

Any person desiring to be heard or to protest said Application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 26, 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 inter-

vene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26848 Filed 9-14-77;8:45 am]

[Docket No. ER77-578]

KANSAS GAS & ELECTRIC CO.

Proposed Tariff Change

SEPTEMBER 9, 1977.

Take notice that Kansas Gas & Electric Co. (Applicant) on September 6, 1977, tendered for filing proposed changes in its FPC Electric Service Tariffs Nos. 32, 45, 46, 47, 48, 49, 55, 72, 74, 87, 89, 98, 110, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 131, 132, 133, and 134. Applicant indicates that the proposed changes would increase revenues from Applicant's Rural Electric Cooperative and Municipal jurisdictional customers' sales and service by \$5,298,060 based on the twelve month period ending June 30, 1978.

Applicant indicates that it is experiencing a number of major problems which necessitate requesting the proposed increase. The principal factor cited is the addition of the \$134 million No. 2 generating unit at the La Cygne Station and its related facilities. Applicant also cites rising capital expenditures, inflation, attrition, and regulatory lag as having contributed to a general erosion in the return earned from jurisdictional customers.

According to Applicant copies of the filing were served upon the public utility's jurisdictional customers and the State Corporation Commission of Kansas.

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 NW., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions protests should be filed on or before September 26, 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.77-26849 Filed 9-14-77;8:45 am]

[Docket No. CI77-713]

**MISSISSIPPI RIVER TRANSMISSION
CORP.**

Complaint and Petition for Relief

SEPTEMBER 8, 1977.

Mississippi River Transmission Corp. v. TIPCO Operating Co. and Bill R. Tipton.

Take notice that on July 28, 1977, Mississippi River Transmission Corp. (MRTC), John B. Rudolph, Bendwell & Rudolph, 502 Madison Building, 1155 15th Street NW., Washington, D.C. 20005, filed a complaint and petition for relief pursuant to §§ 1.6 and 1.7 of the Rules of Practice and Procedure of the Federal Power Commission in Docket No. CI77-713 against TIPCO Operating Co. and Bill R. Tipton (TIPCO), P.O. Box 1315, Marshall, Tex. 75670, alleging that TIPCO is in violation of §§ 7(b) and 7(c) of the Natural Gas Act.

Specifically, MRTC complains of the alleged unauthorized termination of deliveries of natural gas by TIPCO from the Dolly Bell Key Gas Unit No. 1 well and the Connor-Key Gas Unit No. 1 well located in Woodlawn Field, Harrison and Marion Counties, Tex. Further, in the petition for relief, MRTC requests that TIPCO be ordered to cease all deliveries of natural gas produced from these two wells to parties other than MRTC; to resume immediately deliveries of natural gas produced from these two wells to MRTC; to pay back to MRTC the equivalent of all volumes of natural gas produced from these two wells which were dedicated to MRTC but were sold and delivered to purchasers other than MRTC.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 7, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMS,
Secretary.

[PR Doc. 77-26836 Filed 9-14-77; 8:45 am]

[Docket No. CP77-601]

NATURAL GAS PIPELINE CO. OF AMERICA
Notice of Application

SEPTEMBER 9, 1977.

Take notice that on September 1, 1977, Natural Gas Pipeline Co. of America (Applicant), 122 South Michigan Avenue, Chicago, Ill. 60603, filed in Docket No. CP77-601 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of an additional 6,600 horsepower of compression facilities and 20.08 miles of 30-inch loop pipeline to increase the capacity of its Louisiana supply pipeline, all as more fully set forth in the application which is on file

with the Commission and open to public inspection.

Applicant states that its present certificated capacity of its Louisiana supply pipeline of 1,173,000 Mcf per day is insufficient to accommodate the deliveries of gas projected from existing and new sources of supply and that projected daily average gas deliverability for the peak month would reach approximately 1,421,000 Mcf per day in 1978 and 1,487,000 Mcf per day in 1979. It is stated that the increase in projected deliveries through the Louisiana supply pipeline results chiefly from acquisition of additional volumes of natural gas in the offshore areas of Texas and Louisiana through Applicant's advance payment and funding programs. These volumes are or would be transported and delivered onshore into Applicant's Louisiana supply pipeline through the offshore facilities of Applicant, the HIOS-UTOS offshore system, the Stingray Pipeline Co. offshore system and the Tidal Transmission Co. offshore system. It is said. Applicant indicates that additional volumes would also be delivered onshore through exchange and transportation arrangements with other pipeline companies.

Applicant states that the only practical way of transporting these increased volumes into its main transmission system is the further expansion of its Louisiana supply pipeline. Consequently, Applicant proposes to construct and operate 6,600 horsepower of additional compression facilities at Applicant's existing Compressor Station No. 343 in Liberty County, Tex., and approximately 20.08 miles of 30-inch loop pipeline in Montgomery, Harris, and Jefferson Counties, Tex., and Cameron Parish, La., together with appurtenant facilities, to enable Applicant to transport increased quantities of gas through its Louisiana supply pipeline. Applicant asserts that the proposed expansion would increase the capacity of Applicant's onshore Louisiana supply pipeline to 1,480,381 Mcf of gas per day which capacity would permit Applicant to transport the gas supplies committed to it from the offshore Louisiana and Texas areas.

The estimated cost to construct the proposed facilities is \$18,456,000, which would be financed initially with bank credit, short-term borrowings from Applicant's parent, Peoples Gas Co., and/or by issuance of commercial paper.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 4, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become

a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMS,
Secretary.

[FR Doc. 77-26851 Filed 9-14-77; 8:45 am]

[Docket Nos. CP73-289 and CP77-602]

NATURAL GAS PIPELINE CO. OF AMERICA
Petition To Amend and Application To
Abandon

SEPTEMBER 9, 1977.

Take notice that on September 1, 1977, Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP73-289 a petition to amend the Commission's order of August 27, 1975, issued in the instant docket (54 FPC _____) pursuant to Section 7(c) of the Natural Gas Act so as to delete therefrom authorization to exchange gas at the Polk County delivery point and in Docket No. CP77-602 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon certain facilities located in Polk and Trinity Counties, Texas, used in conjunction with the exchange, all as more fully set forth in the petition to amend and application to abandon which is on file with the Commission and open to public inspection.

Natural indicates that on December 10, 1973, it was authorized to construct and operate facilities to exchange gas with Texas Eastern Transmission Corporation (Texas Eastern) in accordance with an exchange agreement between Texas Eastern and Natural dated November 17, 1972, as amended. Natural further indicates that it was authorized by an amendment issued August 27, 1975, in Docket No. CP73-289 to add an additional exchange point in Polk County, Texas, to effectuate deliveries of gas from reserves Natural contracted to buy from Napeco Inc. (Napeco), a subsidiary of Natural, in the Trees (formerly Big Mama) Field, Polk and Trinity Counties,

Texas. The sale of gas from Napeco to Natural was made pursuant to a gas purchase contract dated April 1, 1975, as authorized by the Commission, it is said. Natural indicates that Texas Eastern received authorization to construct facilities and operate the Polk County exchange point in Docket No. CP73-197.

Natural states that it constructed 10,085 feet of 4½-inch pipeline and a 3-inch measuring facility in Polk and Trinity Counties, Texas, to connect the Trees Field to the Polk County exchange point pursuant to its gas purchase facilities budget-type authorization in Docket No. CP75-161. Redelivery of equivalent volumes of gas to Natural by Texas Eastern was made at an existing interconnection in Brazoria County, Texas, it is indicated.

It is stated that production from the acreage dedicated under the several gas purchase contracts terminated in October 1975 when the one producing well watered out and that the sellers do not contemplate further development of the dedicated acreage because two other wells were drilled and both were dry holes. Natural indicates that it and Napeco have entered into a termination agreement dated January 28, 1977, terminating the April 1, 1975, gas purchase contract.

Natural proposes to delete the existing Polk County delivery point from its gas exchange agreement with Texas Eastern and to abandon the facilities constructed under the budget-type authorization in Docket No. CP75-161 to effectuate deliveries from the Trees Field to Texas Eastern. Natural states that it would remove all salvable above ground facilities and retain them in stock. All other facilities would be abandoned in place, it is said.

Any person desiring to be heard or to make any protest with reference to said application and petition to amend should on or before October 4, 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 Section 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 and petition to amend 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 petition to amend and permission and approval for the proposed abandonment 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 Natural to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26850 Filed 9-14-77;8:45 am]

[Docket No. ER77-576]

NEW ENGLAND POWER CO.

Notice of Proposed Tariff Change

SEPTEMBER 9, 1977.

Take notice that New England Power Company (NEPCO) on September 1, 1977, tendered for filing proposed changes in its FPC Electric Service Tariff No. 201. NEPCO indicates that the proposed changes would amend the REMVEC Agreement dated as of August 1, 1968. NEPCO further indicates that the REMVEC Agreement establishes REMVEC (the Rhode Island, Eastern Massachusetts, Vermont Energy Control) as a central dispatch and interchange office for electric transmission and generation facilities and acts as a satellite to the New England Power Pool.

NEPCO states that the Amendment proposed would delete the provisions for exchanges of economy power and make provision for entrance into REMVEC of additional members.

According to NEPCO, copies of the filing were served upon all signatories to the Amendment as well as to the Public Utility Commissions of Massachusetts, Rhode Island, and Vermont, and to the New England Power Pool Participants in the geographic area served by REMVEC which are not presently members of REMVEC.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 19, 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.77-26839 Filed 9-14-77;8:45 am]

[Docket No. CP77-587]

NORTHERN NATURAL GAS CO.

Notice of Application

SEPTEMBER 7, 1977.

Take notice that on August 24, 1977, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP77-587 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1978, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which would be purchased from producers and other similar sellers thereof, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally co-extensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant.

Applicant states that the total cost of the proposed facilities would not exceed \$12,000,000 and that the total cost of any single project would not exceed \$1,500,000 except that any single offshore project would not exceed \$2,500,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 26, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is re-

quired, 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. PLUMBS,
Secretary.

FR Doc.77-26828 Filed 9-14-77;8:45 am]

[Docket No. CP76-130]

NORTHWEST PIPELINE CORP.

Petition To Amend

SEPTEMBER 9, 1977.

Take notice that on August 31, 1977, Northwest Pipeline Corporation (Petitioner), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP76-130 a petition to amend the Commission's order issued February 12, 1976, in the instant docket, pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Regulations under the Act so as to increase the authorized single project cost limitation from \$1,500,000 to that of the purported actual project cost of approximately \$2,000,000 which resulted from the construction of the North Douglas Creek Gathering System, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Petitioner indicates that the February 12, 1976 order granted a budget-type certificate authorizing the construction, during the calendar year 1976, and operation of certain gas purchase facilities. Pursuant to such authorization Petitioner constructed the North Douglas Creek Gathering System, necessary to connect nine wells developed by Chandler and Associates (Chandler) on acreage dedicated to Petitioner pursuant to a gas purchase agreement dated December 28, 1975 between Chandler and Petitioner. It is said that the facilities installed for said connection consisted of approximately 10.3 miles of 12%, 10%, 8% and 4½ inch pipe, one (1) 633 horsepower compressor station, and measuring facilities.

It is indicated that the February 12, 1976 order limited the expenditures for the facilities to be constructed during 1976 to a maximum total cost of \$9,000,000, with no single project cost to exceed \$1,500,000 and that prior to the initiation of construction, Petitioner estimated that the project cost would be approximately \$1,456,000. It is indicated, however, that the actual costs now attributable to the project are approximately \$2,000,000, with \$1,906,319 recorded on Petitioner's books as of July 31, 1977 and an estimated \$10,000 remaining to be booked.

Petitioner asserts that the actual construction costs exceeded the original estimate by approximately \$500,000 primarily because of the higher costs attributable to a winter construction period (necessary due to delays in the testing procedures), an accelerated work schedule, and 8.7 miles of rock excava-

tion rather than the expected 1.5 miles.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 4, 1977 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMBS,
Secretary.

[FR Doc.77-26840 Filed 9-14-77;8:45 am]

[Docket No. CP76-350]

NORTHWEST PIPELINE CORP.

Petition To Amend

SEPTEMBER 7, 1977.

Take notice that on August 26, 1977, Northwest Pipeline Corporation (Petitioner), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP76-350, a petition to amend the Commission's order issued February 15, 1977, in the instant docket, pursuant to Section 7(c) of the Natural Gas Act to authorize additional transportation, sale and exchange of natural gas in accordance with an agreement between Petitioner and Mountain Fuel Supply Company (Mountain Fuel) dated June 8, 1977, so that Petitioner may receive gas under a gas purchase contract between Petitioner and King Resources Company, et al. (King Resources) dated May 24, 1977, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that by the Commission's order of February 15, 1977, it is authorized to transport, sell and exchange natural gas with Mountain Fuel pursuant to a Gas Purchase, Transportation and Exchange Agreement dated February 13, 1976 (which has been amended by aforementioned June 8, 1977, agreement) between Petitioner and Mountain Fuel which provides that Petitioner shall deliver to Mountain Fuel all natural gas purchased by Petitioner from Reserve Oil and Gas Company (Reserve) pursuant to a gas purchase contract dated October 7, 1975. Petitioner states that Mountain Fuel receives such volumes as are purchased by Petitioner from Reserve by Petitioner to Mountain Fuel and redelivers equivalent volumes, subject to Mountain Fuel's purchase of up to 25 percent of the volumes delivered for exchange, at an existing point of interconnection between the facilities of Petitioner and Mountain Fuel in Sweetwater County, Wyoming.

Petitioner asserts that its May 24, 1977, contract with King Resources dedicates acreage located in the proximity of the acreage covered under the February 13, 1976, agreement between Petitioner and Mountain Fuel and that Mountain Fuel has agreed to transport and exchange the volumes of natural gas which Petitioner will purchase from King Resources pursuant to the terms and conditions of the May 24, 1977, agreement.

Petitioner estimates that, initially, the volume of gas to be delivered to Mountain Fuel from the King Resources acreage will be approximately 550 Mcf per day and that the total volume of gas to be delivered to Mountain Fuel pursuant to the June 8, 1977, agreement will be approximately 1,150 Mcf per day.

Petitioner asserts that in order to purchase the natural gas from King Resources, it would construct pursuant to its authorization for budget-type gas purchase facilities approximately 7.4 miles of 4½-inch gathering line and a wellhead meter in order to gather the gas from the well to a connection on Northwest's existing gathering system which interconnects with the facilities of Mountain Fuel in Sweetwater County, Wyoming. Petitioner estimates that the cost of said facilities and well meter will be \$166,000.

It is said that by letter dated February 1, 1977, Mountain Fuel has exercised the option of purchasing up to 25 percent of the volumes of natural gas delivered for exchange by Petitioner to it and that Mountain Fuel will pay Northwest, for the gas purchased, the equivalent of the cost Northwest pays the producer, inclusive of all allowable adjustments, plus a gathering charge of 5 cents per Mcf.

Petitioner indicates that granting the authorization requested will serve to provide additional volumes of natural gas for Petitioner to use in meeting its system requirements and to provide the subject volumes of natural gas to Petitioner at the least possible investment.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 29, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMBS,
Secretary.

[FR Doc.77-26829 Filed 9-14-77;8:45 am]

[Docket No. ER77-465]

OKLAHOMA GAS AND ELECTRIC CO.
Order Denying Request for Withdrawal of
Rate Filing

SEPTEMBER 7, 1977.

On June 21, 1977, Oklahoma Gas & Electric Company (OG&E) submitted for filing a proposed Transmission Agreement between itself and Western Farmers Electric Cooperative (Western) that provides for OG&E to wheel power and energy furnished by Western to its member cooperatives. OG&E requested waiver of the 30-day notice requirement to allow the Agreement to become effective on July 1, 1977.

Notice of the proposed Transmission Agreement was issued on July 7, 1977, with comments due on or before July 15, 1977. On July 15, 1977, Western, along with nine other cooperatives, petitioned to intervene in this proceeding.

The proposed Transmission Agreement with its requested effective date of July 1, 1977 was contemplated to replace service being rendered pursuant to a three party agreement (IPSA-356) between OG&E, Southwestern Power Administration (SPA), and Public Service Company of Oklahoma (PSCO), which was to terminate by its own terms on June 30, 1977. In Public Service Company of Oklahoma, Docket No. ER77-422, the Commission on June 30, 1977, ordered that the proposed termination be suspended for five months. The Commission's order, in effect, extended service under IPSA-356 through November 30, 1977.

The Commission's action in Docket No. ER77-422 raised questions concerning the effective date of the proposed Transmission Agreement in this docket, since IPSA-356 and the instant Agreement provide for essentially the same service. Consequently, on July 21, 1977, the Secretary of the Commission sent a Deficiency Letter to OG&E, requesting that it clear up the ambiguity surrounding the proposed effective date of the Agreement.

By letter dated August 3, 1977,¹ OG&E responded by requesting that it be allowed to withdraw its filing to permit further review of the objections and questions raised by the filing. OG&E did state in its response that service under the Agreement is not anticipated to commence for several months.

By letter dated August 9, 1977, Western and nine electric cooperatives objected to the withdrawal of the proposed Transmission Agreement, maintaining that any problems raised by the Agreement should be resolved in the context of an investigation in this docket. They state:

OG&E clearly is obliged to file the Agreement with the Federal Power Commission. *Lansdale v. F.P.C.*, 494 F. 2d 1104 (D.C. Cir. 1975), and the Company has offered no reason why it would be in the public interest to withdraw the Agreement at this time.

¹ Filed with the Commission August 8, 1977.

The Commission finds good cause to deny OG&E's request for withdrawal of the proposed Agreement. Western, a signatory to the Agreement, did not consent to the withdrawal and has filed a Petition to Intervene in this proceeding along with nine other cooperatives.

OG&E's letter of August 3, 1977, indicates that service under the Agreement is not anticipated to commence for several months. However, that response does not cure the deficiency with respect to the identifying a specific proposed effective date as contemplated by the Commission Secretary's letter of July 21, 1977.

The Commission finds: Good cause exists to deny OG&E's request for withdrawal of its proposed Agreement with Western filed herein.

The Commission orders: (A) OG&E's request for withdrawal of its proposed Agreement filed in this docket is hereby denied.

(B) OG&E shall file with this Commission a specific proposed effective date for commencement of service under its contract with Western.

(C) 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. 77-26830 Filed 9-14-77; 8:45 am]

PHILADELPHIA ELECTRIC CO.

[Docket No. ER77-402]

Order Denying Petition for Reconsideration
and Establishing Procedures

SEPTEMBER 8, 1977.

On August 9, 1977, the Borough of Lansdale, Pa., filed a Petition for Rehearing of the Commission's order of July 26, 1977, which accepted proposed rate schedules for filing, denied Lansdale's motion to reject, suspended the proposed rate schedule for one day, granted intervention of Lansdale, and established procedures. Since the order is interlocutory, no application for rehearing is permitted.¹ However, the Commission will treat the application as a Motion for Reconsideration of the order.

Lansdale asserts that (1) in the order of July 26, 1977, the Commission erred in failing to reject Philadelphia Electric Co.'s (PE) filing as patently defective under section 35.13 of the Commission's regulations, and, the Company's proposed auxiliary service provision results in anticompetitive and discriminatory impact to Lansdale and so should be rejected or its effectiveness deferred pending a final Commission determination on the matter, pursuant to section 206 of the Federal Power Act. In the

¹ See sec. 1.34 of the Commission's rules of practice and procedure, which requires a final decision or order before an application for rehearing can lie.

alternative Lansdale again seeks a full five month suspension period.

With regard to its claim that PE's filing is deficient, Lansdale basically repeats its arguments made in its Motion to Reject, Protest, and Petition to Intervene of July 1, 1977, and its Reply to Philadelphia Electric Co. Opposition to the Borough's Motion to Reject, Protest, and Petition of July 27, 1977.

Lansdale's plea for rejection of the filing must again fail. Pursuant to § 35.5 of the Commission's regulations, only that material which "patently fails to substantially comply with the applicable requirements set forth in this Part, or the Commission's rules of practice and procedure" should result in rejection. In our order of July 26, 1977, this Commission determined that PE's filing is not deficient on its face; we are not now convinced that that determination was in error.

Lansdale also repeats in this Motion its attack on PE's proposed auxiliary service provision, asserting that the provision will "limit and stifle any attempt by the Borough to * * * utilize self-generation from any other source * * *". Petition for Rehearing, p. 4. The terms of the provision, Lansdale asserts, effectively make it economically unfeasible to purchase power from any source but PE; further, Lansdale claims there are no cost supports for the provision.

Lansdale's claim of anticompetitive effect and discrimination will be adjudicated in this proceeding, along with the other provisions of the proposed rate. The Commission finds that no justification exists to select out one provision of the filing as suggested by Lansdale and try that provision separately from other issues in the case. Further procedural dates will be enumerated below.

The Commission finds: (1) The Borough of Lansdale's Petition for Rehearing of August 9, 1977 should be denied.

The Commission orders: (A) Philadelphia Electric Co.'s Petition for Reconsideration is hereby denied.

(B) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before December 7, 1977. (See Administrative Order 157).

(C) 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 hearing to be held within ten days of service of Staff top sheets 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.

(D) 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 section 1.18 of the Commission's rules of practice and procedure.

(E) 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. 77-26844 Filed 9-14-77; 8:45 am]

[Docket No. CP77-227]

SEA ROBIN PIPELINE CO.

Filing of Original and Revised Tariff Sheets

SEPTEMBER 9, 1977.

Take notice that on August 17, 1977, Sea Robin Pipeline Co. tendered for filing as a part of its FPC Gas Tariff, Original Volume No. 2:

RATE SCHEDULE X-1

Fourth Revised Sheet No. 5.
Original Sheet No. 5-A.
Original Sheet No. 5-B.
Sixth Revised Sheet No. 6.

RATE SCHEDULE X-2

Fifth Revised Sheet No. 20.
Original Sheet No. 20-A.
Sixth Revised Sheet No. 21.
Third Revised Sheet No. 22.
Original Sheet No. 22-A.

The purpose of this filing is to amend Sea Robin's existing Rate Schedules X-1 (Southern Natural Gas Co.) and X-2 (United Gas Pipe Line Co.) to provide for the transportation of gas purchased by Southern and United in Block 228, Vermilion Area, Offshore Louisiana, to Erath, La.

Sea Robin states that copies of these tariff sheets have been mailed to Southern Natural Gas Co. and United Gas Pipe Line Co.

Any person desiring to be heard or to make any protest with reference to said application, on or before October 3, 1977, should file with the Federal Power Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public

convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-26841 Filed 9-14-77; 8:45 a.m.]

[Docket No. ER76-87]

SIERRA PACIFIC POWER CO.

Extension of Time

SEPTEMBER 7, 1977.

On September 2, 1977, Mount Wheeler Power, Inc., filed a motion to extend the time for filing protests to the revised tariff sheets tendered for filing by Sierra Pacific Power Co., on July 25, 1977, and noticed on August 26, 1977, in the above designated docket. The revised tariff sheets were filed in compliance with the Commission Order approving settlement agreement, issued June 30, 1977.

Upon consideration, notice is hereby given that the date for filing protests to the compliance filing is extended to and including September 20, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-26831 Filed 9-14-77; 8:45 am]

[Docket No. CP 77-591]

SOUTHERN NATURAL GAS CO.

Pipeline Application

SEPTEMBER 8, 1977.

Take notice that on August 26, 1977 Southern Natural Gas Co. (Applicant), P.O. Box 2563, Birmingham, Ala. 35202, filed in Docket No. CP 77-591 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing it to construct, install, and operate facilities for the transportation of natural gas in interstate commerce, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant currently purchases natural gas from Blocks 20, 21, and 32 Fields, Breton Sound Area, Plaquemines Parish, La., from Kerr-McGee Corp. (Kerr-McGee), and Phillips Petroleum Co. (Phillips) pursuant to a gas purchase contract dated February 26, 1957, which terminates on February 1, 1978. Applicant and Kerr-McGee and Phillips have negotiated renewal gas purchase contracts covering these fields and new gas purchase contracts providing for the sale and delivery to Applicant of certain gas reserves from Block 29, Breton Sound Area. Also, Applicant and Kerr-McGee have negotiated a new gas purchase contract providing for the sale and delivery of reserves from Block 37, Breton Sound Area. Ap-

plicant proposes to construct, install, and operate pipelines and compression and measurement facilities to connect its existing pipelines in the Breton Sound Area with the producers' facilities in order to receive the quantities of gas purchased pursuant to the aforesaid contracts. The installation of such facilities will immediately enable Southern to increase its purchases of gas from Kerr-McGee and Phillips from approximately 23,000 Mcf per day to approximately 68,000 Mcf per day.

Specifically, Applicant proposes the construction, installation, and operation of (1) approximately 7.492 miles of 14-inch pipeline to connect the production platform to be installed in Block 21, Breton Sound Area, by Kerr-McGee and Phillips with its existing 12-inch Breton Island pipeline in Block 45, Breton Sound Area, and a 3,000 H.P. compressor and measuring station on this platform; (2) approximately 1.451 miles of 10 $\frac{3}{4}$ -inch pipeline to connect the production platform to be installed by Kerr-McGee and Phillips at their State Lease No. 2000, Well No. 44 in Block 29, Breton Sound Area, with the pipeline described in No. 1 above in Block 36, Breton Sound Area, and a measuring station on this platform; (3) approximately 1.820 miles of 6 $\frac{3}{4}$ -inch pipeline to connect the production platform to be installed in Block 37, Breton Sound Area, by Kerr-McGee with the pipeline described in No. 1 above in Block 36, Breton Sound Area, and a measuring station on this platform; and (4) approximately 3.530 miles of 6 $\frac{3}{4}$ -inch pipe line to connect the platform to be installed by Kerr-McGee and Phillips in Block 32, Breton Sound Area, with Applicant's existing 6 $\frac{3}{4}$ -inch pipeline in Block 34, Breton Sound Area, and a measuring station on this platform.

The estimated cost of the facilities proposed herein is \$7,175,455.00, which cost Applicant states will be financed initially by short term financing which will be repaid from cash from current operations and from permanent financing.

Any person desiring to be heard or to make any protest with reference to said application, on or before September 30, 1977, should file with the Federal Power Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without

further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26837 Filed 9-14-77;8:45 am]

[Docket No. CP77-594]

**TENNESSEE GAS PIPELINE COMPANY, A
DIVISION OF TENNECO, INC.**

Notice of Application

SEPTEMBER 9, 1977.

Take notice that on August 29, 1977, Tennessee Gas Pipeline Company, a Division of Tennessee, Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed an application in Docket No. CP77-594 pursuant to Section 7(c) of the Natural Gas Act, as amended, and the Rules and Regulations of the Federal Power Commission thereunder, for a certificate of public convenience and necessity authorizing the rendition of a natural gas transportation service for Sea Robin Pipeline Company (Sea Robin). Tennessee also requests temporary authorization to render this service.

Applicant requests authorization to receive from Texaco, Inc. (Texaco), for the account of Sea Robin, daily volumes of natural gas, up to a maximum of 9,000 Mcf, at the existing interconnection of the facilities of Tennessee and Texaco located in Eugene Island (EI) Block 338 (338) and to transport and deliver such volumes to Sea Robin at an existing sub-sea interconnection between the facilities of Tennessee and Sea Robin located in EI 330. For such service, Sea Robin will pay Tennessee one cent (1¢) for each Mcf transported.

Applicant's ability to render presently authorized service to its customers will not be affected by its proposal.

Tennessee requests that this application be considered under the shortened procedure provided for in Section 1.32 (b) of the Commission's Rules of Practice and Procedure.

Any person desiring to be heard or to make any protest with reference to said application, on or before October 3, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to

the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26842 Filed 9-14-77;8:45 am]

[Docket No. CP77-568]

TEXAS EASTERN TRANSMISSION CORP.

Joint Pipeline Application

SEPTEMBER 6, 1977.

Take notice that on August 15, 1977, Texas Eastern Transmission Corporation ("Texas Eastern"), Post Office Box 2521, Houston, Texas 77001 and Natural Gas Pipeline Company of America ("Natural"), 122 South Michigan Avenue, Chicago, Illinois 60603 ("Applicants"), filed an application pursuant to Section 7 of the Natural Gas Act in Docket No. CP77-568 for a certificate of public convenience and necessity authorizing operation of facilities for the transportation and exchange of natural gas. Texas Eastern shall receive, or cause to be received, up to 15,000 Mcf of natural gas per day tendered for delivery by Natural at the point of interconnection of Texas Eastern's Cameron Pipeline System with the pipeline facilities to be constructed and to transport such quantities of natural gas onshore for exchange with or delivery to Natural onshore. Natural shall receive, or cause to be received, up to 15,000 Mcf of natural gas per day tendered for delivery by Texas Eastern at the point of interconnection of Stingray's Offshore Louisiana pipeline system with the pipeline facilities to be constructed by Texas Eastern and Columbia Gulf from West Cameron Block 593, Offshore Louisiana (filed at Docket No. CP77-409) and to transport or cause the transportation of such quantities of natural gas onshore for exchange with or delivery to Texas Eastern onshore.

Thermally equivalent volumes of natural gas transported onshore each day by each of the Applicants will be deemed to have been exchanged onshore. Any vol-

ume of natural gas transported onshore on any day in excess thereof shall be re-delivered onshore by the transporting Applicant to the other Applicant. Daily deliveries of any such excess quantities of natural gas shall be made at the Union of Texas Winnie Plant, Jefferson County, Texas or at the Exxon-Sarita plant, Kennedy County, or at other mutually agreeable authorized points of exchange between the two parties.

Any person desiring to be heard or to make any protest with reference to said application, on or before September 26, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26824 Filed 9-14-77;8:45 am]

[Docket No. CP77-593]

**TRANSCONTINENTAL GAS PIPE LINE
CORP.**

Notice of Application

SEPTEMBER 7, 1977.

Take notice that on August 29, 1977, Transcontinental Gas Pipe Line Corporation, P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP77-593 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction during the 12-month period commencing October 22, 1977, and operation of facilities to enable Applicant to take into its certificated main pipeline

system natural gas which would be purchased from producers and other similar sellers thereof, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally co-extensive with its pipeline system or the system of other pipeline companies which may be authorized to transport gas for the account of or exchange with Applicant.

Applicant states that the total cost of the proposed facilities would not exceed \$12,000,000 with no single onshore project to exceed a cost of \$1,500,000 and no single-offshore project to exceed a cost of \$2,500,000. These costs will be financed initially from temporary bank loans and company funds, with permanent financing to be arranged as part of an overall financing program, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 29, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26843 Filed 9-14-77;8:45 am]

[Docket No. CP77-592]

TRUNKLINE GAS CO.
Notice of Application

SEPTEMBER 7, 1977.

Take notice that on August 26, 1977, Trunkline Gas Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP77-592 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of 300 Mcf of natural gas per day on a firm basis for Transcontinental Gas Pipe Line Corporation (Transco) from an existing tap located in Iberia Parish, Louisiana, to a point in Vermilion Parish, Louisiana, where Applicant's and Transco's system are presently interconnected, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that said transportation would be pursuant to an agreement dated June 23, 1977, wherein Transco has agreed to pay Applicant a monthly transportation charge of \$237 based upon a daily volume of 300 Mcf subject to increase if Applicant receives and redelivers more than 300 Mcf per day, or decrease if Applicant fails or is unable to take the amount of gas tendered by Transco up to 300 Mcf per day, by an amount equal to 2.60 cents per Mcf for those volumes delivered above or below 300 Mcf per day. It is said that the agreement provides for a term of 10 years from the date of first delivery and from year to year thereafter unless cancelled by either party by giving one year's written notice and that notwithstanding the foregoing, the agreement may be cancelled after the first three years of deliveries upon 30 days' written notice.

Applicant indicates that it has been advised by Transco that the gas to be transported is attributable to working interests owned by participants in a joint venture known as the Transmac Exploration and Development Program (Transmac) and gas owned by Transco. It is said that all of such participants are direct or indirect customers of Transco and all have been affected by Transco's curtailment of deliveries in recent years. Transco has advised that its estimated average curtailment of service for the 1977-78 winter period is projected to be approximately 49 percent and that transportation of such participants' gas to them for their use will help alleviate the effect on them of Transco's curtailment, it is said.

Applicant indicates that no new facilities are required to implement the instant proposal.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 29, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in ac-

cordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26833 Filed 9-14-77;8:45 am]

FEDERAL RESERVE SYSTEM

[H. 2, 1977 No. 35]

ACTIONS OF THE BOARD; APPLICATIONS AND REPORTS RECEIVED DURING THE WEEK ENDING AUGUST 27, 1977

ACTIONS OF THE BOARD

- Goodlettsville Bancshares, Inc., Goodlettsville, Tenn., extension of time to November 27, 1977, within which to become a bank holding company through the acquisition of Bank of Goodlettsville.¹
- Potters Bank and Trust Co., East Liverpool, Ohio, to make an investment in bank premises.¹
- Bank of Christiansburg, Christiansburg, Va., extension of time within which to establish a branch at the intersection of South Main and Davis Streets, on U.S. Highway 460, Blacksburg, Va.¹
- Bank of Gassaway, Gassaway, W. Va., proposed merger with Community Investment Co., Inc., Gassaway, W. Va., report to the Federal Deposit Insurance Corporation on competitive factors.¹
- Barnett Bank of St. Augustine, National Association, St. Augustine, Fla., proposed merger with Barnett Bank of Anastasia Island, St. Augustine, Fla., report to the Federal Deposit Insurance Corporation on competitive factors.¹
- Bank of West Blocton, West Blocton, Ala., extension of time to November 1, 1977, within which to withdraw its membership from the Federal Reserve System.¹

¹ Application processed on behalf of the Board of Governors under delegated authority.

To establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

APPROVED

Union Trust Co. of Maryland, Baltimore, Md. Branch to be established at the intersection of U.S. Route 40 (Pulaski Highway) and Roesville Boulevard, Baltimore County.²

APPROVED

International Investments and Other Actions Pursuant to Sections 25 and 25 (a) of the Federal Reserve Act and Sections 4(c) (9) and 4(c) (13) of the Bank Holding Company Act of 1956, as amended.

APPROVED

Bank of America; Investment—additional shares of Commercial & General Acceptance Ltd., Sydney, Australia.

Bank of America; For BA Finance Corp., Manila, Philippines, to continue to issue debt obligations.

U.S. Trust Co. International Corp.; Investment—additional shares of U.S. Trust International Advisory Co., S.A., Luxembourg.

Mellon International Finance Corp.; Investment—additional shares of Network Finance Ltd., Australia.

Walter E. Heller International Corp.; Investment—additional shares of Heller Factor Italia, S.P.A., Milan, Italy.

Walter E. Heller International Corp.; Investment—additional shares of H & H Factors Ltd., Croydon, England.

CORRECTION FOR H. 2, 1977 NO. 33, PAGE 3

Philadelphia International Investment Corp.: to retain its 4.5 percent interest in Arburhnot Latham Holdings, Ltd., London, England, until October 10, 1977.

Thirty Day Notice by a Member Bank of Intention to Establish an Additional Branch in a Foreign Country.

APPROVED

The First National Bank of Boston; Branch—additional in Hamburg, West Germany.

To Establish an Overseas Branch of a Member Bank Pursuant to Section 25 of the Federal Reserve Act.

APPROVED

Rainier National Bank; Branch—Manila, Philippines.

Security Pacific National Bank; Branch—Makati, Philippines.

To Form a Bank Holding Company Pursuant to Section 3(a) (1) of the Bank Holding Company Act of 1956.

APPROVED

Downs Bancshares, Inc., Downs, Kans., for approval to acquire 100 percent (less directors' qualifying shares) of the voting shares of The Downs National Bank, Downs, Kans.²

² Application processed by the Reserve Bank on behalf of the Board of Governors under delegated authority.

First Guthrie BancShares, Inc., Guthrie, Okla., for approval to acquire 80 percent or more of the voting shares of The First National Bank of Guthrie, Guthrie, Okla.

Ottawa Bancshares, Inc., Ottawa, Kans., for approval to acquire 100 percent of the voting shares of The Kansas State Bank, Ottawa, Kans.

To Expand a Bank Holding Company Pursuant to Section 3(a) (3) of the Bank Holding Company Act of 1956.

APPROVED

National City Corp., Cleveland, Ohio, for approval to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to National Union Bank, Columbiana, Ohio.

Ameribanc, Inc., St. Joseph, Mo., for approval to acquire 80 percent or more of the voting shares of Morgan County Bank, Versailles, Mo.²

To Expand a Bank Holding Company Pursuant to Section 4(c) (8) of the Bank Holding Company Act of 1956.

WITHDRAWN

BankAmerica Corp., San Francisco, Calif., notification of intent to engage in de novo activities (making or acquiring, for its own account loans and other extensions of credit such as would be made or acquired by a finance company and servicing loans and other extensions of credit; such activities will include, but not be limited to, making consumer installment loans, purchasing installment sales finance contracts, making loans and other extensions of credit to small businesses, and making loans secured by real and personal property; acting as agent or broker for the sale of credit related life and credit related accident and disability insurance in connection with extensions of credit made or acquired by FinanceAmerica Corp.) at 3777 Paseo Padre Parkway, Fremont, Calif., through its indirect subsidiary, FinanceAmerica Corp. (a California corporation) (2/6/77).²

DELAYED

Southern Bancorporation, Inc., Greenville, S.C., notification of intent to engage in de novo activities (acting as agent for the sale of credit related property and casualty insurance) at 112 Broad Street, Bennettsville, S.C. (d.b.a. World Finance of Bennettsville), and 811 Bay Street, Suite 4, Beaufort, S.C. (d.b.a. World Finance of Beaufort), through its indirect subsidiary, World Finance Corp. of South Carolina (a wholly-owned subsidiary of World Acceptance Corp.) (8/24/77).²

Jefferson Bankshares of Colorado, Inc., Denver, Colo., notification of intent to engage in de novo activities (the business of leasing personal property or acting as agent, broker, or adviser in leasing such property) at 7590 West Colfax Avenue at Wadsworth, Denver, Colo. (8/26/77).²

² 4(c) (8) and 4(c) (12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

Mountain Financial Services, Inc., Denver, Colo., notification of intent to engage in de novo activities (the business of servicing, brokering, making, or acquiring, for its own account or for the account of others, loans, mortgages, and other extensions of credit including first or second commercial real estate loans and mortgages; guaranteed Veterans Administration loans and mortgages; insured Federal Housing Administration loans and mortgages; and construction loans and mortgages) at 3600 South Yosemite, Denver, Colo. (8/26/77).²

PERMITTED

Horizon Bancorp, Morristown, N.J., notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit as would be made by a mortgage company; and servicing loans and other extensions of credit for any person) at 556 North Clearwater-Largo Road, Largo, Fla., through its subsidiary, Mortgage Investment Securities, Inc. (8/22/77).²

Mellon National Corp., Pittsburgh, Pa., notification of intent to engage in de novo activities (making or acquiring, for its own account secured and unsecured loans and other extensions of credit such as would be made by a finance company which activities include making direct consumer installment loans and purchasing consumer installment sales finance contracts; providing credit life and credit accident and health insurance in conjunction with the above lending activities, such insurance will be provided only in connection with extensions of credit by Local Loan Co. and its wholly-owned subsidiaries and will be available solely at the option of the borrower and the borrower is advised of this option in advance) at 9202 West Alameda, Lakewood, Colo., through its wholly-owned subsidiary, Local Loan Co., Chicago, Ill. (8/26/77).²

Mellon National Corp., Pittsburgh, Pa., notification of intent to engage in de novo activities (making or acquiring, for its own account secured and unsecured loans and other extensions of credit such as would be made by a finance company which activities include making direct consumer installment loans and purchasing consumer installment sales finance contracts; providing credit life and credit accident and health insurance in conjunction with the above lending activities; such insurance will be provided only in connection with extensions of credit by Local Loan Co. and its wholly-owned subsidiaries and will be available solely at the option of the borrower and the borrower is advised of this option in advance) at 25190 Mission Boulevard, Hayward, Calif., through its wholly-owned subsidiary, Local Loan Co., Chicago, Ill. (8/26/77).²

First Antenn Corp., Nashville, Tenn., notification of intent to engage in de novo activities (making or acquiring, for its own account or the account of others, loans and other extensions of credit such as would be made by a finance company including secured and unsecured loans to individuals, discounting of installment sales contracts,

² 4(c) (8) and 4(c) (12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

and secured commercial financing such as dealer floor-plan financing and lease financing; and acting as agent or broker in selling the following types of insurance and property damage insurance on collateral supporting loans made by Atlantic Consumer Services of Tennessee, Inc.) at 2521 Nolensville Road, Nashville, Tenn., through a subsidiary, Atlantic Consumer Services of Tennessee, Inc. (8/27/77).²

First National of Nebraska, Inc., Omaha, Nebr., notification of intent to engage in de novo activities (operating an industrial loan and investment company pursuant to the laws of the State of Nebraska, including the issuance of paid-up certificates of indebtedness and making consumer loans and first and second mortgage loans on real estate) at 4421 South 84th Street and 3022 North 90th Street, Omaha, Nebr., through a subsidiary, First of Omaha Savings Co. (8/28/77).²

University Bancorp, Inc., Kansas City, Mo., notification of intent to continue to engage in de novo activities (leasing personal property, such personal property leasing activity will serve as the functional equivalent of credit to the lessee of the property; the property to be leased will be acquired specifically for the leasing transactions under consideration on a nonoperating basis and at the inception of the initial lease the effect of the transaction will yield a return that will compensate the lessor for not less than the lessor's full investment in the property over the term of the lease) at 531 Walnut, Kansas City, Mo. (8/25/77).²

U.S. National Bancshares, Inc., Galveston, Tex., to engage in microfiche services at 600 Jefferson Building, Suite 715, Houston, Tex., and 538 Highway 288 North, Clute, Tex., through a wholly-owned subsidiary, Bankers Data Services, Inc., Houston, Tex. (8/26/77).²

Security Pacific Corp., Los Angeles, Calif., notification of intent to relocate de novo activities (the financing of personal property and equipment and real property and the leasing of such property or the acting as agent, broker, or advisor in the leasing and/or financing of such property where at the inception of the initial lease the effect of the transaction (and, with respect to governmental entities only, reasonably anticipated future transactions) will yield a return that will compensate the lessor for not less than the lessor's full investment in the property plus the estimated total cost of financing the property over the term of the lease and the servicing of such financing and/or leases) from 505 Northern Boulevard, Great Neck, to 150 East 58th Street, New York, N.Y., through its subsidiary, Security Pacific Leasing Corp. (8/27/77).²

Sellon, Inc., Toledo, Ohio, notification of intent to engage in de novo activities (leasing personal property and equipment or acting as agent, broker, adviser in leasing such property where at the inception of the initial lease the effect of the transaction and, with respect to governmental entities only, reasonably anticipated future transactions will yield a return that will compensate the lessor for not less than the lessor's full investment in the property plus the estimated total cost of financing the property over the term of the lease) at 901-903 Sneath Lane, San Bruno, Calif., through its subsidiary, Bancorporation Leasing (8/25/77).²

APPROVED

First Guthrie BancShares, Inc., Guthrie, Okla., for approval to acquire a beneficial interest in First Guthrie Business Trust,

Guthrie, Okla., which in turn will acquire First Guthrie Insurance Agency, Guthrie, Okla.

Ottawa Bancshares, Inc., Ottawa, Kans., for approval to acquire the assets of Credit Life Insurance Agency, Ottawa, Kans.

APPLICATIONS RECEIVED

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

Chemical Bank, New York, N.Y. Branch to be established at the intersection of Oscawana Lake Road and Peekskill Hollow Road, Oregon Corners, Putnam Valley, Putnam County.

The Commercial Trust & Savings Bank, Storm Lake, Iowa. Branch to be established at 1237 Lake Avenue, Storm Lake, Buena Vista County.

Liberty State Bank & Trust, Hamtramck, Mich. Branch to be established at 25719 Grand River Avenue, Redford Township, Wayne County.

Bank of Sturgeon Bay, Sturgeon Bay, Wis. Branch to be established in Egg Harbor, Village of Egg Harbor, Door County.

Bank of Sturgeon Bay, Sturgeon Bay, Wis. Branch to be established in the Village of Ellison Bay, Town of Liberty Grove, Door County.

To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956.

Charter Techny Bancorporation, Inc., Northfield, Ill., for approval to acquire 80 percent or more of the voting shares of Charter Bank of Techny, Northbrook, Ill., a proposed new bank.

Sword Financial Corp., Horicon, Wis., for approval to acquire 82.65 percent of the voting shares of Horicon State Bank, Horicon, Wis.

American National Bancshares, Inc., Midwest City, Okla., for approval to acquire 60 percent or more of the voting shares of American National Bank of Midwest City, Midwest City, Okla.

Chickasha Bancshares, Inc., Chickasha, Okla., for approval to acquire 80 percent of the voting shares of Chickasha Bank & Trust Co., Chickasha, Okla.

First National Fairbury Corp., Lincoln, Nebr., for approval to acquire 100 percent of the voting shares of The First National Bank of Fairbury, Fairbury, Nebr.

Jefferson County Agency, Inc., Daykin, Nebr., for approval to acquire 100 percent of the voting shares of Jefferson County Bank, Daykin, Nebr.

Kremmling Holding Co., Kremmling, Colo., for approval to acquire 100 percent of the voting shares (less directors' qualifying shares) of Bank of Kremmling, Kremmling, Colo.

Commercial National Corp., Brady, Tex., for approval to acquire 81 percent or more of the voting shares of The Commercial National Bank of Brady, Brady, Tex.

To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act 1956.

National City Corp., Cleveland, Ohio, for approval to acquire 100 percent (less directors' qualifying shares) of the voting shares of the successor by merger to The First National Bank, Dayton, Ohio, Dayton, Ohio.

Community Banks of Florida, Inc., Seminole, Fla., for approval to acquire 80 percent or more of the voting shares of The County Bank, Manatee County (P.O. Palmetto), Fla.

Detroitbank Corp., Detroit, Mich., for approval to acquire 100 percent of the voting shares of The Detroit Bank—Sterling, National Association, Detroit, Mich., a proposed new bank.

To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956.

Industrial National Corp., Providence, R.I., notification of intent to engage in de novo activities (origination and sale of residential mortgages; consumer finance; servicing of residential mortgages; and issuance of credit life and credit accident and health insurance activities) at 522 seventh Street, Racine, Wis., through a subsidiary, Amortized Mortgages, Inc., a subsidiary of Mortgage Associates, Inc. (8/25/77).²

Manufacturers Hanover Corp., New York, N.Y., notification of intent to engage in de novo activities (arranging, making, or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made or acquired by a mortgage company and servicing such loans and other extensions of credit; acting as an investment adviser and manager to a real estate investment trust; providing bookkeeping or data processing services for Manufacturers Hanover Corp., its subsidiaries and affiliates and storing and processing other banking, financial or related economic data such as performing payroll, accounts receivable or billing services) at 150 East Mount Street, Columbus, Ohio, through its subsidiary, Citizen Mortgage Corp. (8/22/77).²

Philadelphia National Corp., Philadelphia, Pa., notification of intent to relocate de novo activities (making personal installment loans (and, through Signal Mortgage Corp., second mortgage installment loans) for personal, family, or household purposes; purchasing sales finance contracts executed in connection with the sale of personal, family, or household goods or services in connection with certain personal and second mortgage installment loans made and sales finance contracts purchased selling casualty insurance, credit life and credit accident and health insurance and reinsuring such credit life and credit accident and health insurance through Patrick Henry Insurance Co. and Patrick Henry Life Insurance Co., indirect subsidiaries of Philadelphia National Corp.) from Kamm's Plaza, 3766 Rocky River Drive, Cleveland, Ohio, to Olmstead Square, 27328 Lorain Road, North Olmstead, Ohio, through its subsidiary, Signal Finance of Ohio, Inc. and Signal Mortgage Corp. (8/16/77).²

Pittsburgh National Corp., Pittsburgh, Pa., notification of intent to engage in de novo activities (mortgage banking, including the making or acquiring and servicing for its own account or the accounts of others, loans and other extensions of credit) at Suite 100 and 101, 1250 Terminal Way, Reno, Nev., through its wholly-owned subsidiary, The Kissell Co., Springfield, Ohio (8/25/77).²

Southern Bancorporation, Inc., Greenville, S.C., notification of intent to engage in de novo activities (making extensions of credit as a licensed consumer finance lender under the Consumer Finance Act of South Carolina as supervised by the South Carolina Board of Financial Institutions, Consumer Finance Division; and acting as agent for the sale of credit related life/accident and disability insurance and credit related property and casualty insurance issued in connection with the above-mentioned extensions of credit) at 112 Broad

Street, Bennettsville, S.C. (d.b.a. World Finance of Bennettsville), and 811 Bay Street, Suite 4, Beaufort, S.C. (d.b.a. World Finance of Beaufort), through its indirect subsidiary, World Finance Corp. of South Carolina (a wholly-owned subsidiary of World Acceptance Corp.) (8/24/77).³

Barnett Banks of Florida, Inc., Jacksonville, Fla., notification of intent to engage in de novo activities (performing or carrying on any one or more of the functions or activities that may be performed or carried on by a trust company including activities of a fiduciary, agency or custodial nature in the manner authorized by Federal and State law; provided however, that loans and investments will be made and deposits accepted only in conformity with Regulations of the Board of Governors of the Federal Reserve System) at 1201 Brickell Avenue, Miami, Fla., through a subsidiary, Barnett Banks Trust Company, N.A. (8/19/77).³

Kremmling Holding Co., Kremmling, Colo., for approval to engage de novo in the sale of credit life and credit accident and health insurance directly related to extensions of credit by Bank of Kremmling, Kremmling, Colo.

Security Pacific Corp., Los Angeles, Calif., notification of intent to relocate de novo activities (making or acquiring, for its own account or for the account of others, loans and extensions of credit including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses, and other extensions of credit such as would be made by a factoring company or a consumer finance company; and acting as broker or agent for the sale of credit-related life/accident and health insurance and credit-related property and casualty insurance) from 333 South Hope Street, Los Angeles, Calif., to 1100 Glendon Avenue, Los Angeles, Calif., through its subsidiary, Security Pacific Finance Corp. (8/22/77).³

Security Pacific Corp., Los Angeles, Calif., notification of intent to relocate de novo activities (making or acquiring, for its own account or for the account of others, loans and extensions of credit including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses, and other extensions of credit such as would be made by a factoring company or a consumer finance company; and acting as broker or agent for the sale of credit-related life/accident and health insurance and credit-related property and casualty insurance) from 16200 Ventura Boulevard to 17337 Ventura Boulevard, Encino, Calif., through its subsidiary, Security Pacific Finance Corp. (8/22/77).³

Security Pacific Corp., Los Angeles, Calif., notification of intent to engage in de novo activities (the origination and acquisition of mortgage loans, including development and construction loans on multi-family and commercial properties, for its own account or for the sale to others and the servicing of such loans for others) at 1225 North 23rd, Grand Junction, Colo., through its subsidiary, Security Pacific Mortgage Corp. (8/22/77).³

REPORTS RECEIVED

None.

³ 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

PETITIONS FOR RULEMAKING

None.

Board of Governors of the Federal Reserve System, September 8, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-26783 Filed 9-14-77; 8:45 am]

COMBANKS CORP.

Acquisition of Bank

Combanks Corp., Winter Park, Fla., has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire indirectly, through the acquisition of 22.5 percent of the voting shares of American Bancshares, Inc., North Miami, Fla., voting shares of the following banks: The Second National Bank of North Miami, North Miami, Fla.; The Seminole Bank of Tampa, Tampa, Fla.; First National Bank of Davie, Davie, Fla.; Second National Bank of North Miami Beach, North Miami Beach, Fla.; First National Bank of the Upper Keys, Tavernier, Fla.; Second National Bank of Clearwater, Clearwater, Fla.; University City Bank, Gainesville, Fla.; Executive Bank of Fort Lauderdale, Fort Lauderdale, Fla.; and Second National Bank of Homestead, Homestead, Fla. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Combanks Corp., Winter Park, Fla., has also applied, pursuant to § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to acquire indirectly voting shares of American Bancshares Insurance Agency, Inc., North Miami, Fla., and American Bancshares Mortgage Co., Inc., North Miami, Fla., both subsidiaries of American Bancshares, Inc.

American Bancshares Insurance Agency, Inc., engages in the activities of acting as insurance agent or broker with respect to (i) credit life or accident and health insurance that is directly related to the extension of credit by a bank or bank related firm, and (ii) credit life or accident and health insurance that is directly related to the provision of other financial services by a bank or bank related firm. Such activities are conducted at all of the offices of the banking subsidiaries of American Bancshares, Inc., and notice of this application was published in newspapers of general circulation in each of the areas served.

American Bancshares Mortgage Co., Inc., engages in the activities of making or acquiring, for its own account or for the account of others, loans and other extensions of credit (including issuing letters of credit and accepting drafts) such as would be made by a mortgage company; servicing loans and other extensions of credit for any person; and acting as insurance agent with respect to insurance which is directly related to an extension of credit by said mortgage

company. Such activities are conducted in North Miami, Fla., and notice of the application was published on June 21, 1977, in the Miami Review and Daily Record, a newspaper of general circulation in Dade County, Fla. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 7, 1977.

Board of Governors of the Federal Reserve System, September 9, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-26781 Filed 9-14-77; 8:45 am]

OLD KENT FINANCIAL CORP.

Acquisition of Bank

Old Kent Financial Corp., Grand Rapids, Mich., has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by consolidation to Peoples Bank and Trust, National Association, Trenton, Mich. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 7, 1977.

Board of Governors of the Federal Reserve System, September 9, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-26782 Filed 9-14-77; 8:45 am]

**DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE**

Office of Education

BILINGUAL EDUCATION

**Closing Date for Receipt of Applications
for Basic Programs of Bilingual Educa-
tion—Initial Awards**

Pursuant to the authority contained in section 721 of the Bilingual Education Act, Title VII of the Elementary and Secondary Act, of 1965, as amended by Pub. L. 93-380 (20 U.S.C. 880b-880b-13), the Commissioner of Education hereby gives notice that applications for initial awards of assistance for basic programs of bilingual education are being accepted from local educational agencies (including certain organizations of Indian tribes which operate schools for Indian children, and schools for Indian children on reservations which are operated or funded by the Department of Interior) and from institutions of higher education applying jointly with such agencies. Funds are available for grants to new applicants for basic programs.

Closing date. November 15, 1977.

A. Application forms and information. Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about September 15, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

B. Applications sent by mail. An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.403D, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date. In an effort to prevent the late arrival of applications due to inclement weather, natural disasters, delayed airline flight, tardy messenger service, civil disturbances, etc., the Office of Education suggests that applicants consider the use of registered or certified mail as explained below.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than November 10, 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 November 15, 1977, 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.

C. Hand-delivered applications. An application to be hand-delivered must be

taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C., time except Saturdays, Sundays, and Federal holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

D. Program information. The amount of funds which is expected to be available in fiscal year 1978 for initial awards of assistance for basic programs of bilingual education is \$22,500,000. The anticipated number of initial awards of assistance for basic programs of bilingual education is 136 with an expected average amount for the majority of initial awards at \$166,000.

This statement on the availability of funds is only an estimate and does not bind the Office of Education to any particular pattern of distribution, except as required by the Bilingual Education Act, applicable regulations, and appropriation acts.

E. For further information contact. The Office of Bilingual Education, Office of Education, 400 Maryland Avenue SW., (Reporter's Building, Room 421), Washington, D.C. 20202 (202-245-2800).

F. Applicable regulations. Grant awards made pursuant to this notice will be subject to the regulations in 45 CFR Part 123, relating to the Bilingual Education Act, published in the FEDERAL REGISTER on June 11, 1976 (41 FR 23862), and except where inconsistent with Part 123, to the Office of Education General Provisions Regulations in 45 CFR Parts 100, 100a, 100c, and 100d. In preparing applications, applicants' attention is directed in particular to Subpart B of 123—§§ 123.11-123.20 relating to Basic Programs of Bilingual Education.

(20 U.S.C. 880b-880b-13)

(Catalog of Federal Domestic Assistance Number 13.403, Bilingual Education.)

Dated: September 8, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 77-26704 Filed 9-14-77; 8:34 am]

BILINGUAL EDUCATION

**Closing Date for Receipt of Applications for
Basic Programs of Bilingual Educa-
tion—Non-Competing Continuation
Awards**

Pursuant to the authority contained in section 721 of the Bilingual Education Act, Title VII of the Elementary and Secondary Act, of 1965, as amended by Pub. L. 93-380 (20 U.S.C. 880b-880b-13), the Commissioner of Education hereby gives notice that applications for the noncompeting continuation of assistance for basic programs of bilingual education are being accepted from local educational agencies (including certain organizations of Indian tribes which operate schools for Indian children, and schools for Indian children on reservations which are operated or funded by the Department of Interior) and from

institutions of higher education applying jointly with such agencies. Funds are available for grants to continue programs presently in operation pursuant to an approved project period in excess of one year.

Closing date. November 15, 1977.

A. Application forms and information. Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about September 15, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

B. Applications sent by mail. An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.403C, Washington, D.C. 20202. Applications should be received by the Application Control Center on or before the closing date. In an effort to prevent the late arrival of applications due to inclement weather, natural disasters, delayed airline flight, tardy messenger service, civil disturbances, etc., the Office of Education suggests that applicants consider the use of registered or certified mail as explained below.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than November 10, 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 November 15, 1977, 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.

C. Hand-delivered applications. An application to be hand-delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C., time except Saturdays, Sundays, and Federal holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

D. Program information. The amount of funds which is expected to be available in fiscal year 1978 for the continuation of basic programs of bilingual education is \$71,475,000. The anticipated number of noncompeting continuation awards for basic programs of bilingual education is 429 with an expected average amount for the majority of continuation awards at \$166,000.

This statement on the availability of funds is only an estimate and does not bind the Office of Education to any par-

ticular pattern of distribution, except as required by the Bilingual Education Act, applicable regulations, and appropriation acts.

E. *For further information contact.* The Office of Bilingual Education, Office of Education, 400 Maryland Avenue SW., (Reporter's Building, Room 421), Washington, D.C. 20202 (202-245-2600).

F. *Applicable regulations.* Grant awards made pursuant to this notice will be subject to the regulations in 45 CFR Part 123, relating to the Bilingual Education Act, published in the FEDERAL REGISTER on June 11, 1976 (41 FR 23862), and except where inconsistent with Part 123, to the Office of Education General Provisions Regulations in 45 CFR Parts 100, 100a, 100c, and 100d. In preparing applications, applicants' attention is directed in particular to Subpart B of Part 123—§§ 123.11-123.20 relating to Basic Programs of Bilingual Education.

(20 U.S.C. 880b-880b-13.)

(Catalog of Federal Domestic Assistance Number 13.403, Bilingual Education.)

Dated: September 8, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc.77-26795 Filed 9-14-77;8:45 am]

BILINGUAL EDUCATION

Closing Date for Receipt of Applications for Training Programs—Initial Awards

Pursuant to the authority contained in Section 723 of the Bilingual Education Act, Title VII of the Elementary and Secondary Education Act of 1965, as amended by Public Law 93-380 (20 U.S.C. 880b-880b-13) the Commissioner of Education hereby gives notice that applications for initial awards of assistance for training programs are being accepted from one or more institutions of higher education which apply after consultation with, or jointly with, one or more local educational agencies; or one or more State educational agencies. Funds are available for grants to new applicants for training programs.

Closing date. November 15, 1977.

A. *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about September 15, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

B. *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.403E, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date. In an effort to prevent the late arrival of applications due to inclement weather, natural disasters, delayed airline flight, tardy messenger service, civil disturbances, etc., the Office of Education suggests that applicants consider the

use of registered or certified mail as explained below.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than November 10, 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 November 15, 1977, 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.

C. *Hand delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, S.W., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time except Saturdays, Sundays, and Federal holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

D. *Program information.* The amount of funds which is expected to be available in Fiscal Year 1978 for initial awards of training programs is \$6,800,000. The anticipated number of initial awards for training programs is 68, with an expected average amount for initial awards at \$100,000.

This statement on the availability of funds is only an estimate and does not bind the Office of Education to any particular pattern of distribution, except as required by the Bilingual Education Act applicable regulations, and appropriation acts.

E. *For further information contact.* The Office of Bilingual Education, Office of Education, 400 Maryland Avenue, S.W. (Reporter's Building, Room 421), Washington, D.C. 20202 (202-245-2600).

F. *Applicable regulations:* Grant awards made pursuant to this notice will be subject to the regulations in 45 CFR Part 123, relating to the Bilingual Education Act, published in the FEDERAL REGISTER on June 11, 1976 (41 FR 23862), and except where inconsistent with Part 123, to the Office of Education General Provisions Regulations in 45 CFR Parts 100, 100a, 100c, and 100d. In preparing applications, applicants' attention is directed in particular to Subpart D of Part 123—§§ 123.31-123.40 relating to Training Programs of Bilingual Education.

(20 U.S.C. 880b-880b-13.)

(Catalog of Federal Domestic Assistance Number 13.403, Bilingual Education.)

Dated: September 8, 1977.

ERNEST L. BOYER,
Commissioner of Education.

[FR Doc.7-26706 Filed 9-14-77;8:45 am]

BILINGUAL EDUCATION

Closing Date for Receipt of Applications for Training Programs—Non-Competing Continuation Awards

Pursuant to the authority contained in Section 723 of the Bilingual Education Act, Title VII of the Elementary and Secondary Education Act of 1965, as amended by Public Law 93-380 (20 U.S.C. 880b-880b-13), the Commissioner of Education hereby gives notice that applications for the non-competing continuation of training programs are being accepted from one or more institutions of higher education which apply after consultation with, or jointly with, one or more local educational agencies; or one or more State Educational agencies. Funds are available for grants to continue programs presently in operation pursuant to an approved project period in excess of one year.

Closing date. November 15, 1977.

A. *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about September 15, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

B. *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.403E, Washington, D.C. 20202. Applications should be received by the Application Control Center on or before the closing date. In an effort to prevent the late arrival of applications due to inclement weather, natural disasters, delayed airline flight, tardy messenger service, civil disturbances, etc., the Office of Education suggests that applicants consider the use of registered or certified mail as explained below.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than November 10, 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 November 15, 1977, 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.

C. *Hand delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, S.W., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time except

Saturdays, Sundays, and Federal holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

D. Program information. The amount of funds which is expected to be available in Fiscal Year 1978 for continuation of training programs is \$4,200,000. The anticipated number of non-competing continuation awards for training programs is 42, with an expected average amount of continuation awards at \$100,000.

This statement on the availability of funds is only an estimate and does not bind the Office of Education to any particular pattern of distribution, except as required by the Bilingual Education Act, applicable regulations, and appropriation acts.

E. For further information contact. The Office of Bilingual Education, Office of Education, 400 Maryland Avenue, S.W. (Reporter's Building, Room 421), Washington, D.C. 20202 (202-245-2600).

F. Applicable Regulations. Grant awards made pursuant to this notice will be subject to the regulations in 45 CFR Part 123, relating to the Bilingual Education Act, published in the FEDERAL REGISTER on June 11, 1976 (41 FR 23862), and except where inconsistent with Part 123, to the Office of Education General Provisions Regulations in 45 CFR Parts 100, 100a, 100c, and 100d. In preparing applications, applicants' attention is directed in particular to Subpart D of Part 123—§§ 123.31-123.40 relating to Training Programs of Bilingual Education.

(20 U.S.C. 880b-880b-13.)

(Catalog of Federal Domestic Assistance Number 13.403, Bilingual Education.)

Dated September 8, 1977.

ERNEST L. BOYER,
Commissioner of Education.

[Filed Doc. 77-26797 Filed 9-14-77; 8:45 am]

BILINGUAL EDUCATION SUPPORT SERVICES

Closing Date for Receipt of Applications for Support Services for Programs of Bilingual Education—Initial Awards

Pursuant to the authority contained in the Bilingual Education Act, Title VII of the Elementary and Secondary Education Act of 1965, as amended by Public Law 93-380, (20 U.S.C. 880b-13), the Commissioner of Education hereby gives notice that:

(1) Applications for initial awards of assistance for Training Resource Centers are being accepted from one or more local educational agencies; one or more institutions of higher education which apply after consultation with, or jointly with, one or more local educational agencies; or one or more State educational agencies.

(2) Applications for initial awards of assistance for Materials Development Centers are being accepted from one or more local educational agencies; or an institution of higher education which applies jointly with one or more local educational agencies.

(3) Applications for initial awards of assistance for Dissemination/Assessment Centers are being accepted from one or more local educational agencies; or an institution of higher education which applies jointly with one or more local educational agencies.

(4) Applicants considering a joint application are advised to follow all instructions to verify joint applicant status, as well as to complete Form OE 4561, "Certification Signatures for Bilingual Education Joint Application".

(5) Under § 123.22(d) of the program regulations, (45 CFR § 123.22(d)(1)), no more than one award for a training resource center, one award for a materials development center, and one award for a dissemination/assessment center will be made in a fiscal year in each service area designated under § 123.22(a), (b), and (c), unless the Commissioner determines that additional awards are required to meet needs for such activities in a service area. Also, the Commissioner may award one or more specific projects without regard to the designated service area to meet the needs for such activities or to carry out the purposes of this subpart most effectively.

(6) Applicants that propose authorized activities without regard to the designated service area must set forth special justification of need for not following the service area designation.

(7) Potential applicants for initial awards, in order to assess their own chances for funding, should be aware of those service areas in which projects have already been approved in a prior fiscal year and will be reviewed for continuation on a non-competitive basis in FY 1978, in accordance with § 123.04 of the regulation (45 CFR § 123.04).

With respect to the training resource center activity, service areas 5 and 7, (45 CFR § 123.22(a)(1-8)), have training resource centers in operation which will be reviewed for refunding on a non-competitive basis.

With respect to the materials development center activity, service areas 1 and 7, (45 CFR § 123.22(b)(1-7)), have materials development centers in operation which will be reviewed for refunding on a non-competitive basis.

With respect to the dissemination/assessment center activity, service area 2 (45 CFR § 123.22(c)(1-3)), has a dissemination/assessment center in operation which will be reviewed for refunding on a non-competitive basis.

Closing date: November 15, 1977.

A. Application forms and information. Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about September 15, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

B. Applications sent by mail. An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.403G, Washington, D.C. 20202. Appli-

cations must be received by the Application Control Center on or before the closing date. In an effort to prevent the late arrival of applications due to inclement weather, natural disasters, delayed airline flight, tardy messenger service, civil disturbances, etc., the Office of Education suggests that applicants consider the use of registered or certified mail as explained below.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than November 10, 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 November 15, 1977 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.

C. Hand-delivered applications. An application to be hand-delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, 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. Washington, D.C. time except Saturdays, Sundays, and Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

D. Program information. The amount of funds which is expected to be available in Fiscal Year 1978 for initial awards of assistance for support services for programs of bilingual education is \$14,600,000.

Funds expected to be available in FY 1978 for new competing awards for Resource Training Centers are estimated at \$6,800,000. Funds expected to be available in FY 1978 for new competing awards for Materials Development Centers are estimated at \$6,600,000. Funds expected to be available in FY 1978 for new competing awards for Dissemination/Assessment Centers are estimated at \$1,200,000.

This statement on the availability of funds is only an estimate and does not bind the Office of Education to any particular pattern of distribution, except as required by the Bilingual Education Act, applicable regulations, and appropriation acts.

E. For further information contact: The Office of Bilingual Education, Office of Education, 400 Maryland Avenue, SW., (Reporter's Building, Room 421), Washington, D.C. 20202 (202-245-2600).

F. Applicable regulations: Grant awards made pursuant to this notice will be subject to the regulations in 45 CFR Part 123, relating to the Bilingual Education Act, published in the FEDERAL REGISTER on June 11, 1976 (41 FR 23862), and

except where inconsistent with Part 123, to the Office of Education General Provisions Regulations in 45 CFR Parts 100, 100a, 100c, and 100d. In preparing applications, applicants' attention is directed in particular to Subpart C of Part 123—§§ 123.21–123.30 relating to Support Services for Programs of Bilingual Education.

(20 U.S.C. 880b–880b–13.)

(Catalog of Federal Domestic Assistance Number 13.403, Bilingual Education.)

Dated: September 8, 1977.

ERNEST L. BOYER,
Commissioner of Education.

[FR Doc.77-26798 Filed 9-14-77; 8:45 am]

BILINGUAL EDUCATION SUPPORT SERVICES

Closing Date for Receipt of Applications for Support Services for Programs of Bilingual Education—Non-Competing Continuation Awards

Pursuant to the authority contained in the Bilingual Education Act, Title VII of the Elementary and Secondary Education Act of 1965, as amended by P.L. 93-380 (20 U.S.C. 880b–880b–13) the Commissioner of Education hereby gives notice that:

(1) Applications for the non-competing continuation of training resource centers are being accepted from one or more local educational agencies; one or more institutions of higher education which apply after consultation with, or jointly with, one or more local educational agencies; or one or more State educational agencies, and

(2) Applications for the non-competing continuation of materials development centers and dissemination/assessment centers are being accepted from one or more local educational agencies; one or more institutions of higher education which apply jointly with one or more local educational agencies.

Funds are available for grants to continue centers presently in operation pursuant to an approved project period in excess of one year.

Closing date: November 15, 1977.

A. Application forms and information. Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about September 15, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

B. Applications sent by mail. An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.403G, Washington, D.C. 20202. Applications should be received by the Application Control Center on or before the closing date. In an effort to prevent the late arrival of applications due to inclement weather, natural disasters, delayed airline flight, tardy messenger service, civil

disturbances, etc., the Office of Education suggests that applicants consider the use of registered or certified mail as explained below.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than November 10, 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 November 15, 1977, 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.

C. Hand-delivered applications. An application to be hand-delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, 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. Washington, D.C., time except Saturdays, Sundays, and Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

D. Program information. The amount of funds which is expected to be available in Fiscal Year 1978 for continuation awards for support services for programs of bilingual education is \$3,400,000. The anticipated number of non-competing continuation awards for support services is six. Two resources training centers; three materials development centers; and one dissemination/assessment center.

This statement on the availability of funds is only an estimate and does not bind the Office of Education to any particular pattern of distribution, except as required by the Bilingual Education Act, applicable regulations, and appropriation acts.

E. For further information contact the Office of Bilingual Education, Office of Education, 400 Maryland Avenue SW., (Reporter's Building, Room 421), Washington, D.C. 20202 (202-245-2600).

F. Applicable regulations. Grant awards made pursuant to this notice will be subject to the regulations in 45 CFR Part 123, relating to the Bilingual Education Act, published in the FEDERAL REGISTER on June 11, 1976 (41 FR 23862), and except where inconsistent with Part 123, to the Office of Education General Provisions Regulations in 45 CFR Parts 100, 100a, 100c, and 100d. In preparing applications, applicants' attention is directed in particular to Subpart C of 123—§§ 123.11–123.20 relating to Support Services for Programs of Bilingual Education.

(20 U.S.C. 880b–880b–13.)

(Catalog of Federal Domestic Assistance Number 13.403, Bilingual Education.)

Dated: September 8, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc.77-26799 Filed 9-14-77; 8:45 am]

BILINGUAL EDUCATION

Closing Date for Receipt of New Requests for Participation in Fellowship Program

Pursuant to the authority contained in section 723(a)(2) in the Bilingual Education Act, Title VII of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 93-380 (20 U.S.C. 880b–880b–13), the Commissioner of Education hereby gives notice that new requests for participation in the program of fellowships for trainers of bilingual education teachers are being accepted from institutions of higher education, after consultation with, or jointly with, one or more local educational agencies.

Closing date: November 15, 1977.

A. Application forms and information. Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about September 15, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

B. Request for participation sent by mail. A request for participation sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, Attention: 13.403F, Washington, D.C. 20202. A request for participation must be received by the Application Control Center on or before the closing date. In an effort to prevent the late arrival of applications due to inclement weather, natural disasters, delayed airline flight, tardy messenger service, civil disturbances, etc., the Office of Education suggests that applicants consider the use of registered or certified mail as explained below.

A request for participation sent by mail will be considered to be received on time by the Application Control Center if:

(1) The request for participation was sent by registered or certified mail not later than November 10, 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 request for participation is received on or before November 15, 1977, 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.

C. Hand-delivered requests for participation. A request for participation to be hand-delivered must be taken to the

U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered requests for participation will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C., time except Saturdays, Sundays, and Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

D. Program information. The amount of funds which is expected to be available in FY 1978 for new Bilingual Fellowship Programs is \$1,650,000. It is anticipated that approximately 20 institutions of higher education will be approved for the Bilingual Education Fellowship Program. An estimated 246 fellowships to individuals may be awarded, with an average amount of \$6,700 per fellowship awarded.

This statement on the availability of funds is only an estimate and does not bind the Office of Education to any particular pattern of distribution, except as required by the Bilingual Education Act applicable regulations, and appropriation acts.

E. For further information contact the Office of Bilingual Education, Office of Education, 400 Maryland Avenue SW. (Reporter's Building, Room 421), Washington, D.C. 20202 (202-245-2600). Information required to be included in requests for participation is set out in the Bilingual Education Regulations at 45 CFR 123.42(a).

F. Applicable regulations. The Bilingual Education Fellowship Program will be subject to the regulations in 45 CFR Part 123—Subpart E, §§ 123.41–123.50—relating to Fellowships for Preparation of Teacher Training published in the FEDERAL REGISTER on June 11, 1976 (41 FR 23862).

(20 U.S.C. 880b–880b–13.)

(Catalog of Federal Domestic Assistance Number 13.403, Bilingual Education.)

Dated: September 8, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 77-26801 Filed 9-14-77; 8:45 am]

BILINGUAL EDUCATION

Closing Date for Receipt of Requests for Continued Participation from Non-Competing Continuation Fellowship Programs

Pursuant to the authority contained in section 723(a)(2) in the Bilingual Education Act, Title VII of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 93-380 (20 U.S.C. 880b–880b–13), the Commissioner of Education hereby gives notice that requests for participation for the non-competiting continuation of fellowship programs for trainers of bilingual education teachers are being accepted from institutions of higher education, after consultation with, or jointly with, one or more local educational agencies.

Closing date: November 15, 1977.

A. Application forms and information. Application forms are being pre-

pared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about September 15, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

B. Request for participation sent by mail. A request for participation sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, Attention: 13.403, Washington, D.C. 20202. A request for participation should be received by the Application Control Center on or before the closing date. In an effort to prevent the late arrival of applications due to inclement weather, natural disasters, delayed airline flight, tardy messenger service, civil disturbances, etc., the Office of Education suggests that applicants consider the use of registered or certified mail as explained below.

A request for participation sent by mail will be considered to be received on time by the Application Control Center if:

(1) The request for participation was sent by registered or certified mail not later than November 10, 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 request for participation is received on or before November 15, 1977, 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.

C. Hand delivered requests for participation. A request for participation to be hand-delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered requests for participation will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C., time except Saturdays, Sundays, and Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

D. Program information. The amount of funds which is expected to be available in FY 1978 for the non-competiting continuation Bilingual Education Fellowship Programs is \$3,350,000. It is anticipated that 23 institutions of higher education will continue to participate in the Bilingual Education Fellowship Program. An estimated 500 fellowships to individuals may be awarded, with an average amount of \$6,700 per fellowship award.

This statement on the availability of funds is only an estimate and does not bind the Office of Education to any particular pattern of distribution, except as required by the Bilingual Education Act

applicable regulations, and appropriation acts.

E. For further information contact the Office of Bilingual Education, Office of Education, 400 Maryland Avenue SW. (Reporter's Building, Room 421), Washington, D.C. 20202 (202-245-2600). Information required to be included in requests for participation is set out in the Bilingual Education Regulations at 45 CFR 123.42(a).

F. Applicable regulations. The Bilingual Education Fellowship Program will be subject to the regulations in 45 CFR Part 123—Subpart E, §§ 123.41–123.50—relating to Fellowships for Preparation of Teacher Training published in the FEDERAL REGISTER on June 11, 1976 (41 FR 23862).

(20 U.S.C. 880b–880b–13.)

(Catalog of Federal Domestic Assistance Number 13.403, Bilingual Education.)

Dated: September 8, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 77-26801 Filed 9-14-77; 8:45 a.m.]

BILINGUAL EDUCATION

Closing Date for Receipt of Applications for Non-Competing Assistance Contracts for Coordination of Technical Assistance by State Educational Agencies for Programs of Bilingual Education

Pursuant to the authority contained in section 721 of the Bilingual Education Act, Title VII of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 93-380 (20 U.S.C. 880b–880b–13), notice is hereby given that applications for non-competiting assistance contracts for the coordination of technical assistance are being accepted from State Educational Agencies in the State where programs of bilingual education assisted under the Bilingual Education Act operated during the fiscal year preceding the fiscal year for which assistance is sought.

Funds made available pursuant to this notice shall be used for the coordination of technical assistance to programs of bilingual education assisted under the Bilingual Education Act and operated by local educational agencies in the State of the applicant.

The amount paid to any State educational agency pursuant to this notice shall not exceed five percent of the aggregate of the amounts paid under Part A of the Bilingual Education Act to local educational agencies in the State of such agency in the fiscal year preceding the fiscal year for which assistance under this subpart is sought.

Closing date: November 15, 1977.

A. Application forms and information. Application forms are being prepared but are not yet available. We anticipate that applications forms and programs information packages will be ready for mailing on or about September 15, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

B. Applications sent by mail. An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.403H, Washington, D.C. 20202. Application should be received by the Application Control Center on or before the closing date. In an effort to prevent the late arrival of applications due to inclement weather, natural disasters, delayed airline flight, tardy messenger service, civil disturbances, etc., the Office of Education suggests that applicants consider the use of registered or certified mail as explained below.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than November 10, 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 November 15, 1977, 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.

C. Hand-delivered applications. An application to be hand-delivered must be taken to the U.S. Office of Education D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C., time except Saturdays, Sundays, and Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

D. Program information. The amount of funds available in Fiscal Year 1978 for assistance contracts for coordination of technical assistance is \$4,375,000. Awards are made annually on a noncompetitive basis as assistance contracts to State educational agencies in states where programs of bilingual education assisted under the Bilingual Education Act operated during the fiscal year preceding the fiscal year for which assistance is sought. Forty-six states are eligible for Fiscal Year 1978 funds. Awards shall not exceed five percent of the aggregate of the amounts under Part A of the Bilingual Education Act to local educational agencies in the State for Fiscal Year 1977.

This statement on the availability of funds is only an average and does not bind the Office of Education to any particular pattern of distribution, except as required by the Bilingual Education Act, applicable regulations, and appropriation acts.

E. For further information contact. The Office of Bilingual Education, Office of Education, 400 Maryland Avenue SW. (Reporter's Building, Room 421), Washington, D.C. 20202 (202-245-2600).

F. Applicable regulations. Assistance contracts awarded pursuant to this

notice will be subject to the regulations in 45 CFR Part 123, relating to the Bilingual Education Act published in the FEDERAL REGISTER on June 11, 1976 (41 FR 23862), and except where inconsistent with Part 123, the Office of Education General Provisions Regulations in 45 CFR Part 100b. In preparing applications, applicants' attention is directed in particular to Subpart F of Part 123—§§123.51-123.60 relating to Coordination of Technical Assistance by State Educational Agencies.

(20 U.S.C. 880b-880b-13.)

(Catalog of Federal Domestic Assistance Number 13.403, Bilingual Education.)

Dated: September 8, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc.77-26802 Filed 9-14-77;8:45 am]

Health Care Financing Administration
CALIFORNIA PSRO AREA X: RESULTS OF NOTIFICATION

Notice to Physicians Regarding Agreement To Designate Professional Standards Review Organization

On July 20, 1977, the Secretary of Health, Education, and Welfare published in the FEDERAL REGISTER a notice in which he announced his intention to enter into an agreement with the Stanislaus-Merced-Mariposa PSRO, Inc., designating it as the Professional Standards Review Organization for PSRO Area X of the State of California, which area is designated a Professional Standards Review Organization Area in 42 CFR 101.7.

Such notice was also published in three consecutive issues of the *Merced Sun-Star*, *The Union Democrat*, and the *Modesto Bee* on July 20, 21, and 22, 1977. In addition, copies of the notice were mailed to organizations of practicing doctors of medicine or osteopathy, including the appropriate State and County medical and specialty societies, and hospitals and other health care facilities in the area, with a request that each such society or facility inform those doctors in its membership or on its staff who are engaged in active practice in PSRO Area X of the State of California of the contents of the notice.

The notice requested that any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area X of the State of California who objects to the Secretary entering into an agreement with the Stanislaus-Merced-Mariposa PSRO, Inc., on the grounds that such organization is not representative of doctors in PSRO Area X of the State of California, mail such objection in writing to the Secretary, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022 on or before August 19, 1977.

After reviewing the final tabulation of objections from doctors of medicine or osteopathy in PSRO Area X of the State of California, the Secretary has determined, pursuant to 42 CFR 101.105, that

not more than 10 percentum of the doctors engaged in the active practice of medicine or osteopathy in PSRO Area X of the State of California have expressed timely objection to the Secretary entering into an agreement with the Stanislaus-Merced-Mariposa PSRO, Inc. Therefore, the Secretary will proceed to enter into an agreement with the Stanislaus-Merced-Mariposa PSRO, Inc., designating it as the Professional Standards Review Organization for PSRO Area X of the State of California.

Dated: September 8, 1977.

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

[FR Doc.77-26889 Filed 9-14-77;8:45 am]

**COMMONWEALTH OF PUERTO RICO:
RESULTS OF NOTIFICATION**

Notice to Physicians Regarding Agreement To Designate Professional Standards Review Organization

On July 20, 1977, the Secretary of Health, Education, and Welfare published in the FEDERAL REGISTER a notice in which he announced his intention to enter into an agreement with the Foundation for Medical Care of Puerto Rico designating it as the Professional Standards Review Organization for the Commonwealth of Puerto Rico, which area is designated a Professional Standards Review Organization Area in 42 CFR 101.43.

Such notice was also published in three consecutive issues of *El Mundo*, *El Nuevo Dia*, and the *San Juan Star* on July 20, 21, and 22, 1977. In addition, copies of the notice were mailed to organizations of practicing doctors of medicine or osteopathy, including the appropriate medical and specialty societies, and hospitals and other health care facilities in the area, with a request that each such society or facility inform those doctors in its membership or on its staff who are engaged in active practice in the Commonwealth of Puerto Rico of the contents of the notice.

The notice requested that any licensed doctor of medicine or osteopathy engaged in active practice in the Commonwealth of Puerto Rico who objects to the Secretary entering into an agreement with the Foundation for Medical Care of Puerto Rico on the grounds that such organization is not representative of doctors in the Commonwealth of Puerto Rico, mail such objection in writing to the Secretary, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022 on or before August 19, 1977.

After reviewing the final tabulation of objections from doctors of medicine or osteopathy in the Commonwealth of Puerto Rico, the Secretary has determined, pursuant to 42 CFR 101.105, that not more than 10 percentum of the doctors engaged in the active practice of medicine or osteopathy in the Commonwealth of Puerto Rico have expressed

timely objection to the Secretary entering into an agreement with the Foundation for Medical Care of Puerto Rico. Therefore, the Secretary will proceed to enter into an agreement with the Foundation for Medical Care of Puerto Rico designating it as the Professional Standards Review Organization for the Commonwealth of Puerto Rico.

Dated: September 8, 1977.

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

[FR Doc.77-26894 Filed 9-14-77;8:45 am]

INDIANA PSRO AREA I: RESULTS OF NOTIFICATION

Notice to Physicians Regarding Agreement to Designate Professional Standards Review Organization

On July 6, 1977, the Secretary of Health, Education, and Welfare published in the FEDERAL REGISTER a notice in which he announced his intention to enter into an agreement with the Calumet Area Professional Review Organization designating it as the Professional Standards Review Organization for PSRO Area I of the State of Indiana, which area is designated a Professional Standards Review Organization Area in 42 CFR 101.18.

Such notice was also published in three consecutive issues of the *Post-Tribune*, *Chicago Sun-Times*, *Times*, *Chicago Tribune*, and the *Chicago Daily News* on July 1, 2, and 4, 1977; and a correction notice was published on July 27, 28, and 29, 1977 in the same newspapers. In addition, copies of the notice were mailed to organizations of practicing doctors of medicine or osteopathy, including the appropriate State and County medical and specialty societies and hospitals and other health care facilities in the area, with a request that each such society or facility inform those doctors in its membership or on its staff who are engaged in active practice in PSRO Area I of the State of Indiana of the contents of the notice.

The notice requested that any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area I of the State of Indiana who objects to the Secretary entering into an agreement with the Calumet Area Professional Review Organization on the grounds that such organization is not representative of doctors in PSRO Area I of the State of Indiana, mail such objection in writing to the Secretary, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022 on or before August 5, 1977.

After reviewing the final tabulation of objections from doctors of medicine or osteopathy in PSRO Area I of the State of Indiana, the Secretary has determined, pursuant to 42 CFR 101.105, that not more than 10 percentum of the doctors engaged in the active practice of medicine or osteopathy in PSRO Area I of the State of Indiana have expressed

timely objection to the Secretary entering into an agreement with the Calumet Area Professional Review Organization. Therefore, the Secretary will proceed to enter into an agreement with the Calumet Area Professional Review Organization designating it as the Professional Standards Review Organization for PSRO Area I of the State of Indiana.

Dated: September 8, 1977.

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

[FR Doc.77-26890 Filed 9-14-77;8:45 am]

INDIANA PSRO AREA V: RESULTS OF NOTIFICATION

Notice to Physicians Regarding Agreement to Designate Professional Standards Review Organization

On July 6, 1977, the Secretary of Health, Education, and Welfare published in the FEDERAL REGISTER a notice in which he announced his intention to enter into an agreement with the Indiana Area V PSRO designating it as the Professional Standards Review Organization for PSRO Area V of the State of Indiana, which area is designated a Professional Standards Review Organization Area in 42 CFR 101.18.

Such notice was also published in three consecutive issues of *The Cincinnati Post*, *The Courier-Journal*, *The Louisville Times*, *Herald-Telephone*, and *The Indianapolis Star-News* on July 1, 2, and 4, 1977; and a correction notice was published on July 27, 28, and 29, 1977 in the same newspapers. In addition, copies of the notice were mailed to organizations of practicing doctors of medicine or osteopathy, including the appropriate State and County medical and specialty societies, and hospitals and other health care facilities in the area, with a request that each such society or facility inform those doctors in its membership or on its staff who are engaged in active practice in PSRO Area V of the State of Indiana of the contents of the notice.

The notice requested that any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area V of the State of Indiana who objects to the Secretary entering into an agreement with the Indiana Area V PSRO on the grounds that such organization is not representative of doctors in PSRO Area V of the State of Indiana, mail such objection in writing to the Secretary, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022 on or before August 5, 1977.

After reviewing the final tabulation of objections from doctors of medicine or osteopathy in PSRO Area V of the State of Indiana, the Secretary has determined, pursuant to 42 CFR 101.105, that not more than 10 percentum of the doctors engaged in the active practice of medicine or osteopathy in PSRO Area V of the State of Indiana have expressed timely objection to the Secretary en-

tering into an agreement with the Indiana Area V PSRO. Therefore, the Secretary will proceed to enter into an agreement with the Indiana Area V PSRO designating it as the Professional Standards Review Organization for PSRO Area V of the State of Indiana.

Dated: September 8, 1977.

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

[FR Doc.77-26891 Filed 9-14-77;8:45 am]

STATE OF KANSAS: RESULTS OF NOTIFICATION

Notice to Physicians Regarding Agreement to Designate Professional Standards Review Organization

On July 6, 1977, the Secretary of Health, Education, and Welfare, published in the FEDERAL REGISTER a notice in which he announced his intention to enter into an agreement with the Kansas Foundation for Medical Care, Inc., designating it as the Professional Standards Review Organization for the State of Kansas, which area is designated a Professional Standards Review Organization Area in 42 CFR 101.20.

Such notice was also published in three consecutive issues of *The Salina Journal*, *The Manhattan Mercury*, *The Kansas City Star*, *The Kansas City Times*, *The Topeka State Journal*, *The Garden City Telegram*, *The Lawrence Daily Journal-World*, *The Morning Sun*, *The Dodge City Daily Globe*, *The Hays Daily News*, *The Topeka Daily Capital*, *Beacon*, *Eagle* and *The Hutchinson News* on July 1, 2, and 4, 1977; and a correction notice was published on July 27, 28, and 29, 1977, in the same newspapers. In addition, copies of the notice were mailed to organizations of practicing doctors of medicine or osteopathy, including the appropriate State and county medical and specialty societies, and hospitals and other health care facilities in the area, with a request that each such society or facility inform those doctors in its membership or on its staff who are engaged in active practice in the State of Kansas of the contents of the notice.

The notice requested that any licensed doctor of medicine or osteopathy engaged in active practice in the State of Kansas who objects to the Secretary entering into an agreement with the Kansas Foundation for Medical Care, Inc., on the grounds that such organization is not representative of doctors in the State of Kansas, mail such objection in writing to the Secretary, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, N.Y. 10022 on or before August 5, 1977.

After reviewing the final tabulation of objections from doctors of medicine or osteopathy in the State of Kansas, the Secretary has determined, pursuant to 42 CFR 101.105, that not more than 10 percentum of the doctors engaged in the active practice of medicine or osteopathy in the State of Kansas have expressed timely objection to the Secretary enter-

ing into an agreement with the Kansas Foundation for Medical Care, Inc. Therefore, the Secretary will proceed to enter into an agreement with the Kansas Foundation for Medical Care, Inc., designating it as the Professional Standards Review Organization for the State of Kansas.

Dated: September 8, 1977.

ROBERT A. DERZON,
Administrator,
Health Care Financing Administration.
[FR Doc.77-26892 Filed 9-14-77;8:45 am]

MICHIGAN PSRO AREA VIII: RESULTS OF NOTIFICATION

Notice to Physicians Regarding Agreement to Designate Professional Standards Review Organization

On July 20, 1977, the Secretary of Health, Education, and Welfare, published in the FEDERAL REGISTER a notice in which he announced his intention to enter into an agreement with the Federation of Physicians in Southeastern Michigan designating it as the Professional Standards Review Organization for PSRO Area VIII of the State of Michigan, which area is designated a Professional Standards Review Organization Area in 42 CFR 101.26.

Such notice was also published in three consecutive issues of the Detroit Free Press and the New Press of July 20, 21, and 22, 1977. In addition, copies of the notice were mailed to organizations of practicing doctors of medicine or osteopathy, including the appropriate State and County medical and specialty societies, and hospitals and other health care facilities in the area, with a request that each such society or facility inform those doctors in its membership or on its staff who are engaged in active practice in PSRO Area VIII of the State of Michigan of the contents of the notice.

The notice requested that any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area VIII of the State of Michigan who objects to the Secretary entering into an agreement with the Federation of Physicians in Southeastern Michigan on the grounds that such organization is not representative of doctors in PSRO Area VIII of the State of Michigan, mail such objection in writing to the Secretary, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, N.Y. 10022 on or before August 19, 1977.

After reviewing the final tabulation of objections from doctors of medicine or osteopathy in PSRO Area VIII of the State of Michigan, the Secretary has determined, pursuant to 42 CFR 101.105, that not more than 10 percentum of the doctors engaged in the active practice of medicine or osteopathy in PSRO Area VIII of the State of Michigan have expressed timely objection to the Secretary entering into an agreement with the Federation of Physicians in Southeastern Michigan. Therefore, the Secretary will

proceed to enter into an agreement with the Federation of Physicians in Southeastern Michigan designating it as the Professional Standards Review Organization for PSRO Area VIII of the State of Michigan.

Dated: September 8, 1977.

ROBERT A. DERZON,
Administrator,
Health Care Financing Administration.
[FR Doc.77-26893 Filed 9-14-77;8:45 am]

Social Security Administration DIVISION OF SENSITIVE INQUIRIES, ET AL.

Re Delegations of Authority To Make Various Findings of Fact, Decisions and Determinations on Cases Referred

Correction

In FR Doc. 77-25106 appearing on page 43671 in the issue of Tuesday, August 30, 1977, on page 43672, the 1st line, 1st paragraph should read as follows: "E. Pursuant to sections 402, 412 and . . .".

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration
[Docket No. NFD-557; FDAA 3040-EM]

IDAHO

Amendment to Notice of Emergency Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This notice amends the notice of emergency declaration for the State of Idaho (FDAA-3040-EM), dated May 5, 1977.

DATED: August 24, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: The notice of emergency for the State of Idaho dated May 5, 1977, and amended on June 1, 1977, June 2, 1977, June 3, 1977, June 14, 1977, and July 12, 1977, is hereby further amended to include the following counties among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of May 5, 1977:

The County of:

Caribou.

The purpose of this designation is to provide emergency livestock feed assistance and cattle transportation assistance only in the aforementioned affected area effective the date of this amended notice.

The Counties of:

Adams. Camas.

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned affected area effective the date of this amended notice.

THOMAS P. DUNNE,
Administrator, Federal Disaster
Assistance Administration.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

[FR Doc.77-26933 Filed 9-14-77;8:45 am]

[Docket No. NFD-556; FDAA 3035-EM]

MICHIGAN

Amendment to Notice of Emergency Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of emergency declaration for the State of Michigan (FDAA-3035-EM), dated March 2, 1977.

DATED: August 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: The Notice of emergency for the State of Michigan dated March 2, 1977, and amended on April 1, 1977, June 14, 1977, and July 21, 1977, is hereby further amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of March 2, 1977:

The Counties of:

Mecosta. Oceana.

The purpose of this designation is to continue to provide emergency livestock feed assistance only in the aforementioned affected areas effective the date of this amended Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster
Assistance Administration.

[FR Doc.77-26932 Filed 9-14-77;8:45 am]

[Docket No. NFD-551; FDAA 3050-EM]

MONTANA

Notice of an Emergency Declaration and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of an emergency

for the State of Montana (FDAA-3050-EM), dated August 22, 1977, and related determinations.

DATED: August 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development (Washington, D.C. 20410 (202-634-7825)).

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on August 22, 1977, the President declared an emergency as follows:

I have determined that the impact of a drought on the State of Montana is of sufficient severity and magnitude to warrant a declaration of an emergency under Public Law 93-288. I therefore declare that such an emergency exists in the State of Montana.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Donald G. Eddy, FDAA Region VIII, to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following area to have been adversely affected by this declared emergency:

The County of Glacier.

The purpose of this designation is to provide emergency livestock feed and cattle transportation assistance only in the aforementioned area effective the date of this Notice.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

[FR Doc.77-26927 Filed 9-14-77; 8:45 am]

[Docket No. NFD-553; FDAA-3049-EM]

NORTH CAROLINA

Amendment to Notice of Emergency Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of emergency declaration for the State of North Carolina (FDAA-3049-EM), dated August 11, 1977.

DATED: August 23, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: The Notice of emergency for the State of North Carolina dated August 11, 1977, and amended on August 16, 1977, is hereby further amended to include the following counties among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of August 11, 1977:

The Counties of:

Caswell	Stokes
Lincoln	Wake

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned areas effective the date of this amended Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-26928 Filed 9-14-77; 8:45 am]

[Docket No. NFD-553; FDAA-3049-EM]

NORTH CAROLINA

Amendment to Notice of Emergency Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of emergency declaration for the State of North Carolina (FDAA-3049-EM), dated August 11, 1977.

DATED: August 24, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: The Notice of emergency for the State of North Carolina dated August 11, 1977, and amended on August 16, 1977, and August 23, 1977, is hereby further amended to include the following county among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of August 11, 1977:

The County of: Catawba.

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned area effective the date of this amended Notice.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

[FR Doc.77-26929 Filed 9-14-77; 8:45 am]

[Docket No. NFD-554; FDAA 3052-EM]

WEST VIRGINIA

Notice of Emergency Declaration and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of an emergency for the State of West Virginia (FDAA-3052-EM), dated August 24, 1977, and related determinations.

DATED: August 24, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on August 24, 1977, the President declared an emergency as follows:

I have determined that the impact of severe storms, landslides, and flooding on the State of West Virginia is of sufficient severity and magnitude to warrant a declaration of an emergency under Public Law 93-288 for the purpose of providing mobile homes. I therefore declare that such an emergency exists in the State of West Virginia.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Arthur T. Doyle, FDAA Region III, to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas to have been adversely affected by this declared emergency.

The Counties of:

Boone	Mingo
Logan	

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-26930 Filed 9-14-77; 8:45 am]

[Docket No. NFD-555; FDDA 3051-EM]

WEST VIRGINIA

Notice of Emergency Declaration and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of an emergency for the State of West Virginia (FDDA-3051-EM), dated August 24, 1977, and related determinations.

DATED: August 24, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on August 24, 1977, the President declared an emergency as follows:

I have determined that the impact of a drought on the State of West Virginia is of sufficient severity and magnitude to warrant a declaration of an emergency under Pub. L. 93-288. I therefore declare that such an emergency exists in the State of West Virginia.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Arthur T. Doyle, FDDA Region III, to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas to have been adversely affected by this declared emergency.

The Counties of:

Grant	Monroe
Greenbrier	Pendleton
Hampshire	Pocahontas
Hardy	Summers
Mineral	

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned areas effective the date of this Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster
Assistance Administration.

[FR Doc. 77-26931 Filed 9-14-77; 8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA 2877]

CALIFORNIA

Opening of Land Subject to Section 24 of the Federal Power Act

SEPTEMBER 7, 1977.

Pursuant to the order of the Federal Power Commission DA-1127 issued June 17, 1977, and by virtue of the authority contained in Section 24 of the Act of June 10, 1920 (41 Stat. 1075; 16 U.S.C. 818) (1970), as amended, and in accordance with the authority redelegated to me by the State Director, California State Office, Bureau of Land Management, issued January 21, 1977 (42 FR 3901), as amended; it is ordered as follows:

1. The Commission finds that the value of the following described land, withdrawn in Power Site Classification No. 115, will not be injured or destroyed by conveyance subject to the provisions of Section 24 of the Federal Power Act.

HUMBOLT MERIDIAN

POWER SITE CLASSIFICATION 115

T. 8 N., R. 4 E.,
Sec. 25, Lot 25.

The area described aggregates 19.96 acres in Humboldt County.

2. The State of California has waived its preference right of application for highway rights-of-way on material sites afforded it by Section 24 of the Federal Power Act.

3. The land shall be made immediately available for a pending Indian Allotment CA 3933 subject to valid existing rights, the provisions of existing withdrawals, the requirements of applicable law, and subject to the provisions of Section 24 of the Federal Power Act, supra.

JOHN B. RUSSELL,
Chief, Lands Section Branch of
Lands and Minerals Operations.

[FR Doc. 77-26907 Filed 9-14-77; 8:45 am]

COLORADO

Closure to Motorized Vehicles

Notice is hereby given that under the authority of Executive Order 11644 as amended May 24, 1977, and the regulations in 43 CFR 6010, a four-wheel drive vehicle trail across the following described public lands under the administration of the Bureau of Land Management is closed to motorized vehicle use.

SIXTH PRINCIPAL MERIDIAN

T. 15 S., R. 77 W.,
Sec. 19, NW ¼ and SE ¼.
Sec. 20, SW ¼ SW ¼.
Sec. 29, N ½ and E ½ SE ¼.
T. 15 S., R. 78 W.,
Sec. 13, E ¼ SW ¼.
Sec. 24, NE ¼.

Vehicle closure signs are posted where this trail enters public lands. The trail extends from the vicinity of Ruby Mountain, near Nathrop, Colo., southeasterly

approximately four miles to the San Isabel National Forest boundary. In the past this trail continued into the National Forest but that portion has been closed by the Forest Service. This trail passes through a portion of an area known as Browns' Canyon which was included in a proposed withdrawal to protect primitive values on August 16, 1976. In addition, Sec. 103 of the Federal Land Policy and Management Act of October 21, 1976 requires that such areas be reviewed to determine suitability for wilderness designation. The Act also requires that until such a determination is made such areas are to be managed so as not to impair suitability for preservation for wilderness. Closure of the above described trail is an interim management action to protect potential primitive and/or wilderness values.

This notice of closure shall become effective upon publication in the FEDERAL REGISTER.

Copies of a map showing the location of the trail as it crosses through the above described lands are posted in the Post Office at Nathrop, Colo., and in the Chaffee County Courthouse in Salida, Colo., and are available in the District Office, Bureau of Land Management, 3080 East Main Street, Canon City, Colo. 81212.

DALE R. ANDRUS,
State Director.

SEPTEMBER 7, 1977.

[FR Doc. 77-26808 Filed 9-14-77; 8:45 am]

CRAIG, MONTROSE, CANON CITY-GRAND JUNCTION TEAM LEADERS, BRANCH OF ADJUDICATION, DIVISION OF TECHNICAL SERVICES, COLORADO STATE OFFICE

Redelegation of Authority

SEPTEMBER 9, 1977.

1. Pursuant to the authority contained in redelegation of authority, published in FEDERAL REGISTER, 42 FR 41484, No. 159—Wednesday, August 17, 1977 (FR Doc. 77-23635 Filed 8-16-77; 8:45 a.m.), I hereby redelegate to the Leaders, Craig, Montrose and Canon City-Grand Junction Teams, Branch of Adjudication, in the Division of Technical Services, authority to take action on the following matters:

Sections 1.2 (b) and (c), 1.3(a), 1.5 (b) and (c), 1.6 (a) through (1), and 1.9 (a) through (f), (h) through (s), (u), (x), and (y) of Part I of the Bureau Order No. 701, of July 23, 1964, as amended.

2. Effective date: This redelegation will become effective October 1, 1977.

THOMAS N. HARDIN,
Chief, Branch of Adjudication.

[FR Doc. 77-26773 Filed 9-14-77; 8:45 am]

NELLIS AIR FORCE BOMBING AND GUNNERY RANGE WITHDRAWAL, SOUTHERN NEVADA

Draft Environmental Statement

In accordance with Section 102(2)(c) of the National Environmental Policy

Act of 1969, the Department of the Air Force and the Bureau of Land Management (BLM) have begun preparation of a draft environmental statement on the proposed renewal of the Nellis Air Force Bombing and Gunnery Range Withdrawal. The Nellis Range, located in southeastern Nevada, includes portions of Clark, Lincoln, and Nye Counties.

The proposed action involves the continued use by the Department of the Air Force of about three million acres, most of which have been withdrawn land used primarily for training combat air crews and for testing experimental or improved weapons systems.

The draft statement will analyze the potential impacts of the proposed action and/or future Air Force activities on the human environment. The potential environmental effects to be assessed in the statement will primarily relate to: (a) The exclusion of possible alternative land uses within the areas involved; and (b) impacts to the land caused by continued use by the Air Force for weapons-related activities. (These types of activities have been occurring in the area since an original 1940 withdrawal.)

The draft environmental statement is being prepared by the Air Force's Environmental Planning Division, Langley Air Force Base, Va., with the assistance and review of the BLM. Anyone desiring more information, or wishing to comment on the project should contact William C. Calkins, Chief, Environmental Coordination Section, Bureau of Land Management, Room 3008, Federal Building, 300 Booth Street, Reno, Nev. 89509.

Dated: September 8, 1977.

E. I. ROWLAND,
State Director, Nevada.

[FR Doc. 77-26816 Filed 9-14-77; 8:45 am]

[NM 31524]

NEW MEXICO

Notice of Application

SEPTEMBER 8, 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), El Paso Natural Gas Co. has applied for one 8 $\frac{1}{2}$ -inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, N. MEX.

T. 17 S., R. 29 E.,
Sec. 27, NE $\frac{1}{4}$ SW $\frac{1}{4}$.

This pipeline will convey natural gas across 0.288 of a mile of public land in Eddy County, N. Mex.

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 Man-

ager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and
Minerals Operations.

[FR Doc. 77-26809 Filed 9-14-77; 8:45 am]

[NM 31525]

NEW MEXICO

Notice of Application

SEPTEMBER 8, 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), Southern Union Gathering Co. has applied for one 4-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, N. MEX.

T. 29 N., R. 9 W.,
Sec. 23, lot 16.
Sec. 25, lots 4, 5, 12 and 13.
Sec. 26, lot 1.

This pipeline will convey natural gas across 1.20 miles of public land in San Juan County, N. Mex.

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 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and
Minerals Operations.

[FR Doc. 77-26810 Filed 9-14-77; 8:45 am]

[NM 31531]

NEW MEXICO

Notice of Application

SEPTEMBER 8, 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), Transwestern Pipeline Co. has applied for one 4-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, N. MEX.

T. 20 S., R. 25 E.,
Sec. 7, lot 4, E $\frac{1}{2}$ SW $\frac{1}{4}$.
Sec. 18, lot 1.

This pipeline will convey natural gas across 0.62 of a mile of public land in Eddy County, N. Mex.

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 Man-

ager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and
Minerals Operations.

[FR Doc. 77-26811 Filed 9-14-77; 8:45 am]

[NM 31521, 31522, and 31523]

NEW MEXICO

Notice of Applications

SEPTEMBER 8, 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), El Paso Natural Gas Co. has applied for one 6 $\frac{1}{2}$ -inch and two 4 $\frac{1}{2}$ -inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, N. MEX.

T. 24 N., R. 9 W.,
Sec. 22, E $\frac{1}{2}$ NE $\frac{1}{4}$.
Sec. 23, SW $\frac{1}{4}$ NW $\frac{1}{4}$.
T. 31 N., R. 9 W.,
Sec. 32, lots 1, 2, and 4.
T. 32 N., R. 11 W.,
Sec. 13, NE $\frac{1}{4}$ NW $\frac{1}{4}$.

These pipelines will convey natural gas across 0.921 mile of public lands in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications 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 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and
Minerals Operations.

[FR Doc. 77-26812 Filed 9-4-77; 8:45 am]

[NM 31510]

NEW MEXICO

Notice of Application

SEPTEMBER 6, 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), Western Gas Interstate Co. has applied for two sites and one 4-inch pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, N. MEX.

T. 20 S., R. 25 E.,
Sec. 25, W $\frac{1}{2}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$ SW $\frac{1}{4}$.
Sec. 26, S $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$.
Sec. 27, S $\frac{1}{2}$ NW $\frac{1}{4}$.
Sec. 28, N $\frac{1}{2}$ N $\frac{1}{2}$.
Sec. 29, N $\frac{1}{2}$ NE $\frac{1}{4}$.

The sites and pipeline will be used in connection with natural gas operations and will cross 3.317 miles and 1.836 acres of public land in Eddy County, N. Mex.

NOTICES

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 term 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, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and
Minerals Operations.

[FR Doc.77-26813 Filed 9-14-77;8:45 am]

[Colorado 093629-A]

PIPELINE APPLICATION (CORRECTION)

In FR Doc. 77-18741, appearing on page 33383 in the issue for Thursday, June 30, 1977, the width for the gasoline products pipeline was incorrectly given as 45 inch o.d. The correct width dimension for the gasoline products pipeline is 4.5 inch o.d.

Dated: September 7, 1977.

THOMAS N. HARDIN,
Chief, Branch of Adjudication.

[FR Doc.77-26509 Filed 9-14-77;8:45 am]

[OR 17389]

OREGON

Reclassification of Public Land for Disposal by Exchange

SEPTEMBER 8, 1977.

Notice of classification, OR 1630, which was published in the FEDERAL REGISTER on November 29, 1967 (32 FR 16285-16287), as amended, classified the land described below, among other lands, for retention in federal ownership for multiple use management under the Act of September 19, 1964, 43 U.S.C. 1411-18 (1976).

It has been determined that the classification is no longer appropriate for the parcel described below and the segregative effect of the classification is hereby terminated. Accordingly, pursuant to 43 CFR 2400, notice is hereby given that this land is reclassified for disposal by exchange under the provisions of Section 206 of the Act of October 21, 1976 (90 Stat. 2743, 2756; 43 U.S.C. 1716).

WILLAMETTE MERIDIAN

T. 33 S., R. 18 E.,
Sec. 3, S $\frac{1}{2}$ S $\frac{1}{2}$ SE $\frac{1}{4}$,
Sec. 10, N $\frac{1}{2}$ NE $\frac{1}{4}$.

The area described totals 120 acres in Lake County. In accordance with 43 CFR 2201.1 and 2202.1, no application for an exchange will be accepted until the land has been classified and the application is accompanied by a statement from the Lakeview District Manager, Bureau of Land Management, that the proposal is feasible.

No later than October 17, 1977, interested parties may submit comments to

the Secretary of the Interior, LLM 320, Washington, D.C. 20240.

MURL W. STORMS,
State Director.

[FR Doc.77-26814 Filed 9-14-77;8:45 am]

[W-60227]

WYOMING

Notice of Proposed Withdrawal and Reservation of Lands

AUGUST 11, 1977.

The Fish and Wildlife Service, Department of the Interior, on July 19, 1977, filed application, Serial No. W-60227, for the withdrawal of approximately 11.21 acres of land from settlement, sale, location, or entry, under all of the general land laws, including the mining laws, but not the mineral leasing laws, subject to valid existing rights.

The Fish and Wildlife Service desires these lands for use as a district administrative headquarters site for Animal Damage Control activities.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyo. 82001, on or before September 21, 1977. Upon determination by the State Director that a public hearing will be held, the time and place will be announced.

The Department of the Interior's regulations provide that the authorized officer of the BLM will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency. The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

For a period of two years from the date of publication of this notice in the FEDERAL REGISTER, the lands will be segregated from entry as specified above unless the application is rejected or the withdrawal is approved prior to that date. If the withdrawal is approved by the Secretary, it will be for a 20 year period, and the lands will remain segregated for the duration of the withdrawal. The lands involved in the application are:

SIXTH PRINCIPAL MERIDIAN, WYO.

T. 19 N., R. 105 W.,
Sec. 22, lots 22 and 23, containing 11.21 acres.

All communications in connection with this withdrawal should be addressed to the Chief, Division of Technical Services, Bureau of Land Management, Department of the Interior, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyo. 82001.

HAROLD G. STINCHCOMB,
Acting Chief, Division of
Technical Services.

[FR Doc.77-26815 Filed 9-14-77;8:45 am]

National Park Service

[Order No. 5]

ADMINISTRATIVE OFFICER, ET AL., INDEPENDENCE NATIONAL HISTORICAL PARK

Delegation of Authority

Section 1. *Administrative Officer.* The Administrative Officer may execute, approve, and administer contracts not in excess of \$200,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds. This authority may be exercised by the Administrative Officer in behalf of any area administered by Independence National Historical Park.

Section 2. *Procurement Agent.* The Procurement Agent may execute, approve, and administer contracts not in excess of \$25,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds. This authority may be exercised by the Procurement Agent in behalf of any area administered by Independence National Historical Park.

Section 3. *Revocation.* This order supersedes Order No. 4 dated March 13, 1975 and published in 40 FR 29309 on July 11, 1975.

(National Park Service Order No. 77 (39 FR 7478) as amended Mid-Atlantic Region Order No. 1 (39 FR 3694) as amended.)

Dated: May 11, 1977.

HOBART G. CAWOOD,
Superintendent, Independence
National Historical Park.

[FR Doc.77-26743 Filed 9-14-77;8:45 am]

[Order No. 5]

ADMINISTRATIVE OFFICER, LAKE MEREDITH RECREATION AREA**Delegation of Authority Regarding Purchasing Authority**

Sec. 1. (a) Administrative Officer. The Administrative Officer is authorized to execute, approve and administer contracts not in excess of \$50,000 for supplies, equipment or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

(b) Purchasing Agent. The Purchasing Agent may issue purchase orders not in excess of \$500 for supplies, equipment or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

Sec. 2. Revocation. This order supersedes Order No. 4, Lake Meredith Recreation Area, dated: June 10, 1975, and published July 18, 1975 (FR vol. 40, No. 139, July 18, 1975).

(National Park Service Order No. 77, 38 FR 7478, as amended, Southwest Region Order No. 5, 37 FR 7722 as amended.)

Dated: August 12, 1977.

WILLIAM E. DYER,
*Superintendent,
Lake Meredith Recreation Area.*

[FR Doc.77-26739 Filed 9-14-77;8:45 am]

[Order No. 3]

ADMINISTRATIVE TECHNICIAN, PETERSBURG NATIONAL BATTLEFIELD**Delegation of Authority Regarding Purchase Orders for Supplies, Equipment, and Services**

Section 1. Administrative Technician. The Administrative Technician of Petersburg National Battlefield may issue purchase orders not in excess of \$10,000.00 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds.

Section 2. This order supersedes Petersburg National Battlefield Order No. 2, dated February 15, 1973 and published in 38 FR 8680 on April 5, 1973.

Dated: July 26, 1977.

WALLACE B. ELMS,
Superintendent.

[FR Doc.77-26744 Filed 9-14-77;8:45 am]

GRAND TETON NATIONAL PARK AND JOHN D. ROCKEFELLER, JR. MEMORIAL PARKWAY, WYO.**Concurrent Jurisdiction Accepted**

Notice is hereby given that effective as of the 11th day of July, 1977, the United States has accepted concurrent jurisdiction over crimes and offenses under the laws of the State of Wyoming over and within all the territory dedicated to national park purposes included in tracts of land designated as Grand Teton National Park and John D. Rockefeller, Jr., Memorial Parkway. The ac-

ceptance of such jurisdiction was authorized by the Act of February 1, 1940 (54 Stat. 19, as amended; 40 U.S.C. 255).

Concurrent jurisdiction was ceded by the State of Wyoming subject to provisions contained in the act of the Forty-Fourth Legislature of the State of Wyoming, 1977 Session, as approved February 25, 1977 (Enrolled Act No. 41, Senate; Chapter No. 95; W.S. 5-4-4). This acceptance was effected by letter of July 8, 1977, from the Director of the National Park Service to the Governor of the State of Wyoming, receipt of which was acknowledged by the Governor on July 11, 1977.

The acquisition of this jurisdiction will enable the National Park Service to assume a more positive role in matters of public health and safety and to otherwise administer these areas more effectively. It will also relieve much of the burden heretofore placed on local authorities by the thousands of people who visit these Federal areas each year.

Done at the city of Washington, D.C., this 31 day of August, 1977.

WILLIAM J. WHALEN,
*Director,
National Park Service.*

[FR Doc.77-26738 Filed 9-14-77;8:45 am]

MINING PLAN OF OPERATIONS AT DEATH VALLEY NATIONAL MONUMENT**Availability**

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of Section 9.17 of 36 CFR Part 9, G&S Incorporated has filed a Plan of Operations in support of proposed mining activities on lands embracing its Big Gypsum Mining Claim within the Death Valley National Monument. This plan is available for public inspection during normal business hours at the Death Valley National Monument Headquarters, Death Valley, Calif.

Dated: July 27, 1977.

DONALD M. SPALDING,
*Superintendent,
Death Valley National Monument.*

Dated: August 16, 1977.

HOWARD H. CHAPMAN,
*Regional Director,
Western Region.*

[FR Doc.77-26471 Filed 9-14-77;8:45 am]

SAN JUAN ISLAND NATIONAL HISTORICAL PARK**Public Workshop**

Notice is hereby given that a public workshop will be held concerning the alternatives for the San Juan Island National Historical Park's General Management plan. The workshop will be conducted in the Grange Hall at Friday Harbor on San Juan Island from 2 p.m. to 5 p.m. on Wednesday, October 12, 1977.

Written comments may be submitted to the Superintendent, San Juan Island

National Historical Park, Box 549, Friday Harbor, Washington 98250, until November 4, 1977.

RUSSELL E. DICKENSON,
*Regional Director,
Pacific Northwest Region.*

SEPTEMBER 6, 1977.

[FR Doc.77-26740 Filed 9-14-77;8:45 am]

Office of the Secretary**PREVENTION OF SIGNIFICANT AIR QUALITY DETERIORATION WITHIN UNITS OF THE NATIONAL PARK SYSTEM****Termination of Class I PSD Redesignation Study**

The Department of the Interior has discontinued studies to determine whether Capitol Reef National Park and Canyonlands National Park should be redesignated to Class I areas pursuant to EPA Prevention of Significant Air Quality Deterioration (PSD) Regulations (40 CFR § 52.21).

The Secretary of the Interior announced in the FEDERAL REGISTER on June 14, 1977, that these two national parks in Utah were being considered for redesignation to Class I, and that studies required for that purpose under regulations of the Environmental Protection Agency in effect at that time would be pursued. However, the Clean Air Act Amendments of 1977, enacted into law on August 8, 1977, automatically place Capitol Reef and Canyonlands National Parks in the Class I PSD category. This new legislation preempts the former EPA regulations and makes further redesignation study of the two parks unnecessary.

Dated: August 24, 1977.

DAVID F. HALES,
*Acting Assistant,
Secretary of the Interior.*

[FR Doc.77-26742 Filed 9-14-77;8:45 am]

DEPARTMENT OF JUSTICE**Drug Enforcement Administration
IMPORTATION OF CONTROLLED
SUBSTANCES****Application**

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(h)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in schedule I or II and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore in accordance with section 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on August 24, 1977, Research Technology Branch, Division of Research, National Institute on Drug Abuse, DHEW, 11400 Rockville Pike, Rockville, Md.

20852, made application to the Drug Enforcement Administration to be registered as an importer of thebaine, a basic class controlled substance in schedule II, to be imported for research purposes only.

As to the basic class of controlled substance listed above for which application for registration has been made, any other applicant therefor, and any existing bulk manufacturer registered therefor, may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47. Such comments, objections and requests for a hearing may be filed no later than October 20, 1977.

Comments and objections may be addressed to the DEA Federal Register Representative, Office of Chief Counsel, Drug Enforcement Administration, Room 1203, 1405 Eye Street NW., Washington, D.C. 20537.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745-46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in schedule I or II are and will continue to be required to demonstrate to the Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e), and (f) are satisfied.

Dated: September 8, 1977.

DONALD E. MILLER,
Acting Deputy Administrator,
Drug Enforcement Administration.

[FR Doc. 77-26852 Filed 9-14-77; 8:45 am]

MANUFACTURE OF CONTROLLED SUBSTANCES

Application

Section 303(a) (1) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 823(a) (1)) states:

"The Attorney General shall register an applicant to manufacture controlled substances in schedule I or II if he determines that such registration is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on the effective date of this part. In determining the public interest, the following factors shall be considered:

(1) maintenance of effective controls against diversion of particular controlled substances and any controlled substance in schedule I or II compounded therefrom into other than legitimate medical, scientific, research, or industrial channels, by limiting the importation and bulk manufacture of such controlled substances to a number of establishments which can produce an adequate and uninterrupted supply of these substances under adequately competitive conditions for legitimate medical, scientific, research, and industrial purposes;

Pursuant to Section 1301.43 of Title 21 of the Code of Federal Regulations (CFR), notice is hereby given that on July 25, 1977, Endo Laboratories, Inc., 1000 Stewart Avenue, Garden City, New York 11530, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic class of controlled substances listed below:

Drug:	Schedule
Hydrocodone -----	II
Oxycodone -----	II
Oxymorphone -----	II

Pursuant to Section 301 of the Controlled Substances Act (21 U.S.C. 821), and in accordance with 21 CFR 1301.43 (a), notice is hereby given that the above firm has made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic class of controlled substances indicated, and any other such person, and any existing registered bulk manufacturer of the above substances may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on the application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47. Such comments, objections and requests for a hearing may be filed no later than October 20, 1977.

Comments and objections may be addressed to the DEA Federal Register Representative, Office of Chief Counsel, Drug Enforcement Administration, Room 1203, 1405 Eye Street NW., Washington, D.C. 20537.

Dated: September 8, 1977.

DONALD E. MILLER,
Acting Deputy Administrator,
Drug Enforcement Administration.

[FR Doc. 77-26853 Filed 9-14-77; 8:45 am]

MANUFACTURE OF CONTROLLED SUBSTANCES

Application

Section 303(a) (1) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 823(a) (1)) states:

"The Attorney General shall register an applicant to manufacture controlled substances in schedule I or II if he determines that such registration is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on the effective date of this part. In determining the public interest, the following factors shall be considered:

(1) maintenance of effective controls against diversion of particular controlled substances and any controlled substance in schedule I or II compounded therefrom into other than legitimate medical, scientific, research, or industrial channels, by limiting the importation and bulk manufacture of such controlled substances to a number of establishments which can produce an adequate and uninterrupted supply of these substances under adequately competitive

conditions for legitimate medical, scientific, research, and industrial purposes;"

Pursuant to Section 1301.43 of Title 21 of the Code of Federal Regulations (CFR), notice is hereby given that on August 9, 1977, Fher Corporation Ltd., Carretera 132, KM 25.3, P.O. Box 4108 Ponce, Puerto Rico 00731, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of phenmetrazine, a basic class of controlled substance in schedule II.

Pursuant to Section 301 of the Controlled Substances Act (21 U.S.C. 821), and in accordance with 21 CFR 1301.43 (a), notice is hereby given that the above firm has made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic class of controlled substance indicated, and any other such person, and any existing registered bulk manufacturer of phenmetrazine, may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on the application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47. Such comments, objections and requests for a hearing may be filed no later than October 20, 1977.

Comments and objections may be addressed to the DEA Federal Register Representative, Office of Chief Counsel, Drug Enforcement Administration, Room 1203, 1405 Eye Street NW., Washington, D.C. 20537.

Dated: September 8, 1977.

DONALD E. MILLER,
Acting Deputy Administrator,
Drug Enforcement Administration.

[FR Doc. 77-26854 Filed 9-14-77; 8:45 am]

MANUFACTURE OF CONTROLLED SUBSTANCES

Application

Section 303(a) (1) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 823(a) (1)) states:

"The Attorney General shall register an applicant to manufacture controlled substances in schedule I or II if he determines that such registration is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on the effective date of this part. In determining the public interest, the following factors shall be considered:

(1) maintenance of effective controls against diversion of particular controlled substances and any controlled substance in schedule I or II compounded therefrom into other than legitimate medical, scientific, research, or industrial channels, by limiting the importation and bulk manufacture of such controlled substances to a number of establishments which can produce an adequate and uninterrupted supply of these substances under adequately competitive conditions

for legitimate medical, scientific, research, and industrial purposes."

Pursuant to Section 1301.43 of Title 21 of the Code of Federal Regulations (CFR), notice is hereby given that on July 29, 1977, Pharmaceuticals Division, Ciba-Geigy Corporation, 556 Morris Avenue, Summit, New Jersey 07901, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of methylphenidate, a basic class of controlled substance in schedule II.

Pursuant to Section 301 of the Controlled Substances Act (21 U.S.C. 821), and in accordance with 21 CFR 1301.43 (a), notice is hereby given that the above firm has made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic class of controlled substance indicated, and any other such person, and any existing registered bulk manufacturer of methylphenidate may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on the application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47. Such comments, objections and requests for a hearing may be filed no later than October 20, 1977.

Comments and objections may be addressed to the DEA Federal Register Representative, Office of Chief Counsel, Drug Enforcement Administration, Room 1203, 1405 Eye Street NW., Washington, D.C. 20537.

Dated: September 8, 1977.

DONALD E. MILLER,
Acting Deputy Administrator,
Drug Enforcement Administration.

[FR Doc.77-26855 Filed 9-14-77;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts DANCE ADVISORY PANEL

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a meeting of the Dance Advisory Panel to the National Council on the Arts will be held on October 2-3, 1977 from 9:15 a.m. to 6:00 p.m., October 4, 1977 from 9:15 a.m. to 5:00 p.m. and October 5, 1977 from 9:15 a.m. to 6:00 p.m., in the fourth floor Board Room, Music Center Presentations, 135 North Grand Avenue, Los Angeles, California 90012.

A portion of this meeting will be open to the public on October 4, 1977 from 9:15 a.m. to 6:00 p.m. and October 5, 1977 from 9:15 a.m. to 3:00 p.m. The agenda for this session will include a discussion of guidelines, policy and a question and answer session.

The remaining sessions of this meeting on October 2-3, 1977 from 9:15 a.m. to 5:00 p.m. and October 5, 1977 from 3:00 p.m. to 6:00 p.m. are for the purpose

of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applications. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(B) of section 552(b) of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

SEPTEMBER 12, 1977.

[FR Doc.77-26803 Filed 9-14-77;8:45 am]

NATIONAL SCIENCE FOUNDATION ADVISORY PANEL FOR MOLECULAR BIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Molecular Biology, Sub-Panel B.

Date and Time: October 6 and 7, 1977—9 a.m. to 6 p.m.

Place: Room 643, National Science Foundation.

Type of Meeting: Closed.

Contact person: Dr. Frederick I. Iauji, Program Director for Biochemistry, Room 329, National Science Foundation, Washington, D.C., 20550, telephone 202-632-4260.

Purpose of panel: To provide advice and recommendations concerning support for research in molecular biology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(b)(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

SEPTEMBER 12, 1977.

[FR Doc.77-26761 Filed 9-14-77;8:45 am]

ADVISORY PANEL FOR PSYCHOBIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Psychobiology.

Date and time: October 5 and 6, 1977—9 a.m. to 5 p.m. each day.

Place: National Science Foundation, 1800 G St. N.W., Washington, D.C. Room 321.

Type of meeting: Closed.

Contact person: Fred Stollnitz, Program Director for Psychobiology, Room 320, National Science Foundation, Washington, D.C. Telephone 202-632-4264.

Purpose of panel: To provide advice and recommendations concerning support for research in psychobiology.

Agenda: The panel will be reviewing and evaluating research proposals and projects as part of the selection process for awards.

Reason for closing: The proposals and projects being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals and projects. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(b)(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make determinations by the Director, NSF, on February 11, 1976.

M. REBECCA WINKLER,
Acting Committee Management Officer.

SEPTEMBER 12, 1977.

[FR Doc.77-26760 Filed 9-14-77;8:45 am]

COMMITTEE MANAGEMENT

Establishments

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), I have determined that the establishment of the Advisory Committees listed below are necessary, appropriate, and in the public interest in connection with the performance of duties imposed upon the National Science Foundation (NSF) by the National Science Foundation Act of 1950, as amended, and other applicable law.

As a result of a recent reorganization of the Foundation's advisory group structure, these 14 new committees will replace 36 advisory panels which will be terminated at the time the new charters are filed with Congress. This determination follows consultation with the Office of Management and Budget (OMB), pursuant to Sect. 9(a)(2) of the Federal Advisory Committee Act and OMB Circular A-63, Revised.

ADVISORY COMMITTEE FOR ATMOSPHERIC SCIENCES

Purpose. To provide advice, recommendations, and oversight concerning support for research and research-related activities in the atmospheric sciences area.

Membership. The Advisory Committee will consist of approximately 30 persons selected

from the scientific community in atmospheric sciences.

ADVISORY COMMITTEE FOR ASTRONOMICAL SCIENCES

Purpose. To provide advice, recommendations, and oversight concerning support for research and research-related activities in the astronomical sciences area.

Membership. The Advisory Committee will consist of approximately 30 persons selected from the scientific community in astronomy.

ADVISORY COMMITTEE FOR EARTH SCIENCES

Purpose. To provide advice, recommendations, and oversight concerning support for research and research-related activities in the earth sciences area.

Membership. The Advisory Committee will consist of approximately 25 persons selected from the scientific community in earth sciences.

ADVISORY COMMITTEE FOR OCEAN SCIENCES

Purpose. To provide advice, recommendations, and oversight concerning support for research and research-related activities in the ocean sciences area.

Membership. The Advisory Committee will consist of approximately 35 persons selected from the scientific community in ocean sciences.

ADVISORY COMMITTEE FOR POLAR PROGRAMS

Purpose. To provide advice, recommendations, and oversight concerning support for research and research-related activities in the polar regions area.

Membership. The Advisory Committee will consist of approximately 55 persons selected from the scientific community in polar research.

ADVISORY COMMITTEE FOR ENGINEERING

Purpose. To provide advice, recommendations, and oversight concerning activities in the following areas: civil, chemical, electrical, mechanical and engineering disciplines.

Membership. The Advisory Committee will consist of approximately 38 persons selected from the scientific community in engineering research.

ADVISORY COMMITTEE FOR MATHEMATICAL AND COMPUTER SCIENCES

Purpose. To provide advice, recommendations, and oversight concerning support for research and research-related activities in the mathematics and computer sciences area.

Membership. The Advisory Committee will consist of approximately 25 persons selected from the scientific community in mathematical and computer sciences.

ADVISORY COMMITTEE FOR MATERIALS

Purpose. To provide advice, recommendations, and oversight concerning support for research and research-related activities in the following areas: condensed matter physics and chemistry, metallurgy, ceramics and polymer science; the Materials Research Laboratory Program; and user facilities at the National Magnet Laboratory, the Wisconsin Synchrotron Radiation Center and the Stanford Synchrotron Radiation Project.

Membership. The Advisory Committee will consist of approximately 36 persons selected from the scientific community in materials research.

ADVISORY COMMITTEE FOR CHEMISTRY

Purpose. To provide advice, recommendations, and oversight concerning support for research and research-related activities in the chemistry area.

Membership. The Advisory Committee will consist of approximately 18 persons selected from the scientific community in chemistry.

ADVISORY COMMITTEE FOR PHYSICS

Purpose. To provide advice, recommendations, and oversight concerning support in the physics area.

Membership. The Advisory Committee will consist of approximately 30 persons selected from the scientific community in physics.

ADVISORY COMMITTEE FOR PHYSIOLOGY, CELLULAR, AND MOLECULAR BIOLOGY

Purpose. To provide advice, recommendations, and oversight concerning support for research and research-related activities in the following areas: developmental, genetic, cellular, regulatory, and metabolic biology, and biochemistry and biophysics.

Membership. The Advisory Committee will consist of approximately 77 persons selected from the scientific community in the biological sciences.

ADVISORY COMMITTEE FOR BEHAVIORAL AND NEURAL SCIENCES

Purpose. To provide advice, recommendations, and oversight concerning support for research and research-related activities in the following areas: anthropology, linguistics, neurobiology, psychobiology, sensory physiology and perception, and social and developmental psychology.

Membership. The Advisory Committee will consist of approximately 60 persons selected from the scientific community in behavioral and neural sciences.

ADVISORY COMMITTEE FOR SOCIAL SCIENCES

Purpose. To provide advice, recommendations, and oversight concerning support for research and research-related activities in the following areas: economics, human geography and regional science, law and social sciences, political sciences, sociology, history and philosophy of science, special projects and social indicators.

Membership. The Advisory Committee will consist of approximately 45 persons selected from the scientific community in social sciences.

ADVISORY COMMITTEE FOR ENVIRONMENTAL BIOLOGY

Purpose. To provide advice, recommendations, and oversight concerning support for research and research-related activities in the following areas: ecology, systematics, population biology and physiological ecology, and ecosystems.

Membership. The Advisory Committee will consist of approximately 30 persons selected from the scientific community in environmental biology.

Balanced Membership. The membership of the Advisory Committees will be fairly balanced in the terms of the points of view represented and the committees function. Members will be chosen so as to insure a balance of subspecialty competence, geographical distribution, and representation of women and minorities. There will be no discrimination on the basis of race, color, national origin, religion, or sex.

Establishment and Duration. The Advisory Committees are effective on the date the charter is filed with the Director, NSF, and the standing committees of Congress having legislative jurisdiction of the National Science Foundation. The Advisory Committees will continue for two calendar years from the date of this filing.

Advisory Committee Operation. The Advisory Committees will operate in accordance with the provisions of the Federal Advisory

Committee Act (Pub. L. 92-463); Foundation policy and procedures; OMB Circular A-63, Revised; and other directives and instructions issued in implementation of the Act.

RICHARD C. ATKINSON,
Director.

SEPTEMBER 12, 1977.

[FR Doc. 77-26762 Filed 9-14-77; 8:45 am]

ERDA/NSF NUCLEAR SCIENCE ADVISORY COMMITTEE (NUSAC)

Notice of Establishment

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), it is hereby determined that the establishment of the ERDA/NSF Nuclear Science Advisory Committee is necessary, appropriate, and in the public interest in connection with the performance of the duties imposed upon the Director, National Science Foundation (NSF) by the National Science Foundation Act of 1950, as amended, and other applicable law. This determination follows consultation with the Office of Management and Budget (OMB), pursuant to § 9(a)(2) of the Federal Advisory Committee Act and OMB Circular No. A-63, Revised.

1. Name of Committee: ERDA/NSF Nuclear Science Advisory Committee (NUSAC).

2. Purpose: To provide advice on a continuing basis to both ERDA and NSF on support for basic nuclear science in the United States.

3. Effective date of establishment and duration: The establishment of this Committee is effective upon filing the charter with the Director, NSF, and the standing committees of Congress having legislative jurisdiction of the NSF and ERDA. The Committee will continue for two calendar years from the date of establishment. Two-year renewals of this Committee will be alternately under the aegis of ERDA and NSF, *mutatis mutandis*.

4. Membership: Membership of the Committee shall be fairly balanced in the terms of the point of view represented and the Committee's functions. Membership will consist of approximately 11 persons chosen to ensure an appropriately balanced representation of the scientific community in basic nuclear science, taking into account (1) the various subareas within nuclear science; (2) the various types of institutions engaged in research into basic nuclear science; (3) appropriate geographic distribution. Because of the specialized subject matter of the Committee, it is not felt necessary to include a public interest or industrial representative per se. There will be no discrimination on the basis of race, color, national origin, religion, age or sex.

5. Operation: The Committee will operate in accordance with provisions of the Federal Advisory Committee Act (Pub. L. 92-463); NSF policy and procedures, OMB Circular No. A-63 Revised, and other directives and instructions issued in implementation of the Act.

6. Waiver: The Committee plans to hold its first meeting in mid-October. Therefore, OMB has waived the requirement that the Notice of Establishment appear in the Federal Register 15 days before the charter can be filed with Congress. The charter will be filed on September 23, 1977.

RICHARD C. ATKINSON,
Director.

SEPTEMBER 12, 1977.

[FR Doc. 77-26916 Filed 9-14-77; 8:45 am]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 77-37]

SAFETY RECOMMENDATIONS AND RESPONSES

Availability and Receipt

Aviation Safety Recommendations A-77-56 through 58.—The National Transportation Safety Board has become aware of a serious problem involving supplemental oxygen masks for general aviation aircraft—a problem which has potentially disastrous consequences and requires immediate action by the Federal Aviation Administration.

The problem was detected during investigation of an incident involving a Piper Aztec (PA-23) which was on a return trip of an air taxi flight on August 3, 1977, from Bozeman, Mont., to Salt Lake City, Utah. After the two pilots aboard donned their oxygen masks, the copilot began to choke because an object had lodged in his throat. He managed to dislodge and swallow the object with great difficulty. The pilot-in-command removed his mask and found a circular filter that had been partially dislodged. This diluter valve filter was missing from the copilot's mask and obviously was the object on which he had choked. Had this flight been a single-pilot operation, aircraft control might have been lost.

These oxygen masks were manufactured by the Scott Aviation Division of A-T-O, Inc., as "Sky Mask," Part No. 28314-17, and were supplied by Piper Aircraft Corp. as part of the aircraft oxygen system. This type of mask is used in all types of general aviation aircraft for pilot and passenger supplemental oxygen. Other masks manufactured with the same diluter valve filter as the filter involved in this incident are manufactured under Part Nos. 28314, 28315, and 28317.

Board inspection of the "Sky Mask" has revealed that the filter can be dislodged easily by squeezing the pliable face piece of the mask, as when donning the mask or adjusting it to facial contours. The Board notes that there are no definitive requirements for oxygen masks in 14 CFR Part 23; thus, an FAA inspector would have no basis on which to approve a mask as part of an aircraft's installed oxygen system. FAA approval also is not required when the mask is bought and used by an individual aircraft operator. The Board believes

that equipment so closely related to the safety of flight should be more closely controlled by appropriate technical standards. Accordingly, on September 9 the Safety Board recommended that FAA—

Issue an Airworthiness Directive to require that all Scott Aviation "Sky Masks" be modified so that the diluter valve filter is positively retained. (Class I—Urgent Followup) (A-77-56)

Issue a Telert Maintenance Bulletin to alert all operators of aircraft equipped with Scott Aviation "Sky Masks" to check visually the security of the diluter valve filter before each use of the mask until the mask is modified. (Class I—Urgent Followup) (A-77-57)

Develop a Technical Standard Order (TSO) for continuous flow oxygen masks. (Class II—Priority Followup) (A-77-58)

Pipeline Safety Recommendations P-77-21 through 23.—Three additional Class I—Urgent Followup recommendations were issued September 9 to Alyeska Pipeline Service Co. as the Safety Board continues its investigation into the explosion and fire which occurred on July 8 at Alyeska's Pump Station No. 8 on the Trans-Alaska pipeline. Two Class I recommendations, Nos. P-77-16 and 17, were issued to Alyeska on July 15. (See 42 FR 37459, July 21, 1977.)

Investigation has shown that the explosion occurred when crude oil was turned into Pump No. 1 while the workers were servicing the pump's strainer. The oil under a pressure of about 400 psig sprayed out of the open cover and rapidly filled the building with vaporized crude oil. The vapor was ignited by one of several possible sources and exploded.

Information obtained from personnel directly affected by the accident revealed that before removing and cleaning the No. 1 pump's strainer, the selector switch for the No. 1 pump suction valve's motor operator had been placed in the manual position to allow the men in the pump room to close this valve and then drain the crude oil out of the strainer. However, after the valve was closed the control for the valve operator was not "locked out" electrically to render the No. 1 pump suction valve inoperative as the Alyeska company procedures direct.

Because of the inability to control the valves or to shut down the pumps from the pump room, and because of the inability of personnel in the pump station control room to monitor operations visually in the pump room and turbine room, the Safety Board now recommends that Alyeska—

Install a control in the pump room to shut down the pumps from that location. (P-77-21)

Install a control in the pump room to operate the pump valves from that location at any time. (P-77-22)

Install a closed circuit-type video camera in the pump room and turbine room to allow the pump station control center to monitor visually all activities at these locations. (P-77-23)

Railroad Safety Recommendations R-77-26 and 27.—A head-on collision of two rapid transit trains of the Greater Cleveland Regional Transit Authority on

the Shaker Heights Line near 92nd and Holton Streets on July 8 is now under investigation by the Safety Board. The collision resulted in 57 injuries.

The Safety Board notes that trains on this line are governed by signals of an automatic block signal system. The double-track line is signalled for train movement in only one direction on each track. At the time of the accident, trains were operating in both directions on the south track because track work was being performed on the north track. This single-track operation was confined to the area between Pennsy Crossing and Shaker Square, a distance of approximately 3 miles. The single-car trains collided on a curve, approximately 1,500 feet east of the Pennsy Crossing crossover. Preliminary investigation has revealed a serious deterioration in the effectiveness and maintenance of the signal system on this line.

Although the Safety Board has not yet determined the cause of the collision on the Shaker Heights Line, the condition of the block signal system should be immediately corrected. The Board therefore recommends that the Greater Cleveland Regional Transit Authority—

Immediately inspect and repair the block signal system and implement procedures for its maintenance to insure that it continues to function as intended. (Class I) (R-77-26)

Until such time that the block signal system is repaired, establish a well-defined operational procedure which will insure the safe movement of all trains on the Shaker Heights Line. (Class I) (R-77-27)

RESPONSES TO SAFETY RECOMMENDATIONS

Aviation: A-76-101 and 102.—Federal Aviation Administration's letter of August 30 informs the Safety Board that changes to the Air Traffic Control Handbook 2110.65 and AIM Part I have been completed and published, effective July 1, 1977. The FAA considers actions completed with regard to this recommendation, issued following Board investigation of the November 30, 1975, Seentle Airlines crash southwest of the Elko (Nev.) Airport. (See 41 FR 31625, June 29, 1976.) The recommendations asked that the Handbook be amended to include all aircraft, whether radar-identified or not, and to state that the "low altitude alert" be issued on the basis of pilots' verbal altitude reports as radar observations or automatic altitude reports; and to instruct the controller to issue a "safety advisory" to a nonradar-identified aircraft if a verbal altitude report or verbal position report reveals a situation which, in the controller's judgment, is likely to affect the safety of the aircraft.

Aviation: A-77-6 and A-77-8.—Federal Aviation Administration's letter of August 30 is a further response to recommendations regarding medical procedures for airmen. A-77-6 proposed that an issue of the *Federal Air Surgeon's Medical Bulletin* emphasize to the FAA-designated Aviation Medical Examiners the need for quality control and the need for adherence to the provisions of 14 CFR Part 67 and the *Guide for Aviation Medical Examiners*, and A-77-8 referred

to the use of FAA Form 8500-15, *Statement of Demonstrated Ability (SODA)*.

FAA's letter of last May 11 (42 FR 27076, May 26, 1977) indicated that a forthcoming issue of the *Federal Air Surgeon's Medical Bulletin* would contain information responsive to recommendation A-77-6. FAA also noted, re A-77-8, that an issue would address the need for adherence to instructions concerning SODA's contained in the *Guide for Aviation Medical Examiners*. FAA attached to its August 30 letter a copy of the *Federal Air Surgeon's Medical Bulletin*, No. 77-1, July 1977, containing the pertinent article, and stated that it has been mailed to all Aviation Medical Examiners.

Aviation: A-77-48.—Federal Aviation Administration's letter of August 25 is in response to the Safety Board's request that FAA standardize word and phrase contractions contained in FAA publications, and in publications approved by FAA, to assure that there are no authorized abbreviations with dual meanings, or different abbreviations with the same meanings, used for air traffic control, communications, or associated services. The recommendation was issued following Board investigation into the loss last February 28 of a twin engine airplane near Mt. Iliamna, Alaska. (See 42 FR 33392, June 30, 1977.)

FAA agrees that commonly used contractions should be standardized and should have precise meanings. FAA reports that the Air Traffic Service has initiated a total review of contractions being used in the air traffic control system and that the project will be coordinated with other agencies and the International Civil Aviation Organization. FAA anticipates completion of this project in about 18 months.

Marine: M-73-2 through 5.—U.S. Coast Guard's letter of August 24 concerns recommendations issued following investigation into the August 14, 1971, collision between the M/V JAMES L. HAMILTON, M/V LASALLE, and tow and motorboat OH-5421-MC.

The Safety Board in recommendation M-73-2 asked Coast Guard to include a cautionary note in *Rules of the Road; Western Rivers*, stating that even when bearings on an approaching vessel are changing, there can be a risk of collision with a long tow ahead of the towboat making the observations. In response, Coast Guard states that it does not favor the insertion of a cautionary note in the rules of the road as a specific item, believing that the rules generally are "designed for use by reasonable men when encountering reasonably expected situations." Coast Guard says that if the rules were to deal specifically with every conceivable situation they would become unnecessarily complex, unmanageable, and incomprehensible; such situations are dealt with in Rules 25 and 26, Western River Rules. Additionally, towing vessel operators are required to be licensed by the Coast Guard and must show competency and knowledge in towboat operations.

Coast Guard reports that regulations are being drafted for inland waters; the regulations will parallel the 1972 International Regulations for Preventing Collisions at Sea, which came into force July 15, 1977. The Western River rule in question will also be expanded and therefore will be more effective in providing guidance for the prevention of collisions, Coast Guard said. It is also planned that an article be published in the *Proceedings of the Marine Safety Council* relative to the risk of collision rules.

In answer to M-73-3, which recommended that Coast Guard require suitable side-light alignment and securing devices on the front of barge tows to insure that such light will comply with the alignment required by the Rules of the Road, Coast Guard reports publication of an article concerning the subject Marine Board of Investigation in the *Proceedings of the Marine Safety Council*, Volume 30, No. 4 of April 1973; included in the article are the Safety Board findings and recommendations. Coast Guard says that the article received wide distribution within the marine field, including the towing vessel industry. The Coast Guard is currently undertaking revision of the rules of U.S. waters to conform with requirements of the 1972 International Regulations for Preventing Collisions at Sea.

Regarding M-73-4, which recommended that Coast Guard upgrade the reliability of the navigation lights on barge tows by requiring that the circuits for these lights be automatically monitored to give an alarm in case of light failure, and by requiring redundant lights, Coast Guard finds no evidence that the sidelights of barges are so unreliable as to necessitate extensive and expensive redundancies and control capabilities. Coast Guard agrees with the Board that such a requirement could be instituted but says that casualty statistics do not support the need for such equipment.

Recommendation M-73-5 asked Coast Guard to clarify the effect on responsibilities for initiating whistle signals in *Rules of the Road*, of the requirement that easily maneuverable vessels less than 65 feet shall not hamper large vessels or vessels with tows, and develop and publish authoritative interpretations of actions required in other frequently encountered operating situations in which the "shall not hamper" rule interacts with other rules. In response, Coast Guard provides findings from a special study conducted to evaluate whether the interpretation of the "shall not hamper" rule is causing marine safety problems. Coast Guard notes that due to legal considerations, it does not develop interpretative rules; these have traditionally come from the courts in decisions in admiralty cases.

Pipeline: P-77-16 and 17.—Alyeska Pipeline Service Company's letter of August 25 is in answer to the Safety Board's initial recommendations made while investigating the July 8 Trans-Alaska pipeline accident (see above).

Relative to recommendation P-77-16, Alyeska reports that a Pump Station Manager has been added at each of its active stations. These are experienced people charged with the overall responsibility for the safe operation of their pump station. Alyeska says that the Chief Pump Station technicians report directly to this manager, thus providing for continuity between crews. The position of Assistant Chief Technician has been instituted to provide one working leader during the second shift at each station. Alyeska further reports that a large personnel roster board is being prepared for each pump station to identify all on-site personnel as well as their reporting relationship within the station.

Re P-77-17, Alyeska has instituted a system for refresher, on-the-job, training classes at all pump stations. These classes will review the system control logic for the startup, operation and shutdown of mainline pumps, pump house isolation, pump station isolation as well as communications within the pump station and/or coordination with the OCC at the Valdez Terminal. Also, the Safety Department has held refresher classes at all pump stations to stress compliance with the existing work permit and system lockout procedures. Recognizing the need for refresher training sessions, Alyeska maintains a full-time training section to provide both new-hire training and refresher series.

NOTE.—The above notice consists of summaries of Safety Board recommendations made available, and recommendation responses received, during the week preceding publication of this notice in the *FEDERAL REGISTER*. The safety recommendation letters in their entirety are available to the general public; single copies are obtainable without charge. Copies of the full text of responses to recommendations may be obtained at a cost of \$4 for service and 10 cents per page for reproduction. All requests must be in writing, identified by recommendation number and date of publication of this notice in the *FEDERAL REGISTER*. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

MARGARET L. FISHER,
Federal Register
Liaison Officer.

SEPTEMBER 12, 1977.

[FR Doc. 77-26895 Filed 9-14-77; 8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-251]

FLORIDA POWER AND LIGHT CO.

Granting of Relief From ASME Section XI Inservice Inspection (Testing) Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted interim relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components" to Florida

Power and Light Company, pending the Commission's completion of its detailed analysis of FPL's application for permanent relief. The relief relates to the in-service inspection (testing) program for the Turkey Point Generating Station Unit No. 4 (the facility) located in Dade County, Florida. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance.

The relief consists of excepting certain valves and pumps from being exercised or tested due to their design and their physical location, arrangements, alignment and orientation in the system or pumps and valves whose access may be restricted due to high radiation areas.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief. Prior public notice of this action was not required since the granting of this relief from ASME Code requirements does not involve a significant hazards consideration.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d) (4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the request for relief dated February 25, 1977, (2) the Commission's letter to the licensee dated September 7, 1977.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Environmental and Urban Affairs Library, Florida International University, Miami, Florida. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 7th day of September 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,

Chief, Operating Reactors Branch
No. 3, Division of Operating Reactors.

[FR Doc. 77-26862 Filed 9-14-77; 8:45 am]

[Docket No. 50-335]

FLORIDA POWER AND LIGHT CO.

Consideration of Proposed Modification to Facility Spent Fuel Storage Pool

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of a modification to the spent fuel storage pool of St. Lucie Unit No. 1

(the facility) operated under Facility License No. DPR-67 issued to the Florida Power & Light Company (the licensee). The facility is a pressurized water reactor located in St. Lucie County, Florida, and currently authorized for operation at power levels up to 2560 MWt.

The proposed modification being considered involves replacement of the existing racks in the spent fuel storage pool of the facility with racks of design capable of accommodating up to 728 fuel assemblies in accordance with the licensee's request dated August 31, 1977. The existing racks have a capacity for storage of 310 fuel assemblies. The modification will require changes to the facility Technical Specifications and issuance of a license amendment.

Prior to approval of the proposed modification and license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By October 17, 1977, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the approval of the modification to the subject facility spent storage pool. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of Section 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and Section 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Robert Lowenstein, Esquire of the Office of Lowenstein, Newman, Reis & Axelrad, 1025 Connecticut Avenue NW., Washington, D.C. 20036, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether

a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the licensee's proposal dated August 31, 1977, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Indian River Junior College, 3209 Virginia Avenue, Ft. Pierce, Florida 33450.

Dated at Bethesda, Maryland, this ??

For the Nuclear Regulatory Commission.

MARSHALL GROTEHUIS,
Acting Chief, Operating Reactors
Branch No. 2, Division
of Operating Reactors.

[FR Doc. 77-26859 Filed 9-14-77; 8:45 am]

[Docket Nos. 50-70 and 70-754]

GENERAL ELECTRIC CO.

Consideration of Applications for Renewal of Operating License and Special Nuclear Material License

The Nuclear Regulatory Commission (the Commission) is considering the application for renewal of Operating License No. TR-1 issued to the General Electric Company (the licensee) for operation of the General Electric Test Reactor (GETR) at the Vallecitos Nuclear Center located in Alameda County near Pleasanton, California (Docket No. 50-70). The renewal would extend the expiration date of Operating License No. TR-1 to October 1, 1995, in accordance with the licensee's application for renewal, dated October 21, 1975.

The Commission is also considering the application for renewal of Special Nuclear Material License No. SNM-960 issued to the General Electric Company for the Vallecitos Nuclear Center (Docket No. 70-754), as requested in the licensee's application dated August 20, 1971, with revisions dated May 13, 1977. The renewal would extend the expiration date of Special Nuclear Material License No. SNM-960 for a period of five years.

Each of the above license renewal considerations is a separate proceeding; however, the proceedings may be subject to consolidation pursuant to Section 2.716 of 10 CFR Part 2 of the Commission's Regulations.

Prior to a renewal decision of Operating License No. TR-1 and Special Nuclear Material License No. SNM-960, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By October 17, 1977, the licensee may file a request for a hearing; and, any person whose interest may be affected by these proceedings may file a request

for a hearing in the form of a petition for leave to intervene with respect to the renewal application of the subject facility operating license and/or the special nuclear material license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of Section 2.714 of 10 CFR Part 2 of the Commission's regulations and should identify the specific docket number of the proceeding (or both) in which intervention is sought. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and Section 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Edward A. Firestone, 175 Curtner Avenue, MC 822, San Jose, Calif. 95125, attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding(s) as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his/her interest and his/her contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he/she becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he/she may present evidence and examine and cross-examine witnesses.

For further details with respect to these actions, see the application for operating license renewal dated October 21, 1975, the licensee's letter dated June 10, 1977, together with 13 documents which constitute a partial submittal of technical information in support of the operating license renewal application; and the application for special nuclear material license renewal dated August 20, 1971, with revisions dated May 13, 1977, and the licensee's Environmental Information Report, 1975, all of which are

available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Commission's local reading room, Office of Inspection and Enforcement, Region V, Suite 202, 1990 North California Boulevard, Walnut Creek, Calif. 94596.

Subsequent information relating to the license renewal applications will also be made available at these locations.

Dated at Bethesda, Md., this 2nd day of September 1977.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors
Branch No. 1, Division of Operating Reactors.

R. W. STAROSTECKI,
Fuel Reprocessing and Recycle
Branch, Division of Fuel
Cycle and Material Safety.

[FR Doc. 77-26519 Filed 9-14-77; 8:45 am]

[Docket No. 40-8647]

KERR-MCGEE NUCLEAR CORP. SOUTH POWDER RIVER BASIN MILL

Availability of Applicant's Environmental Report

Pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in 10 CFR Part 51, Kerr-McGee Nuclear Corporation has filed an environmental report in support of their application for a source material license for the proposed South Powder River Basin Mill, located in Converse County in east central Wyoming. The report, which discusses environmental considerations related to the proposed uranium mill, is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555. Copies of the report are also being made available at the State Clearinghouse, State Planning Coordinator, Office of the Governor, Capitol Building, Cheyenne, Wyoming 82001.

After the environmental report has been analyzed by the staff, a draft environmental statement will be prepared. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statement, with a request for comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that comments of federal agencies and state and local officials will be made available when received. Upon consideration of comments submitted with respect to the draft environmental statement, the staff will prepare a final environmental statement, the availability of which will be published in the FEDERAL REGISTER.

Dated at Silver Spring, Maryland, this 9th day of September, 1977.

For the Nuclear Regulatory Commission.

L. C. ROUSE,
Chief, Fuel Processing and Fabrication Branch, Division of Fuel Cycle and Material Safety.

[FR Doc. 77-26863 Filed 9-14-77; 8:45 am]

[Docket No. 50-309]

MAINE YANKEE ATOMIC POWER CO.

Proposed Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-36, issued to Maine Yankee Atomic Power Company (the licensee), for operation of the Maine Yankee Atomic Power Station, located in Lincoln County, Maine.

The amendment would revise the provisions in the Technical Specifications relating to an increase of the authorized maximum power level from 2440 MWt to 2630 MWt, a 7.8% increase, in accordance with the licensee's application for amendment dated August 1, 1977.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By October 17, 1977, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license.

Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of Section 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and Section 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to John A. Ritscher, Esquire, Ropes and Gray, 225 Franklin Street, Boston, Mass. 02110, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the pe-

tioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendment dated August 1, 1977, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079.

Dated at Bethesda, Md., this 2nd day of September 1977.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors
Branch No. 4, Division of Operating Reactors.

[FR Doc.77-26381 Filed 9-14-77; 8:45 am]

[Docket No. 50-272]

PUBLIC SERVICE ELECTRIC AND GAS CO., ET AL.

Issuance of Amendment to Facility Operating License

In the matter of Public Service Electric and Gas Company, Philadelphia Electric Company, Delmarva Power and Light Company, Atlantic City Electric Company. The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 7 to Facility Operating License No. DPR-70, issued to Public Service Electric and Gas Company, et al. (the licensee), which revised Technical Specifications for operation of the Salem Nuclear Generating Station, Unit No. 1, located in Salem County, New Jersey. The amendment is effective as of its date of issuance.

This amendment revised the provisions in the Technical Specifications related to the allowable pH levels for discharged effluents, the intake impingement monitoring program, and the circulating water entrainment monitoring program.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the commis-

sion's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this Amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated April 6, 1977, as supplemented by letters dated May 25 and August 9, 1977, (2) Amendment No. to License No. DPR-70 and (3) the Commission's letter dated September 8, 1977. Both of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 8th day of September 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors
Branch No. 3, Division of Operating Reactors.

[FR Doc.77-26864 Filed 9-14-77; 8:45 am]

[Docket No. P-558A]

SAN DIEGO GAS AND ELECTRIC CO., ET AL.

Receipt of Attorney General's Advice and Time for Filing of Petitions To Intervene on Antitrust Matters

The Commission has received, pursuant to section 105c of the Atomic Energy Act of 1954, as amended, the following additional advice from the Attorney General of the United States, dated September 2, 1977:

You have requested our further advice pursuant to Section 105c of the Atomic Energy Act of 1954, as amended, in regard to the above-captioned application. We understand the Cities of Anaheim, Glendale, Pasadena, and Riverside, Calif. and the California Department of Water Resources propose to participate with the San Diego Gas and Electric Co. in the Sundesert Nuclear Plant, Units 1 and 2. Our review of the information submitted for the proposed additional participants, as well as other relevant information, has disclosed no basis upon which to change our previous conclusion that no antitrust hearing will be required regarding this nuclear facility.

Any person whose interest may be affected by this proceeding may, pursuant to § 2.714 of the Commission's "Rules of Practice," 10 CFR Part 2, file a petition for leave to intervene and request a hear-

ing on the antitrust aspects of the application. Petitions for leave to intervene and requests for hearing shall be filed by October 15, 1977, either (1) by delivery to the NRC Docketing and Service Section at 1717 H Street NW., Washington, D.C., or (2) by mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Section.

For the Nuclear Regulatory Commission.

JEROME SALTEMAN,
Chief, Antitrust and Indemnity
Group, Nuclear Reactor Regulation.

[FR Doc.77-26860 Filed 9-14-77; 8:45 am]

[Docket Nos. 50-259, 50-260, and 50-206]

TENNESSEE VALLEY AUTHORITY

Issuance of Amendments to Facility Operating Licenses and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 32 to Facility Operating License No. DPR-33, Amendment No. 29 to Facility Operating License No. DPR-52, and Amendment No. 8 to Facility Operating License No. DPR-68 issued to Tennessee Valley Authority (the licensee), which revised Technical Specifications for operation of the Browns Ferry Nuclear Plant, Unit Nos. 1, 2, and 3 (the facility), located in Limestone County, Ala. The amendments are effective as of the date of issuance.

The licenses were amended July 15, 1977, to allow an increase in the maximum discharge temperature from 86°F to 90°F through August 31, 1977. These amendments revise the Appendix B Technical Specifications to allow the 90°F discharge water temperature limit subsequent to August 31, 1977, pending decision by the Environmental Protection Agency (EPA) and the State of Alabama on TVA's request for relief from applicable thermal limits. The allowed increase conforms to the actions taken by EPA and the State of Alabama pending their decision.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has prepared an Environmental Impact Appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the action.

For further details with respect to this action, see (1) the application for amendments dated July 26, 1977, (2) Amendment No. 32 to License No. DPR-33, Amendment No. 29 to License No. DPR-52, and Amendment No. 8 to License No. DPR-68, and (3) the Commission's Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Athens Public Library, South and Forrest, Athens, Ala. 35611. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 31st day of August 1977.

For the Nuclear Regulatory Commission.

CHARLES M. TRAMMELL,
Acting Chief, Operating Reactors
Branch No. 1, Division of
Operating Reactors.

[FR Doc.77-26865 Filed 9-14-77; 8:45 am]

[Docket No. 50-259]

TENNESSEE VALLEY AUTHORITY
Proposed Issuance of Amendment to
Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendment to Facility Operating License No. DPR-33, issued to Tennessee Valley Authority (the licensee), for operation of the Browns Ferry Nuclear Plant, Unit No. 1 (the facility) located in Limestone County, Ala.

The amendment would authorize operation of Browns Ferry Unit 1 in Cycle 2 after refueling with 168 fuel assemblies, each containing an 8 x 8 array of fuel rods. The balance of the core consists of the 596 fuel assemblies, each containing a 7 x 7 array of fuel rods, which will remain in the core from Cycle 1 operation. The proposed amendment would also change the Technical Specifications for the facility to (1) increase the safety limit for minimum critical power ratio (MCPR) from 1.05 to 1.06, (2) add the exposure dependent operating limits for MCPR for both 8 x 8 and 7 x 7 fuel and the linear heat generation rate (LHGR) limits for 8 x 8 fuel, and (3) reduce the limit on average scram insertion time of all operable control rods from 5.0 seconds to 3.5 seconds and of the three fastest of the four control rods in a two-by-two array from 5.3 seconds to 3.8 seconds.

Prior to issuance of the proposed amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By October 17, 1977, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a

hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of Section 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceedings, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and Section 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to H. S. Sanger, Jr., Esquire, General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E11B3C, Knoxville, Tenn. 37902, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendment dated July 8, 1977, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Athens Public Library, South and Forrest, Athens, Ala. 35611.

Dated at Bethesda, Md., this 30th day of August 1977.

For the Nuclear Regulatory Commission.

CHARLES M. TRAMMELL,
Acting Chief, Operating Reactors
Branch No. 1, Division of
Operating Reactors.

[FR Doc.77-26518 Filed 9-14-77; 8:45 am]

[Docket No. 50-346]

TOLEDO EDISON CO., ET AL.
Issuance of Amendment to Facility
Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 6 to the Facility Operating License No. NPF-3, issued to the Toledo Edison Co. and the Cleveland Electric Illuminating Co., which revised Technical Specifications for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 (the facility) located in Ottawa County, Ohio. The amendment is effective as of its date of issuance.

This amendment removes a condition which stipulated the amount of time allowed from date of issuance of the operating license for completing the installation of the modified emergency diesel fuel oil storage and transfer system. This license is further amended by making the appropriate change to the Technical Specifications on page 3/4 8-1.

The amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) Amendment No. 6 to License No. NPF-3, (2) the Commission's related Safety Evaluation supporting Amendment No. 6 to License No. NPF-3. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Ida Rupp Public Library, 310 Madison Street, Port Clinton, Ohio 43452. A copy of items (1) and (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director Division of Project Management.

Dated at Bethesda, Md., this 26th day of August 1977.

For the Nuclear Regulatory Commission.

JOHN STOLZ,
Chief, Light Water Reactors
Branch No. 1, Division of
Project Management.

[FR Doc.77-26521 Filed 9-14-77; 8:45 am]

[Docket Nos. 50-280 and 50-281]

VIRGINIA ELECTRIC & POWER CO.

Proposed Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses Nos. DPR-32 and DPR-37 issued to Virginia Electric and Power Co. (the licensee), for operation of the Surry Power Station Nos. 1 and 2, located in Surry County, Va.

In accordance with the licensee's application for amendment dated August 9, as supplemented August 26, 1977, the amendments would revise the provisions in the Technical Specifications relating to the transient and accident analysis as affected by an increase in steam generator tube plugging levels from the current 20% to 25%.

Prior to issuance of the proposed license amendments, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By October 7, 1977, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendments to the subject facility operating licenses. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of Section 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioners contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and Section 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Mr. Michael W. Maupin, Esquire, Hunton, Williams, Gay, and Gibson, P.O. Box 1535, Richmond, Va. 23213, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the

Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendment dated August 9, as supplemented August 26, 1977, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. at the Swem Library College of William and Mary, Williamsburg, Va.

Dated at Bethesda, Md., this 6th day of September 1977.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch
No. 4, Division of Operating
Reactors.

[FR Doc. 77-26861 Filed 9-14-77; 8:45 am]

[Docket No. PRM-73-2]

WISCONSIN ELECTRIC POWER CO., ET AL.

Filing of Petition for Rulemaking

Notice is hereby given that Gerald Charnoff, Esquire, and Jay E. Silberg, Esquire have filed with the Commission on behalf of the Wisconsin Electric Power Co., Wisconsin Public Service Corp., and Baltimore Gas and Electric Co. a petition for rulemaking dated August 19, 1977.

The petitioners request the Commission to amend § 73.55(d)(1) of the Commission's regulation "Physical Protection of Plants and Materials," 10 CFR Part 73, to eliminate the requirement for "pat-down" physical searches of individuals entering a protected area.

The amendments proposed by the petitioners would modify 10 CFR 73.55(d)(1) by deleting the bracketed words and adding the italicized language as follows:

§ 73.55 Requirements for physical protection of licensed activities in nuclear power reactors against industrial sabotage.

(d) Access requirements. (1) The licensee shall control all points of personnel and vehicle access to a protected area. Identification and search of all individuals shall be made and authorization shall be checked at such points. *The licensee shall post signs at such points informing individuals that they may be subject to physical search prior to entering a protected area.* The search function for detection of firearms, explosives and incendiary devices shall be conducted (either by a physical search or) by use

of equipment capable of detecting such devices, *to the extent such equipment is reasonably available. The licensee may conduct a physical search of an individual if deemed necessary or appropriate.* The individual responsible for the last access control function (controlling admission to the protected area) shall be isolated within a bullet-resisting structure as described in paragraph (c) (6) of this section to assure their ability to respond or to summon assistance.

The petitioners state that a requirement for a "pat-down" physical search is unnecessary in view of the other protective measures which are required, the absence of such a requirement for other (and more sensitive) facilities, and the serious problems which the physical search requirement imposes. The petitioners state, however, that "pat-down" physical searches should be permitted in any case where security personnel are suspicious about an individual, and signs should be posted that individuals entering a protected area may be subject to physical search.

The Commission is assessing the implications of "pat-down" searches and their value as a part of a total physical protection system, considering their relation to other features of security systems required by the rule that affect access controls intended to protect with high confidence against insiders. It is endeavoring to identify alternatives that will achieve equivalent protection in the context of the total security system. Public comments are solicited specifically on such alternatives, and further opinions as to the value of searches as a contributing element of security systems.

A copy of the petition for rule making is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of the petition may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

All persons who desire to submit written comments or suggestions concerning the petition for rule making should send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch by October 17, 1977.

Dated at Washington, D.C., this 13th day of September 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 77-27053 Filed 9-14-77; 8:45 am]

[Docket No. 50-266]

WISCONSIN ELECTRIC POWER CO., AND WISCONSIN MICHIGAN POWER CO.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued

Amendment No. 27 to Facility Operating License No. DPR-24 issued to Wisconsin Electric Power Company and Wisconsin Michigan Power Company, which revised Technical Specifications for operation of the Point Beach Nuclear Plant Unit No. 1, located in the town of Two Creeks, Manitowoc County, Wisconsin. This amendment is effective as of the date of issuance.

This amendment consists of changes to the Technical Specifications to allow a one-time waiver of the requirement for monthly functional tests of the Turbine Stop and Governor Valves for the month of September, 1977.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 26, 1977, (2) Amendment No. 27 to License No. DPR-24, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the University of Wisconsin—Stevens Point Library, Attn: Mr. Arthur M. Fish, Stevens Point, Wisconsin 54481. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 6th day of September 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors
Branch No. 3, Division of Operating Reactors.

[FR Doc. 77-26520 Filed 9-14-77; 8:45 am]

[Docket No. 50-29]

YANKEE ATOMIC ELECTRIC CO.
Issuance of Amendment to Facility
Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 43 to Facility Operating License No. DPR-3, issued to Yankee Atomic Electric Co. (the licensee), which revised Technical Specifications for operation of the Yankee Nuclear Power

Station (Yankee-Rowe) (the facility) located in Rowe, Franklin County, Mass. The amendment is effective as of its date of issuance.

The amendment incorporates provisions in the Technical Specifications required for operating with the refueled Core XIII, with an active ECCS accumulator subsystem, and with modified ECCS piping, based on an ECCS performance analysis utilizing certain modeling changes. The amendment also includes provisions restricting operation with Cycle XIII to the 4-loop mode and to 225 effective full power days.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Proposed Issuance of Amendment to Facility Operating License in connection with changes to the Technical Specifications resulting from the Yankee-Rowe Core XIII reload analysis facility ECCS modifications, and a conceptual change to the ECCS analytical model was published in the FEDERAL REGISTER on June 6, 1977 (42 FR 28946). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action. Prior public notice of other items associated with this amendment was not required since they do not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated January 6, 1977, as supplemented March 11; April 13; May 2; June 30; July 1, 14 and 15; August 1, 4, 5, 8, 9, and 22, 1977, (2) Amendment No. 43 to License No. DPR-3, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the Greenfield Public Library, 422 Main Street, Greenfield, Mass. 01581. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 25th day of August 1977.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors
Branch No. 1, Division of Operating Reactors.

[FR Doc. 77-26866 Filed 9-14-77; 8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON THE SKAGIT NUCLEAR PROJECT

Notice of Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the ACRS Subcommittee on the Skagit Nuclear Project will hold an open meeting on September 30, 1977 in Seattle, WA. The exact location of the meeting will be announced later. The purpose of this meeting is to review the application of the Puget Sound Power and Light Company for a permit to construct the Skagit Nuclear Plant.

The agenda for subject meeting shall be as follows:

FRIDAY, SEPTEMBER 30, 1977

8:30 A.M. UNTIL CONCLUSION OF BUSINESS

The Subcommittee, with any of its consultants who may be present, will meet in Executive Session to explore their preliminary opinions regarding matters which should be considered in order to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will meet to hear presentations by representatives of the NRC Staff, the Puget Sound Power and Light Company, and their consultants, and will hold discussions with these groups pertinent to this review.

At the conclusion of this session, the Subcommittee may caucus to determine whether the matters identified in the initial session have been adequately covered.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incomplete open session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the radiological safety area.

With respect to public participation in the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing 15 copies to the Subcommittee at the beginning of the meeting.

Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than September 23, 1977, addressed to Dr. Richard P. Savio, ACRS, NRC, Washington, D.C. 20555, will normally be received in time to be considered at this meeting.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Sedro Woolley Library, 802 Ball Avenue, Sedro Woolley, Wash. 98294.

(b) Persons desiring to make an oral statement at the meeting should make a request to do so prior to the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Subcommittee will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on September 29, 1977 to the Office of the Executive Director of the Committee (telephone 202-634-1394, Attention: Dr. Richard P. Savio) between 8:15 a.m. and 5 p.m., EDT.

(d) Questions may be propounded only by members of the Subcommittee, its consultants, and Staff.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will be allowed while the meeting is in session at the discretion of the Chairman to a degree that is not disruptive to the meeting. When use of such equipment is permitted, appropriate measures will be taken to protect proprietary or privileged information which may be in documents, folders, etc. being used during the meeting. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept.

A copy of the transcript of the portion(s) of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection on or after October 7 and December 30, 1977, respectively, at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Sedro-Woolley Library, 802 Ball Avenue, Sedro-Woolley, Wash. 98294.

Copies may be obtained upon payment of appropriate charges.

Dated: September 14, 1977.

JOHN C. HOYLE,
Advisory Committee
Management Officer.

[FR Doc.77-27074 Filed 9-14-77;10:47 am]

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

ADVISORY GROUP ON WHITE HOUSE INFORMATION SYSTEMS

Notice of Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 94-463, the Office of Science and Technology Policy announces the following meeting:

Name: Advisory Group on White House Information Systems.

Date: October 4 and 5, 1977.

Time: 9 a.m. to 4 p.m.

Place: Room 3104, New Executive Office Building, 726 Jackson Place NW., Washington, D.C.

Type of Meeting: Open, subject to space limitations. Those wishing to attend should call the Contact Person below, to assist us in making adequate preparations.

Contact Person: Dr. Joel A. Snow, Advisory Group Executive Secretary, Office of Science and Technology Policy, Executive Office of the President, Washington, D.C. 20500. Telephone 202-395-3153.

Summary Minutes: May be obtained from the Office of Science and Technology Policy.

Purpose of Advisory Group: The Office of Science and Technology Policy, in accordance with the statutory mandate to advise the President and to analyze and interpret significant developments and trends in science and technology, will be identifying the information systems needs and the impact of technological advances in information and data handling as these might support the decision processes of the White House and the Executive Office of the President. The work of the Advisory Group will be based upon inputs from the relevant departments and earlier work carried out by other organizations in the Executive Branch including the Reorganization Team.

Agenda: 9 a.m. to 4 p.m.—This second panel meeting will include further briefings on information needs by EOP staff members; a thorough review of documents describing present and postulated information systems needs in each EOP organizational unit; and discussion to define further objectives for the Advisory Group, an agenda for the next meeting, and additional staff research requirements.

WILLIAM J. MONTGOMERY,
Executive Officer.

[FR Doc.77-2687 Filed 9-14-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 9917 (812-4163)]

AGEC SECURITY CORP.

Filing of Application Pursuant to Section 6(c) of the Act for an Order of Exemption From All Provisions of the Act

SEPTEMBER 2, 1977.

Notice is hereby given that AGESEC Security Corp., 2200 Bow Valley Square 2,

205 Fifth Avenue SW., Calgary, Alberta, Canada T2P 2W4 ("Applicant"), a corporation organized under the laws of the State of Delaware on March 29, 1977, filed an application on July 22, 1977, and an amendment thereto on August 29, 1977, for an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Applicant is a wholly-owned subsidiary of The Alberta Gas Ethylene Co. Ltd. ("Alberta Gas Ethylene"), incorporated under the laws of the Province of Alberta, Canada. Alberta Gas Ethylene is, in turn, a wholly-owned subsidiary of The Alberta Gas Trunk Line Co. Ltd. ("Alberta Gas Trunk Line"), incorporated by Special Act of the Legislative Assembly of the Province of Alberta. Alberta Gas Trunk Line is a publicly owned corporation whose shares are listed and traded on the Toronto Stock Exchange. Applicant, a special purpose corporation, has been organized for the purpose of borrowing in the United States approximately 88 percent of the cost of construction of a 1.2 billion pound per year ethylene plant (the "Ethylene Plant") near Red Deer, Alberta, Canada, and approximately 95 miles of pipeline from Red Deer to Fort Saskatchewan, Alberta (the Ethylene Plant together with the pipeline being hereinafter referred to as the "Project"). The Project will be owned and operated by Alberta Gas Ethylene. Applicant does not intend to conduct any other business.

Applicant plans to issue debt securities in the form of secured notes due December 31, 1998 ("Notes") to approximately nine United States insurance companies in transactions exempt from the registration requirements of the Securities Act of 1933, as amended, by virtue of the provisions of Section 4(2) thereof. The Notes will be guaranteed as to principal, premium, if any, and interest by Alberta Gas Ethylene and, in all circumstances except where normal repayment is interrupted by war in Canada or expropriation of assets in Canada, by The Dow Chemical Co. ("Dow U.S.") a Delaware corporation. The guarantee by Alberta Gas Ethylene will be secured by a charge on substantially all its assets, including its interest in the Project and all Applicant's stock.

The net proceeds of the sale of the Notes will be approximately \$325,000,000 (U.S.) or an amount not greater than 88 percent of the cost of the Project. In no event will such proceeds be increased or decreased in excess of 15 percent of \$325,000,000. Upon receipt of any portion of the proceeds, such proceeds will be deposited in trust with a Canadian trust company ("Trustee") which will, at the direction of Alberta Gas Ethylene, deposit such proceeds with a group comprised of up to five of the leading Canadian chartered banks ("Banks"); the

Banks will, in turn, issue certificates of deposit to the Applicant. The certificates of deposit will have identical terms as to interest rate, maturity and repayment schedule as the Notes to be issued by Applicant (except as provided below) and will thus provide Applicant with funds to repay the Notes.

On receipt of proceeds upon issuance of the certificates of deposit, the Banks will concurrently purchase from Alberta Gas Ethylene income debentures ("Income Debentures") in the same amount as the proceeds so deposited. The Income Debenture interest will be payable only out of the income of Alberta Gas Ethylene and will mature not later than December 31, 1987. Alberta Gas Ethylene will apply the proceeds of its Sale of Income Debentures to the Banks toward the construction and related costs of the Project, or temporarily invest such proceeds pending such use. Utilization of the Income Debentures will provide a lower rate of interest to Alberta Gas Ethylene because of favored Canadian tax treatment to the Banks on receipt of interest on the Income Debentures.

Concurrent with the maturity of the Income Debentures, Applicant will convert the certificates of deposit into cash and lend such cash to Alberta Gas Ethylene which, in turn, will use such cash for the payment of the Income Debentures. Such loan from Applicant to Alberta Gas Ethylene will be evidenced by a note due December 31, 1988, the same date Applicant's Notes become due. Such note ("A.G.E. Note") will have identical terms as to interest rate, maturity and repayment schedule as the remaining installments of the Notes. After maturity of the Income Debentures, the obligation of Alberta Gas Ethylene to repay the funds raised by Applicant for the remaining years of the life of the Notes will be evidenced by the A.G.E. Note. The balance of the cost of the Project will be arranged by Alberta Gas Ethylene in the form of equity or subordinated debt which will rank junior to the Notes with respect to the security for the Notes.

The Ethylene Plant will be engineered and constructed by Dow Chemical of Canada, Ltd. ("Dow Canada"), a Canadian corporation and a wholly-owned subsidiary of Dow U.S. Dow U.S. is a publicly held corporation with securities registered pursuant to Section 12 of the Securities Exchange Act of 1934, as amended. The Ethylene Plant will be owned and operated by Alberta Gas Ethylene. Alberta Gas Trunk Line will engineer and construct the pipeline which is a part of the Project and which will also be owned and operated by Alberta Gas Ethylene. Dow Canada has entered into an ethylene sales agreement to "take-or-pay" for all of the ethylene produced by the Project at a price which will be sufficient to cover all debt service requirements on the Notes. The obligations of Dow Canada under the ethylene sales agreement are unconditional and are not dependent upon whether or not the Project is completed or ethylene is produced therefrom. Dow U.S. will guarantee the

performance by Dow Canada of its obligations under the ethylene sales agreement except where normal operation of the Project is interrupted by war in Canada or expropriation of assets in Canada.

Section 3(a)(1) of the Act defines the term "investment company" to include any issuer which "is * * * engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting, or trading in securities." Section 3(a)(3) of the Act defines "investment company" to include any issuer which "is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of such issuer's total assets (exclusive of government securities and cash items) on an unconsolidated basis." Applicant states that its only significant assets will be, initially, the certificates of deposit issued by the Banks, and later, the A.G.E. Note. Consequently, Applicant will come within the definition of "investment company" contained in Section 3(a) of the Act.

Section 3(b)(3) of the Act, generally speaking, excepts from the definition of investment company any issuer, all the outstanding securities of which (other than short-term paper and directors' qualifying shares) are owned by a company primarily engaged in a business other than investing, reinvesting, owning, holding or trading in securities. Because all equity securities of Applicant will be owned at all times solely by Alberta Gas Ethylene, it is asserted that the purchase of Applicant's Notes will be substantially the equivalent of purchasing obligations of Alberta Gas Ethylene. The guarantees of the Notes will rank pari passu with all other indebtedness of Alberta Gas Ethylene, and upon liquidation of Alberta Gas Ethylene, would have a claim on the assets of Alberta Gas Ethylene equal to that of all other indebtedness of Alberta Gas Ethylene. Applicant claims that it is now entitled to a Section 3(b)(3) exemption. In the future, all of the outstanding securities of Applicant, other than debt securities, will continue to be owned at all times by Alberta Gas Ethylene. Accordingly, a Section 3(b)(3) exemption would continue to be available to Applicant upon issuance of the Notes except for the fact that the Notes will be owned by insurance companies rather than by Alberta Gas Ethylene.

The sole purpose of Applicant is to raise funds in the United States for its parent, Alberta Gas Ethylene, to own, construct, and operate the Project. The payment of Applicant's debt securities will not depend on the investment policy of Applicant. Applicant contends that there can be no public purpose served for applying the provisions of the Act to Applicant simply because, for substantial business reasons, Alberta Gas Ethylene deemed it proper to form Applicant to raise U.S. financing for the Project. Such reasons included the requirement of the

U.S. finance institutions purchasing the Notes that the issuer thereof be a corporation organized under the laws of one of the States of the United States of America for purposes of conforming with legal investment laws.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person or transaction from any provision or provisions of the Act 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.

Applicant has agreed, in the event that the Commission grants the application, to the insertion in the Commission's order of the following conditions:

(1) Commencing with the first fiscal year in which it issues and sells any debt securities, Applicant will file with the Commission within 120 days after the close of each fiscal year of Applicant: (a) the data required by Items 1.08 (except with respect to information relating to persons under common control with Applicant), 1.09, 1.10, and 1.11 of Form N-1R adopted by the Commission pursuant to Section 30(a) of the Act, and (b) an annual balance sheet, income and surplus statement and schedule of temporary investments.

(2) Applicant will not issue any additional debt securities following the issuance of the Notes unless Applicant shall first give written notice to the Commission describing the proposed issuance of such additional debt securities within 30 days prior to the date of such proposed issuance; subject, however, to the right of the Commission, upon request of Applicant, to decrease such number of days. If the Commission shall, after receipt of said written notice, determine that a substantial question shall exist as to whether or not the exemption granted by the Order requested should continue, it shall mail or otherwise give notice to that effect to Applicant at its offices, 2200 Bow Valley Square 2, 205 Fifth Avenue SW., Calgary, Alberta, Canada T2P 2W4 (or at such other address as Applicant may have previously specified in writing to the Commission) within 15 days after the receipt by the Commission of said written notice from Applicant. Applicant will not consummate the proposed issuance of such additional debt securities except in accordance with an appropriate order of the Commission.

Notice is further given that any interested person may, not later than September 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 shall 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 Applicant 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 Regulation promulgated under the Act, an order disposing of the application 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.77-26877 Filed 9-14-77;8:45 am]

[Release No. 13934 (SR-DTC-76-8,
Amendment No. 1)]

DEPOSITORY TRUST CO.

Order Approving Rule Change Submitted by the Depository Trust Co. Relating to the Depository Interface With the Midwest Securities Trust Co.

SEPTEMBER 6, 1977.

On May 26, 1977, The Depository Trust Co., 55 Water Street, New York, N.Y. 10041, ("DTC") submitted, pursuant to Rule 19b-4 under the Securities Exchange Act of 1934 (the "Act"), Amendment No. 1 to a proposed rule change, which would expand the depository interface between DTC and The Midwest Securities Trust Co. to enable book-entry settlement of securities transactions between participants of the two depositories even though one or both participants may not be a participant in both depositories.

In accordance with section 19(b) of the Act and Rule 19b-4 thereunder, notice of the amendment to the proposed rule change was published in the FEDERAL REGISTER (42 FR 30957, June 17, 1977), and the public was invited to comment thereon. Notice of the amendment to the filing and an invitation for comments also appeared in Securities Exchange Act Release No. 34-13609, June 8, 1977. No letters of comment were received.

The Commission has reviewed Amendment No. 1 to the proposed rule change and finds that it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies.

It is therefore ordered, Pursuant to section 19(b) (2) of the Act, that the proposed rule change contained in Amendment No. 1 to File No. SR-DTC-76-8 be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-26878 Filed 9-14-77;8:45 am]

[File No. 500-1]

ISC FINANCIAL CORP.

Notice of Suspension of Trading

SEPTEMBER 1, 1977.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of ISC Financial Corp., being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors; Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 3:05 p.m. (EDT) on September 1, 1977 through September 10, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-26879 Filed 9-14-77;8:45 am]

[Rel. No. 20102 (70-6048)]

JERSEY CENTRAL POWER & LIGHT CO.

Proposals To Amend Articles of Incorporation to Reclassify Presently Outstanding Shares of Preferred Stock and Increase Authorized Preferred Stock, and To Issue and Sell Preferred Stock at Competitive Bidding

SEPTEMBER 8, 1977.

Notice is hereby given that Jersey Central Power & Light Co., Madison Avenue at Punch Bowl Road, Morristown, N.J. 07960 ("Jersey Central"), an electric utility subsidiary company of General Public Utilities Corp., a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 6(b), and 7 of the Act and rules 42(a) and 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Jersey Central proposes to amend its articles of incorporation ("Articles") (1) to change each of its outstanding shares of preferred stock into a share without par value but with a stated value of \$100 per share, and (2) to increase its authorized preferred stock, presently consisting of 2,000,000 shares, par value \$100 per share, or an aggregate of \$200,000,000 (of which 1,600,000 shares, or an aggregate of \$160,000,000, are presently outstanding), to 15,600,000 shares without par value but with a maximum aggregate stated value of \$300,000,000. It is stated that the proposed reclassification will not affect the dividend, liquidation, voting or other rights of the holders of outstanding shares of preferred stock,

and will make it feasible for Jersey Central to issue additional series of preferred stock from time to time at a unit price (e.g., \$25 per share) which appears to be most readily marketable. The proposed amendment to the Articles will provide that each share of preferred stock will have such voting rights as is proportionate to the ratio of (i) the stated value of such share to (ii) the stated value of all shares of Jersey Central preferred stock then outstanding. It is further provided in the proposed amendment that the stated value of each share shall be equal to the capital furnished to Jersey Central for such share, and will also be equal to such share's preferential claim in the event of Jersey Central's involuntary liquidation, dissolution, or winding up. It is further stated that the amendment of the Articles will require the favorable vote of the holder of Jersey Central's common stock, GPU, the holder of all the outstanding Jersey Central common stock, has advised Jersey Central that it intends to vote the outstanding common stock in favor of the proposed amendment.

Jersey Central also proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, up to 2,000,000 shares of Cumulative Preferred Stock, — percent Series H (the "New Preferred Stock"). The New Preferred Stock will be similar to Jersey Central's outstanding series of cumulative preferred stock (after the proposed amendment referred to above) except that (1) the New Preferred Stock will have a stated value of \$25 per share, (2) the dividend rate and redemption prices of the New Preferred Stock will be determined as a result of competitive bidding, and (3) the New Preferred Stock will contain a provision which precludes Jersey Central from redeeming any such shares prior to October 1, 1982, if the funds for such redemption are obtained directly or indirectly from borrowings or the issuance of stock at a lower effective interest or dividend cost than the dividend cost of the New Preferred Stock.

The proceeds (\$50,000,000, exclusive of underwriting commissions and expenses of the offering) of the New Preferred Stock are expected to be applied to the payment at or before maturity of all of Jersey Central's \$40,000,000 principal amount of short-term bank loans expected to be outstanding at the date of sale of such stock, and the balance will be applied to finance Jersey Central's 1977 construction program. At August 26, 1977, Jersey Central had \$33,000,000 of short-term bank loans outstanding. The estimated cost of Jersey Central's 1977 construction program is \$220,000,000 (including allowance for funds used during construction).

The fees and expenses to be incurred by Jersey Central in connection with the proposed transactions are estimated at

\$140,000, including legal fees of \$24,000. The fees and expenses of counsel for the underwriters, to be paid by the successful bidders, will be supplied by amendment. It is stated that the Board of Public Utility Commissioners of New Jersey has jurisdiction over the proposed amendments to the Articles and the proposed issuance and sale of the New Preferred Stock and that no other State commission, and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than October 3, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by such application-declaration which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-26880 Filed 9-14-77;8:45 am]

[Rel. No. 9923 (811-2744)]

MAKOVER INVESTMENT CO., INC.

Filing of Application Pursuant to Section 8(f) of the Investment Company Act of 1940 for an Order Declaring That the Applicant Has Ceased To Be an Investment Company

SEPTEMBER 9, 1977.

Notice is hereby given that Makover Investment Co., Inc., (formerly "Shirley of Atlanta, Inc.") 3020 Nancy Creek Road NW., Atlanta, Ga. 30327 ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as a closed-end, nondiversified management investment company, filed an application on August 9, 1977, pursuant to section 8(f) of the Act, for an order of the Commission declaring that the Applicant

has ceased to be an investment company as that term is defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The Applicant, operating under the corporate name of Shirley of Atlanta, Inc., was incorporated under the laws of Georgia in January 1961, and until recently was engaged in the business of styling, manufacture, and sale of a comprehensive line of ladies' and girls' sportswear. The application states that on May 2, 1977, substantially all of the assets of the Applicant were sold to Shirley of Atlanta Corp. for \$6,600,548 in cash. The sale of the assets of the Applicant and certain other transactions incident thereto were approved by the Applicant's shareholders at the Applicant's annual meeting of shareholders held on April 19, 1977. Upon consummation of the sale of assets of the Applicant the proceeds of that sale were held in cash or invested in government treasury bills, bank certificates of deposit and similar short-term, prime commercial paper. On May 5, 1977, after having amended its Articles of Incorporation to change its name to Makover Investment Co., Inc., and to change its business to that of an investment company, the Applicant filed a Notification of Registration on Form N-8A with the Commission, registering it as a close-end, nondiversified management investment company under the Act. At that time, the Applicant had a total of 305 holders of record of its issued and outstanding shares of \$1.00 par value common stock ("Common Stock").

On May 10, 1977, the Applicant commenced an offer to repurchase its outstanding Common Stock for \$9.50 cash per share. Through the close of business on August 5, 1977, purchases of the Common Stock effected pursuant to the offer to repurchase had reduced the number of record holders of the Common Stock to a total of 63 persons. Applicant represents that at the date of filing this application the outstanding securities (other than short-term paper) of the Applicant are beneficially owned by not more than 100 persons. In addition, it is represented that as of that date, no "company", as such term is defined in the Act, owned of record or was known by the Applicant to own beneficially, ten percent or more of the outstanding voting securities of the Applicant. The application also states that the Applicant is not making and does not presently propose to make a public offering of its securities.

On the basis of the above information the Applicant maintains that it is not presently an "investment company" as that term is defined in the Act.

Section 3(c) (1) of the Act provides, in pertinent part, that any issuer whose outstanding securities (other than short-term paper) are beneficially owned by not more than 100 persons and which is not making and does not presently propose to make a public offering

of its securities is not an investment company within the meaning of the Act.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than October 3, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application 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 shall 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 Applicant 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 herein 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.77-26881 Filed 9-14-77;8:45 am]

[Release No. 13942; (SR-MSRB-76-9)]

MUNICIPAL SECURITIES RULEMAKING BOARD

Order Approving Proposed Rule Change

SEPTEMBER 9, 1977.

On August 9, 1976, the Municipal Securities Rulemaking Board, Suite 507 1150 Connecticut Avenue NW., Washington, D.C. 20036 (the "MSRB") filed with the Commission, pursuant to section 19(b) of the Securities Exchange Act of 1934 (the "Act") and rule 19b-4 thereunder, a proposed rule change ("proposed rule G-15"). The purpose of the proposed rule change is to establish confirmation delivery and disclosure requirements for transactions in municipal securities.

Notice of the proposed rule change, together with its terms of substance, was given by publication of a Commission release (Securities Exchange Act Release No. 12698 (August 9, 1976)), and by pub-

lication in the FEDERAL REGISTER (41 FR 34712 (August 16, 1976)). The MSRB has filed several substantive amendments to the proposed rule change and notice of each has been given, together with the terms of each amendment, by publication in the FEDERAL REGISTER.¹ On August 26, 1977, the MSRB filed technical amendments to certain of the proposed rule changes.

The text of the proposed rule change is as follows:

RULE G-15 CUSTOMER CONFIRMATIONS

(a) At or before the completion of a transaction in municipal securities with or for the account of a customer, each broker, dealer or municipal securities dealer shall give or send to the customer a written confirmation of the transaction containing the following information:

(i) Name, address, and telephone number of the broker, dealer, or municipal securities dealer;

(ii) Name of customer;

(iii) Designation of whether the transaction was a purchase from or sale to the customer;

(iv) Par value of the securities;

(v) Description of the securities, including at a minimum the name of the issuer, interest rate, maturity date, and if the securities are limited tax, subject to redemption prior to maturity (callable), or revenue bonds, an indication to such effect, including in the case of revenue bonds the type of revenue, if necessary for a materially complete description of the securities and in the case of any securities, if necessary for a materially complete description of the securities, the name of any company or other person in addition to the issuer obligated, directly or indirectly, with respect to debt service or, if there is more than one such obligor, the statement "multiple obligors" may be shown;

(vi) Trade date and time of execution, or a statement that the time of execution will be furnished upon written request of the customer;

¹ See Securities Exchange Act Release Nos. 12897 (Oct. 15, 1976), 41 FR 46657 (1976), 12966 (Nov. 11, 1976), 41 FR 50743 (1976) and 13718 (July 5, 1977), 42 FR 35924 (1977). One commentator, the Public Securities Association (the "Association"), urged the Commission to disapprove one amendment to rule G-15 which would require disclosure of the time of execution of a transaction or of the fact that such information is available upon request (see paragraph (a) (vi) of rule G-15). The Association stated that such a disclosure requirement appeared to be inconsistent with Section 15B(b)(2)(C) of the Act, would entail "substantial" compliance costs and would not "result in increased investor protection." The Commission is unable, however, to agree with these conclusions. In adopting Securities Exchange Act Rule 10b-10, which includes a very similar confirmation disclosure requirement, the Commission stated, "With respect to transactions in debt securities, the Commission believes that the time of a transaction may on occasion be of sufficient materiality to warrant its disclosure upon request and, since the time of a transaction is required to be maintained under Commission and MSRB recordkeeping rules, there appears to be little burden created solely by advising customers that information on time is available on request." Securities Exchange Act Release No. 13508 (May 5, 1977), 42 FR 25318 (May 17, 1977) [footnotes deleted].

(vii) Settlement date;

(viii) Yield to maturity and resulting dollar price, except in the case of securities which are traded on the basis of dollar price or securities sold at par, in which event only dollar price need be shown (in cases in which securities are priced to call, this must be stated, and where a transaction is effected on a yield basis, the calculation of dollar price shall be to the lower of price to call or price to maturity);

(ix) Amount of accrued interest;

(x) Extended principal amount;

(xi) Total dollar amount of transaction;

(xii) The capacity in which the broker, dealer or municipal securities dealer effected the transaction, whether

(A) As principal for its own account,

(B) As an agent for the customer,

(C) As an agent for a person other than the customer, or

(D) As an agent for both the customer and another person; and

(xiii) Instructions, if available, regarding receipt or delivery of securities, and form of payment, if other than as usual and customary between the parties.

(b) If the broker, dealer or municipal securities dealer is effecting a transaction as agent for the customer or as agent for both the customer and another person, the confirmation shall set forth (i) either the name of the person from whom the securities were purchased or to whom the securities were sold for the customer or a statement that this information will be furnished upon written request of the customer, and (ii) the source and amount of any commission or other remuneration received or to be received by the broker, dealer or municipal securities dealer in connection with the transaction.

(c) In addition to the information required by paragraphs (a) and (b) above, each confirmation to a customer shall contain the following information, if applicable:

(i) The dated date if it affects the price or interest calculation, and the first interest payment date if other than semi-annual;

(ii) If the securities are "fully registered" or "registered as principal only," a designation to such effect;

(iii) If the securities are "called" or "pre-refunded," a designation to such effect, the date of maturity which has been fixed by the call notice, and the amount of the call price;

(iv) Denominations of notes and, if other than the following, denominations of bonds:

(A) For bearer bonds, denominations of \$1,000 or \$5,000 par value, and

(B) For registered bonds, denominations which are multiples of \$1,000 par value, up to \$100,000 par value;

(v) Any special instructions or qualifications, or factors affecting payment of principal or interest, such as (A) "ex legal," or (B) if the securities are traded without interest, "flat," or (C) if the securities are in default as to the payment of interest or principal, "in default," and

(vi) Such other information as may be necessary to ensure that the parties agree to the details of the transaction.

(d) The initial confirmation for a "when, as and if issued" transaction shall not be required to contain the information specified in subparagraphs (vii), (ix), (x), (xi) and (xiii) of paragraph (a) or the resulting dollar price as specified in subparagraph (viii).

(e) Information requested pursuant to this rule shall be given or sent to the customer within five business days following the date of receipt of a request for such information; *Provided however*, That in the case of information relating to a transaction executed more than 30 calendar days prior

to the date of receipt of a request, the information shall be given or sent to the customer within 15 business days following the date of receipt of the request.

(f) For purposes of this rule, the time of execution of a transaction shall be the time of execution reflected in the records of the broker, dealer or municipal securities dealer pursuant to rule G-8 of the Board or Rule 17a-3 of the Commission.

(g) For purposes of this rule, the term "customer" shall mean any person other than a broker, dealer or municipal securities dealer acting in its capacity as such.

(h) The requirements of this rule shall become effective on December 8, 1977.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB, and in particular, the requirements of Section 15B and the rules and regulations thereunder.²

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 9, 1977.

[FR Doc. 77-26882 Filed 9-14-77; 8:45 am]

[File No. 500-1]

NETWORK ONE, INC.

Suspension of Trading

SEPTEMBER 1, 1977.

It appearing to the Securities and Exchange Commission that the Summary suspension of the trading in the securities of Network One, Inc., being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 2:50 p.m. (EDT) on September 1, 1977 through September 10, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-26886 Filed 9-14-77; 8:45 am]

² Proposed rule G-15 currently does not require disclosure of mark-ups and mark-downs on "riskless principal" transactions or remuneration paid to dealers by persons other than the customer. Such requirements have been included in proposed amendments to Securities Exchange Act Rule 10b-10, which prescribes confirmation delivery and disclosure requirements for transactions in securities other than municipal securities. The MSRB has stated that it "intends to study these proposals and to elicit comment from the municipal securities industry." See also Securities Exchange Act Release No. 13661 (June 23, 1977), 42 FR 33348 (June 30, 1977).

[Rel. No. 20161; (70-6049)]

OHIO POWER CO.

Proposed Issue and Sale of Notes to Banks and to a Dealer in Commercial Paper and Request for Exception From Competitive Bidding

SEPTEMBER 7, 1977.

Notice is hereby given that Ohio Power Company, 301 Cleveland Avenue SW., Canton, Ohio 44701 ("Ohio"), an electric utility subsidiary company of American Electric Power Company, Inc., a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating section 6(b) of the Act and rules 50(a)(2) and 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

Ohio requests that, from the date of the granting of this application to December 31, 1978, the exemption from the provisions of section 6(a) of the Act afforded to it by the first sentence of section 6(b) of the Act, relating to the issue of short-term notes, be increased to the extent necessary to cover the issuance and sale of notes to banks, to dealers in commercial paper and demand notes to bank trust departments in an aggregate amount not to exceed \$150,000,000 outstanding at any one time. In no event will the amount outstanding be in excess of the maximum amount allowable both under its Articles of Incorporation and the consent granted by its Cumulative Preferred stockholders permitting an increase in the amount of unsecured short-term debt that Ohio could incur. The notes are to be issued from time to time prior to December 31, 1978, as funds may be required, provided that none of the notes, commercial paper, and demand notes to bank trust departments will mature later than June 30, 1979. As of June 30, 1977, Ohio had short-term notes, including commercial paper and demand notes, outstanding in an aggregate amount of \$77,007,000.

Each note payable to a bank to be issued by Ohio will mature not more than 270 days after the date of issuance or renewal thereof, will bear interest at an annual rate of interest not greater than the prime rate of commercial banks in effect at the time of issuance or in effect from time to time and will be prepayable at any time without premium or penalty. In the case of most of the banks from which Ohio proposes to borrow, sufficient bank balances to meet operating and financial needs are kept at such banks to satisfy any compensating balance requirements of such banks in connection with any borrowings. If the average of such bank balances were maintained solely in order to fulfill the prevailing compensating balance requirements of such banks, generally up to about 20%, the effective interest cost to Ohio of issuance and sale of such notes to such

banks would be approximately 1.75% above the prevailing current prime commercial rate of 7%, or about 8.75%. In the case of those banks in which Ohio does not maintain bank balances for operating and financial needs, Ohio will be required to maintain compensating balances (or alternatively, pay a fee) equivalent generally to no more than 10% of the amount of credit made available by each bank and 10% of the amount of any borrowings. If the full amount were borrowed from these banks, the maximum effective interest cost to Ohio would be approximately 1.75% above the current prime commercial rate of 7%, or about 8.75%. Ohio states that it will file with the Commission, by Post-Effective Amendment, lists of other banks not previously identified in filings with the Commission in this proceeding to which it proposes to issue and sell notes, and no such notes will be issued and sold to such banks not previously identified prior to the issuance of a Supplemental Order by the Commission in connection therewith. Such Post-Effective Amendments will also indicate the compensating balance or fee requirements of such banks if they exceed the terms described above.

Ohio also proposes to issue commercial paper in the form of promissory notes in denominations of not less than \$50,000 nor more than \$5,000,000. Such notes will be of varying maturities with no maturity more than 270 days after the date of issue, and will not be prepayable prior to maturity. The commercial paper notes will be sold directly by Ohio to Lehman Commercial Paper Incorporated (the "Dealer"), at a discount rate not in excess of the discount rate per annum prevailing at the time of issuance for commercial paper of comparable quality and maturity. No commercial paper notes will be issued having a maturity of more than 90 days at an effective interest cost which exceeds the effective interest cost at which Ohio could borrow from banks. The Dealer will reoffer the commercial paper notes to not more than 200 of the Dealer's customers identified and designated in a nonpublic list prepared by the Dealer in advance. It is expected that such customers of the Dealer will hold the commercial paper notes to maturity, but, if any such customer wishes to resell such commercial paper prior to maturity, the Dealer, pursuant to a verbal repurchase agreement, will repurchase such commercial paper sold by it and reoffer it to other customers on its non-public list.

Ohio also proposes to issue and sell its demand notes to the trust departments of The Cleveland Trust Company, Cleveland, Ohio, and The Fidelity Bank, Philadelphia, Pennsylvania, in the maximum amounts of \$10,000,000 and \$20,000,000, respectively. It is stated that the bank trust departments have a flow of funds, as fiduciary for various accounts, which would be available for investment in such demand notes. These demand notes will be in the form of promissory notes in denominations of not less than \$1,000 bearing an interest

rate equivalent to not more than the sum of $\frac{1}{4}\%$ and the highest rate paid daily by General Motors Acceptance Corporation on its commercial paper with a maturity of less than 180 days. Notes issued from January 1 to June 30 will mature July 1 of the same year and those issued from July 1 to December 31 will mature on January 1 of the following year. The bank trust departments will have the right to demand payment at any time, and Ohio will have the right to repay, without penalty, all or any part of the principal amount of such demand notes outstanding.

On August 17, 1977, the highest rate paid by General Motor Acceptance Corporation on its commercial paper with a maturity of less than 180 days was $5\frac{1}{4}\%$. This rate plus the $\frac{1}{4}\%$ referred to above was approximately $\frac{3}{8}\%$ less than the rate at which Ohio was then able to issue commercial paper of comparable maturities and approximately $2\frac{3}{4}\%$ below the effective rate for bank borrowings based on a prime rate of 7% and compensating balances, or equivalent fees, of 20%. It is stated that based on past experience, the rate on these demand notes will consistently be lower than the comparable rates for commercial paper and bank borrowings including the effect of compensating balances.

The proceeds from the issue and sale of the notes will be used by Ohio to reimburse its treasury for past expenditures made in connection with its construction program and to pay part of the cost of its future construction program. Such construction expenditures for the years 1977 and 1978 are estimated at approximately \$184,000,000 and \$203,000,000, respectively, exclusive of the cost of the construction program of Ohio's subsidiary, Ohio Electric Company. Estimates of this subsidiary's construction expenditures for the years 1977 and 1978 are approximately \$11,000,000 and \$10,000,000 respectively.

Ohio claims exception from the competitive bidding requirements of Rule 50 for the proposed issuance of notes to banks and demand notes to bank trust departments pursuant to paragraph (a)(2) thereof. Additionally, Ohio requests exception from the competitive bidding requirements of Rule 50 for the proposed issue and sale of its commercial paper pursuant to paragraph (a)(5) thereof on the grounds that it is not practicable to invite competitive bids for commercial paper.

The fees and expenses to be incurred in connection with the proposed transactions are estimated at \$12,000. It is stated that no state commission and no federal commission other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than September 29, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may re-

quest that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-26883 Filed 9-14-77; 8:45 am]

[Rel. No. 20163; (70-8052)]

PENNSYLVANIA POWER CO.

Proposals to Increase Authorized Shares of Preferred Stock and to Issue and Sell Preferred Stock to an Insurance Company; Request for Exemption From Competitive Bidding

SEPTEMBER 8, 1977.

Notice is hereby given that Pennsylvania Power Company, 1 East Washington Street, New Castle, Pennsylvania 16103 ("Penn Power"), an electric utility subsidiary company of Ohio Edison Company, a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designated Sections 6(b) and 12(c) of the Act and Rules 42 and 50(a) (5) promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the application-declaration, which summarized below, for a complete statement of the proposed transactions.

Penn Power proposes to issue and sell up to 100,000 shares of its preferred stock, par value \$100, of a new series ("New Preferred Stock") to The Prudential Insurance Company of America ("Prudential") for \$100 per share in a direct private placement. No finder's or other fee, commission or remuneration is to be paid directly or indirectly in connection with the issue, sale or distribution of the New Preferred Stock. Penn Power will pay all of Prudential's reasonable out-of-pocket expenses arising in connection with the transaction, including the fees of Prudential's counsel.

The New Preferred Stock will be identical in all respects to the presently outstanding shares of Penn Power's prefer-

red stock, except as to dividend rate and payment dates, terms of redemption and sinking fund requirements, which terms are being negotiated with Prudential and will be supplied by amendment. No shares of the New Preferred Stock may be redeemed prior to the fifth anniversary of its issuance if the funds for such redemption are obtained directly or indirectly from borrowings or the issuance of stock at a lower effective interest or dividend cost than the dividend cost of the New Preferred Stock.

Penn Power requests an exemption from the competitive bidding requirements of Rule 50 pursuant to Rule 50(a) (5) on the grounds that the sale will be made pursuant to a private placement without the involvement of any investment banking firm or other party to whom a commission would be paid and the terms of the New Preferred Stock will be based on prevailing market conditions.

The proceeds from the sale of the New Preferred Stock will be used to repay unsecured short-term debt (estimated to aggregate approximately \$10,800,000 at the time of such issuance), and the balance, if any, will be applied to Penn Power's construction program, which is estimated at approximately \$73,672,000 for 1977.

Penn Power also proposes to increase its authorized shares of preferred stock, par value \$100, from 500,000 to 740,000 shares. Penn Power presently has 951 shares of authorized but unissued preferred stock. In addition to the 100,000 shares of New Preferred Stock proposed to be sold, it is contemplated that Penn Power will sell 60,000 shares of preferred stock in 1978 and 80,000 shares of preferred stock in 1979. It is stated that the proposed increase in authorized preferred shares requires the approval of the holder of Penn Power's common stock, Ohio Edison, the holder of all the outstanding Penn Power common stock, has indicated that it intends to approve the increase in authorized preferred shares.

The fees and expenses to be incurred in connection with the proposed transactions will be supplied by amendment. It is stated that the Pennsylvania Public Utility Commission has jurisdiction over the proposed issue and sale of the New Preferred Stock and that no other state commission and no federal commission, other than this commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than October 5, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address and proof of service (by affidavit

or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-26884 Filed 9-14-77; 8:45 am]

[Rel. No. 20164; (70-8053)]

PENNSYLVANIA ELECTRIC CO.

Proposed Capital Contributions by Holding Company to Subsidiary

SEPTEMBER 8, 1977.

Notice is hereby given that Pennsylvania Electric Company, 1001 Broad Street, Johnstown, Pennsylvania 07054 ("Penelec"), an electric utility subsidiary company of General Public Utilities Corporation, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 12(b) of the Act and Rule 45 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Penelec requests that it be authorized to make, from time to time during 1977, cash capital contributions to its subsidiary, Nineveh Water Company ("Nineveh"), of up to \$200,000. It is stated that Penelec has made cash contributions of \$27,000 to Nineveh through August 30, 1977, and anticipates making further capital contributions of up to \$23,000 before September 30, 1977, such contributions being exempted from Commission approval pursuant to Rule 45(b) (4).

The \$200,000 cash capital contributions will be utilized by Nineveh for the purpose of financing its business as a public utility, including the restoration of service and the repair of facilities damaged by the Johnstown, Pennsylvania flood which occurred in July 1977. The estimated damages suffered by Nineveh as a result of the flood, not covered by insurance, for which funds will be required during the balance of the year 1977 include \$50,000 for the restoration of service and \$100,000 for increased operating costs. Nineveh also requires \$50,000 cash capital contributions during the year 1977 in connection with its normal operations, resulting in total capital cash

contribution requirements of \$200,000 during 1977.

The fees and expenses to be incurred in connection with the proposed transaction are estimated at \$3,600, including legal fees of \$1,500. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than September 29, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-26885 Filed 9-14-77; 8:45 am]

[Release No. 34-13931; File No. SR-MSE-77-30]

SELF-REGULATORY ORGANIZATIONS

Proposed Rule Change By Midwest Stock Exchange, Incorporated

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 August 26, 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 Change Midwest Stock Exchange's ("MSE's") statement of the Terms of Substance of the Proposed Rule Change.

A new rule is added to the Rules of the

Exchange as follows: (additions italicized)

ARTICLE XX

SEMI-ANNUAL CONFIRMATION OF OPEN ORDERS

Rule 35. All open orders resting in the specialists' books will expire at the end of the semi-annual confirmation period unless reentered with the specialists after the close of business on the last business day of such period. Open orders shall be confirmed semi-annually and the dates on which the confirmation periods end shall be prescribed by the Exchange.

Specialists must remain on the Floor or have a representative thereon as long as necessary after the close of the last business day of each semi-annual confirmation period for the purpose of receiving renewals of open orders.

Open orders properly confirmed in the manner of their original entry, except as to partial execution or reduction in shares, are entitled to retain the same order of precedence on the specialists' books; and the specialists will be responsible for their proper entry. Open orders not so confirmed are automatically canceled. Specialists must inform the originating broker of an order's cancellation prior to the opening of business on the first business day of the new semi-annual confirmation period.

Open orders which have been canceled due to the absence of a proper reentry will be accepted as new orders with priority based on new time of receipt provided they are received no later than one hour after the opening of business on the first business day of the new semi-annual confirmation period.

MSE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed new rule is to establish within the framework of the Exchange Rule, a definitive procedure for the proper confirmation of open orders resting in specialists' books. This new rule changes the prior practice in that the specialist is no longer required to request confirmation prior to cancellation. The duty of the specialist under the proposed rule is now limited to notification to the originating floor broker after cancellation, but prior to the opening of business of the new semi-annual confirmation period.

As a result of setting up procedures for the confirmation of open orders, the proposed rule change prevents fraudulent and manipulative acts and practices; promotes just and equitable principles of trade; and removes impediments to the perfection of the mechanism of a free and open market.

This proposed rule change has been approved by the Committee on Floor Procedure. MSE states that no other comments have been solicited nor received.

The Midwest Stock Exchange, Incorporated, believes that no burdens have been placed on competition.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER, 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 of 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 October 17, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 6, 1977.

[FR Doc. 77-26903 Filed 9-14-77; 8:45 am]

[Release No. 34-13930; File No. SR-NYSE-77-25]

SELF-REGULATORY ORGANIZATIONS

Proposed Rule Change By New York Stock Exchange, Inc.

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. 94-29 (June 4, 1975), notice is hereby given that on August 26, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF THE TERMS AND SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed changes to Exchange Rules 104.20 and 104.23 and the rescission of Rule 114 will reduce the capital and manpower requirements imposed upon members who currently are or wish to become registered as Exchange specialists. This will provide greater ease of entry into the specialist business, and enhance the potential for competition on the Floor of the Exchange. The proposed changes will also allow specialists to maintain a single "book" in a stock while competing as market-makers.

EXCHANGE STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The proposed changes to Rule 104.30 are designed to eliminate a possible barrier to entry into the specialist business and thus further provide for a more competitive environment on the Trading Floor of the Exchange. At the same time the proposed changes are designed to insure the continued quality and financial capabilities of existing specialist organizations.

Proposed changes to Rule 104.20 would reduce the minimum capital requirement for specialists to the greater of \$100,000 or 25 percent of position requirements from the greater of \$500,000 or 25 percent of position requirements. Position requirements which specialists must be able to assume will remain at 5,000 shares in each common stock, 1,000 shares in each convertible preferred stock, 400 shares of each 100 share trading unit non-convertible preferred stock and 100 shares of each 10 share trading unit non-convertible preferred stock. Thus, the minimum capital requirement for a potential new specialist who wishes to register in only a small number of stocks would be \$100,000 rather than \$500,000. At the same time, the majority of existing Exchange specialists have total position requirements such that 25 percent of their position requirement exceeds \$500,000. Thus, the proposed reduction in the capital requirement would leave the requirement for most existing specialists unchanged, while significantly reducing the amount of capital required for entry into the specialist business.

In connection with the proposed reduction in the capital requirement for specialists, it is also proposed that the current provision which allows withdrawals below the normal required amount of capital, and the current so-called maintenance capital requirement—which is 75 percent of the regular requirement, be eliminated for two reasons. First, elimination of these provisions would accurately reflect established Exchange policy in that withdrawals below required capital are allowed as long as the amount of capital remained above the maintenance requirement. Second, in view of the significant reduction in the minimum capital requirement which is proposed, it would be inappropriate to allow a specialist's capital to fall to an amount even lower than \$100,000.

Current Rule 104.23 provides that full-time relief specialists (that is, members who are registered to act as relief specialist for an entire day) are subject to a \$50,000 capital requirement if they are also registered as a regular specialist, but are subject to a \$100,000 capital requirement if they are not otherwise registered as a regular specialist. In view of the fact that the capital requirement for regular specialists would be reduced to \$100,000 and the fact that the current requirement discriminates against members who are not otherwise regis-

tered as regular specialists, the proposed change to Rule 104.23 would standardize the capital requirement for full-time relief specialists at \$50,000.

The proposed rescission of Rule 114 would eliminate the current requirement that every specialist unit have a minimum of three active members registered and functioning as regular specialists. The purpose of this proposed change is to allow for one or two-man specialist organizations and thus eliminate a possible barrier to entry into the specialist business.

In addition, the rescission of Rule 114 would allow specialists to create so-called "combined books".

Elimination of this prohibition is designed to allow for greater competition among specialists by providing that two or more specialist organizations may maintain a single book in the stocks in which they are registered and at the same time compete as market-makers.

In connection with the proposed elimination of the "three-man" requirement and proposed rescission of the prohibition against combined books, it should be noted that existing Exchange Rule 104.15 requires, in part, that:

Any member registered as a regular specialist must either (1) be associated with other members also registered as regular specialists in the same stocks, either through a partnership or a member corporation or a joint account, and arrange to be in attendance during the hours when the Exchange is open for business, or (2) arrange for the registration by at least one other member as relief specialist, who would always be available, in the regular specialist's absence, to take over the "book" and to service the market, so that there would be no interruption of the continuity of service during the hours when the Exchange is open for business.

Thus, members of one-man specialist organizations and participants in a combined book would not be permitted to "walk away" from the market and would be required to arrange for appropriate relief in their absence.

The overall purpose of the proposed rule changes is to eliminate possible barriers to entry into the specialist business and thus provide enhanced opportunities for competition on the Floor of the Exchange.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

The proposed rule changes are designed to enhance opportunities for specialist competition on the Floor of the Exchange and to eliminate possible barriers to entry into the specialist business. They are, therefore, consistent with: Section 6(b)(5) of the Securities Exchange Act of 1934 which requires, in part, that the rules of an exchange be designed to remove impediments to and perfect the mechanism of a free and open market; Section 11(b) which provides for Exchange rules pertaining to members registered as specialists; and Section 11(a)(1)(C) which states that Congress finds that it is in the public interest and appropriate for the protec-

tion of investors and the maintenance of fair and orderly markets to assure fair competition among brokers and dealers.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED RULE CHANGE

The Exchange has not solicited comments on the proposed rule change nor have any written comments been received.

BURDEN ON COMPETITION

The proposed rule changes do not impose any burden on competition but, rather, allow for increased competition on the Floor of the Exchange.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER, 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 of 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 October 6, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 2, 1977.

PROPOSED CHANGES TO EXCHANGE RULES 104.20, 104.23 AND 114

Revised Rule 104.20 to read as follows:

CAPITAL REQUIREMENTS OF SPECIALISTS

20 Regular specialists.—(1) A member registered as a regular specialist at an active post must be able to assume a position of 50 trading units in each common stock in which he is registered.

(2) A member registered as a regular specialist at an active post must be able to assume a position of 10 trading units in each convertible preferred stock, of 400 shares in each of the 100 share trading unit non-convertible preferred stocks and of 100 shares in each of the 10 share unit non-convertible preferred stocks in which he is registered.

(3) A member registered as a regular specialist at the inactive Post must have, at all times, net liquid assets of at least \$50,000.

(4) Notwithstanding 30 of this Rule, each member registered as a regular specialist at an active post must be able to establish that he can meet, with his own net liquid assets, a minimum capital requirement which shall be the greater of \$100,000 or 25 percent of the position requirements as set forth in Paragraphs (1) and (2) above, except as determined by the Exchange in unusual circumstances.

The Market Surveillance and Evaluation Division must be informed immediately by a specialist, in each instance, of his inability to comply with the provisions set forth in the above Paragraphs.

The term "net liquid assets" is defined as the excess of cash or readily marketable securities over liabilities for a specialist who neither carries nor services customers' accounts and who does not business with others than members and member organizations. The term for all other specialists refers to excess net capital computed in accordance with the provisions of Rule 325 except that capital accounts of partners which are covered by agreements approved by The Exchange, providing for the inclusion of equities therein as partnership property and borrowings covered by subordination agreements approved by The Exchange under Rule 326.13 may be considered "proprietary accounts" and as such included in the computation of such excess net capital for purposes of this Rule, with "haircuts" restored in respect of long or excess short positions of securities for which he is registered as a specialist and for long positions of securities which he shall have deposited or pledged with a bank or member organization as collateral for funds borrowed to finance transactions or positions in such specialist securities.

In the event that two or more specialists are associated with each other and deal for the same specialist account, the above requirements shall apply to such specialists as one unit, rather than to each specialist individually.

Specialists must be able to meet the above requirements without taking into consideration the capital required to carry or finance investments accounts.

Revised Rule 104.23 to read as follows:

23 Relief specialists.—(1) The requirements with respect to a member registered as a full-time relief specialist, i.e., one who may be called upon to act as a relief specialist for an entire business day, shall be, net liquid asset of \$50,000 or a joint account with the regular specialist in the stock. Any joint account must be approved by Regulation & Surveillance.

(2) There is no requirement with respect to a member registered as a part-time relief specialist, i.e., one who may be called upon to act as a relief specialist for less than the entire business day, usually for lunch periods, etc. Dealings effected by a part-time relief specialist while relieving the regular specialist must be made for the account of the regular specialist whom he is relieving.

Specialists may meet the above requirements either with their own capital or by availing themselves of the financing privileges provided by § 220.04(g) of Regulation T or § 221.3(o) or Regulation U of the Board of Directors of the Federal Reserve System [§ 8121, 8218] which are explained at 30, below.

Recession of Rule 114, which reads as follows:

MINIMUM SIZE OF A SPECIALIST UNIT

Rule 114. Every specialist unit, except for two-man units dealing primarily in 10 share unit inactive preferred issues, shall have a minimum of three active members regis-

tered and functioning as regular specialists. If the requirement of the foregoing provision of this Rule has not been met within a reasonable period of time, as the Exchange shall determine, the registrations of the remaining regular specialist or regular specialists of the unit shall thereupon be cancelled.

No specialist unit shall maintain with any other unit or units a single "book" in any security listed on the Exchange, and deal separately under normal circumstances in such security for its own account.

[FR Doc.77-26902 Filed 9-14-77;8:45 am]

[Release No. 34-13925; File No. SR-NYSE-77-20]

SELF-REGULATORY ORGANIZATION

Proposed Rule Changes by New York Stock Exchange, Inc.

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 July 29, 1977, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule changes as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGES

Proposed changes to Exchange Rules 390, 395, and 396, the off-Board trading rules, are, for the most part, housekeeping amendments to conform the Rules to the provisions of Rule 19c-1. The amendments to such rules include the deletion of the reporting requirement in Rule 390.

Proposed changes to the preface to the rules governing special block procedures would eliminate the "basic philosophy" language. Finally, the proposed changes to Rule 54, Dealings on Floor—Persons, would clarify the scope of the Rule. The text of the proposed rule changes are attached as Exhibit I.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule changes are as follows:

PURPOSE OF PROPOSED RULE CHANGES

The Commission in its review of Exchange rules conducted in accordance with section 31(b) of the Securities Acts Amendments of 1975 has cited the Exchange rules under discussion as being inconsistent with certain provisions of the Act.

RULES 390, 395, AND 396

Exchange Rules 390, 395, and 396, the "off-Board trading" rules, prevent members from effecting transactions in listed securities in the over-the-counter market either as principal or agent. An exception is provided for members to effect agency transactions in the OTC market with third market makers and non-member block positioners.

On January 3, 1977, the requirement in Rules 390 and 395 that members satisfy public limit orders on the specialist's book when executing over-the-counter agency transactions with third market-makers and non-member block positioners in NYSE listed securities expired.

Similar provisions contained in Rule 396 also expired but only with respect to transactions in convertible bonds. The requirements that members satisfy public limit orders on the Exchange floor at prices equal to or better than an over-the-counter execution involving other bonds which are debt securities remained in effect.

The repeal of the "public limit order protection" provision was mandated by Rule 19c-1 which prohibits an exchange from having rules that directly or indirectly prohibit or condition the ability of any member acting as agent to effect transactions in the over-the-counter market with a third market-maker or non-member block positioner in exchange listed securities.

The NYSE had handled the matter by interpretation and did not ask the Board of Directors to approve housekeeping changes to Rules 390, 395, and 396 since it was not essential in view of the fact that the provisions of Rule 19c-1 override Exchange off-Board trading rules. This notwithstanding, the Board at its July 7, 1977, meeting amended these Rules to conform to the spirit as well as the letter of the Securities Acts Amendments of 1975.

Rule 390 also requires that members effecting off-Board transactions in a listed stock report such transactions to the Exchange. (There are no reporting requirements contained in Rules 395 and 396.) The purpose of requiring member organizations to report off-Board transactions in listed stocks to the Exchange was to have data on the trades done off the Floor under the Rule and to ensure that orders on the specialist's book at prices equal to or better than the OTC transaction price were satisfied in accordance with the requirements of the Rule. As noted above, on January 3, 1977, this "public limit order protection" requirement expired. In view of this, the reporting requirement is being eliminated.

PREFACE

The language of the preface to the rules governing special block procedures ("basic philosophy") is being eliminated since it may be viewed to condition or limit a member's ability to trade in the OTC market.

RULE 54

Exchange Rule 54 prohibits members, while on the Floor, from making a transaction in any listed security with anyone except another member—with certain exceptions.

The proposed changes would clarify the scope of the Rule which might be misconstrued to limit or condition a member's ability to initiate a trade in the over-the-counter market by transmitting an order from the NYSE Floor to the member's office. The portion of the Rule dealing with the establishment of loan rates on the Floor is no longer appropriate since it is obsolete and is being deleted—loan rates have not been established on the Floor for many years.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

As cited by the Commission in its review of Exchange rules conducted in accordance with section 31(b), the proposed rule changes relate to section 6(b) (8) and section 11A(a) (1) (C) (ii) of the Act, and item (v) (D) of Item 4 of Form 19b-4A. The proposed rule change to Rule 54 further relates to section 6(b) (5) of the Act.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED RULE CHANGES

The Exchange has not solicited comments regarding the proposed changes to Rules 390, 395, 396, and 54 and the preface to the rules governing special block procedures and has received none.

BURDEN ON COMPETITION

The proposed rule changes will not impose any burden on competition.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER, 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 changes, or

(B) Institute proceedings to determine whether the proposed rule changes 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 of 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 October 17, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 2, 1977.

EXHIBIT I

The following constitutes the text of proposed changes to Rule 390, 395, 396, and 54 and the preface to the rules governing special block procedures:

MARKET RESPONSIBILITY RULE

Rule 390. (a) Except as otherwise provided by this Rule, no member, member organization, or other person who is a nonmember broker or dealer and who directly or in-

directly, controls, is controlled by, or is under common control with, a member or member organization (any such other person being hereinafter referred to as an affiliated person) shall effect any transaction in any listed stock in the over-the-counter market, either as principal or agent.

(b) A member, member organization or affiliated person holding a customer's order for the purchase or sale of a listed stock (the Order) may execute the Order (or such portion thereof as may be so executed in accordance with this Rule) in the over-the-counter market with a third market maker or nonmember block positioner.

(c) The provisions of this Rule shall not apply to any of the following transactions:

(i) Any transaction which is part of a primary distribution by an issuer, or a registered or unregistered secondary distribution, effected off the floor of the Exchange;

(ii) Any transaction made in reliance on section 4(2) of the Securities Act of 1933;

(iii) Any trade at a price unrelated to the current market for the security to correct an error or to enable the seller to make a gift;

(iv) Any transaction pursuant to a tender offer;

(v) Any purchase or sale of securities effected upon the exercise of an option pursuant to the terms thereof or the exercise of any other right to acquire securities at a pre-established consideration unrelated to the current market for such securities;

(vi) Any purchase or sale of any security trading in which has been suspended by the Exchange pending review of the listing status of such security;

(vii) The acquisition of securities by a member organization as principal in anticipation of making an immediate special offering or exchange distribution on the Exchange under Rule 391 or Rule 392;

(viii) Any purchase or sale of any of the guaranteed or preferred stocks included within the listing of such stocks as may from time to time be issued by the Exchange, *Provided, however*, That every proposed transaction in any such security by a member, member organization or affiliated person should be reviewed in light of the factors involved, including the market on the floor of the Exchange, the price, and the size, so that whenever possible the transaction may be effected on the floor;

(ix) Any transaction for less than one unit of trading; and

(x) Any other purchase or sale of any security under extraordinary or emergency conditions which receives the prior approval of the Exchange.

(d) (1) The term "listed stock" as used in this Rule shall mean any security registered on the Exchange (other than subscription rights), the sale prices of transactions in which are reported on the consolidated tape provided for in the plan filed by the Exchange and others pursuant to Rule 17a-15 under the Securities Exchange Act of 1934 (the Act) and declared effective by the Securities and Exchange Commission;

(2) The term "nonmember broker or dealer" as used in subparagraph (a) of this Rule shall mean any broker or dealer registered in accordance with section 15(b) of the Act, which acts as a "market maker" as defined in the Act, or whose gross income is derived substantially from acting as a "broker" as defined in the Act, or both;

(3) The term "third market maker" as used in this Rule shall mean a "market maker" as defined in Rule 15c3-1(c) (8) under the Act, who makes markets over-the-counter in listed stocks and who maintains the minimum net capital required of a market maker by Rule 15c3-1 under the Act; and

(4) The term "nonmember block positioner" shall mean a "block positioner" as defined in Rule 17a-17 under the Act which is not a member of the Exchange.

(e) Notwithstanding the provisions of Rule 10d, the specialist may buy for his own account on a plus or zero plus tick or sell for his own account on a minus or zero minus tick any or all of the stock which is to be sold or purchased over-the-counter pursuant to subparagraph (b) of this Rule.

Supplementary material:

10 Interpretations of the Market Responsibility Rule.—Notwithstanding the provisions of this Rule, a member, member organization or affiliated person: may trade as principal or as agent in any listed stock on any organized exchange in any foreign country at any time; and outside of Exchange trading hours, may trade as principal or agent in any listed stock in a foreign country over-the-counter.

20 SEC. Rule 19c-1.—The Market Responsibility Rule has been adopted by the Board of Directors and approved by the Securities and Exchange Commission as contemplated by subparagraph (b) of Rule 19c-1 under the Securities Act of 1934. Rule 19c-1 reads in full as follows:

The rules of each national securities exchange shall provide, on and after March 31, 1976, as follows:

(a) Except as hereinafter provided by this rule, no rule, stated policy or practice of this exchange shall prohibit or condition, or be construed to prohibit, condition or otherwise limit, directly or indirectly, the ability of any member acting as agent to effect transactions on any other exchange or over-the-counter with a third market maker or nonmember block positioner in any equity security which is listed on the exchange or to which unlisted trading privileges on the exchange have been extended ("exchange securities").

(b) Beginning March 31, 1976, and ending January 2, 1977, the provisions of paragraph (a) of this rule shall not apply to a rule of this exchange approved by the Securities and Exchange Commission pursuant to section 19(b) (2) of the Securities Exchange Act of 1934 (the "Act") which assures that, either immediately before, simultaneously with or immediately after execution of a transaction in any exchange security over-the-counter with a third market maker or nonmember block positioner, public bids or offers entered on the specialist's book, or on any other limit order mechanism on such exchange, as limited price orders at prices equal to or better than the transaction price ("limit orders") are satisfied at the limit prices bid or offered; provided, however, that such limit orders may be required to be satisfied at the transaction price under circumstances consistent with the purposes of this rule, the public interest and the protection of investors.

(c) For purposes of this rule:

(1) The term "third market maker" shall mean a "market maker" as defined in Rule 15c3-1(c) (8) under the Act, who makes markets over-the-counter in exchange securities and who maintains the minimum net capital required of a market maker by Rule 15c3-1 under the Act.

(2) The term "nonmember block positioner" shall mean a "block positioner" as defined in Rule 17a-17 under the Act which is not a member of this exchange.

OFF-FLOOR TRANSACTIONS IN LISTED RIGHTS

Rule 395. (a) Except as otherwise provided by this Rule, no member, member organization, or other person who is a nonmember broker or dealer and who directly or indirectly, controls, is controlled by, or is under common control with, a member or member

organization (any such other person being hereinafter referred to as an affiliated person) shall effect any transaction in any subscription right admitted to dealings on the Exchange, in the over-the-counter market, either as principal or agent.

(b) A member, member organization or affiliated person holding a customer's order for the purchase or sale of a listed right (the Order) may execute the Order (or such portion thereof as may be so executed in accordance with this Rule) in the over-the-counter market with a third market maker or non-member block positioner.

(c) The provisions of this Rule shall not apply to any of the following transactions.

(i) Any trade at a price unrelated to the current market for the subscription right to correct an error;

(ii) Any transaction for less than one unit of trading;

(iii) Any principal transaction in rights to subscribe to bonds, effected with other members, non-member brokers and dealers, and institutions, provided the proviso of paragraph (b) above is complied with;

(iv) Any transaction in rights to subscribe to preferred stocks included on the Exchange's exempt list; or

(v) Any single transaction where the amount involved is less than \$2.

(vi) In connection with rights to subscribe to preferred stocks, the Exchange may consider requests for exemptions to permit the purchase of rights over-the-counter in blocks of a size sufficient to subscribe to not less than \$100,000 of the securities subject to the rights (and in respect of issues amounting to less than \$7,500,000 the size of the wholesale lot might be proportionately reduced) provided the purchase is for the purpose of subscribing to the issue.

In addition, the Exchange may give consideration to requests for exemptions in respect of private negotiations for the purchase over-the-counter of large blocks to rights to preferred stocks or common stocks (A) in relation to the size of the issue, provided that the purchase is for the purpose of subscribing to the issue or (B) where because the size of certain blocks is so large that in the opinion of the Exchange the orderly process of the market might otherwise be disturbed, provided the purchase is for the purpose of subscribing to the issue.

In some instances, issuers of rights have made arrangements with a particular bank or trust company to handle orders of stockholders to buy or sell so-called "overage" rights. This involves buying:

(A) From a stockholder whose rights are insufficient to subscribe to one share, all of such rights; or

(B) From a stockholder who is subscribing to the offering, any excess rights insufficient to subscribe to one share, or selling:

(A) To a stockholder who is subscribing to the offering but who has received from the issuing company rights in an amount insufficient to subscribe to one share. The minimum number of rights necessary to enable him to subscribe to one share; or

(B) To a stockholder who is subscribing to the offering but who has received from the issuing company rights in excess of a number exactly sufficient for subscription, the minimum number of rights necessary to enable him to subscribe to one additional share.

Daily, after balancing off purchases and sales of the "overage" rights, the bank or trust company may have a remaining "breakage". Member organizations may purchase from the bank or trust company in such cases, off the Floor of the Exchange, on a principal basis, the rights represented by

such "breakage", provided any sale of rights so purchased is made on a national securities exchange.

(d) (1) The term "nonmember broker or dealer" as used in subparagraph (a) of this Rule shall mean any broker or dealer registered in accordance with section 15(b) of the Act, which acts as a "market maker" as defined in the Act, or whose gross income is derived substantially from acting as a "broker" as defined in the Act, or both;

(2) The term "third market maker" as used in this Rule shall mean a "market maker" as defined in Rule 15c3-1(c)(8) under the Act, who makes markets over-the-counter in listed stocks and who maintains the minimum net capital required of a market maker by Rule 15c3-1 under the Act; and

(3) The term "nonmember block positioner" shall mean a "block positioner" as defined in Rule 17a-17 under the Act which is not a member of the Exchange.

(e) Notwithstanding the provisions of Rule 104, the specialist may buy for his own account on a plus or zero plus tick or sell for his own account on a minus or zero minus tick any or all of the rights which are to be sold or purchased over-the-counter pursuant to subparagraph (b) of this Rule.

* * * Supplementary material:

10. Notwithstanding the provisions of this Rule, a member, member organization or affiliated person; may trade as principal or as agent in any listed right on any organized exchange in any foreign country at any time; and outside of Exchange trading hours, may trade as principal or agent in any listed right in a foreign country over-the-counter.

OFF-FLOOR TRANSACTIONS IN BONDS

Rule 396. (a) Except as otherwise provided by this Rule, no member, member organization, or other person who is a nonmember broker or dealer and who directly or indirectly, controls, is controlled by, or is under common control with, a member or member organization (any such other person being hereinafter referred to as an affiliated person) shall effect any transaction in any listed bond in the over-the-counter market, either as principal or agent.

(b) A member, member organization or affiliated person holding a customer's order for the purchase or sale of a listed bond (the Order) may execute the Order (or such portion thereof as may be so executed in accordance with this Rule) in the over-the-counter market with a third market maker; provided that if the Order involves a debt security, such member, member organization or affiliated person assures that all public bids or offers recorded on the Exchange Floor at the time of the over-the-counter execution, or, if inquiry is made immediately prior to the over-the-counter execution, all public bids or offers recorded on the Exchange Floor at the time of such inquiry, at prices which, insofar as the Order is concerned, are equal to or better than the price at which such portion of the Order is executed over-the-counter are satisfied at the price at which such portion of the Order is so executed.

(c) The provisions of this Rule shall not apply to any of the following transactions:

(i) Any order for the purchase or sale of ten bonds or more;

(ii) In the case of an agency transaction (including intra-office cross transactions), when the customer specifically directs that the particular order shall not be executed on the Floor; but no member or member organization shall solicit such instructions before sending the order to the Floor;

(iii) When the order calls for the purchase or sale of securities of the United States, Puerto Rico, the Philippine Islands, or States,

Territories, or Municipalities therein, or of bonds which, pursuant to call or otherwise, are to be redeemed within twelve months;

(iv) Any transaction which is part of a primary distribution by an issuer, or a registered or unregistered secondary distribution, effected off the floor of the Exchange;

(v) Any transaction made in reliance on section 4(2) of the Securities Act of 1933;

(vi) Any trade at a price unrelated to the current market for the security to correct an error or to enable the seller to make a gift;

(vii) Any purchase or sale of any bond trading in which trading has been suspended by the Exchange pending review of the listing status of such bond;

(viii) The acquisition of bonds by a member organization as principal in anticipation of making an immediate special offering or exchange distribution on the Exchange under Rule 391 or Rule 392; and

(ix) Any transaction for less than one unit of trading;

(d) (1) The term "nonmember broker or dealer" as used in subparagraph (a) of this Rule shall mean any broker or dealer registered in accordance with section 15(b) of the Act, which acts as a "market maker" as defined in the Act, or whose gross income is derived substantially from acting as a "broker" as defined in the Act or both;

(2) The term "third market maker" as used in this Rule shall mean a "market maker" as defined in Rule 15c3-1(c)(8) under the Act, who makes markets over-the-counter in listed bonds and who maintains the minimum net capital required of a market maker by Rule 15c3-1 under the Act; and

(e) (1) The price at which a transaction is effected, whether on the Exchange or in the over-the-counter market, shall, for purposes of this Rule, mean the price of such transaction, exclusive of any commission, commission equivalent, differential, tax or other charge applicable thereto.

(2) Each limited price order recorded on the Exchange Floor shall, for purposes of this Rule, be considered a public bid or offer unless initiated by a member on the Floor of the Exchange for his own account or for any account in which he, his member organization, or any affiliated person of his member organization has an interest.

* * * Supplementary material:

10. Interpretations.—(1) Notwithstanding the provisions of this Rule, a member, member organization or affiliated person; may trade as principal or as agent in any listed bond on any organized exchange in any foreign country at any time; and outside of Exchange trading hours, may trade as principal or agent in any listed bond in a foreign country over-the-counter.

(2) Notwithstanding the provisions of this Rule, a member, member organization or affiliated person may execute a customer's order in the over-the-counter market with a third market maker or nonmember block positioner outside of Exchange trading hours without satisfying public bids or offers present on a limited order mechanism on the Exchange.

DEALINGS ON FLOOR—PERSONS

Rule 54. Only members shall be permitted to make or accept bids and offers, consummate transactions or otherwise transact business on the Floor in any security admitted to dealings on the Exchange, except that the provisions of this Rule shall not apply in the case of a person authorized to transact business on the Floor pursuant to section 14 or 15 of Article IX of the Constitution.

SPECIAL PROCEDURES REGARDING BLOCKS OF LISTED SECURITIES AND OFF-FLOOR TRANSACTIONS

BLOCKS NOT SUSCEPTIBLE OF NORMAL PROCESSING

Special procedures for handling blocks not susceptible of normal processing.—The following procedures are provided by the Exchange to facilitate the handling of blocks of listed securities which cannot be absorbed or supplied in the regular auction market within a reasonable time and at a reasonable price or prices: Exchange acquisitions; exchange distributions; special bids; special offerings; secondary distributions.

Applications and details in respect of these procedures are to be submitted to the Market Surveillance and Evaluation Division (623-6811 or 6812). A member or member organization may discuss any application for any of the above procedures with a Floor Director, as well as an application for an Off-Board transaction in rights, through 623-5000.

The following pages contain rules and information governing these special procedures.

[FR Doc. 77-26900 Filed 9-14-77; 8:45 am]

[Release No. 13939; (SR-MSRB-76-12)]

MUNICIPAL SECURITIES RULEMAKING BOARD

Order Approving Proposed Rule Change

SEPTEMBER 8, 1977.

On December 20, 1976, the Municipal Securities Rulemaking Board, Suite 507, 1150 Connecticut Avenue NW., Washington, D.C. 20036, (the "MSRB") filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), and Rule 19b-4 thereunder, copies of a proposed rule change. On June 17, 1977, the MSRB filed with the Commission an amended proposed rule change which made substantial changes in the rule proposal. In addition the MSRB filed technical amendments to the proposed rule change on June 29, 1977, and August 26, 1977. The proposed rule change, as amended, would codify uniform industry practices for the processing, clearance, and settlement of inter-dealer transactions in municipal securities and related matters.

Notice of the proposed rule change, as amended, together with the terms of substance of the proposed rule change was given by publication of Commission releases (Securities Exchange Act Release Nos. 13671 (June 24, 1977) and 13116 (December 28, 1976)) and by publication in the FEDERAL REGISTER (42 FR 34436 (July 5, 1977) and 42 FR 1086 (January 5, 1977)). The Commission received a number of comment letters on the proposed rule change, many of them with respect to the proposed rule's requirement that inter-dealer confirmations include CUSIP numbers. Several of the comment letters expressed reservations about the utility of CUSIP numbers, particularly for small municipal securities dealers. The Commission believes that the delayed effective date of this requirement will provide an opportunity for the development of low-cost

means of providing the numbers to small dealers. In addition, while the use of CUSIP numbers may not produce economies to all municipal securities brokers and dealers, their general use in the municipal securities industry should facilitate the development of more efficient processing systems.

The text of the proposed rule change follows:

RULE G-12. UNIFORM PRACTICE

(1) All transactions in municipal securities between any broker, dealer or municipal securities dealer and any other broker, dealer or municipal securities dealer shall be subject to the provisions of this rule, except to the extent that such transactions are compared, cleared and settled through the facilities of a clearing agency registered with the Commission, in which event the rules of such clearing agency shall apply.

(i) Failure to deliver securities sold or to pay for securities as delivered, on or after the settlement date, does not effect a cancellation of a transaction which is subject to the provisions of this rule, unless otherwise provided in this rule or agreed upon by the parties.

(ii) Unless otherwise specifically indicated, any "immediate" notice required by this rule or any notice required to be given "immediately" shall be given by telephone, telegraph or other means of communication having same day receipt capability and confirmed in writing within one business day.

(b) Settlement Dates.

(1) Definitions. For purposes of this rule, the following terms shall have the following meanings:

(A) Settlement Date. The term "settlement date" shall mean the day used in price and interest computations, which shall also be the day delivery is due unless otherwise agreed by the parties.

(B) Business Day. The term "business day" shall mean a day recognized by the National Association of Securities Dealers, Inc. as a day on which securities transactions may be settled.

(ii) Settlement Dates. Settlement dates shall be as follows:

(A) For "cash" transactions, the trade date:

(B) For "regular way" transactions, the fifth business day following the trade date;

(C) For "when, as and if issued" transactions, a date agreed upon by both parties, which date shall not be earlier than the fifth business day following the date the confirmation indicating the final settlement date is sent, or, with respect to transactions between the manager and members of a syndicate or account formed to purchase securities from an issuer, a date not earlier than the sixth business day following the date the confirmation indicating the final settlement date is sent; provided, however, that if the issuer gives notice of pending delivery within less than six business days before delivery, the settlement date for transactions between the manager and members of the syndicate or account with respect to such issue of securities may be accelerated as determined by the manager, and, in such event, all other "when, as and if issued" transactions with respect to such issue of securities may, but need not, be accelerated by each seller by not more than the number of days of acceleration by the syndicate manager; and

(D) For all other transactions, a date agreed upon by both parties.

(iii) Notice of Accelerated Delivery. In the

event the issuer gives notice of pending delivery of securities within less than six business days before delivery, the manager of a syndicate or account formed to purchase the securities from the issuer shall, upon determination of the accelerated delivery date pursuant to subparagraph (b) (ii) (C) hereof, give immediate notice to the members of the syndicate or account of the settlement date for transactions between the manager and the members.

(c) Dealer Confirmations.

(i) Except as otherwise indicated in this section (c), each party to a transaction shall send a confirmation of the transaction to the other party within one business day following the trade date.

(ii) Confirmations of cash transactions shall be exchanged on the trade date, which may be accomplished by telephone with written confirmations sent within one business day following the trade date.

(iii) For transactions effected on a "when, as and if issued" basis, initial confirmations shall be sent within two business days following the trade date. Confirmations from a syndicate or account manager to the members of the syndicate or account may be in the form of a letter, covering all maturities of the issue, setting forth in information hereafter specified in this section (c). Confirmations indicating the final settlement date shall be sent by the seller at least five business days prior to the settlement date or, with respect to transactions between the manager and members of a syndicate or account formed to purchase securities from an issuer, at least six business days prior to the settlement date; provided, however, that if the settlement date is accelerated pursuant to subparagraph (b) (ii) (C) above, final confirmations shall be sent by each seller immediately upon determination by it of the settlement date.

(iv) For transactions in new issue securities having a settlement date more than six business days following the trade date for which only one confirmation is sent, such confirmation shall be sent within two business days following the trade date.

(v) Each confirmation shall contain the following information:

(A) Confirming party's name, address and telephone number;

(B) "Contra party" identification;

(C) Designation of purchase from or sale to;

(D) Par value of the securities;

(E) Description of the securities, including at a minimum the name of the issuer, interest rate, maturity date, and if the securities are limited tax, subject to redemption prior to maturity (callable), or revenue bonds, an indication to such effect, including in the case of revenue bonds the type of revenue, if necessary for a materially complete description of the securities, and in the case of any securities, if necessary for a materially complete description of the securities, the name of any company or other person in addition to the issuer obligated, directly or indirectly, with respect to debt service or, if there is more than one such obligor, the statement "multiple obligors" may be shown;

(F) CUSIP number, if any, assigned to the securities;

(G) Trade date;

(H) Settlement date;

(I) Yield to maturity and resulting dollar price, except in the case of securities which are traded on the basis of dollar price or securities sold at par, in which event only dollar price need be shown (in cases in which securities are priced to call, this must be stated, and where a transaction is effected on a yield basis, the calculation of dollar price shall be to the lower of price to call or price to maturity);

(J) Amount of concession, if any, per \$1,000 par value unless stated to be an aggregate figure;

(K) Amount of accrued interest;

(L) Extended principal amount;

(M) Total dollar amount of transaction; and

(N) Instructions, if available, regarding receipt or delivery of securities, and form of payment if other than as usual and customary between the parties.

The initial confirmation for a "when, as and if issued" transaction shall not be required to contain the information specified in subparagraphs (H), (K), (L), and (M) of this paragraph or the resulting dollar price as specified in subparagraph (I).

(VI) In addition to the information required by paragraph (v) above, each confirmation shall contain the following information, if applicable:

(A) Dated date if it affects the price or interest calculation, and first interest payment date, if other than semi-annual;

(B) If the securities are "fully registered" or "registered as to principal only," a designation to such effect;

(C) If the securities are "called" or "pre-refunded," a designation to such effect, the date of maturity which has been fixed by the call notice, and the amount of the call price;

(D) Denominations of notes and, if other than those specified in paragraph (e) (iv) hereof, denominations of bonds;

(E) Any special instructions or qualifications, or factors affecting payment of principal or interest, such as (A) "ex legal," or (B) if the securities are traded without interest, "flat," or (C) if the securities are in default as to the payment of interest or principal, "in default"; and

(F) Such other information as may be necessary to ensure that the parties agree to the details of the transaction.

(d) Comparison and Verification of Confirmations; Unrecognized Transactions.

(i) Upon receipt of a confirmation, each party to a transaction shall compare and verify such confirmation to ascertain whether any discrepancies exist. If any discrepancies exist in the information as set forth in the two compared confirmations, the party discovering such discrepancies shall promptly communicate such discrepancies to the contra party and both parties shall promptly attempt to resolve the discrepancies. In the event the parties are able to resolve the discrepancies, the party in error shall, within one business day following such resolution, send a corrected confirmation to the contra party. Such confirmation shall indicate that it is a correction and the date of the corrected confirmation. In the event the parties are unable to resolve the discrepancies, each party shall promptly send to the contra party a written notice, return receipt requested, indicating nonrecognition of the transaction.

(ii) In the event a party receives a confirmation for a transaction which it does not recognize, it shall promptly seek to ascertain whether a trade occurred and the terms of the trade. In the event it determines that a trade occurred and the confirmation it received was correct, such party shall immediately notify the confirming party by telephone and, within one business day thereafter, send a written confirmation of the transaction to the confirming party. In the event a party cannot confirm the trade, such party shall immediately notify the confirming party by telephone and, within one business day thereafter send a written notice, return receipt requested, to the confirming party, indicating nonrecognition of the transaction. Promptly upon receipt of such notice, the confirming party shall verify its records and, if it agrees with the noncon-

firming party, promptly send a notice of cancellation of the transaction, return receipt requested, to the nonconfirming party.

(iii) In the event a party has sent a confirmation of a transaction, but fails to receive a confirmation from the contra party or a notice indicating nonrecognition of the transaction within four business days of the trade date, the confirming party shall promptly seek to ascertain whether a trade occurred. If, after such verification, such party believes that a trade occurred, it shall immediately notify the nonconfirming party by telephone to such effect and send, within one business day thereafter, a written notice, return receipt requested, to the nonconfirming party, indicating failure to confirm. Promptly following receipt of telephone notice from the confirming party, the nonconfirming party shall seek to ascertain whether a trade occurred and the terms of the trade. In the event the nonconfirming party determines that a trade occurred, it shall immediately notify the confirming party by telephone to such effect and, within one business day thereafter, send a written confirmation of the transaction to the confirming party. In the event a party cannot confirm the trade, such party shall promptly send a written notice, return receipt requested, to the confirming party, indicating nonrecognition of the transaction.

(iv) If procedures are initiated pursuant to paragraph (ii) of this section, the procedures required by paragraph (iii) need not be followed; and conversely, if procedures are initiated pursuant to paragraph (iii) of this section, the procedures required by paragraph (ii) need not be followed.

(v) In the event any material discrepancies or differences, basic to the transaction, remain unresolved by the close of the business day following receipt by a party of a written notice indicating nonrecognition, or by the close of the business day following the date the confirming party gives telephone notice of the transaction to the nonconfirming party pursuant to paragraph (iii) above, whichever first occurs, the transaction may be cancelled by the confirming party or, in the event there exists disagreement concerning the terms of the transaction, by either confirming party. Nothing herein contained shall be construed to affect whatever rights the confirming party or parties may otherwise have with respect to a transaction which is cancelled pursuant to this paragraph.

(vi) Nothing herein contained shall be construed to prevent the settlement of a transaction prior to completion of the procedures prescribed in this section (d); provided that each party to the transaction shall be responsible for sending to the other party, within one business day of such settlement, a confirmation evidencing the terms of the transaction.

(vii) The notices referred to in this section indicating nonrecognition of a transaction or failure to confirm a transaction shall contain sufficient information to identify the confirmation to which the notice relates including, at a minimum, the information set forth in subparagraphs (A) through (E), (G), and (H) of paragraph (c) (v). In addition, such notice shall identify the firm and person providing such notice and the date thereof. The requirements of this paragraph may be satisfied by providing a copy of the confirmation of an unrecognized transaction, marked "don't know," together with the name of the firm and person providing such notice and the date thereof.

(e) Delivery of Securities. The following provisions shall, unless otherwise agreed by the parties, govern the delivery of securities:

(i) Place and Time of Delivery. Delivery shall be made at the office of the purchaser,

or its designated agent, between the hours established by rule or practice in the community in which such office is located. If the parties so agree, book entry delivery through a registered clearing agency or delivery by other means which do not involve the physical delivery of securities will constitute good delivery for purposes of this rule.

(ii) Delivery Ticket. A delivery ticket shall accompany the delivery of securities. Such ticket shall contain the information set forth in subparagraphs (A), (B), (D) through (H), (M), and (N) of paragraph (c) (v) and, to the extent applicable, the information set forth in subparagraphs (A), (B), (D), (E), and (F) of paragraph (c) (vi) and shall have attached to it an extra copy of the ticket which may be used to acknowledge receipt of the securities.

(iii) Partial Delivery. The purchaser shall not be required to accept a partial delivery with respect to a single trade in a single security. For purposes of this paragraph, a "single security" shall mean a security of the same issuer having the same maturity date, coupon rate and price.

(iv) Units of Delivery. Delivery of bonds shall be made in the following denominations:

(A) For bearer bonds, in denominations of \$1,000 or \$5,000 par value; and

(B) For registered bonds, in denominations which are multiples of \$1,000 par value, up to \$100,000 par value.

Delivery of notes shall be made in the denominations specified on the confirmation as required pursuant to paragraph (c) (vi) of this rule.

(v) Bearer and Registered Form. Delivery of securities which are issuable in both bearer and registered form shall be in bearer form unless otherwise agreed by the parties.

(vi) Mutilated Certificates. Delivery of a certificate which is damaged to the extent that any of the following is not ascertainable:

- (A) Name of issuer;
- (B) Par value;
- (C) Signature;
- (D) Coupon rate;
- (E) Maturity date;
- (F) Seal of the issuer; or
- (G) Bond or note number

shall not constitute good delivery unless validated by the trustee, registrar, transfer agent, paying agent or issuer of the securities or by an authorized agent or official of the issuer.

(vii) Coupon Securities.

(A) Coupon securities shall have securely attached to the certificate in the correct sequence all appropriate coupons, including supplemental coupons if specified at the time of trade, which in the case of securities upon which interest is in default shall include all unpaid or partially paid coupons. All coupons attached to the certificate must have the same serial number as the certificate.

(B) Anything herein to the contrary notwithstanding, if securities are traded "and interest" and the settlement date is on or after the interest payment date, such securities shall be delivered without the coupon payable on such interest payment date.

(C) If delivery of securities is due within 30 calendar days prior to an interest payment date, the seller may deliver to the purchaser a draft or bank check of the seller or its agent, payable on the date delivery is made, in an amount equal to the interest due, in lieu of the coupon.

(viii) Mutilated or Cancelled Coupons. Delivery of a certificate which bears a coupon which is damaged to the extent that any one of the following cannot be ascertained from the coupon:

(A) Title of the issuer;
 (B) Bond or note number;
 (C) Coupon number or payment date (if either the coupon number or the payment date is ascertainable from the coupon, the coupon will not be considered mutilated); or
 (D) The fact that there is a signature, or which coupon has been cancelled, shall not constitute good delivery unless the coupon is endorsed or guaranteed. In the case of damaged coupons, such endorsement or guarantee must be by the issuer or by a commercial bank. In the case of cancelled coupons, such endorsement or guarantee must be by the issuer or an authorized agent or official of the issuer, or by the trustee or paying agent.

(ix) Delivery of Certificates Called for Redemption. A certificate for which a notice of call has been published prior to the trade date shall not constitute good delivery unless the securities are identified as "called" at the time of trade.
 (x) Delivery Without Legal Opinions or Other Documents. Delivery of certificates without legal opinions or other documents legally required to accompany the certificates shall not constitute good delivery unless identified as "ex legal" at the time of trade.
 (xi) Insured Securities. Delivery of certificates for securities traded as insured securities shall be accompanied by evidence of such insurance, either on the face of the certificate or in a document attached to the certificate.
 (xii) Endorsements for Banking or Insurance Requirements. A security bearing an endorsement indicating that it was deposited in accordance with legal requirements applicable to banking institutions or insurance companies shall not constitute good delivery unless it bears a release acknowledged before an officer authorized to take such acknowledgments and was designated as a released endorsed security at the time of trade.

(xiii) Delivery of Registered Securities.
 (A) Assignments. Delivery of a certificate in registered form must be accompanied by an assignment on the certificate or on a detached assignment for such certificate, containing a signature which corresponds in every particular with the name written upon the certificate except that the following shall be interchangeable: "and" or "&"; "Company" or "Co."; "Incorporated" or "Inc."; and "Limited" or "Ltd."

(B) Detached Assignment Requirements. A detached assignment shall provide for the irrevocable appointment of an attorney, with power of substitution, a full description of the security, including the name of the issuer, the maturity date and interest rate, the bond or note number, and the par value (expressed in words and numerals).

(C) Power of Substitution. When the name of an individual or firm has been inserted in an assignment as attorney, a power of substitution shall be executed in blank by such individual or firm. When the name of an individual or firm has been inserted in a power of substitution as a substitute attorney, a new power of substitution shall be executed in blank by such substitute attorney.

(D) Guarantee. Each assignment, endorsement, alteration and erasure shall bear a guarantee acceptable to the transfer agent or registrar.
 (E) Certification in Name of a Party Other Than a Natural Person. A certificate registered in the name of a party other than a natural person, or in a name with official designation, shall constitute a good delivery only if the statement "Proper papers for transfer filed by assignor" is placed on the assignment and signed by the transfer agent.
 (F) Certificate in Name of Deceased Person, Trustee, Etc.

(1) A certificate shall not constitute good delivery if executed with a qualification, restriction or special designation or if delivered in the name of, or with an assignment or power of substitution executed by a person since deceased; a minor; a receiver in bankruptcy; an agent; an attorney; or, except as provided in subparagraph (2) below, a trustee or trustees (except for trustees acting in the capacity of a board of directors of a corporation or association in which case the requirements of subparagraph (E) above shall apply), a guardian, an executor, or an administrator.

(2) A certificate shall constitute good delivery with an assignment or a power of substitution executed by an individual executor or administrator; an individual trustee under an *inter vivos* or testamentary trust; a guardian (including committees, conservators and curators); or a custodian acting pursuant to the provisions of the Uniform Gifts to Minors Act.

(G) Payment of Interest. If a registered security is traded "and interest" and transfer of record ownership cannot be accomplished on or before the record date for the determination of registered holders for the payment of interest, delivery shall be accompanied by a draft or bank check of the seller or its agent, payable on the date delivery is made, for the amount of the interest.

(H) Registered Securities Traded "Flat". If a registered security is traded "flat" (i.e. is in default in the payment of interest) and transfer of record ownership cannot be accomplished on or before the record date for the determination of registered holders for the payment of interest, an interest payment date having been established on or after the trade date, delivery shall be accompanied by a draft or bank check of the seller or its agent, payable on the date delivery is made, for the amount of the payment to be made by the issuer, unless the security is traded "ex-interest."

(I) Expenses of shipment. Expenses of shipment of securities, including insurance, postage, draft, and collection charges, shall be paid by the seller.

(J) Money Differences. The following money differences shall not be sufficient to cause rejection of delivery:

Par value:	Maximum differences per transaction
\$1,000 to \$24,999	\$10
\$25,000 to \$99,999	25
\$100,000 to \$249,999	60
\$250,000 to \$999,999	250
\$1,000,000 and over	500

The calculations of the seller shall be utilized in determining the maximum permissible differences and amount of payment to be made upon delivery. The parties shall seek to reconcile any such money differences within ten business days following settlement.

(k) Payment.
 (1) Calculation of Interest. Unless otherwise agreed by the parties, in the settlement of transactions in interest-paying securities there shall be added to the dollar price interest at the rate specified in the security, which shall be computed up to but not including the settlement date.
 (2) Calculation of Price. Calculations to determine the price and yield to maturity of municipal securities shall be made in accordance with applicable rules of the Board, if any.

(l) Rejections and Reclamations.
 (1) Definitions. For purposes of this section, the terms "rejection" and "reclamation" shall have the following meanings:

(A) "Rejection" shall mean refusal to accept securities which have been presented for delivery.
 (B) Refusal to transfer or deregister by the transfer agent due to a lack of documentation required by paragraph (c) (xiii) of this rule.

(D) Reclamation by reason of the following may be made without any time limitation:

(1) The security delivered is reported missing, stolen, fraudulent or counterfeit; or
 (2) Not good delivery because notice of call for the certificate was published prior to the trade date and this was not specified at the time of trade.

The running of any of the time periods specified in this paragraph shall not be deemed to foreclose a party's right to pursue its claim via other means, including arbitration.

(iv) Procedure for Rejection or Reclamation. If a party elects to reject or reclaim securities, rejection or reclamation shall be effected by sending a written notice which contains sufficient information to identify the delivery to which the notice relates, including a copy of the original delivery ticket or other proof of delivery and to the extent not set forth on such document, the following:

(A) The name of the party delivering the securities;
 (B) The name of the party receiving the securities;
 (C) A description of the securities;
 (D) The date the securities were delivered;
 (E) The date of rejection or reclamation;
 (F) The par value of the securities which are being rejected or reclaimed;

(G) In the case of a reclamation, the amount of money the securities are reclaimed for;
 (H) The reason for rejection or reclamation; and
 (I) The name and telephone number of the person to contact concerning the rejection or reclamation.

(v) Acceptance or Delivery of Securities. Upon rejection or reclamation properly made pursuant to this rule, the securities rejected or reclaimed shall be accepted or delivered as required by the notice of rejection or reclamation and the exchange of correct monies of securities shall be made.

(vi) Effect of Rejection or Reclamation. Rejection or reclamation of securities shall not constitute a cancellation of the transaction.

(h) Close-Out. Transactions which have been confirmed or otherwise agreed upon by both parties but which have not been completed may be closed out in accordance with this section, or as otherwise agreed by the parties.
 (1) Close-Out by Purchaser. With respect to a transaction which has not been completed by the seller according to its terms and the requirements of this rule, the purchaser may close out the transaction in accordance with the following procedures:
 (A) Notice of Close-Out. If the purchaser elects to close out a transaction in accordance with this paragraph (1), the purchaser shall, not earlier than the fifth business day following the settlement date, notify the seller by telephone of the purchaser's intention to close out the transaction and immediately thereafter send, return receipt requested, a written notice of close-out to the seller. Such notice shall be accompanied by a copy of the seller's confirmation of the transaction to be closed out or other written evidence of the contract between the parties. The notice shall state that unless the transaction is completed by a specified date and time, which shall not be earlier than the close of the fifth business day following the date the telephonic notice is given, or as provided in subparagraph (C) below, the transaction may be closed out in accordance with this section.

(B) Response. The seller shall respond to the notice of close-out in writing, or by telephone call promptly confirmed in writing, return receipt requested, within one business day following the date the telephonic notice required by subparagraph (A) is given, stating the seller's reasons for failing to complete the transaction. Any party receiving a notice of close-out may retransmit the notice to another party from whom the securities are due, provided that any retransmitted notice must be received by such other party not later than one business day preceding the date for close-out as specified on the original notice or as extended due to retransmittals. Each retransmittal subsequent to the initial retransmittal shall extend the date for close-out by one business day and the party retransmitting the notice shall attach to the notice a memorandum specifying the extended date for close-out resulting from such retransmittal and shall immediately notify the purchaser originating the close-out notice of the extended date. Any party receiving a retransmitted notice of close-out shall respond to the party retransmitting the notice within the time periods and according to the procedures provided herein for the seller's response.

(C) Time Periods. If by the close of the fifth business day following the date the close-out notice was given, the purchase has received no response or notice of retransmittal or has received a response which fails to provide an adequate explanation, as described below, for the seller's failure to complete the transaction, the purchaser may close out the transaction in accordance with the terms of the close-out notice. If the purchaser has received an adequate explanation of the seller's failure to complete the transaction, the purchaser may not close out the transaction before the close of the fifteenth business day following the date the close-out notice was given. For purposes of this subparagraph, a seller shall be deemed to have provided an adequate explanation for its failure to complete the transaction only if it has an offsetting fail to receive outstanding of the same security and so states or if the certificates, coupons or documentation required by this rule are in transit to the purchaser or the seller, have been sent for transfer, deregistration or validation, or have been lost or mutilated and replacements have been requested, and the seller so states. If the purchaser has received a notice of retransmittal extending the date for close-out, the transaction may not be closed out before the close of business on the latest extended date.

(D) Purchaser's Options. To close out a transaction as provided herein the purchaser may, at its option:

(1) Purchase ("buy-in") at the current market all or any part of the securities necessary to complete the transaction, for the account and liability of the seller;

(2) Cancel the transaction as to all or any part of the securities necessary to complete the transaction;

(3) Accept from the seller in satisfaction of the seller's obligation under the original contract (which shall be concurrently cancelled) the delivery of municipal securities which are comparable to those originally bought in quantity, quality, yield or price, and maturity, with any additional expenses or any additional cost of acquiring such substituted securities being borne by the seller; or

(4) Require the seller to repurchase the securities on terms which provide that the seller pay an amount which includes [equal to] accrued interest and bear the burden of any change in market price or yield.

A close-out will operate to close out all transactions covered under retransmitted notices. A buy-in may be executed from a long position in customers' accounts maintained with the party executing the buy-in or, with the agreement of the seller, from the purchaser's contra party. In all cases, the purchaser must be prepared to defend the price at which the close-out is executed relative to market conditions at the time of the execution.

(E) Close-Out Not Completed. A close-out procedure instituted pursuant to this rule (including any action by the purchaser pursuant to subparagraph (D) of this paragraph) must be completed not later than the thirtieth business day following the settlement date. If a close-out pursuant to a notice of close-out is not completed in accordance with the terms of the notice and the provisions of this rule, the notice shall expire. Additional close-out notices may be issued, provided that a close-out procedure initiated pursuant to this rule with respect to a transaction must be completed not later than the thirtieth business day following the settlement date, regardless of the number of close-out notices issued. Anything herein to the contrary notwithstanding, each time period specified in this subparagraph (E) shall be extended by one business day for each retransmittal of the notice of close-out subsequent to the initial retransmittal.

(F) "Cash" Transactions. The purchaser may close out transactions made for "cash" or made for or amended to include guaranteed delivery at the close of business on the day delivery is due.

(i) Close-Out by Seller. If a seller makes good delivery according to the terms of the transaction and the requirements of this rule and the purchaser rejects delivery, the seller may close out the transaction in accordance with the following procedures:

(A) Notice of Close-Out. If the seller elects to close out a transaction in accordance with this paragraph (i), the seller shall, not later than the close of business of the date of rejection of delivery, notify the purchaser by telephone of the seller's intention to close out the transaction and immediately thereafter send, return receipt requested, a written notice of close-out to the purchaser. Such notice shall be accompanied by a copy of the purchaser's confirmation of the transaction to be closed out or other written evidence of the contract between the parties. The notice shall state that unless the transaction is completed by a specified date and time, which shall not be earlier than the close of the [third] business day following the date the telephonic notice is given, the transaction may be closed out in accordance with this section.

(B) Execution of Close-Out. Not earlier than the close of the business day following the date telephonic notice of close-out is given to the purchaser, the seller may sell out the transaction at the current market for the account and liability of the purchaser.

(iii) Notice of Executed Close-Out. The party executing a close-out shall, immediately upon execution, notify via hand delivery or other written media having same-day receipt capabilities, the party for whose account and liability the transaction was closed-out, stating the means of closing out utilized and forwarding a copy of the confirmation of the executed transaction, if any.

(iv) Close-Out Under Special Rulings. Nothing herein contained shall be construed to prevent brokers, dealers or municipal securities dealers from closing out transactions as directed by a ruling of a national securities exchange, a registered securities association or an appropriate regulatory agency

issued in connection with the liquidation of a broker, dealer or municipal securities dealer.

(v) Procedures Optional. Nothing herein contained shall be construed to require the parties to follow the close-out procedures herein specified if they otherwise agree.

(1) Good Faith Deposits. Good faith deposits shall be returned by the manager of a syndicate or similar account formed for the purchase of securities from an issuer, to the members of the syndicate or account within two business days following the date of settlement with the issuer, or, in the event the syndicate or account is not successful in purchasing the issue, within two business days following the return of the deposit from the issuer.

(j) Settlement of Syndicate or Similar Account. Final settlement of a syndicate or similar account formed for the purchase of securities shall be made within 60 days following the date all securities have been delivered by the syndicate or account manager to the syndicate or account members.

(k) Any credit designated by a customer in connection with the purchase of securities as due to a member of a syndicate or similar account shall be distributed to such member by the municipal securities broker or municipal securities dealer handling such order within 30 business days following delivery of the securities to the customer.

(l) Effective Date. The requirements of this rule shall become effective on December 7, 1977, with the exception of the requirements set forth in item (c)(v)(F), which shall become effective on January 1, 1979.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB, and, in particular, the requirements of Section 15B and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission,

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 8, 1977.

[FR Doc. 77-26899 Filed 9-14-77; 8:45 am]

[Release No. 34-13937; File No.
SR-PSE-77-23]

SELF-REGULATORY ORGANIZATIONS
Proposed Rule Change by Pacific Stock
Exchange Incorporated

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, 18 (June 4, 1975), notice is hereby given that on September 2, 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 CHANGE

The Pacific Stock Exchange Incorporated ("PSE") hereby requests to amend Section 3(c) of Rule II of its Board of Governors as follows (brackets indicate deletions and italics indicate additions):

RULE II. SPECIALISTS

CONFIRMATION OF "GTC" ORDERS

Sec. 3(c).

[Monthly: Specialists shall upon the specific request of a Member or Floor Representative submit a list of "GTC" orders to such persons for confirmation at the close of business on the third Tuesday of each month.]

Quarterly: Specialists shall submit a list of "GTC" orders to Members or Floor Representatives for confirmation at the close of business on the third Tuesday of the months of March, June, September and December. Members and Floor Representatives are required to check "GTC" orders with their order desks quarterly.

Note: When the third Tuesday is a holiday, such lists shall be submitted at the close of business on the preceding full business day.]

Specialists shall submit a list of "GTC" orders to Members for confirmation at the close of business on such day(s) of the month(s) as designated by the Floor Trading Committee.

PSE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as following:

The purpose of the proposed rule change is to give the PSE more flexibility regarding confirmation of "GTC" orders. Currently open "GTC" orders must be reported quarterly, but the proposed rule change would give flexibility of requiring more frequent reporting thus helping to reduce discrepancies, errors and delays, and enhance efficiency.

The basis for the proposed rule change is to enable the PSE to promote just and equitable principles of trade and carry out the purposes of the Act by requiring reporting of "GTC" orders on such day(s) of the month(s) as designated by the Floor Trading Committee.

PSE states that comments have neither been solicited nor received from members on the proposed rule change.

PSE believes the proposed rule change imposes no burden upon competition.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER, 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 six 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 of 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 October 6, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 8, 1977.

[FR Doc.77-26901 Filed 9-14-77;8:45 am]

DEPARTMENT OF STATE

Agency for International Development

BOARD FOR INTERNATIONAL FOOD AND AGRICULTURAL DEVELOPMENT

Cancelled Meeting

In Volume 42 FR 170, page 44061, September 1, 1977 A.I.D. announced a meeting of the Joint Committee on Agricultural Development of the Board for International Food and Agricultural Development to be held on September 20, 1977, from 9 a.m. to 5:30 p.m. at the Ramada Inn, Roslyn, 1900 Fort Myer Drive, Arlington, Va. The purpose of this notice is to indicate that said meeting has been cancelled.

Dated: September 13, 1977.

FLETCHER RIGGS,
A.I.D. Advisory Committee Representative Joint Committee on Agricultural Development, Board for International Food and Agricultural Development.

[FR Doc.77-27054 Filed 9-14-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

(CGD 77-189)

CHEMICAL TRANSPORTATION INDUSTRY ADVISORY COMMITTEE

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Chemical Transportation Industry Advisory Committee's Subcommittee on Liquefied Gas Vessels to be held on October 4 and 5, 1977, beginning at 9:30 a.m., Room 7200, Nassif Building, 400 7th Street SW., Washington, D.C. 20590. The agenda for this meeting is as follows:

1. To discuss proposed amendments to the IMCO Gas Code in preparation for the upcoming meeting of IMCO's Subcommittee on Bulk Chemicals.

2. To discuss proposed Coast Guard regulations for inspection of gas ships. Attendance is open to the interested public. With the approval of the Chair-

man, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, Captain C. E. Mathieu, Commandant (G-MHM/83) U.S. Coast Guard, Washington, D.C. 20590 (202-426-2306). Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on September 7, 1977.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Merchant
Marine Safety.

[FR Doc.77-26832 Filed 9-14-77;8:45 am]

Federal Aviation Administration

DISCONTINUANCE CRITERIA FOR AIRPORT TRAFFIC CONTROL TOWERS; POLICY FORMULATION

Public Hearings

The Federal Aviation Administration (FAA) will hold public hearings on its policy regarding cessation of service at airport traffic control towers. These hearings will afford interested persons the opportunity to present views, data, and arguments regarding the subjects and issues stated in a notice of policy formulation published in the FEDERAL REGISTER on September 1, 1977 (42 FR 44062). Evening as well as day hearings are scheduled to accommodate the general public.

THE HEARINGS

The hearings will be conducted at the following times and locations:

October 4, 1977—Los Angeles, California: Convening at 9:30 a.m. and 7:00 p.m. at Hyatt House Hotel, Los Angeles International Airport, 6225 West Century Boulevard, Los Angeles, California.

October 7, 1977—Kansas City, Missouri: Convening at 9:30 a.m. and 7:00 p.m. in Room 140, Federal Office Building, 601 East Twelfth Street, Kansas City, Missouri.

October 11, 1977—Washington, D.C.: Convening at 9:30 a.m. and 7:00 p.m. in Auditorium, FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C.

HEARING PROCEDURE

The hearings will be informal in nature and will be conducted by a designated representative of the Administrator.

Since the hearings will not be evidentiary or judicial in nature, there will be no cross-examination or other adjudicatory procedure applied to the presentations. However, interested persons wishing to make rebuttal statements will be given the opportunity to do so at the conclusion of the presentations in the same order in which initial statements are made.

Interested persons are invited to attend the hearings and to participate by making oral or written statements concerning their respective topics, their sub-

stance, and issues. Written statements should be submitted in duplicate and will be made a part of the record of proceedings. Persons wishing to make oral statements at the hearings should notify the FAA that they desire to be heard, indicate the amount of time requested for their initial statements, and indicate their preference for day or evening presentations. Presentations will be scheduled on a first-come-first-served basis, as time may permit.

Requests to be heard or to receive additional information should be made as follows:

For the hearings at Los Angeles, Calif., write or call:

Public Affairs Officer, Western Region (AWE-5), Federal Aviation Administration, P.O. Box 92007, World Way Postal Center, Los Angeles, Calif. 90009; or telephone 213-536-6431.

For the hearings at Kansas City, Mo., write or call:

Public Affairs Officer, Central Region (ACE-5), Federal Aviation Administration, Room 1548 Federal Office Building, 601 East Twelfth Street, Kansas City, Mo. 64106; or telephone 816-374-5440.

For the hearings at Washington, D.C., write or call:

Assistant Administrator for Public Affairs (APA-1), Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; or telephone 202-426-3883.

WRITTEN COMMENTS INVITED

In addition to materials presented at the hearing, persons not participating in the hearings are invited to submit written comments on the control tower discontinuance policy in accordance with the notice published in the FEDERAL REGISTER on September 1, 1977. Such communications should be addressed to:

Federal Aviation Administration, Director, Office of Aviation System Plans, ASP-1, 800 Independence Avenue SW., Washington, D.C. 20591. Attention: Tower Discontinuance Policy Proceedings.

The closing date for submitting written comments is October 15, 1977. All comments will be available for examination both before and after the closing date for comments.

SCOPE OF INQUIRY

The notice, regarding the FAA's policy formulation for tower discontinuance standards, identifies five potential options and their implications. Those policy options are as follows:

1. Continue Federal operation of all (425) existing towers.
2. Cease operation of 8 towers meeting existing discontinuance criteria.

3. Cease operation of all (73) towers at which there is a net operating loss.

4. Cease operation of a portion (35 to 40) of the towers identified in option number 3.

5. Continue Federal operation of all noneconomic towers until fiscal year 1980 to give state or local interests an opportunity to assume responsibility.

The notice presents analyses of the respective options and contains the material that is the subject of these public hearings. While all comments are of interest, the FAA specifically invites statements or comments regarding the policy options in terms of the specific alternatives stated in the notice.

Before taking final action regarding its control tower policy, the FAA will consider the statements presented at the hearings and all written comments submitted.

AVAILABILITY OF TRANSCRIPTS

Transcripts of each hearing will be made and anyone may purchase copies from the reporter. A transcript of each hearing will be available for examination in the office of the Director, Office of Aviation System Plans, Room 507C, 800 Independence Avenue SW., Washington, D.C.

Issued in Washington, D.C., on September 7, 1977.

DUANE W. FREER,
Associate Administrator for Policy Development and Review
(Acting).

[FR Doc 77-26986 Filed 9-14-77; 8:45 am]

Materials Transportation Bureau EXEMPTION APPLICATIONS

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of applications for exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Operations of the Materials Transportation Bureau has received the applications described herein.

DATES: Comments by October 17, 1977.

ADDRESSED TO: Section of Dockets, Office of Hazardous Materials Operations, Department of Transportation, Washington, D.C. 20590. Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Complete copies of the applications are available for inspection and copying at the Public Docket Room, Office of Hazardous Materials Operations, Department of Transportation, Room 6500, Trans Point Building, 2100 Second Street SW., Washington, D.C.

Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of application
7823-N	Air Products & Chemicals Inc., Allentown, Pa.	49 CFR 173.315(a)(1)	To authorize shipment of pressurized liquid helium in non-DOT insulated portable tanks. (modes 1, 3)
7823-N	Allied Chemical Corp., Morristown, N.J.	49 CFR 178.61-5, 173.246	To authorize shipment of iodine pentafluoride in non-DOT cylinders complying with DOT 4BW with certain exceptions. (modes 1, 2, 3)
7824-N	Petrolite Corp., St. Louis, Mo.	49 CFR 173.119(a)(56)	To authorize shipment of flammable liquids n.o.s. in a marine portable tank complying with 49 CFR Part 64. (modes 1, 3)
7825-N	Process Engineering Inc., Plaistow, N.H.	49 CFR 173.315	To authorize shipment of liquid carbon monoxide in non-DOT tank motor vehicle. (mode 1)
7826-N	Stanford Research Institute, Menlo Park, Calif.	49 CFR 173.328	To authorize a one-time shipment of a poison flammable gas in a ice packed glass flask/metal overpacked/wooden box overpackaging. (mode 1)
7827-N	Barnängen AB, Stockholm, Sweden.	49 CFR 173.163	To authorize bulk shipment of sodium chlorate in a modified ISO freight container. (modes 1, 2, 3)
7828-N	Alaska International Air, Fairbanks, Alaska.	49 CFR 172.101, 175.3	To authorize shipment of up to 23,800 lbs of LPG in DOT 51 portable tanks by aircraft. (mode 4)
7829-N	Myers Drum Co., Los Angeles, Calif.	49 CFR 173.119(b), Part 173 subpt. F	To authorize the manufacture, marking, and selling of a non-DOT polyethylene pall for shipping flammable liquids and corrosive liquids. (Modes 1, 2, and 3.)
7830-N	Orval Tank Containers, Paris, France.	49 CFR Part 173, Subpts. D, E, F, and H.	To authorize shipment of IMCO class 2 commodities in non-DOT portable tanks. (Modes 1, 2, and 3.)
7831-N	Transcontinental Fertilizer Co., Philadelphia, Pa.	49 CFR 173.182, 176.410, 176.415	To authorize bulk shipment of ammonium nitrate fertilizers in nonrigid woven polypropylene containers. (Modes 1, 2, and 3.)
7833-N	U.S. Energy Research & Development Administration, Washington, D.C.	49 CFR 173.315, 173.316	To authorize shipment of liquid neon and deuterium in a modified cryogenic tank motor vehicle. (Mode 1.)
7833-N	Corning Glass Works, Corning, N.Y.	49 CFR 173.365(a)(2)	To authorize shipment of arsenic pentoxide, gross weight 390 lb., in drums built to DOT 37A requirements except for marking. (Mode 1.)

This notice of receipt of applications for new exemptions is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 CFR U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C., on September 7, 1977.

J. R. GROTHE,
Chief, Exemptions Branch,
Office of Hazardous Materials Operations.

[FR Doc 77-26578 Filed 9-14-77; 8:45 am]

EXEMPTION APPLICATIONS

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of Applications for Renewal of Exemption or Application to Become a Party to an Exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Operations of the Materials Transportation Bureau has received the applications described herein. Normally, the modes of transportation would be identified and the nature of application would be described, as in past publications. However, this notice is abbreviated to expedite docketing and public notice. These applications have been separated from the new applications for exemptions to facilitate processing applications awaiting disposition.

DATES: Comments by September 30, 1977.

ADDRESSED TO: Section of Dockets, Office of Hazardous Materials Operations, Department of Transportation, Washington, D.C. 20590. Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Complete copies of the applications are available for inspection and copying at the Public Docket Room, Office of Hazardous Materials Operations, Department of Transportation, Room 6500, Trans Point Building, 2100 Second Street SW., Washington, D.C.

Application No.	Applicant	Renewal of special permit or exemption
7253-X	Lithium Corp. of America, Bessemer City, N.C.	7253
7270-X	Dow Chemical Co., Freeport, Tex.	7270
7285-X	Ugline Kuhlmann of America, Inc., Paramus, N.J.	7285
7301-X	Seaboard World Airlines, Jamaica, N.Y.	7301
7434-X	Dow Chemical Co., Midland, Mich.	7434
7444-X	Public Service Electric and Gas Co., Newark, N.J.	7444
7470-X	Cities Service Co., Tulsa, Okla.	7470
7470-X	Phelps Dodge Corp., New York, N.Y.	7470
7495-X	General American Transportation Corp., Sharon, Pa.	7495
7507-X	Witco Chemical Corp., Richmond, Calif.	7507
7512-X	Puerto Rico Maritime Shipping Authority, Elizabeth, N.J.	7512
7520-X	Puerto Rico Marine Management, Inc., Elizabeth, N.J.	7520
7594-X	Solechem Inc., New York, N.Y.	7594
7611-X	Richfood, Inc., Richmond, Va.	7611
7620-X	W. P. Butterfield (Engineers) Ltd., Shipley, West Yorkshire, England.	7620
7714-X	Soltions International Ltd., London, England.	7714
2587-P	Tampa Oxygen & Welding Supply, Inc., Tampa, Fla.	2587
2587-P	Gases & Arc Supply Co., Colorado Springs, Colo.	2587
3941-P	Kerr-McGee Chemical Corp., Oklahoma City, Okla.	3941
4452-P	Explosives Inc., Pittsfield, Ill.	4452
5242-P	IMC Chemical Group, Inc., Allentown, Pa.	5242
5994-P	Harvey Co., Greensburg, Pa.	5994
5719-P	Aidex Corp., Omaha, Nebr.	5719
6016-P	Greeq Welding Supplies, Inc., Tarentum, Pa.	6016
6234-P	Bio-Lab, Conyers, Ga.	6234
6305-P	IMC Chemical Group, Inc., Allentown, Pa.	6305
6530-P	Mass Oxygen Equipment Co., Inc., Westborough, Mass.	6530
6607-P	Georgia-Pacific Corp., Montebello, Calif.	6607
6657-P	Gases & Arc Supply Co., Colorado Springs, Colo.	6657
6824-P	Georgia-Pacific Corp., Montebello, Calif.	6824
7296-P	Constal Industries Inc., Carlstadt, N.J.	7296
7470-P	Kammett Copper Corp., New York, N.Y.	7470
7777-P	Orark-Mahoning Co., Tulsa, Okla.	7777
2805-X	Dow Chemical Co., Midland, Mich.	2805
3095-X	do	3095
4710-X	Dow Chemical Co., Freeport, Tex.	4710
5062-X	Dow Chemical Co., Plaquemine, La.	5062
5248-X	3M Co., St. Paul, Minn.	5248
5854-X	Sea-Land Service, Inc., Elizabeth, N.J.	5854
5876-X	FMC Corp., Philadelphia, Pa.	5876
6016-X	Livingston Oxygen Co., Inc., Modesto, Calif.	6016
6267-X	Bio-Lab, Inc., Conyers, Ga.	6267
6607-X	do	6607
6616-X	Fenwal Inc., Ashland, Mass.	6616
6671-X	Dow Chemical Co., Midland, Mich.	6671
6671-X	do	6671
6749-X	Bio-Lab, Inc., Conyers, Ga.	6749
6764-X	Hercules Inc., Wilmington, Del.	6764
6773-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	6773
6790-X	Dow Chemical Co., Freeport, Tex.	6790
6824-X	Bio-Lab, Conyers, Ga.	6824
6958-X	Dow Chemical Co., Findlay, Ohio.	6958
7011-X	Dow Chemical Co., Midland, Mich.	7011
7037-X	Air Transport Association of America, Washington, D.C.	7037
7082-X	Igloo Corp., Houston, Tex.	7082
7094-X	Dow Chemical Co., Freeport, Tex.	7094

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 CFR U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C., on September 7, 1977.

J. R. GROTHE,
Chief, Exemptions Branch, Office of Hazardous Materials Operations.

[FR Doc. 77-26579 Filed 9-14-77; 8:45 am]

National Highway Traffic Safety Administration

FORD MUSTANG AND MERCURY COUGAR DEFECT INVESTIGATION

Public Proceeding Regarding Adequacy of Manufacturer's Notification Campaign on Seat Back Failures

Pursuant to Section 156 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1416) the Admin-

istrator has granted the petitions of Austin F. Stevens of Redwood City, Calif., and Charles Arena of New York City, N.Y., for a hearing to determine whether Ford Motor Co., has reasonably met its obligations to notify owners of and remedy safety-related defects in driver bucket seats in 1968 and 1969 model Ford Mustangs and Mercury Cougars.

The defect exists in the inboard hinge pin of the driver seat. The driver seat back swivels around this pin when the seat back is tilted forward to permit access to the rear compartment of the vehicle. The defect manifests itself when the pin breaks, permitting the seat back to rotate rearwards in a clockwise direction. When this happens, the driver can fall into the rear compartment and lose visibility of the road ahead and control of the vehicle. Accidents and injuries can and have occurred as a result of seat pin failure.

In August 1975 the National Highway Traffic Safety Administration ordered Ford to recall the 1968 and 1969 Mustangs and Cougars. Ford refused, and the agency immediately sought enforcement of its order in Federal district court. On October 20, 1976, Judge George Hart, U.S. District Court for the District of Columbia, ordered Ford to notify owners of and remedy the defect in the Mustangs and Cougars. Ford then sought and obtained a stay of the District Court's order pending an appeal it filed with the U.S. Court of Appeals, District of Columbia Circuit.

After some initial proceedings in the Court of Appeals, Ford on March 21, 1977, decided to recall the cars pursuant to statutory requirements. On March 25, 1977, Ford notified the agency of its decision and in late April and early May commenced its campaign.

Since that time the agency has received a large number of consumer complaints alleging that adequate quantities of replacement parts designed for the campaign were unavailable at local dealerships. Other information received by the agency indicates that problems exist with respect to dealers requiring inspection of the defective seat prior to repair and owners of the affected vehicles being directed to dealerships many miles from their homes if they wish to obtain the required repairs.

The agency has queried Ford twice about these problems, and the manufac-

turer's responses have been unsatisfactory.

An initial public proceeding will be held at 10 a.m., October 4, 1977, in Room 4234, Department of Transportation Headquarters, 400 Seventh Street SW., Washington, D.C. 20590, at which any interested person (including the manufacturers) may make oral (as well as written) presentations of data, views, and arguments on the question of whether Ford has reasonably met its obligation to notify owners, purchasers, and dealers of a safety-related defect under 15 U.S.C. 1411, and to remedy such defect under 15 U.S.C. 1414. Interested persons are invited to participate through written or oral presentations. A transcript will be kept and exhibits may be accepted. There will be no cross examination of witnesses. Persons who wish to make oral presentations are required to notify Mrs. Nancy Martus, Office of Defects Investigation, National Highway Traffic Safety Administration, Washington, D.C. 20590 (202-426-2850) before the close of business on September 30, 1977.

(Sec. 9 Pub. L. 89-670, 80 Stat. 931 (49 U.S.C. 1657); Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); Sec. 102, Pub. L. 93-492 (Sec. 156), 88 Stat. 1470 (15 U.S.C. 1416); delegation of authority at 49 CFR 1.50.)

Issued on September 8, 1977.

JOAN CLAYBROOK,
Administrator.

[FR Doc. 77-26605 Filed 9-9-77; 8:45 am]

DEPARTMENT OF THE TREASURY

Customs Service

COLUMBUS, NEW MEXICO, CUSTOMS PORT OF ENTRY

Change in Hours of Service

AGENCY: United States Customs Service, Department of the Treasury

ACTION: Notice of change in hours of service

SUMMARY: This notice announces a reduction in the hours of service at the Customs port of entry at Columbus, N. Mex., from the current 24 hours a day to 16 hours a day. The new hours of service will be from 8:00 a.m. to Midnight. This action is being taken because the traffic at the port between the hours of Midnight and 8 a.m. does not warrant

providing service during those hours. The reduction in the hours of service will permit the more effective use of Customs manpower.

DATES: The new hours of service will become effective September 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert Schenarts, Operations Officer, Inspection and Control Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-8151).

SUPPLEMENTARY INFORMATION:

Section 1.7 of the Customs Regulations (19 CFR 1.7) requires that each Customs office be open for business between the hours of 8:30 a.m. and 5 p.m. on all days of the year except Saturdays, Sundays, and national holidays. The regulations further provide that Customs services required to be performed outside a Customs office shall be furnished between the hours of 8:00 a.m. and 5:00 p.m. Many Customs ports of entry regularly provide service during hours in addition to those specified in the regulations.

The Customs port of entry at Columbus, N. Mex. (Region VI), has been open 24 hours a day. However, the Regional Commissioner of Customs for Customs Region VI has determined that the volume of traffic through that port between the hours of Midnight to 8 a.m. does not warrant providing regular service during those hours. Therefore, regular service during those hours will be discontinued effective September 30, 1977. Beginning on that date, the hours of service at the Customs port of entry at Columbus, N. Mex., will be from 8 a.m. to Midnight each day. The reduced hours of service will permit better utilization of Customs manpower and will reduce the cost of Customs operations at the port.

Dated: September 12, 1977.

ROBERT E. CHASEN,
Commissioner of Customs.

[FR Doc. 77-26923 Filed 9-14-77; 8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 480]

ASSIGNMENT OF HEARINGS

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 22301 (Sub-No. 24), Sioux Transportation Co., Inc. now assigned September 8, 1977, at Omaha, Nebr., is canceled, application dismissed.
- MC 4405 (Sub-No. 551), Dealers Transit, Inc., now assigned September 15, 1977, in Dallas, Tex. is cancelled, application dismissed.
- MC-C 9684, Carl R. Rieber, Inc., Trans-Bridge Lines, Inc., now assigned October 17, 1977, at Philadelphia, Pa., will be held in U.S. Customs Court Room, 3d Floor, U.S. Custom House, Second and Chestnut Streets.
- MC 142881 (Sub-No. 2), Rexford C. Greer, d.b.a. American Truck Stop now assigned October 18, 1977, at Philadelphia, Pa., will be held in U.S. Customs Court Room, 3d Floor, U.S. Custom House, Second and Chestnut Streets.
- MC 142881 (Sub-No. 1), Rexford C. Greer, d.b.a. American Truck Stop, now assigned October 19, 1977, at Harrisburg, Pa., will be held in Room No. 392, Federal Building, 228 Walnut Street.
- MC 143050, C&M Express, Inc., now assigned October 18, 1977, at Baltimore, Md., will be held in Room G-30, Federal Building, 31 Hopkins Plaza.
- MC 143059 (Sub-No. 1), Mercer Water & Sewer Transportation Co., now being assigned September 21, 1977, at the Offices of the Interstate Commerce Commission in Washington, D.C.
- MC 4405 (Sub-No. 547), Dealers Transit, Inc., now assigned September 15, 1977, at Dallas, Tex., is canceled and application dismissed.
- MC 142614, Van Rees Trucking, Inc., now assigned September 12, 1977, at Omaha, Nebr., is canceled, application dismissed.
- MC-F-13140, Marty's Express, Inc.—Purchase—Krusse Trucking Co. and MC 39249 (Sub-No. 19), Marty's Express, Inc., now assigned October 3, 1977, at Philadelphia, Pa., will be held in the U.S. Customs Court Room, 3d Floor, U.S. Custom House, Second and Chestnut Street.
- MC 141776 (Sub-No. 4), Foodtrain, Inc., now assigned October 4, 1977, at Philadelphia, Pa., will be held in the U.S. Customs Court Room, 3d Floor, U.S. Custom House, Second and Chestnut St.
- MC 142785 (Sub-No. 1), Brotherly Love Express, Inc., now assigned October 5, 1977, at Philadelphia, Pa., will be held in the U.S. Customs Court Room, 3d Floor, U.S. Custom House, Second and Chestnut Street.
- MC 142672 (Sub-No. 3), David Beneux Produce and Trucking, Inc., and MC 142672 (Sub-No. 4), David Beneux Produce and Trucking, Inc., now assigned October 6,

1977, at Philadelphia, Pa., will be held in the U.S. Customs Court Room, 3d Floor, U.S. Custom House, Second and Chestnut Street.

- MC 117119 (Sub-No. 632), Willis Shaw Frozen Express, Inc., now assigned October 7, 1977, at Philadelphia, Pa., will be held in the U.S. Customs Court Room, 3d Floor, U.S. Custom House, Second and Chestnut Street.
- MC 133566 (Sub-No. 89), Gangloff & Downham Trucking, Inc., now assigned October 7, 1977, at Philadelphia, Pa., will be held in the U.S. Customs Court Room, 3d Floor, U.S. Custom House, Second and Chestnut Street.
- MC 142497 (Sub-No. 1), Atlantic Charter Bus Service, Inc., now assigned October 12, 1977, at Norfolk, Va., will be held in Grand Jury Room 421, U.S. District Courthouse, Federal Building.
- MC 29910 (Sub-No. 174), Arkansas-Best Freight System, Inc., now assigned October 13, 1977, at New Orleans, La., is canceled.
- MC 55898 (Sub-No. 53), Decato Bros., Inc., now assigned October 12, 1977, at Boston, Mass., and will be held on the Fifth Floor, 150 Causeway.
- MC 143130, Ritchie Bus Lines, Inc., now assigned October 17, 1977, at Boston, Mass., and will be held on the Fifth Floor, 150 Causeway.
- MC 60014 (Sub-No. 49), Aero Trucking, Inc., now being assigned November 2, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.
- MC 111940 (Sub-No. 67), Smith's Truck Lines, now being assigned October 19, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.
- MC 113855 (Sub-No. 380), International Transport, Inc., now being assigned December 8, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.
- MC 119726 (Sub-No. 95), N.A.B. Trucking Co., Inc., now being assigned December 1, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.
- MC 133689 (Sub-No. 129), Overland Express, Inc., now being assigned December 14, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.
- FD 27620, Maine Central Railroad Company v. Amoskeag Co., Frederick C. Dumaine and Dumaine and FD 27621, Amoskeag Co.—Control—Maine Central Railroad Company now being assigned November 15, 1977, at the Offices of the Interstate Commerce Commission in Washington, D.C.
- MC 59057 (Sub-No. 50), Motor Express, now assigned October 17, 1977, at Pittsburgh, Pa., is canceled and reassigned for October 17, 1977, at the Mount Vernon Motel, Route 40, Uniontown, Pa.
- MC 2832 (Sub-No. 13), The Kelley Transit Co., Inc., now assigned October 12, 1977, at Hartford, Conn., is canceled and reassigned for October 12, 1977 (3 days), at the Red Bull Motor Inn, Schraffts Drive, Exit 25 off Route I-84, Waterbury, Conn.
- MC-F 13067, Roadway Express, Inc.—Control and Merger—Western Gillette, Inc., MC-F 13156, Arkansas Best Freight System, Inc.—Purchase (Portion)—Western Gillette, Inc., MC-F 13157, Campbell Sixty-Six Express, Inc.—Purchase (Portion)—Western Gillette, Inc., MC-F 13158, The Chief Freight Lines Co.—Purchase (Portion)—Western Gillette, Inc., MC-F 13159, Churchill Truck Lines, Inc.—Purchase (Portion)—Western Gillette, Inc., MC-F 13160, Gordons Transport, Inc.—Purchase (Portion)—Western Gillette, Inc., MC-F 13161, Graves Truck Line, Inc.—Purchase (Portion)—Western Gillette, Inc. now assigned October 27, 1977, for prehearing

conference at Washington, D.C., is being advanced to September 27, 1977, for prehearing conference at the Offices of the Interstate Commerce Commission in Washington, D.C.

H. G. HOMME, Jr.,
Acting Secretary.

[FE Doc.77-26914 Filed 9-14-77;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

SEPTEMBER 12, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protest to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed by September 30, 1977.

PSA No. 43430.—*Joint Water-Rail Container Rates—Orient Overseas Container Line, Inc.* Filed by Orient Overseas Container Line, Inc. (No. 7), for itself and interested rail carriers. Rates on general commodities, between ports in Hong Kong, Taiwan, Japan, Korea, Philippines, Singapore, Thailand, and Malaysia, and rail carriers terminals on the United States Atlantic and Gulf Coast.

Grounds for relief—Water competition.

Tariffs.—The Trans-Pacific Freight Conference of Japan/Korea Eastbound tariff No. 1, I.C.C. No. 1, and Orient Overseas Container Line, Inc., tariffs Nos. 1, 2, 4, and 7, I.C.C. Nos. 1, 2, 3, and 7, F.M.C. Nos. 11, 29, 37, and 48, respectively. Rates are published to become effective on October 9, 1977.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-26912 Filed 9-14-77;8:45 am]

[Notice No. 222]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission by October 17, 1977. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be

served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopsis form, but are deemed sufficient to place interested persons on notice of proposed transfer.

No. MC-FC-77275 filed August 22, 1977. Transferee: PAUL YATES, INC., 6601 West Orangewood, Glendale, Ariz. 85301. Transferor: System Reefer Service, Inc., 4614 Lincoln Avenue, Cypress, Calif. 90630. Applicants' representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, Md. 21740. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit No. MC 133097 (Sub-No. 15), issued October 12, 1976, as follows: foodstuffs, related advertising media, materials, equipment, and supplies used in the preparation and serving of foods in restaurants or commissaries between Washington, D.C., on the one hand, and, on the other, points in New Mexico, Arizona, and California. The operations authorized are limited to a transportation service to be performed under a continuing contract, or contracts, with Fairfield Farm Kitchens, Washington, D.C. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77280 filed August 22, 1977. Transferee: WABASH VALLEY VAN & STORAGE COMPANY, INC., doing business as ACME VAN & STORAGE, 115 Shelby Street, Vincennes, Ind. 47591. Transferor: Robert O. Michels and Jerry D. Flynn, doing business as Acme Van & Storage Co., 2237 Locust Street, Terre Haute, Ind. 47807. Applicants' representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 47204. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC 35436 issued October 1, 1975, as follows: household goods as defined by the Commission, between Terre Haute, Ind., and points within 15 miles thereof, on the one hand, and, on the other, points in Tennessee, and Wisconsin. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77281 filed August 25, 1977. Transferee: GARY J. WARNER,

doing business as WARNER WAREHOUSING CO., 180 East Mill Street, Marion, Ohio 43302. Transferor: Merchants Transfer and Storage Co. Address: Same as Transferee. Applicants' representative: Marin J. Leavitt, 22375 Haggerty Rd., P.O. Box 400, Northville, Mich. 48167. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC 10797 issued March 20, 1951, as follows: Machinery parts, from Marion, Ohio to points in Indiana, those in the lower peninsula of Michigan, that part of Illinois east of U.S. Highway 67 and South of U.S. Highway 34, that part of Pennsylvania West of U.S. Highway 119 and South of U.S. Highway 422, and those in West Virginia West of U.S. Highway 19 and north of U.S. Highway 50, including points on the indicated portions of the highways specified; Fabricated steel, from Marion, Ohio, to Lawrenceburg, Ind., points in Campbell and Kenton Counties, Ky., and those in that part of Indiana, South of Indiana Highway 26, East of U.S. Highway 31, and North of U.S. Highway 40, including points on the indicated portions of the highways specified; and household goods, as defined in Practices of Motor Common Carriers of Household Goods, 17 M.C.C. 467, between Marion, Ohio, on the one hand, and, on the other points in Pennsylvania, West Virginia, Indiana, Kentucky, and those in the lower peninsula of Michigan. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 77-28915 Filed 9-14-77; 8:45 am]

[Notice No. 114TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 9, 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 61403 (Sub-No. 246TA), filed August 26, 1977. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O. Box 969, Hwy. 11W, Kingsport, Tenn. 37662. Applicant's representative: Charles E. Cox, P.O. Box 969, Kingsport, Tenn. 37662. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Crude cottonseed oil, in bulk, in tank vehicles, from Montgomery, Ala., to Cincinnati Milacron Chemicals, Inc., at or near Reading, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Cincinnati Milacron Chemical Division, West Street, Cincinnati (Reading), Ohio 45215. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 61825 (Sub-No. 68TA), filed August 26, 1977. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: John D. Stone, P.O. Box 385, Collinsville, Va. 24078. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Salt and salt products, except in bulk, from Akron, Ohio, and St. Clair, Mich., to points in North Carolina, South Carolina, and Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Diamond Crystal Salt Company, 916 South Riverside Avenue, St. Clair, Mich. 48079. Send protests to: Danny R. Beeler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 210, Roanoke, Va. 24011.

No. MC 108207 (Sub-No. 465TA), filed August 23, 1977. Applicant: FROZEN FOOD EXPRESS, INC., 318 Cadiz Street, P.O. Box 5888, Dallas, Tex. 75222. Applicant's representative: Mike Smith, P.O. Box 5888, Dallas, Tex. 75222. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Photographic products, in vehicles equipped with mechanical refrigeration, from Dallas, Tex. to Kansas City, Kans. and Kansas City, Mo., restricted to traffic originating at Dallas, Tex. and destined to the named points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting ship-

per(s): Agfa-Gevaert, Inc., 1780 Hurd Drive, Irving, Tex. 75062. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75242.

No. MC 108207 (Sub-No. 466TA), filed August 23, 1977. Applicant: FROZEN FOOD EXPRESS, INC., 318 Cadiz Street, P.O. Box 5888, Dallas, Tex. 75222. Applicant's representative: Mike Smith, P.O. Box 5888, Dallas, Tex. 75222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and articles distributed by meat packing plants (except hides and commodities in bulk)*, from the plantsite and/or storage facilities of Geo. A. Hormel at or near Fort Dodge, Iowa, to Leachville, Ark., restricted to traffic originating at the named origins and destined to the named points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Geo. A. Hormel & Co., P.O. Box 800, Austin, Minn. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75242.

No. MC 109724 (Sub-No. 3TA), filed August 18, 1977. Applicant: PAUL J. SCHMIT, d.b.a. PAUL J. SCHMIT TRUCKING, 17755 Bedford Drive, Brookfield, Wis. 53005. Applicant's representative: Wm. C. Dineen, 710 N. Plankinton Avenue, Milwaukee, Wis. 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, in bulk, in tank vehicles, from the unincorporated community of Klevenville, town of Springdale, Dane County, Wis., to points in Iowa and Minnesota, under a continuing contract or contracts, with George M. Pendergrat and Co., Inc., for 180 days. Supporting shipper(s): George M. Pendergrat & Co., Inc., 515 W. Canal Street, Milwaukee, Wis. 53203. (Clyde R. Eithier) Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East kee, Wis. 53202.

No. MC 111302 (Sub-No. 110TA), filed August 26, 1977. Applicant: HIGHWAY TRANSPORT, INC., P.O. Box 10470, 1500 Amherst Road, Knoxville, Tenn. 37919. Applicant's representative: David A. Petersen, Sales and Traffic, P.O. Box 10470, 1500 Amherst Road, Knoxville, Tenn. 37919. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry sodium sulphate*, in bulk, in hopper-type vehicles, from the plantsite of International Salt (American Enka) in Lowland, Tenn. to the plantsites of Deering Milliken Company in Abbeville, S.C., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): International Salt Company, 1600 Tullie Circle, Suite 133, Atlanta, Ga. 30329. Send protests to: Joe J. Tate, District

Supervisor, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, Tenn. 37219.

No. MC 111729 (Sub-No. 715TA), filed August 18, 1977. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobile windows, windshields, metal strippings, rubber gaskets, and materials and supplies used in the installation and mounting of same*, restricted against the transportation of packages or articles weighing in excess of 100 pounds, between Memphis, Tenn. on the one hand and, on the other, points in Arkansas and points in and north of the following Mississippi Counties: Hinds, Lauderdale, Newton, Rankin, Scott, and Warren, for 180 days. Supporting shipper(s): Binswanger Glass Company, 322 S. Hollywood, Memphis, Tenn. 38111. Send protests to: Maria B. Keiss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 112617 (Sub-No. 373TA), filed August 25, 1977. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Polymer solution (except liquid resins and liquid plastics)*, in bulk, in tank vehicles, from the plantsite of Inmont Corporation at Greenville, Ohio, to the plantsite of Inmont Corporation at Louisville, Ky., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mr. John A. Ganote, Assistant Plant Manager, Inmont Corporation, 2148 So. 41st Street, Louisville, Ky. 40211. Send protests to: Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Bldg., Louisville, Ky. 40202.

No. MC 115821 (Sub-No. 30TA), filed August 19, 1977. Applicant: FRANK BEELMAN, d.b.a. BEELMAN TRUCK CO., St. Libory, Ill. 62282. Applicant's representative: Ernest A. Brooks, II, 1301 Ambassador Building, St. Louis, Mo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, (1) from the minesite of Zeigler Coal Company near Johnston City, Ill., to Associated Electric Cooperative, Inc. near New Madrid, Mo., and (2) from the minesite of Peabody Coal Company near Freeburg, Ill., to the Lummus Company at or near Bruceton, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): William F. Erickson, District Manager, Zeigler Coal Company, 325 Meadowbrook Drive, Ballwin, Mo. 63011. Roy J. Ferro, Traffic Manager, Peabody Coal Company, 301 N. Memorial Drive, St. Louis, Mo. 63101. Send protests to: Harold C. Jolliff, Dis-

trict Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 116763 (Sub-No. 391TA), filed August 25, 1977. Applicant: CARL SUBLER TRUCKING, INC., North West Street, 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: *Foodstuffs (except in bulk)*, from the plantsites and warehouse facilities of McCain Foods, Inc. in Washburn, Easton, and Portland, Maine to points in New Jersey, New York, points in Pennsylvania east of U.S. Highway 15, Delaware, Maryland, Virginia and the District of Columbia, for 180 days. Supporting shipper(s): Brent S. Cronkite, Traffic Manager, McCain Foods, Inc., 5 Wade Road, Washburn, Maine. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, Ohio 45202.

No. MC 116880 (Sub-No. 6TA), filed August 11, 1977. Applicant: WALTER D. DAVIS, INC., Grove Street Extension, Houlton, Maine 04730. Applicant's representative: Peter L. Murray, 30 Exchange Street, Portland, Maine 04111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated buildings, complete, knocked down or in sections, and component parts thereof, and equipment and materials incidental to the erection of such buildings when transported in connection therewith*, from Oakland, Maine to points in the States of Massachusetts, Pennsylvania, New Hampshire, Vermont, New York, Rhode Island, Connecticut, Ohio, Michigan, Florida, North Carolina, South Carolina, and Calif., and to points on the U.S.-Canadian Boundary line in New York, Vermont, New Hampshire, and Maine for products destined for the Canadian provinces of Nova Scotia, Ontario, Quebec, and New Brunswick, under a continuing contract, or contracts, with Katahdin Forest Products Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Katahdin Forest Products Company, Oakfield, Maine. Send protests to: Donald G. Weiler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 307, 76 Pearl Street, Portland, Maine 04111.

No. MC 117686 (Sub-No. 179TA), filed August 18, 1977. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Blvd., P.O. Box 417, Sioux City, Iowa 51102. Applicant's representative: Robert A. Wicher (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass beads, glass spheres and thermo plastic marking material*, and (2) *equipment, materials and supplies used in the application of the commodities named in (1) above (except commodities in bulk)*, from Jackson, Miss., to points in Arkansas, Illi-

nois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, and South Dakota, for 180 days. Supporting shipper(s): B. J. Young, Controller, Cataphote Division of Ferro Corp., Box 2369, Jackson, Miss. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 123407 (Sub-No. 399 TA), filed August 25, 1977. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: H. E. Miller, Jr., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cedar lumber*, from the port of entry on the International Boundary between the United States and Canada near Oroville, Wash., to New Mexico and Texas, for 180 days. Supporting shipper(s): Morrill and Sturgeon, Ltd. Enderby, British Columbia, Canada. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 124608 (Sub-No. 4TA), filed August 11, 1977. Applicant: WILLIAM GILCHRIST, 105 North Keyser Avenue; Old Forge, Pa. 18518. Applicant's representative: Joseph F. Hoary, 121 South Main Street; Taylor, Pa. 18517. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Materials, supplies, and products* used in or produced by the food processing industry (except commodities in bulk), from Erie and North East, Pa.; Dunkirk, Buffalo, Newark, and Westfield, N.Y., to Virginia, Tennessee, North Carolina, South Carolina, Alabama, Georgia, and Florida. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Welch Foods, Inc., of Westfield, N.Y., for 180 days. Supporting shipper(s): Welch Foods, Inc., Westfield, N.Y. 14787. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 314 U.S.P.O. Bldg., Scranton, Pa. 18503.

No. MC 124679 (Sub-No. 81TA), filed August 22, 1977. Applicant: C. R. ENGLAND AND SONS, INC., 975 West 2100 South Street, Salt Lake City, Utah 84119. Applicant's representative: D. Michael Jorgensen, of Nelson, Harding, Richards, 48 P.O. Place, P.O. Box 2465, Salt Lake City, Utah 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products*, from the plantsite of Superior Packing Co. at or near Ellensburg, Wash., to Boston and Worcester, Mass.; Baltimore and Landover, Md.; Canajoharie and New York City, N.Y.; Harrisburg and Philadelphia, Pa.; Norfolk and Williamsburg, Va.; Washington, D.C.; Bayonne, N.J.; Chicago, Ill., and its commercial zone, and Kansas City, Kans.,

and its commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Superior Packing Co., P.O. Box 277, Ellensburg, Wash. (D. E. Callahan, President). Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 126276 (Sub-No. 183TA), filed August 4, 1977. Applicant: EAST MOTOR SERVICE, INC., 9100 Plainfield Road, Brookfield, Ill. 60513. Applicant's representative: James C. Hardman, 33 North LaSalle Street, Chicago, Ill. 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers, container ends and closures, materials, equipment and supplies* used in the manufacture, sale or distribution of containers, ends, and closures (except commodities in bulk), from the plantsite of The Continental Group, Inc., at Racine, Wis., to Danville and Momence, Ill., under a continuing contract, or contracts, with The Continental Group, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Continental Group, Inc., James R. Jandora, Analyst, Traffic and Distribution, 5401 West 65th Street, Chicago, Ill. 60638. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 128555 (Sub-No. 19TA), filed August 19, 1977. Applicant: MEAT DISPATCH, INC., 2103 17th Street East, Palmetto, Fla. 33561. Applicant's representative: S. Michael Richards, 44 North Avenue, P.O. Box 225, Webster, N.Y. 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses* (except commodities in bulk), from the plant site and/or warehouse facilities of the R. T. French Co. at Springfield, Mo., to the state of Florida, for 180 days. There is no environmental impact involved in this application. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The R. T. French Co., 1 Mustard Street, Rochester, N.Y. 14609. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Monterey Building, Suite 101, 8410 NW 53d Terrace, Miami, Fla. 33166.

No. MC 134755 (Sub-No. 110TA), filed August 10, 1977. Applicant: CHARTER EXPRESS, INC., 1959 East Turner Street, P.O. Box 3772, Springfield, Mo. 65804. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods* (except frozen and except

in bulk), from the plantsite of the Joan of Arc facilities at Belledeau and St. Francisville, La., to points in the states of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming, for 180 days. Supporting shipper(s): Joan of Arc Co., Inc. 2231 West Altorfer Drive, Peoria, Ill. 61614. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 138328 (Sub-No. 39TA), filed August 5, 1977. Applicant: CLARENCE L. WERNER, d/b/a WERNER ENTERPRISES, I-80 and Highway 50, 14507 Frontier Road, P.O. Box 37308, Omaha, Nebr. 68137. Applicant's representative: Donna Ehrlich, 14507 Frontier Road, Omaha, Nebr. 68128. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Calcium propionate, sodium propionate and sodium diacetate* (except commodities in bulk), from Verona, Mo.; Dallas, Tex.; and Lodi, N.J.; to Atlanta, Ga.; Boston, Mass.; Charlotte and Valdese, N.C.; Cincinnati and Cleveland, Ohio; Detroit, Mich.; Franklin Park, Ill.; Los Angeles, Calif.; Miami, Fla.; and Williamsport, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Federated Mills, Inc., Evelyn Higgins, Director of Marketing, 110 Kennedy Drive, Smithtown, N.Y. 11787. Send protests to: Carroll Russell, District Supervisor, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 140033 (Sub-No. 29TA), filed August 18, 1977. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, Tex. 75220. Applicant's representative: D. Paul Stafford, Winkle and Wells Exchange Park, Suite 1125, P.O. Box 45538, Dallas, Tex. 75245. 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 packing-houses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from Brownwood, Tex., to Montgomery, Ala., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Swift Fresh Meats Co., a Division of Swift and Co., 115 West Jackson Boulevard, Chicago, Ill. 60604. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75242.

No. MC 141124 (Sub-No. 8TA), filed August 12, 1977. Applicant: EVANGELIST COMMERCIAL CORP., P.O. Box 1709, Wilmington, Del. 19899. Applicant's representative: Boyd B. Ferris, Muldoon, Pemberton, and Ferris, 50 West Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*,

by motor vehicle, over irregular routes, transporting: *Wood furniture stock, wood dimension stock, and wood fiber-board*, from the facilities of Allied International, Inc., at or near Hanover, South Boston, and Westfield, Mass., Norwich and Windsor Locks, Conn., to points in Arkansas, Indiana, Illinois, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, North Carolina, Ohio, Tennessee, Virginia and Wisconsin, for 180 days. Supporting shipper(s): Allied International, Inc. 490 Rear Rutherford Avenue, Charlestown, Maine. 02129. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 141138 (Sub-No. 8TA), filed August 10, 1977. Applicant: STEVE SCHRANZ TRUCKING, INC., 350 Honeysuckle Lane, Belleville, Ill. 62221. Applicant's representative: Ernest A. Brooks, II, 1301 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry animal and poultry feed*, from Shelby County, Tenn., to Moulton, Town Creek, Athens, and Cullman, Ala., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Joe D. Daffitto, Truck Operations Manager, International Multifoods Corp., 1200 Multifoods Corp., Minneapolis, Minn. 55402. Send protests to: Harold C. Joliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 142508 (Sub-No. 7TA), filed August 9, 1977. Applicant: NATIONAL TRANSPORTATION, INC., 14031 "L" Street, P.O. Box 37465, Omaha, Nebr. 68137. Applicant's representative: Joseph Winter, 33 North LaSalle Street, Chicago, Ill. 60602. 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 packing-houses*, as described in Sections A and C of Appendix I to the report in the Description case 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and facilities of Morgan Colorado Beef Co. at or near Fort Morgan, Colo., to Memphis, Tenn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Edward T. Hopkins, Manager of Transportation, Morgan Colorado Beef Co., P.O. Box 487, Fort Morgan, Colo. 80701. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 77-26913 Filed 9-14-77; 8:45 am]

[No. 36602]

NEBRASKA INTRASTATE FREIGHT RATES AND CHARGES—1977

Petition for Investigation of Intrastate Freight Rates and Charges Within State of Nebraska

Present: Charles L. Clapp, Commissioner, to whom this matter has been assigned for action.

By joint petition authorized under section 13(3) of the Interstate Commerce Act, filed May 31, 1977, petitioners, five common carriers by railroad¹ subject to Part I of the Interstate Commerce Act, and also operating in intrastate commerce in the State of Nebraska, request that this Commission institute an investigation of their Nebraska intrastate freight rates and charges, under section 13 and 15a of the Interstate Commerce Act, wherein they will seek an order authorizing them to increase such rates and charges in the same amounts approved for interstate application by this Commission in Ex Parte No. 305-RE.

By tariff filed October 29, 1975, with the Nebraska Public Service Commission, petitioners sought to make the increases granted in Ex Parte No. 305-RE applicable on Nebraska intrastate traffic effective immediately. After hearing, the Commission, by order of April 26, 1976, denied the increases, and after further hearing again denied the increases by order of November 30, 1976, and finally denied further rehearing or reconsideration by order of February 8, 1977.

Petitioners contend that present interstate freight rates from, to, and within Nebraska are just and reasonable and that the proposed intrastate rates will not exceed a just and reasonable level; that transportation conditions for the intrastate transportation of recyclables in Nebraska are not more favorable than for interstate traffic; that traffic moving under present Nebraska intrastate rail freight rates and charges fails to provide its fair share of earnings; and, that the present Nebraska intrastate rail freight rates and charges create undue and unreasonable advantage, preference, and prejudice between persons and localities in intrastate commerce within Nebraska and interstate and foreign commerce, and result in undue, unreasonable, and unjust discrimination against and an undue burden on interstate commerce in violation of section 13 and 15a of the Interstate Commerce Act, among others, to the extent that they do not include the increases authorized in Ex Parte No. 305-RE.

Under section 13 of the Interstate Commerce Act, this Commission may institute an investigation, into the lawfulness of intrastate rail freight rates and charges for the purpose of adjusting such rates and charges to those charged

on similar traffic moving in interstate or foreign commerce. This Commission may act not withstanding the laws or constitution of any state.

Wherefore, and good cause appearing therefor:

It is ordered, that the petition be, and it is, hereby granted; and that an investigation, under sections 13 and 15a of the Interstate Commerce Act, be, and it is, hereby instituted to determine whether the Nebraska intrastate rail freight rates in any respect cause any unjust discrimination against or any undue burden on interstate or foreign commerce, or cause undue or unreasonable advantage, preference, or prejudice as between interstate or foreign commerce, or are otherwise unlawful, by reason of the failure of such rates and charges to include the full increases authorized for interstate application by this Commission in Ex Parte No. 305-RE; and to determine if any rates or charges, or maximum or minimum charges, or both, shall be prescribed to remove any unlawful advantage, preference, discrimination, undue burden, or other violation of law, found to exist.

It is further ordered, that all common carriers by railroad operating in the State of Nebraska, subject to the jurisdiction of this Commission, be, and they are, hereby made respondents in this proceeding.

It is further ordered, that all persons who wish to participate in this proceeding and to file and receive copies of pleadings shall make known that fact by notifying the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423, on or before 15 days from the FEDERAL REGISTER publication date. Although individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentations to the greatest extent possible. The Commission desires participation of only those who intend to take an active part in the proceeding.

It is further ordered, that as soon as practicable after the date of indicating a desire to participate in the proceeding has passed, the Commission will serve a list of names and addresses of all persons upon whom service of all pleadings must be made and that thereafter this proceeding will be assigned for oral hearing or handling under modified procedure.

And it is further ordered, that a copy of this order be served upon each of the petitioners and respondents herein; that the State of Nebraska be notified of the proceeding by sending copies of this order of the instant petition by certified mail to the Governor of the State of Nebraska and to the Nebraska Public Service Commission; and that further notice of this proceeding be given to the public by depositing a copy of this order in the Office of the Secretary of the Interstate Commerce Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

¹ Chicago and Northwestern Transportation Co.; Burlington Northern, Inc.; Chicago Rock Island & Pacific Railroad Co.; Missouri Pacific Railroad Co.; Union Pacific Railroad Co.

This is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

Dated at Washington, D.C., this 31st day of August 1977.

By the Commission, Commissioner Clapp.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 77-26917 Filed 9-14-77; 8:45 am]

[Volume No. 32]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

Correction

In FR Doc. 77-25320 appearing at page 44079 in the issue of Thursday, September 1, 1977, the following changes should be made:

1. In the second column on page 44085, "No. MC 60687" should read "No. MC 60987".

2. In the third column on page 44087, "No. MC 94350" should read "No. MC 95540".

3. In the third column on page 44093, the first number reading "No. MC 11955" should read "No. MC 119550".

4. In the second column on page 44099, "No. MC 139369" should read "No. MC 139360".

[Volume No. 34]

PETITIONS FOR MODIFICATION, INTERPRETATION, OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

SEPTEMBER 9, 1977.

The following petitions seeks modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

The Commission has recently provided for easier identification of substantive petition matters and all documents should clearly specify the "docket", "sub", and "suffix" (e.g. M1, M2) numbers identified by the FEDERAL REGISTER notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission October 17, 1977. Such protest shall comply with Special Rule 247(d) of the Commission's *General Rules of Practice* (49 CFR 1100.247) and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

¹ Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

No. MC 133590 M1 (Notice of filing of petition to broaden territorial description) filed July 15, 1977. Petitioner: WESTERN CARRIERS, INC., 288 Franklin St., Worcester, Mass. 01604. Petitioner's representative: David M. Marshall, 135 State Street, Suite 200, Springfield, Mass. 01103. Petitioner holds a motor contract carrier Permit in No. MC 133590 issued April 26, 1971, authorizing transportation, as pertinent, over irregular routes, of *Pork, pork products, and pork by-products* (except commodities in bulk and hides) (1) From the plantsite and storage facility of Western Pork Packers, Inc., a New York corporation, at Bronx, N.Y., to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, Pennsylvania (except Pittsburgh), Rhode Island, and the District of Columbia, with no transportation for compensation on return except as otherwise authorized; and (2) from the plantsite and storage facility of Western Pork Packers, Inc., a Massachusetts corporation, at Worcester, Mass., to points in Connecticut, Delaware, Maryland, New Jersey, New York, Pennsylvania (except Pittsburgh), Rhode Island, and the District of Columbia, with no transportation for compensation on return except as otherwise authorized. Restriction: The operation authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Western Pork Packers, Inc., a New York corporation, at Bronx, N.Y., and Western Pork Packers, Inc., a Massachusetts corporation, at Worcester, Mass., on the one hand, and, on the other, points in the United States in and east of Minnesota, Iowa, Missouri, Arkansas, and Louisiana.

By the instant petition, petitioner seeks to change the territorial description to: between the plantsite and storage facilities of Western Pork Packers, Inc., a New York corporation, at Bronx, N.Y., and Western Pork Packers, Inc., a Massachusetts corporation, at Worcester, Mass., on the one hand, and, on the other, points in the United States in and east of Minnesota, Iowa, Missouri, Arkansas, and Louisiana.

No. MC 136343 and (Sub-Nos. 5 and 33) M1 (notice of filing of petition to add an additional shipper) filed July 26, 1977. Petitioner: MILTON TRANSPORTATION, INC., R.D. No. 1, Box 355, Milton, Pa. 17847. Petitioner's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Petitioner holds motor common carrier Certificates in No. 136343 and (Sub-Nos. 5 and 33), issued November 10, 1975, May 21, 1976, and March 28, 1977, respectively, authorizing transportation (1) in No. MC 136343, as pertinent, over irregular routes, of: *Printing paper, gummed paper, gummed paper sealing tape and paper backed with aluminum foil*, from the plantsite of St. Regis Paper Co., located at Troy, Ohio, to points in Pennsylvania, New Jersey, New York, and Connecticut, restricted to the transportation of shipments originating at the specified origins and destined to the designated destinations; (2) in No. MC 136343 (Sub-No. 5) over irregular routes, of: *Printing paper and equipment*

and supplies used or useful in the manufacture and sale of aluminum foil (except commodities in bulk), from points in New York, New Jersey, Connecticut, Massachusetts, Rhode Island, Pennsylvania, Maryland, Maine, and the District of Columbia, to the facilities of St. Regis Paper Co. located at Troy, Ohio, restricted to the transportation of shipments originating at the named origins and destined to the named destinations; (3) in No. MC 136343 (Sub-No. 33) over irregular routes, of: *Printing paper, gummed paper, paper backed with aluminum foil, and gummed paper sealing tape*, from the plantsite of St. Regis Paper Co., located at or near Troy, Ohio, to points in Massachusetts, Rhode Island, Maryland, Virginia, and the District of Columbia. By the instant petition, petitioner seeks to add Brown Bridge Mills, Inc., of Troy, Ohio as an additional shipper to the above authority.

REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the FEDERAL REGISTER.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission by October 17, 1977. Such pleading shall comply with Special Rule 247(d) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

No. MC 118882 (Sub-No. 3) (Republication) (Notice of Filing of Petition for Declaratory Order) filed December 30, 1977, published in FEDERAL REGISTER issue of February 24, 1977, and republished this issue. Petitioner: JOEL LAMBERT, doing business as, JOE LAMBERT TRUCKING SERVICE, 715 Fox Avenue, Harrisville, W. Va. 26362. Petitioner's representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, W. Va. 25526. An order of the Commission, Review Board Number 2, dated August 8, 1977, and served August 23, 1977, finds that the present and future public convenience and necessity require modification of petitioner's Certificate No. MC 118882 (Sub-No. 3), issued January 6, 1977, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *Coal*, in bulk, in dump vehicles, (1) from points in that part of West Virginia on, east, and north of a line beginning at the Penn-

sylvania-West Virginia State line and extending south along U.S. Highway 19 to Sutton, W. Va., thence along West Virginia Highway 4 to Clendenin, W. Va., thence along U.S. Highway 119 to junction U.S. Highway 60 at Charleston, W. Va., thence east along U.S. Highway 60 to the Virginia-West Virginia State line to (a) points in that part of Ohio on and bounded by a line beginning at Bellaire, Ohio, and extending west along Interstate Highway 70 to junction Interstate Highway 77, thence north along Interstate Highway 77 to junction U.S. Highway 36, thence west along U.S. Highway 36 to junction Ohio Highway 16, thence south along Ohio Highway 16 to junction Ohio Highway 60, thence south along Ohio Highway 60 to junction Interstate Highway 70, thence west along Interstate Highway 70 to junction U.S. Highway 23, thence south along U.S. Highway 23 to Portsmouth, Ohio, thence east along U.S. Highway 52 to junction Interstate Highway 64 at Huntington, W. Va., and (b) Belmont, W. Va., restricted in (1) (b) to the transportation of traffic destined to the points in (1) (a) above, and (2) Belmont, W. Va., to points in that part of Ohio on and bounded by a line beginning at Bellaire, Ohio, and extending west along Interstate Highway 70 to junction Interstate Highway 77, thence north along Interstate Highway 77 to junction U.S. Highway 36, thence west along U.S. Highway 36 to junction Ohio Highway 16, thence south along Ohio Highway 16 to junction Ohio Highway 60, thence south along Ohio Highway 60 to junction Interstate Highway 70, thence west along Interstate Highway 70 to junction U.S. Highway 23, thence south along U.S. Highway 23 to Portsmouth, Ohio, thence east along U.S. Highway 52 to junction Interstate Highway 64 at Huntington, W. Va., restricted to the transportation of traffic which originated at points in the origin territory in (1) above.

NOTE.—The purpose of the instant republication is to indicate the actual authority granted.

No. MC 134238 (Sub-No. 9) (Republication) filed May 27, 1975, published in the FEDERAL REGISTER issue of June 26, 1975, and republished in this issue. Applicant: GENE'S, INC., 10115 Brookville-Salem Road, Clayton, Ohio 45315. Applicant's representative: Paul F. Berry, 8 East Broad Street, Ninth Floor, Columbus, Ohio 43215. An Order of the Commission, Division 1, Acting as an Appellate Division, dated August 24, 1977, and served September 1, 1977, finds on reconsideration, that operation by applicant in interstate or foreign commerce as a contract carrier by motor vehicle, over irregular routes of (1) *Ice cream, ice cream novelties, and water ices*, in vehicles equipped with mechanical refrigeration, (a) from the storage facilities of The Kroger Co., at or near Cincinnati, Ohio, to St. Louis, Mo., and Little Rock, Ark., and (b) from the warehouse of Home Dairy Co., at Berne, Ind., to St. Louis, Mo., Little Rock, Ark., Atlanta, Ga., Peoria, Ill., Louisville and Lexing-

ton, Ky., Detroit and Grand Rapids, Mich., Cleveland, Columbus, and Cincinnati, Ohio, Pittsburgh and Evans City, Pa., Nashville and Memphis, Tenn., Roanoke, Va., and Charleston, W. Va.; and (2) *returned shipments* of the commodities named in (1) above, in the reverse direction, under a continuing contract or contracts with The Kroger Co., of Cincinnati, Ohio, will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(d) (3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if not representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d) (4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for

good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 1239 (Sub-No. 9), filed August 1, 1977. Applicant: PONY TRUCKING, INC., 501 State Route 7, Steubenville, Ohio 43952. Applicant's representative: Maxwell A. Howell, 1100 Investment Building 1511 K Street NW., Washington, D.C. 20005. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting iron and steel, iron and steel products, titanium and titanium products, between Midland, Pa., on the one hand, and on the other, points in Connecticut, Illinois, Indiana, Michigan, Massachusetts, New Jersey, New York, Ohio and Wisconsin, under a continuing contract or contracts with Crucible, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Pittsburgh, Pa.

No. MC 2253 (Sub-No. 75), filed August 3, 1977. Applicant: CAROLINA FREIGHT CARRIERS CORPORATION, P.O. Box 697, Cherryville, N.C. 28021. Applicant's representative: Edward G. Villalon, Suite 1032, Pennsylvania Building, Pennsylvania Ave. and 13th St., NW., Washington, D.C. 20004. 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); (1) Between Atlanta, Georgia and Knoxville, Tennessee, serving Knoxville and Chattanooga, Tennessee for purposes of joinder only: From Atlanta over Interstate Highway 75 to Knoxville, and return over the same route. From Atlanta over U.S. Highway 41 to junction U.S. Highway 411, thence over U.S. Highway 411 to junction U.S. Highway 129, thence over U.S. Highway 129 to Knoxville, and return over the same route. (2) Between Chattanooga, Tennessee and Chicago, Illinois, serving Chattanooga, Tennessee, Louisville, Kentucky, Indianapolis, Indiana and the junction of Interstate Highway 65 and U.S. Highway 30 for purposes of joinder only: From Chattanooga over Interstate Highway 24 to junction Interstate Highway 65, thence over Interstate Highway 65 to junction Interstate Highway 80, thence over Interstate Highway 80, to junction Interstate Highway 94, thence over Interstate Highway 94 to Chicago, and return over the same route.

(3) Between Knoxville, Tennessee and Cincinnati, Ohio, serving Knoxville, Tennessee, Lexington, Kentucky, and the junction of U.S. Highway 25E and Interstate Highway 75 for purposes of joinder only: From Knoxville over Interstate Highway 75 to junction Interstate Highway 71, thence over Interstate Highways 71 and 75 to Cincinnati, and return over the same route. (4) Between Lexington,

Kentucky and Louisville, Kentucky, serving Lexington and Louisville, Kentucky for purposes of joinder only: From Lexington over Interstate Highway 64 to Louisville, and return over the same route. (5) Between Louisville, Kentucky and Cincinnati, Ohio, serving Louisville, Kentucky for purposes of joinder only: From Louisville over Interstate Highway 71 to junction Interstate Highway 75, thence over Interstate Highways 71 and 75 to Cincinnati, and return over the same route. (6) Between Mercer, Ohio and junction U.S. Highway 30 and Interstate Highway 65, serving the junction of U.S. Highway 30 and Interstate Highway 65 for purposes of joinder only: From Mercer over U.S. Highway 33 to junction U.S. Highway 30, thence over U.S. Highway 30 to junction Interstate Highway 65, and return over the same route. (7) Between Charleston, West Virginia and Indianapolis, Indiana, serving Indianapolis, Indiana for purposes of joinder only: From Charleston over Interstate Highway 64 to junction U.S. Highway 35, thence over U.S. Highway 35 to junction Interstate Highway 75, thence over Interstate Highway 75 to junction Interstate Highway 70, thence over Interstate Highway 70 to Indianapolis, and return over the same route. (8) Between Charleston, West Virginia and Parkersburg, West Virginia, serving junction Interstate Highway 77 and U.S. Highway 33 for purposes of joinder only: From Charleston over Interstate Highway 77 to Parkersburg, and return over the same route.

(9) Between Chillicothe, Ohio and Mercer, Ohio: From Chillicothe over U.S. Highway 23 to Columbus, Ohio, thence over U.S. Highway 33 to Mercer, and return over the same route. (10) Between Cincinnati, Ohio and Indianapolis, Indiana, serving Indianapolis, Indiana for purposes of joinder only: From Cincinnati over Interstate Highway 74 to Indianapolis, and return over the same route. (11) Between Winston-Salem, North Carolina and Charleston, West Virginia, serving the junction of Interstate Highways 81 and 77 for purposes of joinder only: From Winston-Salem over U.S. Highway 52 to junction Interstate Highway 81, thence over Interstate Highway 81 to junction Interstate Highway 77, thence over Interstate Highway 77 to Charleston, and return over the same route. (12) Between Greenville, South Carolina and Asheville, North Carolina: From Greenville over U.S. Highway 25 to Asheville, over the same route. (13) Between Spartanburg, South Carolina and junction Interstate Highways 26 and 40 near Asheville, North Carolina: From Spartanburg over U.S. Highway 29 to junction Interstate Highway 26, thence over Interstate Highway 26 to junction Interstate Highway 40 near Asheville, and return over the same route. (14) Between Asheville, North Carolina and Knoxville, Tennessee, serving Knoxville, Tennessee and junction Interstate Highways 40 and 81 for purposes of joinder only: From Asheville over Interstate Highway 40 to Knoxville, and return

over the same route. (15) Between Asheville, North Carolina and Winston-Salem, North Carolina: From Asheville over Interstate Highway 40 to Winston-Salem, and return over the same route.

(16) Between junction Interstate Highways 81 and 40 near Dandridge, Tennessee and junction Interstate Highways 81 and 77 near Wytheville, Virginia, serving junction Interstate Highways 81 and 40 near Dandridge, Tennessee, junction Interstate Highways 81 and 77 near Wytheville, Virginia, junction Interstate Highway 81 and U.S. Highway 25E, and junction Interstate Highway 81 and U.S. Highway 23 for purposes of joinder only: From junction Interstate Highways 81 and 40 near Dandridge, over Interstate Highway 81 to junction Interstate Highway 77 near Wytheville, and return over the same route. (17) Between Asheville, North Carolina and junction U.S. Highway 23 and Interstate Highway 81, serving junction U.S. Highway 23 and Interstate Highway 81 for purposes of joinder only: From Asheville over U.S. Highway 23 to junction Interstate Highway 81, and return over the same route. (18) Between Charlotte, North Carolina and junction Interstate Highways 77 and 81 at or near Wytheville, Virginia, serving junction Interstate Highways 77 and 81 at or near Wytheville, Virginia for purposes of joinder only: From Charlotte over Interstate Highway 77 to junction Interstate Highway 81 at or near Wytheville, and return over the same route. (19) Between junction U.S. Highway 25E and Interstate Highway 81 near Morristown, Tennessee and junction U.S. Highway 25E and Interstate Highway 75 near Corbin, Kentucky, serving junction U.S. Highway 25E and Interstate Highway 81 near Morristown, Tennessee and junction U.S. Highway 25E and Interstate Highway 75 near Corbin, Kentucky for purposes of joinder only: From junction U.S. Highway 25E and Interstate Highway 81 near Morristown, over U.S. Highway 25E to junction Interstate Highway 75 near Corbin, and return over the same route. (20) Between Pittsburgh, Pennsylvania and Beckley, West Virginia, serving the junction of U.S. Highways 60 and 19 for purposes of joinder only: From Pittsburgh over U.S. Highway 19 to junction Interstate Highway 79, thence over Interstate Highway 79 to junction U.S. Highway 19 approximately 6 miles south of Sutton, West Virginia, thence over U.S. Highway 19 to junction U.S. Highway 60, thence over U.S. Highway 60 to junction U.S. Highway 21/West Virginia Highway 16, thence over U.S. Highway 21/West Virginia Highway 16 to Beckley, and return over the same route.

(21) Between Charleston, South Carolina and Winston-Salem, North Carolina: from Charleston over U.S. Highway 52 to junction U.S. Highway 1, thence over U.S. Highway 1 to junction U.S. Highway 220, thence over U.S. Highway 220 to Greensboro, North Carolina, thence over Interstate Highway 40 to Winston-Salem, and return over the same route. (22) Between Greensboro, North Carolina and junction Interstate

Highway 76 and U.S. Highway 30 at or near Breezewood, Pennsylvania, serving Lynchburg, Virginia and junction Interstate Highway 76 and U.S. Highway 30 at or near Breezewood, Pennsylvania for purposes of joinder only: From Greensboro over U.S. Highway 29 to Culpeper, Virginia, thence over U.S. Highway 522 to junction Interstate Highway 70, thence over Interstate Highway 70 to junction Interstate Highway 76, thence over Interstate Highway 76 to junction U.S. Highway 30 at or near Breezewood, and return over the same route. (23) Between Lynchburg, Virginia and Charleston, West Virginia, serving Lynchburg, Virginia and junction U.S. Highways 19 and 60 for purposes of joinder only: From Lynchburg over U.S. Highway 501 to junction U.S. Highway 60, thence over U.S. Highway 60 to Charleston, and return over the same route. (24) Between Rocky Mount, North Carolina and Lynchburg, Virginia, serving Lynchburg, Virginia for purposes of joinder only: From Rocky Mount over U.S. Highway 64 to junction North Carolina Highway 98, thence over North Carolina Highway 98 to Durham, North Carolina, thence over U.S. Highway 501 to Lynchburg, and return over the same route.

(25) Between junction U.S. Highway 33 and Interstate Highway 77 at or near Ripley, West Virginia and Columbus, Ohio, serving junction U.S. Highway 33 and Interstate Highway 77 at or near Ripley, West Virginia for purposes of joinder only: From junction U.S. Highway 33 and Interstate Highway 77 at or near Ripley over U.S. Highway 33 to Columbus, and return over the same route. (26) Between Durham, North Carolina and Greensboro, North Carolina: From Durham over Interstate Highway 85 to Greensboro, and return over the same route. In connection with routes (1)-(26), serving points in that part of Pennsylvania on and west of a line beginning at the Pennsylvania-New York State line and extending along U.S. Highway 219 to junction U.S. Highway 6, thence along U.S. Highway 6 to Kane, Pennsylvania, thence along Pennsylvania Highway 321 to Wilcox, Pennsylvania, thence along U.S. Highway 219 to Somerset, Pennsylvania, thence along Pennsylvania Highway 31 to junction unnumbered highway, thence along unnumbered highway to Berlin, Pennsylvania, thence along U.S. Highway 219 to the Pennsylvania-Maryland State line and all of carrier's authorized service points in Alabama, Florida, Georgia, North Carolina, South Carolina, West Virginia, Ohio, Indiana, Illinois, and Wisconsin as either intermediate or off-route points. Restrictions: The authority sought in routes (1)-(26) is restricted as follows: (1) Restricted against the transportation of traffic both originating at and destined to points within a single state, except as otherwise authorized. (2) Restricted against the transportation of traffic between points in Florida, on the one hand, and, on the other, points in Georgia, except for purposes of joinder.

(3) Traffic transported between points in Georgia, on the one hand, and, on the other, points in North Carolina and South Carolina (except points within 35 miles of Clover, South Carolina) is restricted to movements to, from, or through points in North Carolina which are both within 30 miles of Charlotte, North Carolina and within 35 miles of Clover, South Carolina. (4) Transportation of traffic between North Carolina, on the one hand, and, on the other, South Carolina is restricted to movements to, from, or through any point in North Carolina which is both within 30 miles of Charlotte, North Carolina and within 35 miles of Clover, South Carolina (except those within 35 miles of Clover, South Carolina). (5) Restricted against the transportation of traffic between points in West Virginia, Ohio, Indiana, Illinois, Wisconsin, and points in Pennsylvania on and west of a line beginning at the Pennsylvania-New York State line and extending along U.S. Highway 219 to junction U.S. Highway 6, thence along U.S. Highway 6 to Kane, Pennsylvania, thence along Pennsylvania Highway 321 to Wilcox, Pennsylvania, thence along U.S. Highway 219 to Somerset, Pennsylvania, thence along Pennsylvania Highway 31 to junction unnumbered highway, thence along unnumbered highway to Berlin, Pennsylvania, thence along U.S. Highway 219 to the Pennsylvania-Maryland State line, except as otherwise authorized. (6) This authority shall not be construed as conferring more than one operating right and shall not be severable by sale or otherwise from the other authority contained in Docket No. MC 2253 and Subs thereto.

NOTE: Pursuant to the certificate of Public Convenience and Necessity issued in Docket No. MC 2253 and Subs thereto, applicant holds authority to serve all points and territories embraced in this application (i.e., no new service points or territories are sought). The purpose of this application is to remove the present requirement that traffic transported between authorized service points in Alabama, Florida, Georgia, North Carolina, and South Carolina, on the one hand, and, on the other, certificated points in Wisconsin, Illinois, Indiana, Ohio, West Virginia, and those in Pennsylvania on and west of a line beginning at the Pennsylvania-New York State line and extending along U.S. Highway 219 to junction U.S. Highway 6, thence along U.S. Highway 6 to Kane, Pennsylvania, thence along Pennsylvania Highway 321 to Wilcox, Pennsylvania, thence along U.S. Highway 219 to Somerset, Pennsylvania, thence along Pennsylvania Highway 31 to junction unnumbered highway, thence along unnumbered highway to Berlin, Pennsylvania, thence along U.S. Highway 219 to the Pennsylvania-Maryland State line move via any point in North Carolina which is both within 30 miles of Charlotte, North Carolina and within 35 miles of Clover, South Carolina. Additionally, applicant seeks to negate its current restriction requiring traffic transported between points in Ohio, on the one hand, and, on the other, carrier's authorized service points in Alabama, Florida, Georgia, North Carolina, and South Carolina to move through Parkersburg, West Virginia. Thus applicant does not seek any new service points or territory, nor does it propose to diminish its presently authorized service terri-

tory. If a hearing is deemed necessary, the applicant requests it be held in Charlotte, North Carolina or Washington, D.C.

No. MC 2960 (Sub-No. 17), filed August 4, 1977. Applicant: ENGLAND TRANSPORTATION COMPANY OF TEXAS, a corporation, 2301 McKinney Street, Houston, Tex. 77023. Applicant's representative: E. Larry Wells, P.O. Box 45538, Dallas, Texas 75245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *wooden pallets and raw materials including corrugated and mixed paper utilized in the manufacture and processing of roofing materials*: From points in Alabama, Louisiana, Mississippi, Texas, Oklahoma, Tennessee, and Kentucky to the plantsite of Elk Roofing Company at Stephens, Arkansas and Elk Roofing Company's storage facilities at East Camden, Arkansas.

NOTE:—If a hearing is deemed necessary, the applicant requests that it be held at Dallas, Texas or Little Rock, Arkansas.

No. MC 11722 (Sub-No. 56), filed August 8, 1977. Applicant: BRADER HAULING SERVICE, INC., P.O. Box 655, Zillah, Washington 98953. Applicant's representative: Philip G. Skofstad, P.O. Box 594, Gresham, Oregon 97030. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Carbonated beverages*, in containers, from Yakima, Washington to points in Oregon and Idaho, and (b) *Empty bottles and cans*, from points in Idaho and Oregon to Yakima, Washington.

NOTE:—Applicant states that this application seeks to convert an existing contract permit to a common carrier Certificate of Public Convenience and Necessity in compliance with the Commission's order in MC 11722, (Sub-No. 52), dated June 2, 1977, to eliminate dual operations. If a hearing is deemed necessary, applicant requests that it be held at Portland, Ore.

No. MC 13250 (Sub-No. 138), filed August 5, 1977. Applicant: J. H. ROSE TRUCK LINE, INC., P.O. Box 16190, Houston, Tex. 77022. Applicant's representative: James M. Doherty, 500 West Sixteenth Street, P.O. Box 1945, Austin, Tex. 78767. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* from the facilities of Ivy Steel Company, Division of the Ivy Corporation, located at or near Jacksonville, Florida, to points in Florida, Alabama, Georgia, North Carolina, South Carolina, Virginia, Tennessee, Kentucky, Mississippi, Louisiana, Arkansas, Missouri, and Illinois.

NOTE:—If a hearing is deemed necessary, applicant requests that it be held at Jacksonville, Florida, or Atlanta, Georgia.

No. MC 13845 (Sub-No. 7), filed August 1, 1977. Applicant: William Carl Russell and James Franklin Russell, doing business as, FRANK RUSSELL & SON, 401 S. Ida St., West Frankfort, Ill. 62896. Applicant's representative: William C. Russell (same address as applicant). Authority sought to operate as a

common carrier, by motor vehicle, over irregular routes, transporting: *Heavy machinery*, and mining supplies and equipment therefor, between points in Illinois on and south of Interstate Highway 70, on the one hand, and, on the other, points in Colorado, Utah, and Wyoming.

NOTE:—Applicant has motor contract carrier authority pending in No. MC 134859 (Sub-No. 2) and other subs, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at St. Louis, Mo. or Springfield, Ill.

No. MC 26396 (Sub-No. 153), filed August 1, 1977. Applicant: POPELKA TRUCKING CO., d.b.a. the Waggoners, Box 990, Livingston, Mont. 59047. Applicant's representative: Beth Waggoner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fleshed brine cured hides*, from ports of entry on the international boundary line between the United States and Canada located in Montana, to points in Missouri, Mississippi, Texas, Illinois, Wisconsin, Colorado, and Pennsylvania, restricted to the transportation of traffic in foreign commerce having an immediate prior movement originating in Calgary, Alberta, and Lethbridge, Alberta, Canada.

NOTE:—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Billings, Mont.

No. MC 26825 (Sub-No. 16), filed July 11, 1977. Applicant's name: ANDREWS VAN LINES, INC., Seventh and Park Avenue, P.O. Box 1609, Norfolk, Nebr. 68701. Applicant's representative: J. Max Harding, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty household goods shipping containers*, set up or knocked down, between points in the United States, including Alaska and Hawaii.

NOTE:—If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 27817 (Sub-No. 135), filed July 29, 1977. Applicant: H. C. GABLER, INC., R.D. No. 3, P.O. Box 220, Chambersburg, Pa. 17201. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal roofing and siding, and fabricated metal building products*, from the plant site of the Billy Penn Corp., Division of Penn Supply and Metal Corp., Inc., at Philadelphia, Pa., to points in that part of West Virginia located on and north of U.S. Highway 33, restricted to traffic originating at and destined to the origin and destinations above-named.

NOTE:—If a hearing is deemed necessary, applicant requests that it be held at Harrisburg, Pa., or Washington, D.C.

No. MC 43269 (Sub-No. 66), filed August 4, 1977. Applicant: WELLS CARGO, INC., 1775 East 4th Street, Reno, Nev.

89512. Applicant's representative: David N. Inwood, P.O. Box 1511, Reno, Nev. 89505. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except household goods, as defined by the Commission, commodities in bulk, and classes A and B explosives, between Carson City, Nev., and Ridgecrest, Calif., over U.S. Highway 395, serving all intermediate points. Restriction: Restricted against traffic originating at or interlined at points in Los Angeles County, Calif., and destined to points within 4 miles of the California-Nevada state line.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Reno or Carson City, Nev., or Bishop, Calif.

No. MC 44605 (Sub-No. 47), filed July 25, 1977. Applicant: MILNE TRUCK LINES, INC., 2500 West California Avenue, Salt Lake City, Utah 84104. Applicant's representative: Edward J. Hegarty, 100 Bush Street, 21st Floor, San Francisco, Calif. 94104. 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): (1) between Yucca, Ariz., and Kingman, Ariz., from Yucca over Interstate Highway 40 (U.S. Highway 66) to Kingman, and return over the same route, serving all intermediate points; and (2) between Wickenburg, Ariz., and Las Vegas, Nev., from Wickenburg over U.S. Highway 93 to Las Vegas, and return over the same route, serving all intermediate points in Arizona.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Kingman, Ariz., Las Vegas, Nev., or Phoenix, Ariz.

No. MC 47171 (Sub-No. 95), filed August 5, 1977. Applicant: COOPER MOTOR LINES, INC., P.O. Box 4259, Greenville, S.C. 29608. Applicant's representative: Harris G. Andrews, P.O. Box 4259, Greenville, S.C. 29608. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Floor coverings, equipment and supplies* used in the installation, manufacture, and sale of floor coverings from Lyerly, Ga., to points in Connecticut, Delaware, Massachusetts, Maryland, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Virginia, and Washington, D.C.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Columbia, S.E., or Atlanta, Ga.

No. MC 51146 (Sub-No. 515), filed August 8, 1977. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, Wisc. 54306. Applicant's representative: Wayne Downing (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter, and materials, equipment, and supplies* used in the

manufacture, sale, and distribution of printed matter (except commodities in bulk) between Hammond and Indianapolis, Ind.; Versailles and Lexington, Ky.; Taunton, Mass.; Chicago, Ill.; Ossining, N.Y.; and Nashville, Tenn., on the one hand, and, on the other points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 51146 (Sub-No. 516), filed August 8, 1977. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, Wisc. 54306. Applicant's representative: Wayne Downing (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plumbing fixtures and fittings, and related equipment*, from Salem and Tiffin, Ohio, to Coldwater, Mich., and points in Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 53965 (Sub-No. 134), filed August 11, 1977. Applicant: GRAVES TRUCK LINE, INC., 2130 South Ohio, Salina, Kans. 67401. Applicant's representative: Larry E. Gregg, 641 Harrison Street, 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 Co. located 13 miles south of Guymon, Okla., in Hansford County, Tex., as an off-route point in connection with carriers presently authorized regular route operation.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Dallas, Tex. Common control may be involved.

No. MC 56879 (Sub-No. 99), filed July 22, 1977. Applicant: BROWN TRANSPORT CORP., 352 University Avenue SW., Atlanta, Ga. 30315. Applicant's representative: John T. Coon (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat and meat products*, fresh or frozen, from Bartow, Fla., to points in Massachusetts, New York, New Jersey, Louisiana, Mississippi, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Washington, D.C. Common control may be involved.

No. MC 57697 (Sub-No. 9), filed July 29, 1977. Applicant: LESTER SMITH TRUCKING, INC., P.O. Box 16424, Denver, Colo. 80216. Applicant's representative: Howard C. Norton (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick and commodities* incidental to the installation thereof, from points

in Pueblo and Las Animas Counties, Colo., to points in California, Idaho, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, Wisconsin, and Wyoming.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Salt Lake City, Utah. Common control may be involved.

No. MC 59367 (Sub-No. 109), filed August 2, 1977. Applicant: DECKER TRUCK LINE, INC., P.O. Box 915, Fort Dodge, Iowa 50501. Applicant's representative: James M. Hodge, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Polyethylene drums*, from Racine, Wis., to Lake View, Iowa.

NOTE.—If a hearing is deemed necessary, applicant requests that the hearing be held at Omaha, Nebr., or Chicago, Ill.

No. MC 60014 (Sub 53), filed August 5, 1977. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, Pa. 15146. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Conduit or pipe, cement, containing asbestos fibre and fittings therefor*, from the plantsite of Cement Asbestos Products Co. (subsidiary of ASARCO, Inc.), at or near Ragland, Ala., to points in Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at St. Louis, Mo.

No. MC 60014 (Sub-No. 54), filed August 8, 1977. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, Pa. 15146. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cementitious wood fiber roof deck panels* from Elberton, Ga., to points in Connecticut, Delaware, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Atlanta, Ga., or Washington, D.C.

No. MC 71459 (Sub-No. 67), filed August 8, 1977. Applicant: O.N.C. FREIGHT SYSTEMS, Highway 36 West, St. Joseph, Mo. 64502. Applicant's representative: Kirk Wm. Horton, P.O. Box 10280, Palo Alto, Calif. 94303. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes,

transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Altus, Okla., and Woodward, Okla., serving no intermediate points, from Altus over U.S. Highway 283 to the junction of Oklahoma Highway 34, thence over Oklahoma Highway 34 to Woodward and return over the same route.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at San Francisco, Calif., or Washington, D.C.

No. MC 72495 (Sub-No. 17), filed August 5, 1977. Applicant: DON SWART TRUCKING, INC., Box 49, Route 2, Wellsburg, W. Va. 26070. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Granulated slag*, in bulk in dump vehicles, from the plant-site of H. B. Reed & Co., Inc., located at or near Cresap, W. Va., to the plant-site of CertainTeed Corp. at or near Avery, Ohio.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Columbus, Ohio.

No. MC 73165 (Sub-No. 412), filed August 5, 1977. Applicant: EAGLE MOTOR LINES, INC., 830 North 33rd Street, Birmingham, Ala. 35202. Applicant's representative: John W. Cooper, Suite 200, Woodward Building, 1927 1st Avenue North, Birmingham, Ala. 35203. Authority is sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Mining equipment*, (2) *attachments and parts of mining equipment*, and (3) *equipment, materials, and supplies used in the manufacture of mining equipment* between the facilities of Reading U.S., Inc., located at or near Orange Park, Fla., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it to be held at either Birmingham, Ala., or Jacksonville, Fla.

No. MC 73165 (Sub-No. 414), filed August 9, 1977. Applicant: EAGLE MOTOR LINES, INC., 830 North 33rd Street, Birmingham, Ala. 35202. Applicant's representative: John W. Cooper, Suite 200, Woodward Building, 1927 1st Avenue North, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, from Darlington, S.C., to points in Tennessee, Wisconsin, Illinois, North Carolina, Michigan, Indiana, Kentucky, Georgia, Florida, Virginia, West Virginia, Ohio, Pennsylvania, Maryland, New York, New Jersey, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, Maine, Delaware, and, (2) *scrap metals* from named states to Darlington, S.C.

NOTE.—If a hearing is deemed necessary, applicant requests it to be held at either Atlanta, Ga., or Birmingham, Ala.

No. MC 82492 (Sub-No. 161), filed August 5, 1977. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, Kalamazoo, Mich. 49003. Applicant's representative: William C. Harris (same address). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk) in vehicles equipped with mechanical refrigeration, from the facilities of Kraft, Inc., located at or near Champaign, Ill., to points in Missouri and Ohio.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 82492 (Sub-No. 162), filed August 5, 1977. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, Kalamazoo, Mich. 49003. Applicant's representative: William C. Harris (same address). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionary and confectionary products* (except in bulk) and *advertising and display matter*, moving at the same time in the same vehicle with confectionary and confectionary products, from the plantsite and storage facilities of Charms Co., located at or near Covington, Tenn., to points in Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, and Wisconsin. Restricted to traffic originating at the named origins and destined to the named destination States.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 83539 (Sub-No. 463), filed August 26, 1977. Applicant: C & H TRANSPORTATION CO., INC., 1936-2010 West Commerce Street, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Mr. Thomas E. James (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: (1) *Mining machinery and equipment*; and (2) *attachments, parts and accessories*, for the commodities named in (1) above, (a) from Monroe, N.C., to points in the United States including Alaska, but excluding Hawaii; and (b) from Monroe, N.C., to ports of entry on the International Boundary Line between the United States and Canada located at all ports of entry, restricted in (2) (b) above, to traffic destined to the Provinces of Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland, Nova Scotia, Saskatchewan, and the Yukon, Canada; and (3) *materials, supplies, and equipment* (except commodities in bulk), used in the manufacture and distribution of commodities named in (1) and (2) above, from points in the United States (except Alaska and Hawaii) to Monroe, North Carolina.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be consolidated with similar applications, to be held at Washington, D.C.

No. MC 83835 (Sub-No. 145), filed August 8, 1977. Applicant: WALES TRANSPORTATION, INC., P.O. Box 6186, Dallas, Tex. 75222. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Bldg., Dallas, Tex. 75224. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Iron and steel articles* from the facilities of Atlas Steel and Wire located at or near Harahan, La., to points in Alabama, Georgia, Kentucky, Mississippi, Oklahoma, Tennessee, and Texas. Restricted to shipments originating at the facilities of Atlas Steel and Wire located at or near Harahan, Louisiana.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 87092 (Sub-No. 5), filed August 8, 1977. Applicant: JIM MITTEN TRUCKING, INC., 619 E. 6th, Oakley, Kans. 67748. Applicant's representative: Clyde N. Christey, 514 Capitol Federal Bldg., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molasses, Liquid Feeds and Liquid Feed Supplements, in Bulk, in Tank Vehicles* from the facilities of Cargill, Inc., at Garden City, Kans., to points in Colorado, Kansas, Nebraska, New Mexico, Oklahoma, and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 94350 (Sub-No. 399), filed August 1, 1977. Applicant: TRANSIT HOMES, INC., P.O. Box 1628, Greenville, S.C. 29602. Applicant's representative: Mitchell King, Jr. (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, and *buildings*, in sections, mounted on wheeled undercarriages, from points in Idaho to points on and west of a line beginning at the mouth of the Mississippi River and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., and thence along the western boundaries of Itasca and Koochiching Counties, Minn., to the International Boundary line between the United States and Canada.

NOTE.—Common control may be involved. If hearing is deemed necessary, applicant requests that it be held at Boise, Idaho.

MC 99427 (Sub-No. 36), filed August 8, 1977. Applicant: ARIZONA TANK LINES, INC., 3200 Ruan Center, 666 Grand Avenue, Des Moines, Iowa 50309. Applicant's representative: E. Check, P.O. Box 855, Des Moines, Iowa 50304. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals, in bulk*, from Pima County, Ariz. to points in New Mexico and Colorado.

NOTE.—Common control may be involved. If a hearing is deemed necessary, it is requested that it be held in Phoenix, Arizona or Tucson, Arizona.

No. MC 100666 (Sub-No. 360), filed August 8, 1977. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., 3535 Northwest 58th Street, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum, gypsum products, and materials and supplies* used in the installation and distribution thereof, from Marshall County, Kansas to points in Arkansas, Louisiana, Mississippi, Oklahoma, Tennessee, and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Dallas, Tex. or Kansas City, Mo.

No. MC 102401 (Sub-No. 22), filed August 9, 1977. Applicant: TAYLOR HEAVY HAULING, INC., 20601 West Ireland Road, Chippewa Station, P.O. Box 2707, South Bend, Ind. 46614. Applicant's representative: Alki E. Scopelitis, 815 Merchants Bank Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Processed aluminum*, from the facilities of Ireco Aluminum, Inc., at Plymouth, Ind., to points in the United States in and east of Minnesota, Iowa, Missouri, Arkansas, and Texas; (2) *Materials, equipment, and supplies* used in the processing of aluminum, from points in the United States in and east of Minnesota, Iowa, Missouri, Arkansas, and Texas, to the facilities of Ireco Aluminum, Inc., at Plymouth, Ind., restricted in (1) and (2) against the transportation of commodities, in bulk, in tank and dump vehicles.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Chicago, Ill., or Indianapolis, Ind.

No. MC 105375 (Sub-No. 71), filed June 20, 1977. Applicant: DAHLEN TRANSPORT, INC., 1680 Fourth Avenue, Newport, Minn. 55055. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street NW., Washington, D.C. 20423. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour*, in bulk, (1) from Hastings, Minn., to points in Kentucky, Kansas, Missouri, Nebraska, and Ohio; (2) from Mankato, Minn., to points in Illinois, Indiana, Iowa, Missouri, Nebraska, North Dakota, South Dakota, Ohio, Michigan, and Wisconsin; and (3) from Rush City, Minn., to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Minneapolis, Minn., St. Paul, Minn., or Chicago, Ill.

No. MC 106644 (Sub-No. 239), filed August 8, 1977. Applicant: SUPERIOR

TRUCKING COMPANY, INC., P.O. Box 916, Atlanta, Ga. 30301. Applicant's representative: Frank Hall, 3384 Peachtree St. NE., Suite 713, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, over irregular routes, by motor vehicle, transporting: *Air pollution, heating and cooling equipment, and parts and accessories* for such commodities, from the plantsite and facilities of the Fuller Co., located in Houston, Tex., to those points in that part of the United States in and east of Kansas, Nebraska, North Dakota, Oklahoma, South Dakota, Arkansas, and Louisiana.

NOTE.—If an oral hearing is deemed necessary, we request it be held at either Houston, Tex. or Washington, D.C.

No. MC 106674 (Sub-No. 249), filed August 5, 1977. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Linda J. Sundy, P.O. Box 123, Remington, Ind. 47977. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Conduit or pipe, cement, containing asbestos fibre and fittings therefor*, from the plantsite of Cement Asbestos Products Co. (subsidiary of ASARCO Inc.), located at or near Ragland, Ala., to all points in the States of Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in either Chicago, Ill. or Indianapolis, Ind.

No. MC 107002 (Sub-No. 515), filed August 8, 1977. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representatives: John J. Borth, P.O. Box 8573, Battlefield Station, Jackson, Miss. 39204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from Vicksburg, Mississippi to points in Arizona, California, Colorado, Idaho, Oregon and Washington.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Jackson, Miss.

No. MC 107295 (Sub-No. 858), filed August 4, 1977. Applicant: PRE-FAB TRANSIT CO., a corporation, Route 150, Farmer City, Ill. 61842. Applicant's representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, Ill. 62707. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Plywood and composition board*, from Jacksonville, Fla., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held in Jacksonville, Fla.

No. MC 107496 (Sub-No. 1099), filed August 5, 1977. Applicant: RUAN TRANSPORT CORP., 3200 Ruan Center, 666 Grand Avenue, Des Moines, Iowa 50309. Applicant's representative: E. Check, P.O. Box 855, Des Moines, Iowa 50304. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum products*, in bulk, from Canton, Mo., to points in Illinois; and (2) *petroleum products*, from Casper, Wyo., to points in South Dakota, on, east and south of a line beginning at the North Dakota-South Dakota State line and extending along South Dakota Highway 45 to junction South Dakota Highway 44, thence along South Dakota Highway 44 to the Missouri River, and thence along the Missouri River to the South Dakota-Nebraska State line.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at St. Louis, Mo., or Chicago, Ill.

No. MC 107496 (Sub-No. 1100), filed August 5, 1977. Applicant: RUAN TRANSPORT CORP., 3200 Ruan Center, 666 Grand Avenue, Des Moines, Iowa 50309. Applicant's representative: E. Check, P.O. Box 855, Des Moines, Iowa 50304. Authority sought to operate as a *common carrier*, by motor vehicles, over irregular routes, transporting: (1) *Tallow*, in bulk, from Estherville, Iowa to points in Wisconsin; and (2) *Molasses, Liquid Feeds and Liquid Feed Supplements*, in bulk, in tank vehicles, from the facilities of Cargill, Inc. located at Garden City, Kans. to points in Colorado, Kansas, Nebraska, New Mexico, Oklahoma, and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held in Chicago, Illinois or Minneapolis, Minnesota.

No. MC 107515 (Sub-No. 1097), filed August 1, 1977. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Georgia 30050. Applicant's representative: Alan E. Serby, 3379 Peachtree Road NE., Suite 375, Atlanta, Georgia 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *intravenous solutions, related drugs and medicines, and related medical supplies*, in vehicles equipped with mechanical refrigeration, from Cleveland, Mississippi and Memphis, Tennessee, to points in Arizona, California, Colorado, Florida, Illinois, Indiana, Iowa, Missouri, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, New Jersey, New Mexico, New York, Ohio, Pennsylvania, Texas, Washington, and Wisconsin.

NOTE.—Applicant holds contract carrier authority in MC 126436 (Sub-No. 2), therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Chicago, Ill. or Washington, D.C.

No. MC 108313 (Sub-No. 14), filed August 8, 1977. Applicant: CALEDONIA

LINES, INC., P.O. Box 48, Caledonia, New York 14423. Applicant's representative: S. Michael Richards, 44 North Ave., Webster, New York 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Compressed gases and liquid chemicals, in bulk (except liquefied petroleum gases)*, from Houston, Tex., Moundsville, Charleston, and Natrium, W. Va., Lake Charles, Geismar, and Gramercy, La., Brunswick, Ga., Acme, N.C., Evans City, Ala., Louisville, Ky., Tampa, Fla., Charleston, Tenn., and Edgemoor, Del., to Charlotte, N.C., Festus, Mo., Reserve, La., Milford, Va., Mobile, Ala., St. Petersburg, Jacksonville, and Fort Lauderdale, Fla., and Edgemoor, Del., to Beechgrove and Hammond, Ind., Orrington, Maine, Wyandotte, Montague, Midland, and Ludington, Mich., Merrimack, N.H., Newark, Bayonne, and Linden, N.J., Niagara Falls, Syracuse, Buffalo, Warwick, Caledonia, Utica, Friendship, and Vestal, N.Y., Ashtabula, South Point, Barberton, and Columbiana, Ohio, and Erie, Pa.; and (2) *Chemicals, cleaners, detergents and waxes, in containers and empty containers for those commodities*, between Mobile and Evans City, Ala., Denver, Colo., Edgemoor, Del., St. Petersburg, Fort Lauderdale, Jacksonville, and Tampa, Fla., Augusta and Brunswick, Ga., Danville, Ill., Beechgrove and Hammond, Ind., Calvert City and Louisville, Ky., Lake Charles, Plaquemine, Gramercy, Geismar, Baton Rouge, Taft, and Reserve, La., Orrington, Maine, Curtis Bay, Md., Wyandotte, Montague, Midland, and Ludington, Mich., Festus, Mo., Merrimack, N.H., Newark, Bayonne, and Linden, N.J., Niagara Falls, Syracuse, Buffalo, Warwick, Caledonia, Utica, Friendship, and Vestal, N.Y., Charlotte and Acme, N.C., Ashtabula, South Point, Barberton, and Columbiana, Ohio, Erie, Pa., Charleston, Tenn., Houston, Tex., Milford, Hopewell and Norfolk, Va., Natrium, Moundsville and Charleston, W. Va., Hudson, Milwaukee, and Port Edwards, Wis., under a continuing contract or contracts with Jones Chemicals, Inc. of Caledonia, N.Y.

NOTE.—Applicant states it holds authority in No. MC 108313 (Sub-No. 1, 6, 7, 9, and 10) which partially duplicates the authority sought herein, but it does not seek duplicating authority and will accept usual conditions if authority sought is granted. If a hearing is deemed necessary, applicant requests that it be held at Buffalo or Syracuse, N.Y.

No. MC 108341 (Sub-No. 66), filed August 5, 1977. Applicant: MOSS TRUCKING COMPANY, INC., 3027 N. Tryon St., P.O. Box 8409, Charlotte, N.C. 28208. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Plywood, paneling, gypsumboard, composition board, moulding, and materials used in the manufacturing thereof (except commodities in bulk), between the facilities of the Pan American Gyro-Tex Company, located at or near Jacksonville, Florida, on the one

hand, and, on the other, points in the United States in and east of Minnesota, Iowa, Nebraska, Colorado, and New Mexico.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 108676 (Sub-No. 108), filed August 8, 1977. Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chica-mauga Avenue, Knoxville, Tennessee 37917. Applicant's representative: A. A. Metler (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Tanks, pressure vessels, custom fabrications of stainless steel and high alloys, from the plantsite of Alloy Fabricators, Inc. located at Trenton, Georgia to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary applicant requests it be held at either Atlanta, Georgia or Washington, D.C.

No. MC 110420 (Sub-No. 771), filed August 8, 1977. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street NW, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chemicals*, in bulk, in tank vehicles, from Brookfield, Wis., and North Baltimore, Ohio, to points in Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Texas, and Wisconsin; and (2) *Materials and supplies used in the manufacture of chemicals*, in bulk, in tank vehicles, from points in Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Texas, and Wisconsin, to Brookfield, Wis., and North Baltimore, Ohio.

NOTE.—Common Control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Illinois or Milwaukee, Wisconsin.

No. MC 110563 (Sub-No. 202), filed August 1, 1977. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, St. Route 29 North, Sidney, Ohio 45365. Applicant's representative: Joseph M. Scanlan, 111 West Washington St., Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from Sioux City, Iowa to points in Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Sioux City, Iowa or Omaha, Nebr.

No. MC 112617 (Sub-No. 369), filed August 1, 1977. Applicant: LIQUID TRANSPORTERS, INC., 1292 Fern Valley Road, P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street, NW, Suite 501, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Whiskey and gin*, in bulk, in tank vehicles, between: Bardstown, Kentucky on the one hand, and, on the other, points in Atlanta, Georgia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky. or Washington, D.C. Common control may be involved.

No. MC 112617 (Sub-No. 371), filed August 5, 1977. Applicant: LIQUID TRANSPORTERS, INC., 1292 Fern Valley Road, P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street, NW, Suite 501, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from: Louisville, Kentucky to, port of entry on the United States-Canada Boundary Line at or near Blaine, Washington.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Louisville, Ky. or Washington, D.C.

No. MC 112713 (Sub-No. 204), filed August 5, 1977. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 72-70, 10990 Roe Avenue, Shawnee Mission, Kans. 66207. Applicant's representative: David B. Schneider (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment)*, serving the plantsite and facilities of Hoosier Energy Div. of Indiana State-wide R.E.C., at or near Merom, Indiana, as an off-route point in conjunction with carrier's presently authorized operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Washington, D.C.

MC 113459 (Sub-No. 113), filed August 5, 1977. Applicant: H. J. JEFFRIES TRUCK LINE, INC., P.O. Box 94850, Oklahoma City, Okla. 73109. Applicant's representative: J. Michael Alexander, 135 Wynnewood Professional Bldg., Dallas, Texas 75224. Authority sought to operate as a *common carrier* motor vehicle, over irregular routes, transporting: *Cooling towers, cooling tower parts and accessories from the facilities of E. D. Goodfellow Co., Inc., located at Tulsa, Oklahoma, to points in the United States (except Alaska and Hawaii).*

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Dallas, Texas or Tulsa, Oklahoma.

No. MC 113459 (Sub-No. 114), filed August 9, 1977. Applicant: H. J. JEFFRIES TRUCK LINE, INC., P.O. Box 94850, Oklahoma City, Okla. 73109. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Bldg., Dallas, Texas 75224. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: Pre-cut log buildings, knocked down, and materials and supplies used in construction of such commodities from Claremore, Oklahoma to points in the United States, including Alaska, but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex. or Tulsa, Okla.

No. MC 113678 (Sub-No. 688) (Correction), filed June 29, 1977 and published in the FEDERAL REGISTER issue of August 18, 1977, and republished as corrected, this issue. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, Colo. 80022. Applicant's representative: Roger M. Shaner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except commodities in bulk), from Traverse City, Mich., to points in Arizona, California, Nevada, Idaho, Montana, and Utah, restricted to traffic originating at Traverse City, Mich.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich. or Chicago, Ill. The purpose of this republication is to delete the States of New Mexico, Oregon, and Washington, and to add the States of Idaho and Montana.

No. MC 113678 (Sub-No. 698), filed August 4, 1977. Applicant: CURTIS, INC., 4810 Pontiac St., Commerce City, Colo. 80022. Applicant's representative Roger M. Shaner (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 (except commodities in bulk in tank vehicles), from McCook, Nebraska, to points in the United States (except Alaska, Hawaii and Nebraska).

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Denver, Colo. or Omaha, Nebr.

No. MC 113678 (Sub-No. 699), filed August 5, 1977. Applicant: CURTIS, INC., 4810 Pontiac St., Commerce City, Colo. 80022. Applicant's representative: Roger M. Shaner (same as Applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages including wines* (except commodities in bulk in tank vehicles), from Cincinnati, Ohio; Detroit, Michigan; and their respective commercial zones; and points in Illinois and Kentucky to Wichita, Kans.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Wichita, Kans., or Louisville, Ky.

No. MC 114211 (Sub-No. 313), filed August 8, 1977. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, 324 Manhard St., Waterloo, Iowa 50704. Applicant's representative: Mr. Daniel Sullivan, Suite 1600, 10 South La Salle, Chicago, Ill. 60603. Authority sought to operate as a *common carrier* over irregular routes, by motor vehicle, transporting: Such commodities as are dealt in, or used by, *agricultural equipment, industrial equipment, lawn and leisure product dealers and manufacturers* (except commodities in bulk) between Grand Island and Lexington, Nebraska and Vinton, Iowa on the one hand, and, on the other, points in Montana, Wyoming, Colorado, New Mexico, Idaho, Utah, Arizona, Washington, Oregon, Nevada, California and the Ports of Entry between the United States and Canada located in North Dakota, Montana, Idaho and Washington.

NOTE.—If a hearing is deemed necessary we request it be held at either Chicago, Illinois or Washington, D.C.

No. MC 114552 (Sub-No. 135), filed August 2, 1977. Applicant: SENN TRUCKING COMPANY, a corporation, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1267, Arlington Va. 22210. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: (1) *Roofing asphalt* (except in bulk), from Memphis, Tenn., to points in Alabama, Arkansas, Georgia, Illinois, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, South Carolina and Texas, and (2) *items* utilized in the manufacture and distribution of roofing asphalt (except commodities in bulk), from points in Alabama, Arkansas, Georgia, Illinois, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, South Carolina and Texas to Memphis, Tenn.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Memphis, Tenn.

No. MC 115311 (Sub-No. 235), filed August 2, 1977. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, Ga. 31061. Applicant's representative: Kim G. Meyer, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Composition board and such materials, equipment and supplies* as are used in the manufacture, distribution and installation thereof between the facilities of the United States Gypsum Company, located in Greenville, Mississippi, on the one hand, and, on the other, points in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma and Texas. Restricted against the transportation of commodities in bulk, and further restricted to shipments originating at or destined to the facilities of the United

States Gypsum Company, Greenville, Miss.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Atlanta, Ga., or Greenville, Miss.

No. MC 115496 (Sub-No. 59), filed August 9, 1977. Applicant: LUMBER TRANSPORT, INC., Post Office Box 111, Cochran, Ga. 31014. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Blvd., Post Office Box 1267, Arlington, Va. 22210. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Nucor Steel, a Division of Nucor Corporation, at or near Darlington, S.C., to points in Alabama, Florida, Georgia, Kentucky, North Carolina, Ohio, Pennsylvania, Virginia, West Virginia, Tennessee and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Columbia, S.C.

No. MC 115654 (Sub-No. 67), filed August 9, 1977. Applicant: TENNESSEE CARTAGE COMPANY, INC., Candy Lane, P.O. Box 23193, Nashville, Tenn. 37202. Applicant's representative: Henry E. Seaton, 915 Pennsylvania Bldg., Pennsylvania Ave. and 13th St. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Confectionery and confectionery products* in vehicles equipped with mechanical refrigeration, from the plantsite and storage facilities of M&M/Mars, a division of Mars, Inc., at or near Chicago, Ill., to points in Ohio and Kentucky.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Memphis, or Nashville, Tenn. or Washington, D.C.

No. MC 115841 (Sub-No. 546), filed August 2, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Dr., Suite 110, Bldg. 100, Knoxville, Tenn. 37919. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh Street, NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Candy and confectionery*, from Boston and Woburn, Mass., to points in Arizona, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, New Mexico, Ohio and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Boston, Mass., or Washington, D.C. Common control may be involved.

No. MC 115904 (Sub-No. 79), filed August 5, 1977. Applicant: GROVER TRUCKING CO., a corporation, 1710 West Broadway, Idaho Falls, Idaho 83401. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum, gypsum products and building*

materials (except in bulk) and such materials and supplies as are used in the manufacture, installation and distribution of the aforementioned commodities (except commodities in bulk) between the facilities of the United States Gypsum Company, located in Southard, Oklahoma, on the one hand, and, on the other, points in North Dakota, South Dakota, Nebraska, Montana, Idaho, Wyoming, Colorado, New Mexico, Arizona, Utah, California, Oregon and Washington.

NOTE.—Common control may be involved. If a hearing is deemed necessary the applicant requests that it be held at Washington, D.C. or Chicago, Ill.

No. MC 116110 (Sub-No. 14), filed August 4, 1977. Applicant: P. C. WHITE TRUCK LINE, INC., P.O. Box 1488, Dothan, Ala. 36301. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd., N.E., Atlanta, Ga. 30336. Applicant seeks authority to operate as a common carrier by motor vehicle, over irregular routes, in the transportation of tobacco and tobacco products from the plantsite and storage facilities of Bayuk Cigars, Inc. located at or near Dothan, Ala., to points in Virginia, Maryland, Delaware, New Jersey, Pennsylvania, New York, Rhode Island, Massachusetts, Ohio, Illinois, Missouri, Michigan, Indiana, and the District of Columbia, and materials, equipment or supplies used or useful in the manufacture or production of tobacco and tobacco products from points in the destination states named above to the plantsite and storage facilities of Bayuk Cigars, Inc. located at or near Dothan, Ala.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Atlanta, Ga. or Washington, D.C.

No. MC 116459 (Sub-No. 66), filed August 1, 1977. Applicant: RUSS TRANSPORT, INC., P.O. Box 4022, Chattanooga, Tenn. 37405. Applicant's representative: Leonard A. Jaskiewicz, Suite 501, 1730 M Street NW., Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Ferric chloride, in bulk, in tank vehicles, from Knoxville, Tenn., to points in Alabama, Georgia, Kentucky, Virginia, and Tennessee. Restricted to movements having a prior movement by rail.

NOTE.—If a hearing is deemed necessary, the applicant requests it to be held at Chattanooga, Tenn., or Washington, D.C. Common control may be involved.

No. MC 116915 (Sub-No. 30), filed August 5, 1977. Applicant: ECK MILLER TRANSPORTATION CORP., 1830 South Plate Street, P.O. Box 1365, Kokomo, Ind. 46901. Applicant's representative: Fred F. Bradley, P.O. Box 773, Frankfort, Ky. 40601. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Scrap nonferrous metals between points in Texas on the one hand, and, on the other, points in Alabama, Illinois, Indiana, Kentucky, Michigan, Missouri, Ohio, Pennsylvania, and Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill., or Washington, D.C.

No. MC 116915 (Sub-No. 33), filed August 8, 1977. Applicant: ECK MILLER TRANSPORTATION CORP., 1830 South Plate Street, P.O. Box 1365, Kokomo, Ind. 46901. Applicant's representative: Fred F. Bradley, P.O. Box 773, Frankfort, Ky. 40601. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) nonferrous scrap between the facilities of Gulf Metal Industries, Inc. and Houston Gulf Co., Inc. located at or near Houston, Tex., on the one hand, and, on the other, points in the United States (except Alaska or Hawaii) and (2) nonferrous scrap and aluminum ingots between the facilities of Texas Reduction Corp. located at or near Alvin, Tex., on the one hand, and, on the other, points in the United States (except Alaska or Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Austin or Houston, Tex.

No. MC 117119 (Sub-No. 647), filed August 8, 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: Such merchandise as is dealt in by retail discount stores (except commodities in bulk), from Monroe, La., to Plainview, Tex.; McAlester and Ponca City, Okla.; Cynthiana and Corbin, Ky., restricted to traffic originating at and destined to facilities of Howard Bros. Discount Stores, Inc.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Little Rock, Ark., Memphis, Tenn., or New Orleans, La.

No. MC 117557 (Sub-No. 23), filed August 4, 1977. Applicant: MATSON, INC., P.O. Box 43, Cedar Rapids, Iowa 52406. Applicant's representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a common carrier, by vehicle, over irregular routes, transporting: (1) Such machinery and equipment as are generally used in construction, road building, mining, logging, farming, industrial, and commercial activities; (2) parts, attachments, and accessories of the commodities described in (1) above; and (3) materials, equipment, and supplies used in the manufacture, sales, and distribution of the commodities listed in (1) and (2) above (except commodities in bulk) between points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held in Chicago, Ill.

No. MC 118130 (Sub-No. 79), filed August 2, 1977. Applicant: SOUTH EASTERN XPRESS, INC., P.O. Box 6985, Fort Worth, Tex. 76115. Applicant's representative: Billy R. Reid,

P.O. Box 9093, Fort Worth, Tex. 76107. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Malt beverages and related advertising materials, and returned empty malt beverage containers, from Fort Worth, Tex., on the one hand, and, on the other, points in New Mexico and Colorado.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Fort Worth, Tex., or Denver Colo.

No. MC 118130 (Sub-No. 80), filed August 1, 1977. Applicant: SOUTH EASTERN XPRESS, INC., P.O. Box 6985, Fort Worth, Tex. 76115. Applicant's representative: Billy R. Reid, P.O. Box 9093, Fort Worth, Tex. 76107. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Automatic vehicle washing equipment and detergents, and liquid household laundry products, from Fort Worth, Tex., to points in New Mexico, Kansas, Oklahoma, Colorado, Arizona, and California.

NOTE.—If hearings is deemed necessary, applicant requests that it be held at Fort Worth or Dallas, Tex.

No. MC 119789 (Sub-No. 363), filed August 5, 1977. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Confectionery between Thibodaux, La., on the one hand, and, on the other, points in Alabama, North Carolina, Ohio, and Pennsylvania.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at New Orleans, La.

No. MC 119789 (Sub-No. 364), filed August 5, 1977. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Canned or preserved foodstuffs, from the plantsite and warehouse facilities of Heinz U.S.A., division of H. J. Heinz Co. at Tracy and Stockton, Calif., to the Distribution Centers of Heinz U.S.A., Division of H. J. Heinz Co. located at Grand Prairie, Tex., and Iowa City, Iowa.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Pittsburgh, Pa., or Washington, D.C.

No. MC 120646 (Sub-No. 20), filed August 9, 1977. BRADLEY FREIGHT LINES, INC., 35 Garfield St., Asheville, N.C. 28803. Applicant's representative: Henry E. Seaton, 915 Pennsylvania Bldg., Pennsylvania Ave. and 13th St. NW., Washington, D.C. 20004. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Commodities used in the manufacture of new furniture (except in bulk) and new furniture, from points in the United States in and east of Minnesota,

Iowa, Missouri, Arkansas, and Louisiana, to the facilities of Drexel Heritage Furnishings located at or near Kingstree, S.C., and Drexel, Marion, Morganton, Hildebran, Shelby, Mocksville, High Point, Black Mountain, and Whittier, N.C.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Asheville, N.C.

No. MC 123407 (Sub-No. 375) (Amendment), filed May 10, 1977, published in the FEDERAL REGISTER issue of June 16, 1977, and republished as amended this issue. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials* from Kansas City, Mo., to points in Minnesota, North Dakota, South Dakota, Iowa, and Nebraska.

NOTE.—The purpose of this republication is to amend the origin point in the territorial description. Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 123407 (Sub-No. 394), filed August 2, 1977. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum products and lubricating oils in packages*, from the plantsite and warehouses of Mobil Oil Corp., located at or near Beaumont, Tex., to points in Arkansas, Louisiana, New Mexico, and Oklahoma; and (2) *return of empty containers*, from Arkansas, Louisiana, New Mexico, and Oklahoma, to Port Arthur, Tex.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Dallas, Tex.

No. MC 123407 (Sub-No. 395), filed August 2, 1977. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Insulating materials, expanded or foam plastic with backing, quilted fibers, batting and materials*, from North Kansas City, Mo., to points in the United States (except Alaska and Hawaii); and (2) *materials and supplies*, used in the manufacture and distribution in the above-named commodities from points in the United States (except Alaska and Hawaii) to North Kansas City, Mo.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Kansas City, Mo., or Chicago, Ill.

No. MC 123407 (Sub-No. 396), filed August 1, 1977. Applicant: SAWYER

TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and building materials*, from points in Pulaski County, Ark., to points in Kansas, Missouri, Oklahoma, and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Memphis, Tenn., or Chicago, Ill.

No. MC 123672 (Sub-No. 7), filed July 25, 1977. Applicant: B.C.D. TRUCKING, INC., R.D. 2, Center Road, Forestville, N.Y. 14062. Applicant's representative: Robert G. Gawley, P.O. Box 184, Buffalo, N.Y. 14221. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bakery products* (except frozen bakery products), (1) between Buffalo, N.Y., on the one hand, and, on the other, Hagerstown, Md.; Harrisburg, Pa.; Williamsport, Pa.; Washington, D.C.; East Brunswick, N.J.; East Hartford, Conn.; Toledo, Ohio, and (2) between Utica, N.Y., and East Brunswick, N.J., under a continuing contract or contracts with ITT Continental Baking Co., Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Buffalo, N.Y.

No. MC 123844 (Sub-No. 9), filed August 4, 1977. Applicant: P. SALDUTTI & SON, INC., 513 Raymond Boulevard, P.O. Box 389, Newark, N.J. 07105. Applicant's representative: Robert B. Pepper, The Forrest Park Building, 168 Woodbridge Avenue, Highland Park, N.J. 08904. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products and blends thereof, fish oil and vegetable oil*, in bulk in tank vehicles, from the facilities of Archer Daniels Midland Co., Bayway, N.J., to points in Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, Delaware, Maryland, Virginia, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Newark, N.J., or New York, N.Y.

No. MC 124062 (Sub-No. 12), filed August 2, 1977. Applicant: FRICK TRANSPORT, INC., Wawaka, Ind. 46794. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes transporting: *Liquid fertilizer solutions* in bulk, in tank vehicles, from Greenwood, Ind., to points in Ohio, Kentucky, Illinois, and Michigan.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 124078 (Sub-No. 742), filed August 5, 1977. Applicant: SCHWERTMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, Wis.

53215. Applicant's representative: James R. Ziperski, P.O. Box 1601, Milwaukee, Wis. 53201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ground clay, floor sweepings and absorbents*, from the plantsite of Oil-Dri Corp., located at or near Ripley, Miss., to points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Missouri, New York, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, and West Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Chicago, Ill. Common control may also be involved.

No. MC 124151 (Sub-No. 6), filed August 4, 1977. Applicant: VANGUARD TRANSPORTATION INC., foot of Lafayette Street, Carteret, N.J. 07008. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* (except petro-chemicals), in bulk, in tank vehicles, from the facilities of Mobil Oil Corp. located at or near Paulsboro, N.J., to points in Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, and Baltimore, Md., restricted to the transportation of traffic originating at the named origin and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 124306 (Sub-No. 31), filed July 29, 1977. Applicant: KENAN TRANSPORT CO., INC., P.O. Box 2729, Chapel Hill, N.C. 27514. Applicant's representative: Richard A. Mehley, 1000 16th Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry synthetic plastic granules and pellets*, in bulk, in tank vehicles, between the plantsites of Fiber Industries, Inc. at or near Fiberton and Earl, N.C.; Greenville, S.C.; and Darlington, S.C.; and the plantsite of Celanese Corp. at or near Greer, S.C.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held in Washington, D.C. or Charlotte, N.C.

No. MC 124411 (Sub-No. 12), filed August 8, 1977. Applicant: SULLY TRANSPORT, INC., P.O. Box 185, Sully, Iowa 50251. Applicant's representative: James M. Hodge, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from the pipeline terminals of Gulf Central Pipeline Co., located at or near Spencer and Holstein, Iowa, and David City, Nebr., to points in Iowa, Minnesota, Nebraska, North Dakota, and South Dakota.

NOTE.—If a hearing is deemed necessary, applicant requests that the hearing be held at Omaha, Nebr., or Des Moines, Iowa.

No. MC 124735 (Sub-No. 19), filed August 4, 1977. Applicant: R. C. KERCHEVAL, JR., 2214 Fourth Avenue South, Seattle, Wash. 98134. Applicant's representative: George R. LaBissoniere, 1100 Norton Building, Seattle, Wash. 98104. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes transporting: *tires, tubes, wheels, and wheel attaching parts*, from points in Mississippi, Arkansas, Texas, Ohio, Alabama, Wisconsin, California, and Nevada, to points in Washington and Oregon under a continuing contract or contracts with Wesco Distributors, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Seattle, Wash.

No. MC 124735 (Sub-No. 20), filed August 4, 1977. Applicant: R. C. KERCHEVAL, JR., 2214 Fourth Avenue South, Seattle, Wash. 98134. Applicant's representative: George R. LaBissoniere, 1100 Norton Building, Seattle, Wash. 98104. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes transporting *foundry supplies and materials* (except commodities in bulk) 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. of Seattle, Washington.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Seattle, Wash.

No. MC 124947 (Sub-No. 66), filed August 9, 1977. Applicant: MACHINERY TRANSPORTS, INC., 116 Allied Road, Stroud, Okla. 74079. Applicant's representative: David J. Lister, 1945 South Redwood Road, Salt Lake City, Utah 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Buildings*, complete, knocked down, or in sections; (2) *building sections and building panels*; (3) *parts and accessories* used in the installation and completion of commodities in (1) and (2) above and (4) *metal prefabricated structural components and panels and accessories* used in the installation and completion thereof, from the plantsite of Marathon Metallic Building Co., at Fort Collins, Colo., to points in Iowa, Kansas, Minnesota, Missouri Nebraska North Dakota and South Dakota.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Salt Lake City, Utah, or Denver, Colo.

No. MC 125433 (Sub-No. 111), filed July 21, 1977. Applicant: F-B TRUCK LINE COMPANY, a Corporation, 1945 South Redwood Road, Salt Lake City, Utah 84104. Applicant's representative: David J. Lister, 1945 South Redwood Road, Salt Lake City, Utah 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *bentonite*, except in bulk, from (1) Lovell, Wyo., to points in California, Oklahoma, Texas, New

Mexico, Arizona, Minnesota, Oregon, and Washington; (2) from Malta, Mont. to points in the United States (except Alaska and Hawaii); (3) from Gascoyne, N. Dak., to points in Louisiana, Oklahoma, Texas, New Mexico, and California.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah, or Chicago, Ill. Common control may be involved.

No. MC 125433 (Sub-No. 113), filed August 8, 1977. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, Utah 84104. Applicant's representative: David J. Lister (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *fireplaces, dampers, air heaters, ventilators, stoves, broilers, grates, cookers, grills, and parts, accessories, and display material* for the above, and (2) *equipment, materials, and supplies* used in the manufacture of the above, (a) between the facilities of Whittier Steel & Manufacturing, Inc., located at or near Santa Fe Springs, Calif., on the one hand, and, on the other, points in the United States (excluding Alaska and Hawaii); and (b) between the facilities and shipping points of Whittier Steel & Manufacturing, Inc., located at or near Shelbyville, Ky. and Walled Lake, Mich., on the one hand, and, on the other, points in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either San Francisco, Calif., or Salt Lake City, Utah. Common control may be involved.

No. MC 126276 (Sub-No. 182), filed August 8, 1977. Applicant: FAST MOTOR SERVICE, INC., 9100 Plainfield Road, Brookfield, Ill. 60513. Applicant's representative: James C. Hardman, 33 N. LaSalle Street, Chicago, Ill. 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fibreboard containers and container ends*, from Ponca City, Okla., to Chicago, Ill., under a continuing contract or contracts with The Continental Group, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 127101 (Sub-No. 4), filed August 3, 1977. Applicant: JOHN C. RICHEY, P.O. Box 535, Iowa, La. 70647. Applicant's representative: Drew Ranier, 1130 Pithon Street, Lake Charles, La. 70601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sand and gravel*, in bulk, in dump vehicles, from points in Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Parishes, La., to points in Hardin, Jasper, Jefferson, Newton, Orange, Sabine and Tyler Counties, Tex., under a continuing contract or contracts with Trinity Concrete Products Co.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Lake Charles, La.

No. MC 127303 (Sub-No. 26), filed: August 5, 1977. Applicant: ZELLMER TRUCK LINES, INC., P.O. Box 996, Granville, Ill. 63126. Applicant's representative: E. Stephen Heasley, 805 McLachlen Bank Bldg., 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages, and related materials, equipment and supplies*, from Milwaukee, Wis., and Peoria, Ill., to Omaha, Neb., and Council Bluffs, Iowa. *Empty containers* on return.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill., or Washington, D.C.

No. MC 127550 (Sub-No. 5), filed August 1, 1977. Applicant: BOSCH TRUCKING COMPANY, INC., 5600 South Washington Street, Bartonville, Ill. 61607. Applicant's representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Furnace pipe, elbows, duct work, register boots, register boxes, wall stack, gutters and rain carrying accessories, and materials, equipment and supplies* used in the manufacture and distribution of the aforementioned commodities, between the facilities of Champion Furnace Pipe Co., located at Peoria, Ill., on the one hand, and, on the other, points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, West Virginia, and Wisconsin, under a continuing contract or contracts with Champion Furnace Pipe Co.

NOTE.—If a hearing is deemed necessary the applicant requests that it be held at Chicago, Ill.

No. MC 128007 (Sub-No. 104), filed July 28, 1977. Applicant: HOFER, INC., P.O. Box 583, Pittsburg, Kans. 66762. Applicant's representative: Larry E. Gregg, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Smectitevermiculite*, from the facilities of Micro-Lite, Inc., located at or near Buffalo and Chanute, Kans., to points in Delaware, Maryland, and New Jersey.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo.

No. MC 128007 (Sub-No. 106), filed August 8, 1977. Applicant: HOFER, INC., P.O. Box 583, Pittsburg, Kans. 66762. Applicant's representative: Larry E. Gregg, 641 Harrison Street, Topeka, Kans., 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared animal, fish and poultry feed, dry (except in bulk)*, from the plantsite or storage facilities of Doane Products Co., in Jasper County, Mo., to points in Colorado, those points in Kansas on and west of U.S. Highway 81, and points in New Mexico, Oklahoma, and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 128205 (Sub-No. 33), filed August 8, 1977. Applicant: BULKMATIC TRANSPORT COMPANY, a corporation, 12000 S. Doty Avenue, Chicago, Ill. 60628. Applicant's representative: Arnold L. Burke, 180 N. LaSalle Street, Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in bulk, from Manistee and St. Louis, Mich. to points in Ohio and Kentucky.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 128205 (Sub-No. 34), filed August 8, 1977. Applicant: BULKMATIC TRANSPORT COMPANY, a corporation, 12000 S. Doty Avenue, Chicago, Ill. 60628. Applicant's representative: Arnold L. Burke, 180 N. LaSalle Street, Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour*, in bulk, from Toledo, Ohio, to Buffalo, N.Y., Pittsburgh and Philadelphia, Pa., Fair Lawn, N.J., Richmond, Va., and Atlanta, Ga.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 129455 (Sub-No. 22), filed August 8, 1977. Applicant: CARRETTA TRUCKING, INC., S 160, Route 17 North, Paramus, N.J. 07652. Applicant's representative: Charles J. Williams, 1815 Front Street, Scotch Plains, N.J. 07076. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Drugs, medicines, and toilet preparations* (except in bulk) from the facilities of Bristol-Meyers Products at Hillside, N.J., Franklin, Ky., and St. Louis, Mo., to points in Arizona, California, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Michigan, Ohio, Oregon, Tennessee, Texas, and Utah, and (2) materials, supplies and equipment used in the manufacture of the commodities named in (1) above, (except commodities in bulk) (a) from points in New Jersey to St. Louis, Mo., and Franklin, Ky., (b) from points in Missouri to Hillside, N.J., and Franklin, Ky., and (c) from points in Indiana, Iowa, Michigan, New York, North Carolina, Pennsylvania and Tennessee to St. Louis, Mo., Hillside, N.J., and Franklin, Ky., under a continuing contract or contracts with Bristol-Meyers Products located at Hillside, N.J.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Newark, N.J., or New York, N.Y.

No. MC 133565 (Sub-No. 11), filed August 2, 1977. Applicant: True Transport, Inc., 293 Wilson Avenue, Newark, N.J. 07101. Applicant's representative: Charles J. Williams, 1815 Front Street, Scotch Plains, N.J. 07076. Authority sought to operate as a *common carrier*,

by motor vehicle, over irregular routes, transporting: (1) *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), in containers or in trailers, having a prior to subsequent movement by water, between points in the New York, N.Y., commercial zone, on the one hand, and, on the other, points in that part of New York west and north of a line beginning at the New York-Pennsylvania State line at or near Lawrenceville, Pa., and extending along U.S. Highway 15 to Corning, N.Y., thence along New York Highway 17 to Horseheads, N.Y., thence along New York Highway 13 to Cortland, N.Y., thence along U.S. Highway 11 to Syracuse, N.Y., thence along U.S. Highway 5 to Schenectady, N.Y., thence along New York Highway 50 to Saratoga Springs, N.Y., thence along U.S. Highway 9, via Glens Falls, N.Y., to junction New York Highway 149, thence along U.S. Highway 4, at or near Fort Ann, N.Y., thence along U.S. Highway 4 to the New York-Vermont State line at or near Fair Haven, Vt., (2) *canned tuna fish and canned pet food*, in containers or in trailers, having a prior or subsequent movement by water, from the New York, N.Y., commercial zone to Cleveland and Postoria, Ohio, and (3) *empty containers, trailers, and trailer chassis* between points in Ohio, New Jersey and New York.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y., or Buffalo, N.Y.

No. MC 133566 (Sub-No. 90), filed August 4, 1977. Applicant: GANGLOFF & DOWNHAM TRUCKING COMPANY, INC., P.O. Box 479, Logansport, Ind. 46947. Applicant's representative: Charles W. Beinhauer, Suite 4959, One World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles* distributed by meat packinghouses, in vehicles equipped with mechanical refrigeration (except commodities in bulk), from the plantsite and storage facilities of Marhoefer Packing Co., Inc., located at or near Muncie, Ind., to points in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, Vermont, Virginia. Restricted to traffic originating at the above named plantsite and destined to points in the named destination States.

NOTE.—If a hearing is deemed necessary applicant requests it be held at Columbus, Ohio, or Washington, D.C.

No. MC 133590 (Sub-No. 11), filed August 8, 1977. Applicant: WESTERN CARRIERS, INC., 288 Franklin Street, Worcester, Mass. 01604. Applicant's representative: David M. Marshall, 101 State Street, Suite 304, Springfield, Mass. 01103. Authority sought to operate as a

contract carrier, by motor vehicles, over irregular routes, transporting: *Ski bindings, skiing apparel, and equipment, and materials and supplies*, used in the manufacture and sale of such commodities (except in bulk, in tank vehicles), between Peabody, Boston, and Worcester, Mass.; New York, N.Y.; Houston, Tex.; San Francisco, Calif.; and ports of entry on the International Boundary Line between the United States and Canada, located in Vermont and New York, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii) under a continuing contract or contracts with Salomon North America, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Boston, Mass.; New York, N.Y.; or Washington, D.C.

No. MC 133841 (Sub-No. 3) (correction), filed May 10, 1977, published in the FEDERAL REGISTER issues of June 16, 1977, and August 4, 1977, and republished as corrected this issue. Applicant: DAN BARCLAY, INC., 362 Main St., Lincoln Park, N.J. 07035. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nuclear devices, machinery, engines, environmental and solar equipment and materials, equipment and supplies* used in the manufacture or sale of the foregoing commodities (except commodities in bulk), between the facilities of Curtiss Wright Corp., located at or near Woodridge, N.J., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—The purpose of this republication is to correct applicant's base origin point. If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y., or Washington, D.C.

No. MC 134405 (Sub-No. 38), filed August 5, 1977. Applicant: BACON TRANSPORT COMPANY (a corporation), P.O. Box 1134, Ardmore, Okla. 73401. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Building, 3535 Northwest 58th Street, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *170 and 230 Asphalt*, from the facilities of Mobil Oil Corp., at or near Augusta, Kans., to points in McCurtain County, Okla.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla., or Dallas, Tex.

No. MC 134405 (Sub-No. 39), filed August 8, 1977. Applicant: BACON TRANSPORT COMPANY (a corporation), P.O. Box 1134, Ardmore, Okla. 73401. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Building, 3535 Northwest 58th Street, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Fuel oil*, in bulk, in tank vehicles from Arkansas City, Kans. to Muskogee, Okla.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Dallas, Tex.

No. MC 134477 (Sub-186), filed August 1, 1977. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, Minn. 55118. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a common carrier by motor vehicle, over irregular routes, transporting: *Printed matter and materials, equipment and supplies* used in the manufacture, sale and distribution of printed matter (except commodities in bulk), (1) from Taunton, Massachusetts, to points in California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Texas, Washington, and Wisconsin, (2) from Versailles and Lexington, Ky. and Hammond and Indianapolis, Ind., to points in California, Colorado, Connecticut, Delaware, Idaho, Illinois, Iowa, Kansas, Maryland, Massachusetts, Minnesota, Missouri, Nebraska, New Jersey, New York, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Texas, Washington, and Wisconsin, (3) from Ossining, N.Y., to Skokie, Ill., and Nashville, Tenn.; and (4) from Nashville, Tenn., to Skokie, Ill.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Minneapolis, Minn., or Chicago, Ill.

No. MC 134922 (Sub-No. 232), filed August 2, 1977. Applicant: B. J. MCADAMS, INC., Route 6, Box 15, North Little Rock, Ark. 72118. Applicant's representative: Bob McAdams (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Plastics and plastic materials* (except in bulk) from Mt. Vernon, Ind., to points in New Mexico, Arizona, Nevada, Utah, Idaho, California, Oregon, and Washington.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the Applicant requests it be held at Little Rock, Ark. or Evansville, Ind.

No. MC 135284 (Sub-No. 6) (correction), filed June 29, 1977, and published in the FEDERAL REGISTER issue of August 18, 1977, and republished, as corrected, this issue. Applicant: FLEETWOOD TRANSPORTATION CORP., 1030 Reeves Street, Dunmore, Pa. 18512. Applicant's representative: Michael R. Werner, P.O. Box 1409, 167 Fairfield Road, Fairfield, N.J. 07006. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, between points in Franklin County, Ohio, on the one hand, and, on the other points in Indiana, Kentucky, Pennsylvania, and West Virginia, under a continuing contract or contracts with The Nestle Co., Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York,

N.Y. Common control may be involved. The purpose of this republication is to add Kentucky as a destination point which was inadvertently omitted in the previous publication. Also, applicant's representative has a change of address.

No. MC 135325 (Sub-No. 4), filed August 8, 1977. Applicant: WEMCO, INC., 10111 Mercler, Dearborn, Mich. 48120. Applicant's representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, Mich. 48226. Authority sought to engage in operations as a common carrier by motor vehicle, over irregular routes, transporting: *Seacool*, in bulk, in pneumatic vehicles, from Detroit, Mich., to points in Ohio and Indiana.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Detroit or Lansing, Mich., or Washington, D.C. Common control may be involved.

No. MC 136228 (Sub-No. 29), filed August 4, 1977. Applicant: LUISI TRUCK LINES, INC., P.O. Box H, Milton-Freewater, Oreg. 97862. Applicant's representative: Philip G. Skofstad, P.O. Box 594, Gresham, Oreg. 97030. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) (a) *Hanging beef carcasses*, and (b) *fresh and frozen meat*, in boxes, from Spokane, Washington to Portland, Clackamas, Eugene, Medford and Sublimity, Oreg.; and (2) *Canned Vegetables*, between Milton-Freewater, Oreg. and Walla Walla, Wash.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Portland, Oreg. Applicant holds contract carrier authority in MC 136531 (Sub-No. 2) and other subs, therefore dual operations may be involved.

No. MC 13615 (Sub-No. 21), filed August 5, 1977. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 22-A, Philadelphia, Miss. 39350. Applicant's representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a common carrier by motor vehicle, over irregular routes, transporting: *lumber, poles, piling, pallets, timbers, cross-ties and particleboard* between points in Alabama, Arkansas, Georgia, Louisiana, Mississippi, and Tennessee.

NOTE.—Applicant holds motor contract authority in No. MC 123905 (Sub-No. 1) and other subs, therefore, dual operations may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Jackson, Miss.

No. MC 136343 (Sub-No. 117), filed August 10, 1977. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, Pa. 17847. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Paper products, dispenser boxes, liquid soap and equipment, materials and supplies* used in the operation of paper mills (except commodities in bulk and commodities, the transportation of which, because of size and weight, require the use of special equipment), between the facilities of the

Georgia-Pacific Corp. at Gary, Ind., on the one hand, and, on the other, points in Pennsylvania, New York, New Jersey, Connecticut, Massachusetts, Rhode Island, Delaware, Maryland, Virginia, Ohio, Michigan, West Virginia, Kentucky, Wisconsin, Minnesota, and the District of Columbia; and (2) *printing paper and woodpulp* (except commodities in bulk and commodities, the transportation of which, because of size or weight, require the use of special equipment), from the facilities of the Georgia-Pacific Corp. at Woodland, Maine to Gilman, Vt., Plattsburgh, N.Y., Reading, Pa., and Lyons Falls, N.Y.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Boston, Mass., or Washington, D.C.

No. MC 136343 (Sub-No. 118), filed August 10, 1977. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, Pa. 17847. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Printing paper and equipment, materials, and supplies* used in the operation of paper mills (except commodities in bulk and commodities, the transportation of which, because of size and weight, require the use of special equipment), between the facilities of the Georgia-Pacific Corp. at Lyons Falls, N.Y., on the one hand, and, on the other, points in Pennsylvania, Maryland, Virginia, Ohio, Indiana, Michigan, Illinois, New Jersey, Connecticut, Massachusetts, Rhode Island, Maine, New Hampshire, Vermont, Delaware, Kentucky, West Virginia, and the District of Columbia; (2) *paper products and equipment, materials, and supplies* used in the operation of paper mills (except commodities in bulk and commodities, the transportation of which, because of size and weight, require the use of special equipment), between the facilities of the Georgia-Pacific Corp. at Plattsburgh, N.Y., on the one hand, and, on the other, points in Pennsylvania, New Jersey, New York, Maryland, Virginia, Ohio, Indiana, Michigan, Illinois, Kentucky, Connecticut, Massachusetts, Rhode Island, Maine, New Hampshire, Vermont, Delaware, and the District of Columbia; and (3) *printing paper and equipment, materials, and supplies* used in the operation of paper mills (except commodities in bulk and commodities, the transportation of which, because of size and weight, require the use of special equipment), between the facilities of the Georgia-Pacific Corp. at Gilman, Vt., on the one hand, and, on the other, points in New York, Pennsylvania, Maryland, Virginia, Ohio, Indiana, Illinois, Michigan, Kentucky, Delaware, Connecticut, Massachusetts, Rhode Island, Maine, New Hampshire, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Boston, Mass., or Washington, D.C.

No. MC 136464 (Sub-No. 31), filed August 3, 1977. Applicant: CAROLINA WESTERN EXPRESS, INC., Box 3961,

Gastonia, N.C. Applicant's representative: Eric Meierhoefer, Suite 712, 1511 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Zippers, thread, binding, braid, lace, tape, webbing, ribbon, and sewing aids*, and (2) *materials and supplies used in the manufacture and sale of the commodities in (1) above (except in bulk)* from points in Connecticut and New Jersey to Charlotte, N.C., and Bennettsville, S.C.; restricted to a transportation service to be performed under a continuing contract, or contracts, with Talon Division of Textron, Inc., located at Meadville, Pa.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C. Applicant holds common carrier authority in MC 138635 (Sub-No. 3) and other subs, therefore dual operations may be involved.

No. MC 136546 (Sub-No. 3), filed August 5, 1977. Applicant: PELTON BROS. TRANSPORT LTD., R.R. 3, Paris, Ontario, Canada. Applicant's representative: William J. Hirsch, Suite 1125, 43 Court Street, Buffalo, N.Y. 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rough or dressed lumber*, from ports of entry on the International Boundary line between the United States and Canada in Michigan and New York, to points in Michigan, Ohio, and Pennsylvania and returned shipments in the reverse direction. Restricted to traffic originating at the facilities of Normick-Perron Inc., J. H. Normick Inc., J. E. Therrien Inc., and Camille Richard, Inc., in the Province of Quebec, Canada.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y.

No. MC 136553 (Sub-No. 50), filed August 2, 1977. Applicant: ART PAPE TRANSFER, INC., 1080 East 12th Street, Dubuque, Iowa 52001. Applicant's representative: James M. Hodge, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Non-alcoholic beverages* (1) from Madison, Wis., and Minneapolis, Minn., to Dubuque and Decorah, Iowa, and (2) from Chicago, Ill., to Decorah, Iowa.

NOTE.—If a hearing is deemed necessary, applicant requests that the hearing be held at Chicago, Ill., or St. Paul, Minn.

No. MC 136837 (Sub-No. 3), filed August 2, 1977. Applicant: FLORIDA CONTINENTAL EXPRESS, INC., Route 1, Box 115-B, Urbana, Mo. 65767. Applicant's representative: Richard A. Kerwin, 180 North La Salle Street, Suite 3520, Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are used, dealt in, or distributed by retail and wholesale department, hardware, drug, and food stores and equipment, material, and supplies, used in the conduct of the businesses described above (except commodities in bulk)* from Ur-

bana, Ohio, and Franklin, Ky., to points in Arizona, California, Idaho, Montana, Nevada, Oregon, Utah, and Washington.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Chicago, Ill., or Washington, D.C. Common control may be involved.

No. MC 138469 (Sub-No. 46), filed August 4, 1977. Applicant: DONCO CARRIERS, INC., 641 North Meridian, P.O. Box 75354, Oklahoma City, Okla. 73107. Applicant's representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, Ill. 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Candy, confectionery, and candy and confectionery packaging materials and supplies, except in bulk*, from the facilities of or utilized by Bunte Candies, Inc. located at or near Oklahoma City and Edmond, Okla., to points in the United States (except Alaska, Hawaii, and Oklahoma); and (2) *candy, confectionery, and commodities used or useful in the production and marketing of candy and confectionery (except in bulk)*, from points in the United States (except Alaska, Hawaii, and Oklahoma), to the facilities of or utilized by Bunte Candies, Inc. located at or near Oklahoma City and Edmond, Okla., restricted in (1) above to the transportation of traffic originating at the named origins, and further restricted in (2) above to the transportation of traffic destined to the named destinations.

NOTE.—Applicant holds contract carrier authority in MC 138375 (Sub-No. 2) and subs thereunder, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at either Oklahoma City, Okla., or Dallas, Tex.

No. MC 138635 (Sub-No. 43), filed August 5, 1977. Applicant: CAROLINA WESTERN EXPRESS, INC., Box 3961, Gastonia, N.C. 28052. Applicant's representative: Eric Meierhoefer, Suite 712, 1511 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulators, electric wire or wiring, pottery or pottery and iron combined, and parts thereof* from Sandersville, Ga., to points in New Mexico, Arizona, California, Oregon, Washington, Nevada, Utah, Idaho, Montana, Wyoming, Minnesota, and Wisconsin.

NOTE.—Applicant holds contract carrier authority in No. MC 136464 (Sub-No. 2) and other subs, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Atlanta, Ga., or Washington, D.C.

No. MC 139206 (Sub-No. 1), filed August 8, 1977. Applicant: F.M.S. TRANSPORTATION, INC., Box 1597, 2564 Harley Drive, Maryland Heights, Mo. 64043. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought by applicant to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *Textiles and textile products, chemicals, and materials, equip-*

ment, and supplies used in the sale, manufacture, processing, production, and distribution of textiles and textile products and chemicals (except commodities in bulk), between New Orleans and Houma, La., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). Restriction: The authority granted herein is limited to a transportation service to be performed under a continuing contract or contracts with Chromalloy American Corp.

NOTE.—(1) Applicant states that it already holds contract carrier authority in No. MC 139206 to transport the identical commodities between Laredo, Brenham, Houston, and Arlington, Tex., Wellsville, Mo., and Johnson City, Tenn., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). Applicant states that it is a commonly-controlled contract carrier for and on behalf of Chromalloy American Corp. and that the purpose of this application is to extend its operations for its commonly-controlled contracting shipper. (2) Common control may be involved. If a hearing is deemed necessary it is requested at St. Louis, Mo.

No. MC 139294 (Sub-No. 3), filed August 3, 1977. Applicant: H. T. L., INC., P.O. Box 122, Fairfield, Ala. 35064. Applicant's representative: Robert E. Tate, P.O. Box 517, Evergreen, Ala. 36401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Treated materials and cross ties*, between points in Alabama, on the one hand, and, on the other, points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia.

NOTE.—If a hearing is deemed necessary the applicant requests it be held at either Birmingham, Ala., or Atlanta, Ga. Applicant holds contract carrier authority in MC 135867 (Sub-No. 1), therefore dual operations may be involved.

No. MC 139495 (Sub-No. 257), filed August 5, 1977. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, Suite 1030, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by discount and variety stores from the plantsite and storage facilities of McCrory Stores located at or near York, Pa., to Oregon and Washington.*

NOTE.—Applicant states dual operations is no longer an issue because its contract carrier authority has been converted to common carrier authority by order of the Commission. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 140024 (Sub-No. 73), filed August 2, 1977. Applicant: J. B. MONTGOMERY, INC., 5585 East 52nd Avenue, Commerce City, Colo. 80022. Applicant's representative: John F. De Cock (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs*, (2) *pharmaceutical materials, supplies, and products,*

(3) *chemicals*, (4) *alcoholic beverages*, (5) *tobacco products*, (6) *pet foods*, (7) *such commodities as are dealt in by distribution or consolidation warehouses for the commodities described in (1) through (6) above*, and (8) *exempt commodities when moving with regulated commodities*, (a) from Denver, Colo., to points in the United States in and west of Arkansas, Iowa, Louisiana, Minnesota, and Missouri; and (b) from points in the United States in and west of Arkansas, Iowa, Louisiana, Minnesota, and Missouri, to Denver, Colo., restricted in (1) through (7) above against the transportation of commodities in bulk.

NOTE.—Common control may be involved. Applicant states that it intends to take the requested authority in (a) and (b) above at Denver, Colo. If a hearing is deemed necessary applicant requests it be held in a consolidated hearing with similar applications at Denver, Colo.

No. MC 140212 (Sub-No. 2), filed August 4, 1977. Applicant: CRANE RENTAL CO., INC., 205 Main Street, Tewksbury, Mass. 01876. Applicant's representative: James F. Martin, Jr., 69 Milliken Avenue, Franklin, Mass. 02038. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes transporting: *Scrap metals*, from Madbury, N.H., and Tewksbury, Mass., to Providence, R.I., under continuing contracts with Madbury Metals, Inc. and Tewksbury Auto Parts.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Boston, Mass.

No. MC 141511 (Sub-No. 6) (Correction) filed June 23, 1977, published in the FEDERAL REGISTER issue of August 11, 1977, and republished, as corrected, this issue. Applicant: ROBERT W. RETTIG, doing business as PROTEIN EXPRESS, Route 3, Hartford, Wis. 53207. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electrical equipment and appliances and materials, equipment, and supplies used in the manufacture, installation, and sale thereof, from the facilities of Broan Manufacturing Co., Inc., located at or near Hartford, Wis., to Montebello, Calif.; Salt Lake City, Utah; Pasco, Wash.; Kansas City, Mo.; and Denver, Colo.; and (2) microfilm machines and equipment, materials, and supplies used in the sale of the foregoing, from the facilities of Micro Design, Division of Bell & Howell, Inc., located at or near Hartford, Wis., to points in Arizona, California, Nevada, Oregon, Utah, and Washington, restricted in (1) and (2) above to the transportation of shipments originating at the named origin and destined to the named destinations.*

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis., or Chicago, Ill. The purpose of this republication is to add the requested authority in (2) above, which was inadvertently omitted in the previous publication.

No. MC 141804 (Sub-No. 71), filed August 5, 1977. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 422, Goodlettsville, Tenn. 37072. Applicant's representative: Charles R. Parker (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foam, cellular, expanded or sponge and equipment, parts, and supplies used in the manufacture there (except commodities in bulk) from Lawrence, Mass.; Eddystone and Hazleton, Pa.; Lyndhurst, Paramus, East Rutherford, Middlesex, and Piscataway, N.J.; Coldwater and Midland, Mich.; Fort Wayne, Ind.; Newark, Del.; and Ironton, Ohio, to Torrence and Carson, Calif., restricted to the transportation of commodities originating at or destined to the plantsite or storage facilities utilized by Wilshire Foam Products, Inc.*

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Los Angeles, Calif., or Nashville, Tenn.

No. MC 141914 (Sub-No. 16), filed August 8, 1977. Applicant: FRANK & SON, INC., Route 1, Box 108A, Big Cabin, Okla. 74332. Applicant's representative: Gary Brasel, Mezzanine Floor, Beacon Building, Tulsa, Okla. 74103. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes transporting: *Residential heating and cooling units, their components, accessories, and equipment used in the manufacturing thereof, from plant site of Rheem Manufacturing Co. at Milledgeville, Ga., to points in the United States in and east of Wisconsin, Illinois, Kentucky, Tennessee, and Mississippi.*

NOTE.—If a hearing is deemed necessary the applicant requests it be held at Little Rock, Ark.

No. MC 141924 (Sub-No. 3), filed August 8, 1977. Applicant: GOLDEN VALLEY TRANSPORTATION, INC., P.O. Box 208, Roberts, Idaho 83444. Applicant's representative: Mark K. Boyle, 345 S. State Street, Salt Lake City, Utah 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, in the transportation of *meats, meat products, meat by-products, and articles distributed by meat packinghouses, from the facilities of Golden Valley Packers located at or near Roberts, Idaho, to Chicago, Ill.; North Baltimore, Ohio; Folcroft, Pa.; Omaha, Nebraska; Butler, Wis.; Memphis, Tenn.; and Ogden, Utah, and points in their respective commercial zones, under a continuing contract or contracts with Golden Valley Packers, Inc.*

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Idaho Falls, Idaho, or Salt Lake City, Utah.

No. MC 142268 (Sub-No. 18), filed August 1, 1977. Applicant: GORSKI BULK TRANSPORT, INC., R.R. 4, Harrow, Ontario, Canada NOR1G0. Applicant's representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores,

Mich. 48080. Authority sought to engage in operations in interstate or foreign commerce as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *liquid corn syrup, in bulk, in tank vehicles, from Chicago, Ill., to ports of entry on the International boundary line between the United States and Canada, located at points in Michigan and New York, for furtherance to points in Ontario and Quebec, Canada.*

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 142783 (Sub-No. 1), filed August 4, 1977. Applicant: BIRD MOTOR LINES, INC., 4301 B. Pleasantdale Road, Doraville, Ga. 30340. Applicant's representative: Charles E. Creager, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs, food-treating compounds, spices, extracts, additives, candies, cards, and advertising paraphernalia, and materials, equipment, and supplies used in the packaging, sale, and distribution of the foregoing commodities, in vehicles equipped with mechanical distribution; and (2) Commodities, the transportation of which is exempt or partially exempt from regulation under the provisions of Section 203b(6) of the Interstate Commerce Act, in mixed loads with the commodities described in (1) above, between Atlanta, Ga., on the one hand, and, on the other, Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, under a continuing contract, or contracts, with Nationwide Fund Raisers, Inc.*

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Atlanta, Ga.

No. MC 143035 (Sub-No. 1), filed August 2, 1977. Applicant: GUNDY H. ROBERTS AND MARY T. ROBERTS, d.b.a. GUNDY'S TRANSFER & STORAGE, 301 Gundy's Lane, Enterprise, Ala. 36330. Applicant's representative: Alan F. Wohlstetter, 1700 K Street, NW, Washington, D. C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods, between points in Barbour, Coffee, Covington, Dale, Henry, Houston, Geneva, and Pike Counties, Ala., restricted to the transportation of traffic having a prior or subsequent movement in containers, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating and decontainerization of such traffic.*

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Enterprise, Ala.

No. MC 143210 (Sub-No. 2), filed August 5, 1977. Applicant: W. C. HALL, Callao, Va. 22435. Applicant's representative: Calvin F. Major, 200 West Grace Street, Suite 415, Richmond, Va. 23220. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: agricultural limestone in bulk, from Texas, Maryland, to Village and Heathsville, Va.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held in Callao, Va., or Richmond, Va.

No. MC 143243 (Sub-No. 1), filed August 9, 1977. Applicant: CECIL LINTON, d.b.a. LINTON TRUCKING, 114 Ewing Street, Seymour, Ind. 47274. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting plastic beehives from Seymour and Columbus, Indiana to points in the United States, (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Indianapolis, Ind.

No. MC 143275 (Sub-No. 1) (Correction), filed June 16, 1977, published in the FEDERAL REGISTER issue of August 4, 1977, and republished, as corrected, this issue. Applicant: HILTON K. RAWLINS, P.O. Box 84, McRae, Ga. 31055. Applicant's representative: Wm. Addams, Suite 212-5299 Roswell Road NE., Atlanta, Ga. 30342. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) lawn mower sub-assemblies and lawn mower parts, between McRae and Swainsboro, Ga.; Orangeburg, S.C.; Williamsburg, Ky., and Bradley, Ill., (2) material and supplies (except commodities in bulk) used in the manufacture of lawn mowers from points in South Carolina, Ohio, Alabama, and Indiana; Sardis, Miss.; Livingston, Tenn., and Jacksonville, Fla., to McRae, and Swainsboro, Ga.; Orangeburg, S.C.; Williamsburg, Ky. and Bradley, Ill., under a continuing contract or contracts with Roper Lawn Products of Savannah, Ga.

NOTE.—The purpose of this correction is to indicate the correct commodity and territory description in part (2). If a hearing is deemed necessary, applicant requests that it be held at Atlanta, Ga.

No. MC 143276 (Sub-No. 3), filed August 5, 1977. Applicant: WEAVER TRANSPORTATION COMPANY, a corporation, 5452 Oakdale Road, Smyrna, Ga. 30080. Applicant's representative: James L. Brazee, Jr., 2310 Parklake Drive NE., Suite 190, Atlanta, Ga. 30345. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: roofing asphalt in barrels, drums and/or packages, in flat bed trailers with removable sides, from the plant site of Young Refining Corp., located at Huey Road, Douglasville, Douglas County, Ga., to points in North Carolina, South Carolina, Tennessee, and Alabama.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Atlanta, Ga. Applicant holds contract carrier authority in No. MC 135687 (Sub-No. 1) and other subs thereunder, therefore, dual operations may be involved.

No. MC 143317 (Sub-No. 2), filed August 8, 1977. Applicant: GEORGE CLARK TRANSIT CO., (a corporation), 2902 Calumet Avenue, Manitowoc, Wis. 54220. Applicant's representative: John L. Bruemmer, 121 W. Doty Street, Madison, Wis. 53703. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Silica sand*, in bulk, from points in Green Lake County, Wis., to Minneapolis and St. Paul, Minn., under a continuing contract, or contracts with C. A. Chier Sand Co.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Madison, Wis. or Chicago, Ill.

No. MC 143323 (Sub-No. 1), filed August 5, 1977. Applicant: C. P. YARBROUGH et al. d.b.a., Y & Z TRUCKING, Route 2, Westville, Fla. 32464. Applicant's representative: Kevin V. Canipelli, 1729 Gulf Life Tower, Jacksonville, Florida 32207. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber* (except plywood and veneer) from points in Bay County, Florida to points in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee under a continuing contract or contracts with H. C. Hodges Lumber Company of West Bay, Inc.

NOTE.—If a hearing is deemed necessary applicant requests it be held at either Tallahassee or Jacksonville, Florida.

No. MC 143398 (Sub-No. 1), filed August 4, 1977. Applicant: C. C. ROBERTS CONCRETE CONSTRUCTION CO., INC., 3725 Gibbon Road, Charlotte, N.C. 28213. Applicant's representative: Ralph McDonald, Post Office Box 2246, Raleigh, N.C. 27602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *dry animal and poultry feed ingredients*, in bulk, in dump vehicles: from Cumberland and Gaston counties, N.C., to Lexington, Orangeburg, Richland, and Sumter counties, S.C.

NOTE.—If a hearing is deemed necessary, Applicant requests that it be held at Charlotte, N.C., or Raleigh, N.C.

No. MC 143494 (Sub-No. 1), filed August 2, 1977. Applicant: MIKE FALCONE, JR. & SONS, INC., 9504 Ocala Street, Silver Spring, Md. 20901. Applicant's representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: Carpet, carpet padding, floor tile and materials, equipment and supplies used in the installation thereof, between the warehouse facilities of Shields Associates, Inc. located at Beltsville, Md. and points in Delaware, Georgia, Maryland, New Jersey, New York, North Carolina, Penn-

sylvania, South Carolina, Virginia, West Virginia, and the District of Columbia, as a non-radial movement, under a continuing contract or contracts with Shields Associates, Inc.

NOTE.—Applicant holds common carrier authority in No. MC-117762, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

MC 143531 (Sub No. 1), filed August 8, 1977. Applicant: POWDER RIVER MOTOR TRANSPORT CORP., 394 East 900 South, Provo, Utah 84601. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Applicant seeks authority to operate as a *contract carrier* by motor vehicle over irregular routes, transporting: (1) Livestock handling equipment, from the plantsite of Commercial Welding Co. located at or near Provo, Utah, to points in the United States (excluding Alaska and Hawaii); (2) materials and supplies used in the manufacturing of livestock handling equipment, from points in the United States (except Alaska and Hawaii), to the plantsite of Commercial Welding located at or near Provo, Utah; (3) Mineral feeders, from Hillsboro, Kans., to the plantsite of Commercial Welding Co. located at or near Provo, Utah; (4) cattle waterers from Hoskins, Nebr., to the plantsite of Commercial Welding Co., located at or near Provo, Utah; and (5) Livestock handling equipment, from the plantsite of Commercial Welding Co. located at or near Baker, Oreg., to the plant site of Commercial Welding located at or near Provo, Utah; (5) materials and supplies used in the manufacture of livestock handling equipment, from the plantsite of Commercial Welding Co. located at or near Provo, Utah, to the plant site of Commercial Welding Co. located at or near Baker, Oregon, under a continuing contract or contracts with Commercial Welding Co.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Salt Lake City, Utah.

No. MC 143552, filed August 2, 1977. Applicant: CLEWEND ASSOCIATES, INC., 1 Whitfield St., Caldwell, N.J. 07006. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, N.J. 07934. Authority sought to operate as a *contract carrier*, over irregular routes transporting: *Paper products*, (1) from Beacon, N.Y., and Marseilles, Ill., to Buena Park and Oakland, Calif.; Denver, Colo.; Atlanta, Ga.; Fair Lawn, N.J.; St. Louis, Mo.; Dayton, Ohio; Portland, Oreg.; Philadelphia and Pittsburgh, Pa.; Houston, Tex.; and Richmond, Va.; (2) from Beacon, N.Y., to Chicago and Naperville, Ill.; and (3) from Marseilles, Ill., to Buffalo and Niagara Falls, N.Y., under contract or contracts with Nabisco, Inc., at East Hanover, N.J.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 143558, filed August 4, 1977. Applicant: CARDINAL TRANSPORTATION CO., INC., 415 Fifth Avenue, South, Nashville, Tenn. 37210. Applicant's rep-

representative: A. O. Buck, 618 United American Bank Building, Nashville, Tenn. 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: General commodities (except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Nashville, Tenn., and Utica, Ky.; from Nashville, over U.S. Highway 41 to junction U.S. Highway 431, thence over U.S. Highway 431 to Utica and return over the same route, serving all intermediate points north of the Russellville, Ky. commercial zone; (2) between Central City, Ky., and Beaver Dam, Ky.; from Central City over U.S. Highway 62 to Beaver Dam, and return over the same route, serving all intermediate points; (3) between South Carrollton, Ky., and Guffie, Ky.; from South Carrollton over Kentucky Highway 81 to its junction with Kentucky Highway 815, thence over Kentucky Highway 815 to Guffie, and return over the same route, serving all intermediate points; (4) between Guffie, Ky., and Utica, Ky.; from Guffie over Kentucky Highway 140 to Utica, and return over the same route, serving all intermediate points; (5) between Calhoun, Ky., and junction of Kentucky Highway 136 and U.S. Highway 431; from Calhoun over Kentucky Highway 136 to junction U.S. Highway 431, and return over the same route, serving all intermediate points. Serving all points in Muhlenburg, Ohio and McLean Counties, Kentucky, as off-route points in connection with the regular route operations described above. If a hearing is deemed necessary applicant requests that it be held at Nashville, Tenn. and Central City, Ky.

No. MC 14362, filed August 5, 1977. Applicant: Donald R. Ford, d.b.a. SERVICE TRANSPORT, P.O. Box 37, 204 Poplar Street, Burbank, Washington 99323. Applicant's representative: Boyd Hartman, attorney at law, Suite 210, Seattle Trust Building, 10655 N.E. Fourth St., P.O. Box 3641, Bellevue, Washington 98004. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting meats, meat products and meat by-products and articles distributed by meat packing-houses as described in Section A and C of Appendix I to the Report in Description in Motor Carrier Certificates, 61, M.C.C. 209 and 766. From the plant sites and/or storage facilities utilized by Columbia Foods, Inc., in Walla Walla County, Washington, to points in California, Idaho, Montana, Oregon and Washington, under a continuing contract, or contracts, with Columbia Foods, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Spokane, Wash., or Portland, Oreg.

No. MC 143566, filed August 8, 1977. Applicant: DYSART TRUCKING, INCORPORATED, 1005 Estelle Street, Dysart, Iowa 52224. Applicant's representative: Steven C. Schoenebaum, 1200 Reg-ler and Tribune Bldg., Des Moines,

Iowa 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *fabricated metal construction products or articles* (except commodities in bulk or in tank vehicles) between the facilities of Custom Metal Fabricators, Inc., at or near Dysart, Iowa, on the one hand, and, on the other, points in Nebraska, Missouri, Minnesota, Illinois, Wisconsin, and South Dakota; and *steel, iron, and aluminum materials and articles* (except commodities in bulk or in tank vehicles) used in the manufacture and distribution of fabricated metal construction products or articles between Chicago, Illinois; Sterling, Illinois; Norfolk, Nebraska; St. Louis, Missouri; Kansas City, Missouri; Gary, Indiana; East Chicago, Indiana; and Minneapolis, Minnesota, on the one hand, and, on the other, the facilities of Custom Metal Fabricators, Inc., at or near Dysart, Iowa, limited to a transportation service to be performed under a continuing contract, or contracts, with Custom Metal Fabricators, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Des Moines, Iowa; Chicago, Illinois; or St. Paul/Minneapolis, Minnesota.

No. MC 143567, filed August 8, 1977. Applicant: MIDEAST EXPRESS, INC., Suite 504, First National Bank Bldg., Johnstown, Pa. 15901. Applicant's representative: James W. Patterson, 1200 Western Savings Bank Building, Philadelphia, Pa. 19107. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and by-products, articles distributed by and commodities used by meat packing houses*, (except commodities in bulk, hides, animal feed and animal feed ingredients), in vehicles equipped with mechanical refrigeration. Between Lancaster County, Nebraska, on the one hand, and, on the other, points in Delaware, Maryland, New Jersey, New York, Pennsylvania, Virginia, West Virginia and the District of Columbia. Restricted to traffic originating at or destined to the facilities of Acme Markets, Inc. or its subsidiary, American Stores Packing Company, under continuing contract or contracts with Acme Markets, Inc. or American Stores Packing Company.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Philadelphia, Pa. or Washington, D.C.

No. MC 143570, filed August 8, 1977. Applicant: D & G TRUCKING INC. 4420 Overland, Meridian, Idaho 83642. Applicant's representative: David E. Wishney, P.O. Box 239, Boise, Idaho 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and aluminum, and paper and aluminum products*, for recycling and reuse, from points in Idaho south of the southern boundary of Idaho County, to points in California, Oregon and Washington.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held in Boise, Idaho.

No. MC 143572, filed August 5, 1977. Applicant: DAVENPORT TRANSFER CO., INC., 1150 10th Ave., Columbus, Ga. 31902. Applicant's representative: Henry C. Winters, 15 South Grady Way, Suite 235, Renton, Wash. 98055. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, of *used household goods*, restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized, and further restricted to the performance of picking and delivery service in connection with the packing, crating and containerization or unpacking, uncrating and decontainerization of such traffic, between points in Muscogee, Chattahoochee, Harris, Troup, Meriwether, Marion, Talbot, Stewart, Webster, and Quitman Counties, Georgia, and Lee, Russell, Chambers, Barbour and Macon Counties, Alabama.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Columbus or Atlanta, Ga.

No. MC 143573, filed August 8, 1977. Applicant: Thomas S. Rahberg, d.b.a. RAHBERG TRUCKING, Rural Route No. 2, Clinton, Wis. 53525. Applicant's representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, Wis. 53705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materialite*, in bulk, in dump vehicles, from Ottawa, Illinois to points in Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill. or Madison, Wis.

PASSENGERS

No. MC 1255 (Sub-No. 12), filed August 5, 1977. Applicant: McGinn Bus Company, Inc., 31 Milk St., Boston, Mass. 02109. Applicant's representative: Jeremy Kahn, Suite 733, Investment Bldg., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Passengers and their baggage*, in the same vehicle with passengers, in special operations, between Boston, Revere, Saugus, Lynn, Salem, and Danvers, Massachusetts, on the one hand, and, on the other, Atlantic City, New Jersey.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Boston, Mass.

No. MC 66505 (Sub-No. 5), (Correction), filed July 5, 1977, published in the FEDERAL REGISTER issue of August 18, 1977, and republished as corrected, this issue. Applicant: PEERLESS STAGES, INC., 2040 Castro St., Oakland, Calif. Applicant's representative: Irwin J. Borof, attorney at law, 111 Broadway, Oakland, Calif. 94607. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *passengers and their baggage*, in the same vehicle with passengers, in special or charter operations, in special or charter parties, in round-

trip, sightseeing, or pleasure tours, beginning and ending at points in the counties of Alameda, Santa Clara, and Santa Cruz, California, and extending to points in and within the United States, including Alaska, but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Oakland or San Francisco, Calif. The purpose of this correction is to correct the territorial description.

No. MC 126667 (Sub-No. 3), filed August 5, 1977. Applicant: BRUSH HILL TRANSPORTATION COMPANY, 31 Milk St., Boston, Mass. 02109. Applicant's representative: Jeremy Kahn, Suite 733, Investment Building, Washington, D.C. 20005. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Passengers and their baggage*, in the same vehicle with passengers, in special operations, between Boston, Quincy, Milford, Brockton, and Plymouth, Massachusetts, on the one hand, and, on the other, Atlantic City, New Jersey.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Boston, Mass.

No. MC 143178 (Sub-No. 1), filed July 6, 1977. Applicant: GOLDEN STATE COACHES, INC., P.O. Drawer "G", Chico, Calif. 95927. Applicant's representative: Mike Soumbeniotis, P.O. Box 646, Carson City, Nev. 89701. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in special and charter operations, from points in Butte, Lassen, Plumas and Tehama Counties, Calif., within an area bounded on the north and west by Dales, Calif., on the south by Paradise, Calif., and on the east by Westwood, Calif., to points in the United States, including Alaska, but excluding Hawaii, and return, restricted against service provided from points on U.S. Highway 99.

NOTE.—If a hearing is determined necessary, the Applicant requests that it be held at either Sacramento or San Francisco, Calif.

No. MC 143450 (Sub-No. 1), filed July 19, 1977. Applicant: AMBASSADOR COACH LINES, INC., Box 1129, Claremore, Okla. 74017. Applicant's representative: Michael R. Vanderburg, 5416 South Yale, Suite 402, Tulsa, Okla. 74135. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *Passengers, baggage, and express* in the same vehicle with passengers, in charter operations, between Moran, Kans. and Tulsa, Okla., serving Parsons, Independence, and Coffeyville, Kans. as intermediate points: From Moran, Kans. over U.S. Highway 59 to Parsons, Kans. thence over U.S. Highway 160 (also portion U.S. Highway 169) to Independence, Kans., thence over an unnumbered State Highway to the junction with U.S. Highway 166, thence over U.S. Highway 166 to Coffeyville, Kans., thence over U.S. Highway 169 to Tulsa, Okla., and return over the same route.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Parsons, Coffeyville, Independence, Kans., or Tulsa, Okla.

FREIGHT FORWARDER

No. FF 500, filed August 5, 1977. Applicant: SURF-AIR, INC., P.O. Box 6542, Atlanta, Ga. 30315. Applicant's representative: Robert C. Dryden, P.O. Box 6944, Atlanta, Ga. 30315. Authority sought to engage in operation, in interstate commerce, as a *freight forwarder*, through use of the facility of *common carriers* by rail, motor, water and express, in the transportation of General Commodities (except Classes A and B explosives, household goods as defined by the Commission, commodities which because of size or weight require use of special equipment, motor vehicles and unaccompanied baggage), between points in the United States, including Alaska and Hawaii, restricted to the transportation of shipments having an immediately prior or subsequent movement in the air forwarder service of Surf-Air, Inc.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held in Atlanta, Ga. or Washington, D.C.

WATER

No. W-16 (Sub-No. 11), filed August 8, 1977. Applicant: S. C. LOVELAND CO., INC., 320 Walnut St., Philadelphia, Pa. 19106. Applicant's representative: Donald MacLeay, 1625 K Street, NW., Washington, D.C. 20006. Authority sought to operate as a common carrier by water; by self-propelled vessels, in the transportation of articles exceeding 19 feet in height, or 12 feet in width, or 90 feet in length, or 100 net tons in weight, component parts thereof and related equipment: (a) Between Key West and Tampa, Florida, and New Orleans, Louisiana, on the one hand, and, on the other, ports and points along the Pacific coast and tributary waterways in California, Oregon and Washington. (b) Between ports and points on waterways tributary to the Gulf of Mexico, on the one hand, and, on the other, Key West and Tampa, Fla., and New Orleans, La. (restricted to traffic originating or destined to ports and points along the Atlantic or Pacific coasts).

NOTE.—The intention is to enlarge applicant's self-propelled vessel authority, and tack to applicant's present self-propelled vessel authority, in order to permit use of that type of equipment for transportation of the described commodities over routes and between ports and points co-extensive with applicant's present authority to provide such service by non-self-propelled vessels with the use of separate towing vessels. If a hearing is deemed necessary applicant requests that it be held at Washington, D.C.

FINANCE APPLICATIONS

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, or rail carriers or motor carriers

pursuant to Sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this Federal Register notice. Such protests shall comply with Special Rules 240(c) or 240(d) of the Commission's General Rules of Practice (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

Buffalo, Rochester and Pittsburgh Railway Company (BR&P) and The Baltimore and Ohio Railroad Company (B&O), 2 North Charles Street, Baltimore, Maryland 21201, represented by Mr. Peter J. Shultz, Assistant General Attorney, The Baltimore and Ohio Railroad Company, 2 North Charles Street, Baltimore, Maryland 21201, hereby give notice that on the 24th day of August, 1977, they filed with the Interstate Commerce Commission at Washington, D.C., an application under Section 1(18) of the Interstate Commerce Act for an order approving and authorizing the acquisition by the BR&P of a line of railroad from the trustees of the estate of the Erie Lackawanna Railway Company and operation over the line by the B&O, which application is assigned Finance Docket No. 28541.

The BR&P proposes to acquire a line of railroad from the trustees of the estate of the Erie Lackawanna Railway Company and the B&O proposes to operate over the line. The line extends generally from the Borough of Mount Jewett at J&B Junction to Johnsonburg at Clarion Junction and passes through Freeman, Hutchins, Midmont, Rasselas and Ketner, all in the Commonwealth of Pennsylvania. The total number of miles of main line track proposed to be acquired is 20.47 miles. Additionally, applicants will acquire 8.60 miles of side track. All of the above trackage is located between Valuation Stations 1659+57 and 2806+20.

In the opinion of the applicants, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 C.F.R. 1108.12) in Ex Parte No. 55 (Sub-No. 4), Implementation National Environment Policy Act, 1969, 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See Implementation—National Environmental Policy Act, 1969, supra at p. 487.

Pursuant to the provisions of the Interstate Commerce Act, as amended, the

proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue, N.W., Washington, D.C. 20423, and the aforementioned counsel for applicant, within 30 days after date of first publication in a newspaper of general circulation. Any interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

BUFFALO, ROCHESTER AND PITTSBURGH RAILWAY COMPANY; THE BALTIMORE AND OHIO RAILROAD COMPANY

OPERATING RIGHTS APPLICATION(S) DIRECTLY RELATED TO FINANCE PROCEEDINGS NOTICE

The following operating rights application(s) are filed in connection with pending finance applications under Section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under Section 212(b) of the Interstate Commerce Act.

An original and two copies of protests to the granting of the authorities must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with Special Rules 247(d) of the Commission's General Rules of Practice (49 CFR 110.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative, or applicant if no representative is named.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 110325 (Sub-No. 74) (republication), filed May 21, 1976, published in the FEDERAL REGISTER issue of August 26, 1976, republished August 11, 1977, and further republished this issued to correct and clarify certain matters in the immediately prior publication. Applicant: TRANSCON LINES, 101 Continental Blvd., El Segundo, Calif. 90009. Applicant's representative: Wentworth E. Griffin, 1221 Baltimore Avenue, Kansas City, Mo. 64105. A report of the Commission, Review Board Number 5, decided April 25, 1977, and served June 8, 1977, authorized among other things, conversion of Certificates of Registration into a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, over regular and irregular routes, as a common carrier, of (1) *General commodities* (except used household goods, commodities in bulk, and Class A and B explosives), over regular routes, between Chattanooga, Tenn., and Knoxville, Tenn., serving no intermediate points: (a) Over U.S. Highway 11; and (b) over Interstate Highway 75 using such access

routes as may be convenient between those portions of Interstate Highway 75 which are completed and U.S. Highway 11; and of (2) *General commodities* (except used household goods and commodities in bulk), over irregular routes: (a) Between points in Cumberland, White, and Van Buren Counties, Tenn.; and (b) between points in Putnam County, Tenn., restricted against service to those points located on or within one airline mile of Tennessee Highway 56 between the Putnam and DeKalb County Line and the junction of Tennessee Highways 56 and 24, and restricted against service to those points located on or within one airline mile of Tennessee Highway 24 between its junction with Tennessee Highway 56 and the Commercial Zone limits of Cookeville, Tenn.; the said authority granted herein to be used in conjunction with all of applicant's existing authority only. The purpose of this republication is to correct and clarify the notice of August 11, 1977, which gave notice of the conversion of Certificates of Registration in No. MC 28893 (Sub-Nos. 19 and 20), which were not included in the original FEDERAL REGISTER publication, since they were not acquired by Potter Freight Lines, Inc., until after the section 5 and section 207 applications were filed herein, to a Certificate of Public Convenience and Necessity. This is a matter directly related to MC-F-12843.

ABANDONMENT APPLICATIONS; NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act that orders have been entered in the following abandonment applications which are administratively final and which found that subject to conditions the present and future public convenience and necessity permit abandonment.

A Certificate of Abandonment will be issued to the applicant carries 30 days after this FEDERAL REGISTER publication unless the instructions set forth in the notices are followed.

[Docket No. AB-1 (Sub-No. 50)]

CHICAGO & NORTH WESTERN TRANSPORTATION CO. ABANDONMENT BETWEEN SLEEPY EYE AND REDWOOD FALLS, MINN., ALL IN REDWOOD AND BROWN COUNTIES, MINN.

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on February 14, 1977, and the decision and order of the Commission, Division 3, served July 25, 1977, which affirmed and adopted the initial decision of the Administrative Law Judge entered on February 14, 1977, a finding, which is administratively final, was made stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, and for public use as set forth in said order, the present and future public convenience and ne-

cessity permit the abandonment by the Chicago & North Western Transportation Co. of the line of railroad beginning at milepost 1.5 near Sleepy Eye, Minn., and extending to the end of the line near milepost 26.3 at Redwood Falls, Minn., Redwood and Brown Counties, Minn. A certificate of abandonment will be issued to the Chicago & North Western Transportation Co. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued, and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such persons or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-6 (Sub-No. 40)]

BURLINGTON NORTHERN INC. ABANDONMENT BETWEEN BRINSMADE AND LEEDS IN BENSON COUNTY, N. DAK.

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on July 12, 1977, a finding, which is administratively final, was made by the Commission, Commissioner Brown, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, and for public use as set

forth in said order, the present and future public convenience and necessity permit the abandonment by the Burlington Northern Inc. of its line of railroad between milepost 97.48 near Brinsmade and milepost 197.33 near Leeds in the northern half of Benson County, N. Dak., a distance of 9.85 miles in Benson County, N. Dak. A certificate of abandonment will be issued to the Burlington Northern Inc. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-6 (Sub-No. 45)]

BURLINGTON NORTHERN INC. ABANDONMENT BETWEEN STERLING AND NEW RAYMER IN LOGAN AND WELD COUNTIES, COLO.

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on July 25, 1977, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway

employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Burlington Northern Inc. of its line of railroad extending from milepost 232.00 near Sterling to milepost 266.50 near New Raymer, a distance of 34.50 miles, in Logan and Weld Counties, Colo. A certificate of abandonment will be issued to the Burlington Northern Inc. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-7 (Sub-No. 27)]

CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROAD CO. ABANDONMENT IN FOND DU LAC, COUNTY OF FOND DU LAC, WIS.

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on June 30, 1977, a finding, which is administratively final, was made by the Commission, Review

Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oklahoma Ry. Co. Trustees Abandonment*, 257 I.C.C. 117 (1944), and the applicable provisions of Section 405 of the Rail Passenger Service Act (45 U.S.C. 565) and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Chicago, Milwaukee, St. Paul & Pacific Railroad Co. of a line of railroad about 1.95 miles in length together with about 0.45 miles of auxiliary tracts, a total distance of about 2.40 miles, including a line of about 741 feet in length and about 1,214 feet of auxiliary track which is jointly owned with the Chicago & North Western Transportation Co., extending between Engineer's Station 0-69 to 71+60 and 82+39 to 113+21, all in Fond du Lac, County of Fond du Lac, Wis. A certificate of abandonment will be issued to the Chicago, Milwaukee, St. Paul & Pacific Railroad Co. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-9 (Sub-No. 8)]

ST. LOUIS-SAN FRANCISCO RAILWAY CO.
ABANDONMENT BETWEEN BLYTHEVILLE
AND MONETTE IN MISSISSIPPI AND CRAIG-
HEAD COUNTIES, ARK.

NOTICE OF FINDINGS

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on July 19, 1977, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, and the applicable provisions of section 405 of the Rail Passenger Service Act, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the St. Louis-San Francisco Railway Co. of that portion of its line extending from milepost TD 239.77 near Blytheville, Ark., in a westerly direction to milepost TD 268.00 near Monette, Ark., a distance of approximately 28.23 miles all in the counties of Mississippi, and Craighead, Ark. A certificate of abandonment will be issued to the St. Louis-San Francisco Railway Co. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandon-

ment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-12 (Sub-No. 50)]

SOUTHERN PACIFIC TRANSPORTATION CO.
ABANDONMENT BETWEEN BURRELL AND
RIVERDALE IN FRESNO COUNTY, CALIF.

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on June 30, 1977, a finding which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, the present and future public convenience and necessity permit the abandonment by the Southern Pacific Transportation Co. of its line of railroad extending from milepost 208.73, beyond Burrell, in a southwesterly direction to the end of the branch at milepost 214.85 near Riverdale, a distance of 6.12 miles in Fresno County, Calif. A certificate of abandonment will be issued to the Southern Pacific Transportation Co. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR

13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-12 (Sub-No. 51)]

SOUTHERN PACIFIC TRANSPORTATION CO.
ABANDONMENT BETWEEN CITRUS AND
FAIR OAKS IN SACRAMENTO COUNTY,
CALIF.

NOTICE OF FINDINGS

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on July 21, 1977, a finding, which is administratively final, was made by the Commission, Commissioner Brown, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Southern Pacific Transportation Company of a line of railroad extending from milepost 104.37, near Citrus, Calif., to milepost 106.36, near Fair Oaks, Calif., a distance of approximately 1.99 miles. A certificate of abandonment will be issued to the Southern Pacific Transportation Co. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER

on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-43 (Sub-No. 16)]

**ILLINOIS CENTRAL GULF RAILROAD CO.—
ABANDONMENT BETWEEN ELCO AND
MURPHYSBORO, IN ALEXANDER, UNION,
AND JACKSON COUNTIES, ILL.**

NOTICE OF FINDINGS

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on July 20, 1977, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, and the applicable provisions of section 405 of the Rail Passenger Service Act, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Illinois Central Gulf Railroad Co. of the line of railroad from milepost 518 near Elco, Ill., in a northerly direction to milepost 455 near Murphysboro, Ill., a distance of 36 miles, in Alexander, Union, and Jackson Counties, Ill. A certificate of abandonment will be issued to the Illinois Central Gulf Railroad Co. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures re-

garding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-57 (Sub-No. 2)]

**SOO LINE RAILROAD CO. ABANDONMENT
BETWEEN RACO JUNCTION AND RACO IN
LUCE AND CHIPPEWA COUNTIES, MICH.**

NOTICE OF FINDINGS

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an initial decision and order entered on June 3, 1977, a finding, which is administratively final, was made by the Administrative Law Judge, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Soo Line Railroad Co. of its branch line of railroad between milepost 46.69 at Raco Junction, Mich., and extending in an easterly direction to the end of the line at milepost 19.69 at Raco, Mich., all in Luce and Chippewa Counties, Mich., a distance of 27 miles. A certificate of abandonment will be issued to the Soo Line Railroad Co. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate

for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

**MOTOR CARRIER ALTERNATE ROUTES
DEVIATIONS**

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this FEDERAL REGISTER notice.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

MOTOR CARRIERS OF PROPERTY

No. MC 2202 (Deviation No. 163).
ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Blvd., Akron, Ohio 44309, filed August 24, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Rison, Ark., over Arkansas Highway 35 to junction Arkansas Highway 114, thence over Arkansas Highway 114 to Star City, Ark., (2) from Denmark, Ark., over Arkansas Highway 87 to Bradford, Ark., and (3) from junction U.S. Highway 82 and Arkansas Highway 52, over Arkansas Highway 52 to North Crossett, Ark., and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1) from Rison, Ark., over U.S. Highway 79 to junction U.S. Highway 65, thence over U.S. Highway 65 to junction Arkansas Highway 81, thence over Arkansas Highway 81 to Star City, Ark., (2) from Denmark, Ark., over U.S. Highway 167 to junction U.S. Highway 67, thence over U.S. Highway 67 to Bradford, Ark., and (3) from junction U.S. Highway 82 and Arkansas Highway 82 over U.S. Highway 82 to Crossett, Ark., thence over Arkansas Highway 133 to North Crossett, Ark., and return over the same routes.

By the Commission

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 77-26691 Filed 9-14-77; 8:45 am]

**TRANSPORTATION OF "WASTE"
PRODUCTS FOR REUSE OR RECYCLING**

Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of "waste" products for reuse or recycling in furtherance of a recognized pollution control program under the Commission's regulations (49 CFR 1062) promulgated in "Waste" Products, Ex Parte No. MC-85, 124 MCC 583 (1976).

An original and one copy of protests (including protestant's complete argument and evidence) against applicant's participation may be filed with the Interstate Commerce Commission by October 5, 1977. A copy must also be served upon applicant or its representative. Protests against the applicant's participation will not operate to stay commencement of the proposed operation.

If the applicant is not otherwise informed by the Commission, operations may commence by October 17, 1977, subject to its tariff publication effective date.

P-16-77 (special certificate—waste products), filed August 10, 1977. Applicant: SOUTHERN INTERMODAL LOGISTICS, INC., P.O. Box 1375, Thomasville, Ga. 31792. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1267, Arlington, Va. 22210. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Waste products for reuse and recycling*, from points in Florida, to Prattville, Ala., in furtherance of the recognized pollution control program sponsored by the Union Camp Corp. of Prattville, Ala., for the purpose of recycling and reusing scrap and waste paper.

P-17-77 (special certificate—waste products), filed May 30, 1977. Applicant: TRANSENVIRONMENTAL CORP., P.O. Box 24030, Cincinnati, Ohio 45224. Ap-

plicant's representative: Jerry B. Sellman, 50 West Broad Street, Columbus, Ohio 43215. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Waste products for recycling and reuse*, between points in the United States (except Alaska and Hawaii), in furtherance of the recognized pollution control programs sponsored by (1) Chem-Dyne Corp. of Hamilton, Ohio; (2) KOI Petroleum, Inc., of Hamilton, Ohio; and (3) Spray-Dyne, Inc., of Hamilton, Ohio, for the purpose of recycling liquid waste materials, in bulk and in drums.

P-18-77 (special certificate—waste products), filed August 10, 1977. Applicant: WILLS TRUCKING, INC., 5755 Granger Road, Cleveland, Ohio 44131. Applicant's representative: Paul F. Beery, 275 East State Street, Columbus, Ohio 43215. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, and the transportation of: *Waste products for recycling and reuse* between all points in Illinois, Indiana, Ohio, Michigan, Kentucky, West Virginia, Pennsylvania, New York, North Carolina, Virginia, and Tennessee, in furtherance of a recognized pollution control program sponsored by (1) Bassichis Co., of Cleveland, Ohio, and (2) Brockway Glass Co. of Brockway, Pa., for the purpose of recycling various types of litter.

P-19-77 (special certificate—waste products), filed August 19, 1977. Applicant: TAJON, INC., R.D. 5, Mercer, Pa. 16137. Applicant's representative: Brian L. Troiano, 918 16th Street NW., Washington, D.C. 20006. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier*, by mo-

tor vehicle, over irregular routes, in the transportation of: *Glass cullet*, between points in Connecticut, Illinois, Indiana, Maryland, Minnesota, Missouri, New Jersey, Ohio, Pennsylvania, Rhode Island, Texas, and West Virginia, in furtherance of recognized pollution control programs sponsored by: (1) National Bottle Co. of Bala Cynwyd, Pa.; (2) PPG Industries, Inc., of Pittsburgh, Pa., for the purpose of recycling glass cullet.

P-20-77 (special certificate—waste products), filed June 23, 1977. Applicant: KENNEDY FREIGHT LINES, INC., P.O. Box 332, Lapel, Ind. 46051. Applicant's representative: Paul F. Berry, 275 East State Street, Columbus, Ohio 43215. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Waste products for recycling or reuse* between points in that part of the United States east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the international boundary line between the United States and Canada (except the plantsite of Questor, Inc., at Toledo, Ohio, and Grand Haven, Mich., the plantsite of Brockway Glass Co. at Lapel, Ind.; and the plantsite of Glass Container Corp. at Indianapolis, Ind.), in furtherance of a recognized pollution control program sponsored by (1) Scott Paper Co. of Philadelphia, Pa., for the purpose of recycling and reusing waste paper and paper scrap; and (2) Alton Box Board Co. of Alton, Ill., for the purpose of transporting and recycling waste paper.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 77-26911 Filed 9-14-77; 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

	Items
Civil Aeronautics Board.....	1, 2, 3
Consumer Products Safety Commission	4
Federal Deposit Insurance Corporation	5, 6, 7
Federal Power Commission.....	8
Federal Trade Commission.....	9, 10
International Trade Commission.....	15
Interstate Commerce Commission	11
National Transportation Safety Board	12, 17
Occupational Safety and Health Review Commission.....	13
Renegotiation Board.....	14
Nuclear Regulatory Commission.....	16

1

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 1 p.m. September 9, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: Dockets 31232, 31234, 31235, 31246, 31247, 31285 and 31305. Complaints of National Air Carrier Association, Brendan Tours, Inc., Charter Travel Corporation, The Educational Cooperatives, and Laker Airways Limited against Tariffs of Pan American World Airways, Inc., Trans World Airlines, Inc., British Airways, and Air India Proposing Stand-by, Budget, and Super-Apex Fares over the North Atlantic; and Docket 29123, Agreement Adopted by the Traffic Conferences of the International Air Transport Association Relating to North Atlantic Passenger Fares Agreement C.A.B. 26858, R-1 through R-5.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, (202-673-5068).

SUPPLEMENTARY INFORMATION: Any decision of the Board suspending these tariffs would have to be sent to the President by the statutory deadline of September 13, 1977. In order for the Board to reach its determination and instruct its staff, the following Members have voted that agency business requires that the Board meet on less than seven days' notice and that no earlier announcement of the meeting was possible:

Chairman Alfred E. Kahn
Member Lee R. West
Member Elizabeth E. Bailey

[S-1314-77 Filed 9-12-77; 4:04 pm]

2

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 2 p.m. September 9, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Dockets 31232, 31234, 31235, 31246, 31247, 31285 and 31305. Complaints of National Air Carrier Association, Brendan Tours, Inc., Charter Travel Corporation, The Educational Cooperative, and Laker Airways Limited against Tariffs of Pan American World Airways, Inc., Trans World Airlines, Inc., British Airways, and Air India Proposing Stand-by, Budget, and Super-Apex Fares over the North Atlantic; and Docket 29123, Agreement Adopted by the Traffic Conferences of the International Air Transport Association Relating to North Atlantic Passenger Fares Agreement C.A.B. 26858, R-1 through R-5.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary (202-673-5068).

[S-1315-77 Filed 9-12-77; 4:04 pm]

3

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., September 15, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT 1. Ratification of items adopted by notation.*

2. Docket 27436, Petition of Air New England Inc. (ANE) for approval of loan guarantee under section 410 (Memo No. 6942-B, BFR).

3. Docket 31239, Application of Braniff for emergency exemption to offer a refund to certain passengers who travelled between Denver and Miami on July 28 and 29 (Memo No. 7403, BFR).

4. Docket 31273, Complaint of the State of Maryland against Eastern's proposal to increase the discount applicable to its excursion fare in the Philadelphia-Florida market. (Memo No. 7342-A, BFR).

5. New door-to-door parcel express service proposed by Eastern Air Lines. Effective (posted) October 1, 1977 (BFR).

6. Consideration of anticipatory costs for ratemaking purposes (Memo No. 6709-B, BFR).

7. Docket 31338, Request for Continental to engage in discussion with JAL concerning Japan-Mimronesia fares (Memo No. 7411, BFR).

8. North Central Airlines—request for waiver of the two percent limitation on off-route charters (Memo No. 7405, BOR, OGC).

9. Airlift International—petition for review of staff denial of blanket waiver of off-route charter limitations (Memo No. 7407, BOR, OGC).

10. Docket 31036, Motion of Hearing on the matter of certification of a U.S. carrier to serve the Houston/Dallas/Ft. Worth - Calgary/Edmonton-Anchorage/Fairbanks Route, filed by the Calgary Transportation Authority and the Edmonton Area Air Services Commission (the Canadian parties) (Memo No. 7396, BOR, BIA).

11. Docket 30356, *Transcontinental Low-Fare Route Proceeding* (Memo No. 5393-C, BOR, OGC, BLJ, BFR).

12. Docket 30387, TWA's application for San Diego-Kansas City/St. Louis non-stop authority (Memo No. 7374, BOR, OGC).

13. Docket 15020, Pan American's Application to Renew its Exemption Authority to Serve Four West African Points (Memo 4627-A, BOR, BIA).

14. Dockets 30969 and 28269, Temporary Suspension and Deletion of Eastern Air Lines Service over segment 7 of Route 10 (Memo 7287-A, BOR).

15. Dockets 30058; and 28110 and 28342, Rocky Mountain Airways' request to use Dash 7 aircraft in scheduled service in Colorado; Aspen Airways' and Rocky Mountain Airways' requests for Denver-Aspen certificate authority (Memo No. 4680-C, BOR, BLJ, OGC).

16. Docket 30679, *Florida-Atlanta Competitive Nonstop Service Case* (Memo No. 6739-A, BLJ, OGC).

17. Dockets 27838 and 30818, Consolidation of Enforcement Cases (Memo No. 7409, BLJ, OGC).

18. Rulemaking to amend Part 387 of the Board's Organization Regulations to be consistent with the National Emergencies Act, Pub. L. 94-412 (Memo No. 7399 OGC).

19. Changing name of Bureau of Economics to "Bureau of Fares and Rates," and creation of the Office of Economic Analysis (Memo No. 7402, OGC, BFR).

20. Docket 30778, Rulemaking petition filed by Reuben Robertson to grant authority to administrative law judges to consolidate enforcement proceedings (Memo No. 7395, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary (202-673-5068).

Note: The ratification process provides an entry in the Board's Minutes of items already adopted by the Board through the written Notation process (memoranda circulated to the Members sequentially). A list of items ratified at this meeting will be available in the Board's Public Reference Room (Room 710, 1825 Connecticut Avenue NW., Washington, D.C. 20428) following the meeting.

[S-1313-77 Filed 9-12-77;4:03 pm]

4

CONSUMER PRODUCT SAFETY COMMISSION.

DATE AND TIME: September 14, 1977, 9:30 a.m.

LOCATION: 3rd Floor Hearing Room, 1111 18th St., NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE DISCUSSED:

1. *Establishment Inventory Project*: A briefing by the Directorate of Field Operations on the need of both headquarters and field offices for a common, automated, CPSC-verified establishment inventory.
2. *Meeting with AAMA*: Representatives of the American Apparel Manufacturers Association will meet with the Commission to discuss issues related to the CPSC staff paper on Children's Sleepwear Standard Modification. AAMA requested the meeting.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Consumer Product Safety Commission, Suite 300, 1111 18th St. NW., Washington, D.C. 20207, telephone 202-634-7700.

[S-1312-77 Filed 9-12-77;2:06 pm]

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: September 19, 1977.

PLACE: Room 6135, FDIC Building, 550 17th Street, NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

APPLICATIONS FOR FEDERAL DEPOSIT INSURANCE

First Security Bank, to be located at 1240 Meighan Boulevard, Gadsden, Ala., for Federal deposit insurance.

First State Bank and Trust, to be located at 2511 25th Avenue (U.S. Highway 49), Gulfport, Miss., for Federal deposit insurance.

Aledo State Bank, to be located at Farm Road 5 North, Aledo, Tex., for Federal deposit insurance.

APPLICATIONS FOR CONSENT TO ESTABLISH BRANCHES

First American Bank of North Palm Beach, North Palm Beach, Florida, for consent to establish a branch at 140 North County Road, Palm Beach, Fla.

First Marine & Trust Company of the Palm Beaches, Riviera Beach, Florida, for consent to establish a branch at 1201 East Blue Heron Boulevard, Riviera Beach, Fla.

University State Bank, Tampa, Florida, for consent to establish a branch on the east side of 56th Street, less than 0.1 mile north of the intersection of 56th Street and Whiteaway Drive, Temple Terrace, Fla.

North Conway Bank, North Conway, New Hampshire, for consent to establish a branch at Route 16, Bartlett (Glen), N.H.

APPLICATION FOR CONSENT TO MOVE A BRANCH

Banco Credito y Ahorro Ponceño, Ponce, Puerto Rico, for consent to move a branch from the corner of Calle Patriota Pozo and Calle Juan Ramon Velez to the corner of Calle Patriota Pozo and Carretera #2, Manati, PR.

APPLICATION FOR CONSENT TO ACQUIRE ASSETS AND ASSUME LIABILITIES AND ESTABLISH TWO BRANCHES

Ocean State Bank, Santa Monica, California, an insured State nonmember bank, for consent to acquire the assets of and assume the liability to pay deposits made in the First Pacific Bank, Los Angeles (P.O. West Hollywood), Calif., also an insured State nonmember bank, and for consent to establish the two offices of First Pacific Bank as branches of the resulting bank.

APPLICATION FOR CONSENT TO MERGE

Carroll Bank, Hillsville, Virginia, an insured State nonmember bank in organization, for consent to merge under its charter with the Bank of Carroll, Hillsville, Va., also an insured State nonmember bank, with the title of "Bank of Carroll."

APPLICATION FOR CONSENT TO MERGE AND ESTABLISH BRANCHES

Southern Bank and Trust Company, Greenville, South Carolina, an insured State nonmember bank, for consent to merge under its charter and title with Morgan Bank and Trust, Spartanburg, South Carolina, also an insured State nonmember bank, and for consent to establish the two offices of Morgan Bank and Trust as branches of the resultant bank.

REQUEST FOR ASSISTANCE PURSUANT TO SECTION 13 (C) OF THE FEDERAL DEPOSIT INSURANCE ACT (12 U.S.C. 1823 (C))

Name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c) (8) and (c) (9) (A) (ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c) (8) and (c) (9) (A) (ii)).

RECOMMENDATIONS REGARDING LIQUIDATION OF A BANK'S ASSETS ACQUIRED BY THE CORPORATION IN ITS CAPACITY AS RECEIVER, LIQUIDATOR, OR LIQUIDATING AGENT OF THOSE ASSETS

Case No. 43,171-SR—American Bank & Trust Company, New York, N.Y.

Case No. 43,175-NR—United States National Bank, San Diego, Calif.

Case No. 43,177-L—American City Bank & Trust Company, National Association, Milwaukee, Wis.

Case No. 43,178-SR—Sharpstown State Bank, Houston, Tex.

Case No. 43,188-SR—American Bank & Trust Company, New York, N.Y.

Case No. 43,193-L—Franklin National Bank, New York, N.Y.

Case No. 43,200-NR—United States National Bank, San Diego, Calif.

Case No. 43,202-L—Northern Ohio Bank, Cleveland, Ohio.

Memorandum re: Skyline National Bank, Denver, Colo.

RECOMMENDATION WITH RESPECT TO PAYMENT FOR LEGAL SERVICES RENDERED AND EXPENSES INCURRED IN CONNECTION WITH RECEIVERSHIP AND LIQUIDATION ACTIVITIES

Pryon, Cashman, Sherman and Flynn, New York, N.Y., in connection with the receivership of American Bank & Trust Company, New York, N.Y.

RECOMMENDATIONS WITH RESPECT TO THE INITIATION OR TERMINATION OF CEASE-AND-DESIST PROCEEDINGS OR TERMINATION-OF-INSURANCE PROCEEDINGS AGAINST CERTAIN INSURED BANKS

Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c) (8) and (c) (9) (A) (ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c) (8) and (c) (9) (A) (ii)).

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, (202-389-4446).

[S-1309-77 Filed 9-12-77;2:06 pm]

6

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 2 p.m., September 19, 1977.

PLACE: Room 6135, FDIC Building, 550 17th Street, NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

APPLICATIONS OR REQUESTS PURSUANT TO SECTION 19 OF THE FEDERAL DEPOSIT INSURANCE ACT OR THE CORPORATION'S CONSENT TO SERVICE OF A PERSON CONVICTED OF AN OFFENSE INVOLVING DISHONESTY OR A BREACH OF TRUST AS A DIRECTOR, OFFICER, OF EMPLOYEE OF AN INSURED BANK

Names of persons and of banks authorized to be exempt from disclosure pursuant to the provisions of subsection (c) (6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c) (6)).

RECOMMENDATIONS REGARDING LIQUIDATION OF A BANK'S ASSETS ACQUIRED BY THE CORPORATION IN ITS CAPACITY AS RECEIVER, LIQUIDATOR, OR LIQUIDATING AGENT OF THOSE ASSETS

Case No. 43,174-L—First State Bank of Northern California, San Leandro, Calif.

Case No. 43,176-SR—Sharpstown State Bank, Houston, Tex.

Case No. 43,181-L—American City Bank & Trust Company, National Association, Milwaukee, Wis.

Case No. 43,182-L—American City Bank & Trust Company, National Association, Milwaukee, Wis.

Case No. 43,183—Farmers Bank of the State of Delaware, Dover, Del.

Case No. 43,184-SR—The Peoples Bank of the Virgin Islands, Charlotte Amalie, St. Thomas, Virgin Islands.

Case No. 43,187-NR—San Francisco National Bank, San Francisco, Calif.

Case No. 43,189-SR—Citizens State Bank, Carrizo Springs, Tex.

Case No. 43,190-L—Tri-City Bank, Warren, Mich.

Case No. 43,191-L—Northeast Bank of Houston, Houston, Tex.

Case No. 43,201-SR—Sharpstown State Bank, Houston, Tex.

PERSONNEL ACTIONS REGARDING APPOINTMENTS, PROMOTIONS, ADMINISTRATIVE PAY INCREASES, REASSIGNMENTS, RETIREMENTS, SEPARATIONS, REMOVALS, ETC.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsection (c) (6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c) (6)).

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary,
(202-389-4446).

[S-1310-77 Filed 9-12-77:2:06 pm]

7

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 2:30 p.m., September 19, 1977.

PLACE: Board Room, 6th floor, FDIC Building, 550-17th Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: Disposition of minutes of previous meetings.

APPLICATIONS FOR FEDERAL DEPOSIT INSURANCE

Boundary Waters State Bank, to be located at 901 East Sheridan Street, Ely, Minn., for Federal deposit insurance.

Investors Fiduciary Trust Company, located at 114 West 11th Street, Kansas City, Mo., for Federal deposit insurance.

The Peoples Commercial Bank, to be located at 73 Troy Road, East Greenbush, N.Y., for Federal deposit insurance.

Brighton Bank, to be located at 7101 South 2000 East, Salt Lake City, Utah, for Federal deposit insurance.

Northern Hancock Bank & Trust Co., to be located at Third and Washington Streets, Newell, W. Va., for Federal deposit insurance.

Dollar Security Bank, located at 7th Avenue and D Street, South Charleston, W. Va., for Federal deposit insurance.

APPLICATION FOR CONSENT TO ESTABLISH BRANCHES

The Citizens Savings Bank, Ithaca, N.Y., for consent to establish branches with the Pyramid Mall, 40 Catherwood Road, Village of Lansing, Ithaca, N.Y., and within the East Hill Plaza Shopping Center, corner of Judd Falls Road and Ellis Hollow Road, Town of Ithaca, N.Y.

Richmond County Savings Bank, West New Brighton, N.Y., for consent to establish a branch at 132 Avenue U, southwest corner of West 6th Street, New York (Brooklyn), N.Y.

United American Bank in Knoxville, Knoxville, Tenn., for consent to establish a branch at 324 Cedar Bluff Road, Knoxville, Tenn.

REQUESTS FOR EXTENSIONS OF TIME IN WHICH TO ESTABLISH BRANCHES

The Arizona Bank, Phoenix, Arizona, for an extension of time to February 1, 1978 in which to establish a branch at Southern Avenue and Longmore Drive, Mesa, Ariz. Bank of Mt. Juliet, Mount Juliet, Tennessee, for an extension of time to September 17, 1978 in which to establish a branch at the intersection of Route 3, South Mount Juliet Road and Interstate 40, Mount Juliet, Tennessee.

APPLICATION FOR CONSENT TO ESTABLISH THREE REMOTE SERVICE FACILITIES (ELECTRONIC BRANCHES)

Niagara County Savings Bank, Niagara Falls, New York, for consent to establish remote

service facilities (electronic branches) in Super Duper Supermarkets at 3185 Southwester Boulevard (Unincorporated Area), Orchard Park, New York, and at 123 Grey Street, East Aurora, New York, and in Sample, Incorporated, at 1631 Herrel Avenue, Buffalo, N.Y.

RECOMMENDATIONS REGARDING LIQUIDATION OF A BANK'S ASSETS ACQUIRED BY THE CORPORATION IN ITS CAPACITY AS RECEIVER, LIQUIDATOR, OR LIQUIDATING AGENT OF THOSE ASSETS

Case No. 43,185-SR—The Bank of Pine Apple, Pine Apple, Ala.

Case No. 43,199-SR—American Bank & Trust Company, New York, N.Y.

Memorandum re: American Bank & Trust Company, New York, N.Y.

RECOMMENDATIONS WITH RESPECT TO PAYMENT FOR LEGAL SERVICES RENDERED AND EXPENSES INCURRED IN CONNECTION WITH RECEIVERSHIP AND LIQUIDATION ACTIVITIES

Bronson, Bronson & McKinnon, San Francisco, California, in connection with the receivership of the United States National Bank, San Diego, Calif.

Schall, Boudreau & Gore, Inc., San Diego, California, in connection with the receivership of the United States National Bank, San Diego, Calif.

Bronson, Bronson & McKinnon, San Francisco, California, in connection with the liquidation of the First State Bank of Northern California, San Leandro, Calif.

Powell, Goldstein, Frazer & Murphy, Atlanta, Georgia, in connection with the liquidation of The Hamilton Bank and Trust Company, Atlanta, Ga.

Sidley & Austin, Chicago, Illinois, in connection with the liquidation of the State Bank of Clearing, Chicago, Ill.

Mize, Thompson & Blass, Gulfport, Mississippi, in connection with the liquidation of the International City Bank & Trust Company, New Orleans, La.

Mize, Thompson & Blass, Gulfport, Mississippi, in connection with the liquidation of the International City Bank & Trust Company, New Orleans, La.

Sullivan & Worcester, Boston, Massachusetts, in connection with the receivership of the Surety Bank and Trust Company, Wakefield, Mass.

Patterson & Patterson, Whitfield, Manikoff and White, Bloomfield Hills, Michigan, in connection with the receivership of Birmingham Bloomfield Bank, Birmingham, Mich.

Mize, Thompson & Blass, Gulfport, Mississippi, in connection with the liquidation of Bank of Picayune, Picayune, Miss.

Parsons, Canzona, Blair & Warren, Red Bank, New Jersey, in connection with the liquidation of The Bank of Bloomfield, Bloomfield, N.J.

Kaye, Scholer, Fierman, Rays & Handler, New York, New York, in connection with the receivership of the American Bank & Trust Company, New York, N.Y.

Hughes, Hubbard & Reed, New York, New York, in connection with the liquidation of Franklin National Bank, New York, N.Y.

Kaye, Scholer, Fierman, Hays & Handler, New York, New York, in connection with the liquidation of the Franklin National Bank, New York, N.Y.

Miller, Martin, Hitching, Tipton, Lenihan & Waterhouse, Chattanooga, Tennessee, in connection with the liquidation of The Hamilton National Bank of Chattanooga, Chattanooga, Tenn.

Strasberg & Price, Dallas, Texas in connection with the liquidation of The Hamilton National Bank of Chattanooga, Chattanooga, Tenn.

RECOMMENDATION WITH RESPECT TO THE AMENDMENT OF CORPORATION RULES AND REGULATIONS

Memorandum and resolution proposing the final adoption of amendments to Part 303 of the Corporation's rules and regulations, entitled "Applications, Requests and Submittals," so as to include applications for mergers or assumption transactions within the current procedures applied to all other application proceedings.

Resolution winding up the affairs of the Deposit Insurance National Bank of the Virgin Islands, Charlotte Amalie, St. Thomas, Virgin Islands.

Appeals, pursuant to the Freedom of Information Act, from the Corporation's earlier partial denial of requests for records.

REPORTS OF COMMITTEES AND OFFICERS

Minutes of the actions approved by the Committee on Liquidations, Loans, and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Report of the Executive Secretary regarding the transmittal of "no significant effect" competitive factor reports.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Report of the Division of Liquidation, for the period June 16, 1977-August 16, 1977, detailing all disbursements in excess of \$10,000 and all sales of real estate properties in connection with the liquidation of The Hamilton National Bank of Chattanooga, Chattanooga, Tenn., pursuant to authority delegated by the Board of Directors.

Report of the Division of Liquidation with respect to the status of the Deposit Insurance National Bank of the Virgin Islands, Charlotte Amalie, St. Thomas, Virgin Islands, as of August 31, 1977.

Final report of the Chief, Accounting and Budget Branch, Office of the Controller, as of April 30, 1977, with respect to the receivership of the Brighton National Bank, Brighton, Colo.

Summary of liquidation and insurance expenses, estimated losses, and other fiscal data in connection with active liquidations as of June 30, 1977.

Reports of security transactions authorized by the Chairman.

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary
(202-389-4446).

[S-1311-77 Filed 9-12-77:2:06 pm]

8

FEDERAL POWER COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: September 14, 1977, 42 FR 46094.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., September 16, 1977.

CHANGE IN THE MEETING: The following items have been added:

Item No., Docket No., and Company

P-10.—E-8176, Southern California Edison Company.

P-11.—ER76-533, Central Vermont Public Service Corporation.

M-3.—RM74-16, Natural Gas Companies' Annual Report of Proved Domestic Gas Reserves: FPC Form No. 40.

G-0.—RP73-43 (PGA77-3), Mid Louisiana Gas Company.

G-00.—CP77-398, Columbia Gas Transmission Corporation.

G-000.—CP77-369 and CP77-370, Transcontinental Gas Pipe Line Corporation.

KENNETH F. PLUMB,
Secretary.

[S-1319-77 Filed 9-13-77;9:31 am]

9

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Tuesday, September 20, 1977.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Nonadjudicative Matters:

(1) Approval of Minutes of Nonadjudicative Matters Considered at Meeting of September 12, 1977.

(2) Consideration of Marcor, et al. (Docket 9092): Motion by Respondent to Dismiss Complaint and Recommendation by Staff to Amend Complaint. Adjudicative Matters Under Part 1 of the Rules of Practice:

The Commission has not yet scheduled any adjudicative items for discussion at this meeting.

CONTACT PERSON FOR MORE INFORMATION:

Leonard J. McEnnis, Jr., Office of Public Information: 202-523-3830; Recorded Message: 202-523-3806.

[S-1323-77 Filed 9-13-77;10:26 am]

10

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Wednesday, September 21, 1977.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED:

(1) Consideration of Proposed Trade Regulation Rule on Disclosure Requirements and Prohibitions Concerning Franchising, Previously Published in 39 FR 30360 (August 22, 1974).

(2) Report from General Counsel on Congressional Matters.

CONTACT PERSON FOR MORE INFORMATION:

Leonard J. McEnnis, Jr., Office of Public Information: 202-523-3803; Recorded Message: 202-523-3806.

[S-1324-77 Filed 9-13-77;10:26 am]

11

INTERSTATE COMMERCE COMMISSION.

SEPTEMBER 12, 1977.

TIME AND DATE: 2:30 p.m., Monday, September 19, 1977.

PLACE: Room 5124, Interstate Commerce Commission Building, 12th Street and Constitution Avenue NW., Washington, D.C.

STATUS: Notice of open meeting.

MATTER TO BE CONSIDERED:

Division 3, Division Chairman Brown and Commissioners MacFarland and Christian voted unanimously to hold a meeting to consider the following agenda: 1. Review of present Division workload.

CONTACT PERSON FOR MORE INFORMATION:

Mrs. Hildred Hersman, Confidential Assistant to Commissioner Brown, Telephone 202-275-7535.

[S-1318-77 Filed 9-12-77;4:04 pm]

12

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9:30 a.m., Thursday, September 22, 1977 (NM-77-30).

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: The first two items on the agenda will be open to the public; the third item will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Proposed Letter to Air Line Pilots Association in response to their letter of May 5, 1977, re communication problems in the air traffic control system.

2. Aviation Recommendation Closures: A-75-85, A-76-134, and A-76-135.

3. Discussion with Administrative Law Judges regarding aviation enforcement adjudication cases.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming 202-755-4930.

[S-1316-77 Filed 9-12-77;4:04 pm]

13

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 2:00 p.m., September 15, 1977.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: This meeting is subject to being closed by a vote of the Commissioners taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudication process.

CONTACT PERSON FOR MORE INFORMATION:

Ms. Lottie Richardson, 202-634-27970.

Dated: September 12, 1977.

[S-1320-77 Filed 9-13-77;9:31 am]

14

THE RENEGOTIATION BOARD.

DATE AND TIME: 10 a.m., Friday, September 16, 1977.

PLACE: Conference Room, 4th Floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Closed to public observation.

MATTERS TO BE CONSIDERED: Classified.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446. 202-254-8277.

Dated: September 9, 1977.

GOODWIN CHASE,
Chairman.

[S-1317-77 Filed 9-12-77;4:04 pm]

15

UNITED STATES INTERNATIONAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 44330 9/2/77.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:30 a.m., September 13, 1977.

CHANGES IN THE MEETING: Additional item added to the agenda as follows: 8. Treatment of CF Industries, Inc., petition re Investigation AA1921-127 (Elemental Sulphur from Canada) (previously circulated as action jacket ID-77-70).

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary 202-523-0161.

[S-1321-77 Filed 9-13-77;9:31 am]

16

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: 11 a.m., Friday, September 16, 1977.

PLACE: Commissioners' Conference Room, 1717 H St. NW., Washington, D.C.

STATUS: Open.

SUNSHINE ACT MEETINGS

MATTERS TO BE CONSIDERED: Meeting with State Public Service Commissioners (N.Y. and Ill.).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

Dated: September 14, 1977.

WALTER MAGEE,
Office of the Secretary.

[S-1342-77 Filed 9-14-77; 10:20 am]

17

NATIONAL TRANSPORTATION SAFETY BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Published in the issue of September 15, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Thursday, September 22, 1977 (NM-77-30).

CHANGE IN THE MEETING: The following item has been added for consideration as the first item on the agenda:

Aircraft Accident Report.—Jet Avia, Ltd., Learjet LR-24B, N12MK, Palm Springs, Calif., January 6, 1977.

[S-1346 Filed 9-14-77; 12:09 pm]

federal register

THURSDAY, SEPTEMBER 15, 1977

PART II



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**Federal Insurance
Administration**



**NATIONAL FLOOD
INSURANCE PROGRAM**

Title 24—Housing and Urban Development
 CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
 SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI 3328]

PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to list those communities where the sale of flood insurance is authorized under the National Flood Insurance Program.

Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurers Association servicing company for the State.

DATES: The date that appears in the fourth column of the table is the effective date of authorization for the sale of flood insurance.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93-234) requires the purchase of flood insurance as a condition of receiving any form of Federal or federally related financial assistance for acquisition or construction purposes in a flood plain area having special hazards within any community identified for at least one year by the Secretary of Housing and Urban Development. The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or

construction except as authorized by section 202(b) of the Act, as amended, unless the community has entered the program. Accordingly, for communities listed under this Part no such restriction exists, although insurance, if required, must be purchased.

The addresses of the National Flood Insurers Association Servicing companies, where flood insurance policies can be obtained, are published at § 1912.7 (24 CFR Part 1912).

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

Section 1914.6 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 1914.6 List of eligible communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
Kansas	Ellis	Victoria, city of	July 25, 1977, emergency	July 16, 1976	200652
Nebraska	Madison	Unincorporated areas	do	do	310455
Alabama	Jackson	Woodville, town of	July 26, 1977, emergency	June 25, 1976	010114
Texas	Fannin	Ladonia, city of	do	July 11, 1975	480811
California	Santa Barbara	Carpinteria, city of	July 18, 1977, suspension withdrawn	June 24, 1974	060332B
Florida	Bay	Panama City, city of	do	Sept 26, 1975	120012A
New Jersey	Essex	South Orange, village of	do	Sept 6, 1974	340194
New York	Cayuga	Cayuga, village of	do	July 16, 1976	360107A
Do	Erie	Cheektowaga, town of	do	Nov 20, 1973	360231A
Do	Tioga	Owego, town of	do	Jan 9, 1974	360839A
North Carolina	Bertie	Windsor, town of	do	Sept 7, 1973	370019A
Pennsylvania	Schuylkill	Blythe, township of	do	May 28, 1976	420032B
Do	Delaware	Clifton Heights, borough of	do	Nov 1, 1974	420039A
Do	Montour	Danville, borough of	do	Aug 5, 1976	420076A
Do	Carbon	East Penn, township of	do	Aug 20, 1976	420136
Do	Allegheny	Elizabeth, township of	do	Aug 30, 1974	420138A
Do	Schuylkill	Gilberton, borough of	do	Oct 12, 1973	420140A
Do	Dauphin	Hummelstown, Borough of	do	Mar 1, 1974	420140A
Do	Berks	Kutztown, borough of	do	Jan 16, 1974	420151A
Do	do	Leesport, borough of	do	Mar 9, 1974	420351A
Do	Lycoming	Loyalsock, township of	do	June 18, 1976	420382A
Do	Perry	Marysville, borough of	do	Dec 28, 1973	420136
Do	Crawford	Meadville, city of	do	Sept 24, 1976	420138A
Do	York	North York, borough of	do	Nov 23, 1973	421040A
Do	Berks	Ontelaunee, township of	do	Jan 9, 1974	420351A
Do	Luzerne	Plains, township of	do	May 14, 1976	420666A
Do	Dauphin	South Hanover, township of	do	June 28, 1974	420666A
Do	York	Spring Garden, township of	do	June 11, 1976	420621A
Do	Delaware	Swarthmore, borough of	do	July 20, 1973	420666A
Do	do	Swoyersville, borough of	do	Sept 24, 1976	420666A
Do	do	Upper Providence, township of	do	Oct 12, 1973	420666A
Do	Chester	West Whiteland, township of	do	May 10, 1974	420435
Do	Crawford	West Mead, township of	do	Mar 5, 1976	420627
Do	York	York, city of	do	May 16, 1977	420441
Tennessee	Anderson	Clinton, town of	do	June 15, 1977	420441
Texas	Tarrant	Bedford, city of	do	Feb 20, 1973	420295A
Washington	Okanogan	Twisp, town of	do	Apr 13, 1973	420356B
Kentucky	Pike	Unincorporated areas	July 20, 1977, emergency	July 26, 1974	420445A
Ohio	Tuscarawas	Roswell, village of	July 28, 1977, emergency	Mar 26, 1976	470001A
Pennsylvania	Luzerne	Plymouth, township of	Feb. 2, 1973, emergency; Apr 15, 1977, regular; July 1, 1977, suspended; July 21, 1977, reinstated	Apr 23, 1976	480385
				Nov 2, 1973	530124A
				Dec 28, 1973	
				June 28, 1974	
				Dec 26, 1975	
					210298
					300813 New
					420233B

(National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969, as amended (39 FR 2787, Jan. 24, 1974).)

Issued: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26392 Filed 9-14-77;8:45 am]

[Docket No. FI 3329]

PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to list those communities where the sale of flood insurance is authorized under the National Flood Insurance Program.

Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurers Association servicing company for the State.

DATES: The date that appears in the fourth column of the table is the effective date of authorization for the sale of flood insurance.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION:

The Flood Disaster Protection Act of 1973 (Pub. L. 93-234) requires the purchase of flood insurance as a condition of receiving any form of Federal or federally related financial assistance for acquisition or construction purposes in a flood plain area having special hazards within any community identified for at least one year by the Secretary of Housing and Urban Development. The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction except as authorized by section 202(b) of the Act, as amended, un-

less the community has entered the program. Accordingly, for communities listed under this Part no such restriction exists, although insurance, if required, must be purchased.

The addresses of the National Flood Insurers Association servicing companies, where flood insurance policies can be obtained, are published at § 1912.5 (24 CFR Part 1912).

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

Section 1914.6 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 1914.6 List of eligible communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
Arizona	Cochise	Tombstone, city of	August 1, 1977, emergency	Aug. 15, 1975	040106
Oklahoma	Okfuskee	Okemah, city of	do	Aug. 13, 1976	400429
Wyoming	Uinta	Lyman, town of	do	Sept. 19, 1975	560075
Arizona	Pinal	Casa Grande, city of	May 5, 1972, emergency; Aug. 1, 1977, regular	Apr. 5, 1974	640080-A
Kansas	Johnson	Lenexa, city of	June 12, 1973, emergency; Aug. 1, 1977, regular	Feb. 8, 1974	200168-B
Maryland	Carroll	Union Bridge, town of	Apr. 16, 1973, emergency; Aug. 1, 1977, regular	July 11, 1975	240017-B
Minnesota	Stearns	Cold Springs, city of	Jan. 19, 1973, emergency; Aug. 1, 1977, regular	Nov. 16, 1973	270444-B
Do	Hennepin	Robbinsdale, city of	May 9, 1974, emergency; Aug. 1, 1977, regular	Oct. 5, 1973	270444-B
Missouri	Clay	Claycomo, village of	Sept. 6, 1974, emergency; Aug. 1, 1977, regular	June 11, 1976	270181-B
New Jersey	Bergen	Wyckoff, township of	Dec. 17, 1971, emergency; Aug. 1, 1977, regular	Mar. 29, 1974	270181-B
Ohio	Trumbull	Warren, city of	Sept. 29, 1973, emergency; Aug. 1, 1977, regular	Feb. 13, 1976	290089-B
Pennsylvania	Schuylkill	Cresona, borough of	May 23, 1973, emergency; Aug. 1, 1977, regular	Jan. 23, 1974	340064-A
Do	Delaware	Folcroft, borough of	Feb. 2, 1973, emergency; Aug. 1, 1977, regular	July 13, 1973	390541-A
Do	Northampton	Hanover, township of	Jan. 1973, emergency; Aug. 1, 1977, regular	Oct. 26, 1973	420769-B
Do	Delaware	Radnor, township of	Feb. 25, 1972, emergency; Aug. 1, 1977, regular	Aug. 1, 1977	420415
Do	Westmoreland	Sutersville, borough of	Feb. 5, 1974, emergency; Aug. 1, 1977, regular	Nov. 23, 1973	420722-A
Do	Luzerne	White Haven, borough of	Apr. 4, 1973, emergency; Aug. 1, 1977, regular	Feb. 1, 1974	420428-B
Do	Bucks	Yardley, borough of	Dec. 10, 1971, emergency; Aug. 1, 1977, regular	June 11, 1976	420002-B
Colorado	Logan	Sterling, city of	Aug. 4, 1977, emergency	Jan. 23, 1974	420002-B
Montana	Granite	Drummond, town of	do	May 21, 1976	420630-A
Minnesota	Hennepin	Champlin, city of	Mar. 30, 1973, emergency; July 18, 1977, regular; July 18, 1977, suspended; July 22, 1977, reinstated	Oct. 26, 1973	420210-B
Pennsylvania	Dauphin	Highspire, borough of	Nov. 10, 1977, emergency; Apr. 15, 1977, regular; July 1, 1977, suspended; July 27, 1977, reinstated	Feb. 9, 1973	080294-New
Do	Chester	Thornbury, township of	Feb. 18, 1972, emergency; Mar. 1, 1977, regular; July 1, 1977, suspended; July 27, 1977, reinstated	Mar. 23, 1973	300003-A
Florida	La Plata	Ignacio, town of	Aug. 5, 1977, emergency	Nov. 2, 1973	270153-A
Florida	Jackson	Sneads, town of	do	Mar. 23, 1973	420381-A
Wisconsin	Pepin	Durand, city of	Apr. 13, 1973, emergency; June 1, 1977, regular; June 1, 1977, suspended; July 28, 1977, reinstated	Aug. 2, 1974	420290-B
				Aug. 13, 1976	
				Mar. 22, 1974	080298-A
				Aug. 2, 1974	120130-A
				May 21, 1976	
				Oct. 12, 1973	550320-B
				Apr. 2, 1976	

(National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969, as amended (39 FR 2787, Jan. 24, 1974).)

Issued: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26393 Filed 9-14-77;8:45 am]

[Docket No. FT-3326]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS**Changes in Special Flood Hazard Areas**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Interim rule.

SUMMARY: The purpose of this rule is to list those communities where in the Federal Insurance Administrator, after consultation with the Chief Executive Officer of the community, has determined that modification of the Special Flood Hazard Areas (SFHAs) of some locations is appropriate.

Any persons who have knowledge of changed conditions or new scientific or technical data or who wish to comment on these changes should immediately notify the Chief Executive Officer at the address listed.

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

DATES: These modified SFHAs are currently in effect and amend the Flood Insurance Rate Map (FIRM), in effect prior to this determination. A revised FIRM will be distributed in each community listed as soon as possible.

From the date of the second publication of notice of these changes in a

prominent local newspaper, any person has 90 days in which he can request through the community that the Federal Insurance Administrator reconsider the changes. Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data. All interested parties are on notice that until the 90-day period elapses, these modified SFHAs may be changed.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance (202-755-5581 or Toll Free Line 800-424-8872), Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION:

The numerous changes made in the SFHAs on the Flood Insurance Rate Map(s) make it administratively infeasible to publish in this notice all of the modified SFHAs contained on the map. However, this notice includes the address of the Chief Executive Officer of the community where the modified SFHAs determinations are available for inspection.

The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National

Flood Insurance Act of 1968, is amended (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

These SFHAs are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These SFHAs together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities.

These modified SFHAs shall be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The entry (entry not to be codified in CFR) reads as follows:

§ 1916.8 Changes in special flood hazard areas.

State	County	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community number
North Carolina	Carteret	Beaufort, town of	The Carteret County News Times, Aug. 8, 1977; Aug. 11, 1977.	Hon. Eugene B. Pond, mayor, town of Beaufort, P.O. Box 390, Beaufort, N.C. 28516.	Aug. 12, 1977	373346B
Texas	Victoria	Victoria; City of	Victoria Advocate, Aug. 19, 1977, Aug. 20, 1977.	Hon. C. C. Carsher, Jr., mayor, city of Victoria, P.O. Box 2207, Victoria, Tex. 77901.	do	480638B
Wisconsin	Buffalo	Fountain City, City of	The Cochrane-Fountain City Recorder, July 27, 1977, Aug. 3, 1977.	Hon. James Scholmeier, mayor, city of Fountain City, 357 North St., Fountain City, Wis. 54629.	Aug. 5, 1977	355355B

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969, as amended (39 FR 2787, Jan. 24, 1974).)

Issued: July 18, 1977.

JAY JANIS,
Under Secretary.

[FR Doc. 77-26389 Filed 9-14-77; 8:45 am]

[Docket No. FI-3326]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS**Changes in Base Flood Elevations**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator has published a notification of modification of the base (100-year) flood elevations for communities listed below, in the FEDERAL REGISTER. Since that publication, ninety days have elapsed; and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of each community listed, has

determined that no changes in the modified flood elevations are necessary.

The numerous changes made in the base flood elevations on the Flood Insurance Rate Map (FIRM) for each community make it administratively infeasible to publish in this notice all of the base flood elevation changes contained in the maps. However, this notice includes the address of the Chief Executive Officer where the modified base flood elevation determinations are available for inspection.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

DATES: These modified flood elevations are in effect as of the dates in the 6th Column of the attached list and amend the FIRM in effect for each listed community prior to this date.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION:

These base flood elevations are basis for the flood plain management measures that the community is required to either

adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to

mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities.

These modified elevations shall be used

to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The entry (entry not to be codified in CFR) reads as follows:

§ 1916.8 Changes in base flood elevations.

State	County	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community number
Texas	Kleberg		Corpus Christi Caller, Jan. 10, 1977; Jan. 17, 1977.	Hon. W. C. McDaniel, county judge, county of Kleberg, Kingsville, Tex. 78363.	Dec. 17, 1976	480423A
Virginia	Arlington		The Journal Newspapers, Jan. 13, 1977; Jan. 20, 1977.	Mr. Robert D. Arnold, community programs administrator, Arlington County Department of Transportation, system planning and evaluation division, 1400 Court House Rd., Arlington, Va. 22201.	Dec. 21, 1976	515329A
Wisconsin	Wood	Port Edwards, village of.	The Wisconsin Rapids Daily Tribune, Mar. 1, 1977; Mar. 8, 1977.	Mr. Carl W. Guelcher, village president, village hall, 1170 1st St., Port Edwards, Wis. 54469.	Feb. 23, 1977	355572A

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969, as amended (39 FR 2787, Jan. 24, 1974).)

Issued: July 18, 1977.

[FR Doc.77-26390 Filed 9-14-77; 8:45 am]

JAY JANIS,
Under Secretary.

[Docket No. FT-3327]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Changes in Base Flood Elevations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Interim rule.

SUMMARY: The purpose of this rule is to list those communities wherein the Federal Insurance Administrator, after consultation with the Chief Executive Officer of the community, has determined that modification of the base (100-year) flood elevations of some locations is appropriate.

The numerous changes made in the base flood elevations on the Flood Insurance Rate Map(s) make it administratively infeasible to publish in this notice all of the modified base flood elevations contained on the map. However, this notice includes the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection.

Any persons who have knowledge of changed conditions or new scientific or technical data or who wish to comment on these changes should immediately notify the Chief Executive Officer at the address listed.

The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

DATES: These modified elevations are currently in effect and amend the Flood Insurance Rate Map (FIRM), in effect prior to this determination. A revised FIRM will be distributed in each community listed as soon as possible.

From the date of the second publication of notice of these changes in a prominent local newspaper, any person has 90 days in which he can request through the community that the Federal Insurance Administrator reconsider the changes. Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data. All interested parties are on notice that until the 90-day period elapses, these modified elevations may be changed.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

These modified elevations shall be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The entry (entry not to be codified in CFR) reads as follows:

RULES AND REGULATIONS

§ 1916.8 Changes in base flood elevations.

State	County	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community number
California	San Bernardino	Victorville, city of	The Daily Press, Aug. 4, 1977; Aug. 5, 1977.	Hon. Humberto Lugo, mayor, city of Victorville, city hall, 14343 Civic Dr., Victorville, Calif. 92392.	Aug. 5, 1977	065068A
Florida	Charlotte		The Daily Herald News, Aug. 4, 1977; Aug. 5, 1977.	Mr. John R. Printon, Charlotte County administrator, courthouse annex, 2d floor, 116 West Olympia, Punta Gorda, Fla. 33950.do.....	120061B
Missouri	Clay	Smithville, city of	The Democrat Herald, Aug. 4, 1977; Aug. 11, 1977.	Hon. L. R. Lukon, mayor, city of Smithville, 108 North Bridge St., Smithville, Mo. 64089.	Aug. 12, 1977	295271B

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969, as amended (39 FR 2787, Jan. 24, 1974).)

Issued: July 18, 1977.

JAY JANIS,
Under Secretary.

[FR Doc.77-26391 Filed 9-14-77;8:45 am]

register
order
form

THURSDAY, SEPTEMBER 15, 1977

PART III



**CIVIL
AERONAUTICS
BOARD**

■
**CERTIFICATED AIR
CARRIERS**

**Uniform System of Accounts and Reports;
Transactions With Affiliates and
Nontransport Divisions**

Title 14—Aeronautics and Space
CHAPTER II—CIVIL AERONAUTICS
BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-1022, Amdt. 29]

PART 241—UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Amendment of CAB Form 41 Schedules Relating to Transactions With Affiliates and Nontransport Divisions

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This amendment modifies the Board's Uniform System of Accounts and Reports for Certificated Air Carriers by: (1) Combining a quarterly report schedule dealing with carrier accounts with associated companies and nontransport divisions and an annual schedule dealing with air carrier investments into a single schedule to be filed annually; (2) revising the format of another schedule which deals with the reporting of air carrier transactions with associated companies and nontransport divisions; (3) adding a requirement for carriers to disclose income tax allocation procedures used in filing consolidated returns; and (4) eliminating a requirement to establish a separate set of books for nontransport leasing operations. These changes were developed as part of the Board's on-going effort to reduce and improve air carrier reporting wherever possible.

DATES: Effective: December 5, 1977.
Adopted: September 8, 1977.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

During 1976, the Board conducted an extensive review of carrier reporting requirements designed to monitor transactions between air carriers and affiliated companies. The purpose of this review was three-fold: (1) To improve the effectiveness of these reports, (2) to correct deficiencies in the reporting requirements, and (3) to eliminate any unnecessary reports. Suggestions for improving these reporting requirements were received from several carriers during the review. As a result, the Board issued EDR-324 proposing to amend its CAB Form 41 reporting by: (1) Combining quarterly Schedule B-4(b), "Accounts with Subsidiaries, Other Associated Companies and Nontransport Divisions," with annual Schedule B-41, "Investments Held by, or for the Account of, Respondent" to make the resulting new schedule an annual filing; (2) modifying the format and reporting instructions for Schedule B-44, "Summary of Resources Exchanged with Affiliated Group Members and Other Associated Companies"; (3) adding a new account-

ing plan, CAB Form AP-16, to disclose income tax allocation procedures; and (4) eliminating the need to establish a separate accounting system for leasing operations as required in section 1-6 of Part 241.

Only two respondents—Pan American World Airways and Northwest Airlines—submitted comments in response to the rulemaking notice. Upon consideration of the comments, the Board has decided to adopt the amendments with modifications discussed below. Except to the extent modified, the tentative findings in the Explanatory Statement of EDR-324 are made final by this amendment.

In one of its comments, Pan American suggests that the title of the newly proposed Schedule B-41 be expanded to encompass the reporting of current account receivables and payables. We believe this comment is pertinent and has merit; therefore, we are revising the title of Schedule B-41 to read "Receivables, Payables and Investments Relating to Affiliates and Other Investment Data."

In another comment, Pan American points out that there are far more transaction categories in column (1) of the newly proposed Schedule B-44 than are in the current Schedule B-44. This expansion, Pan American asserts, would cause it additional work because of the need for more descriptive monitoring of transactions during the year. Accordingly, Pan American recommends that the transaction categories appearing on the current Schedule B-44 be retained, and if any additional information should be required in the future, that it be requested on an exceptional basis.

It is true that the proposed Schedule B-44 does have more transaction categories in column (1) than the current Schedule B-44. From an evaluation standpoint, a major problem with the current format of Schedule B-44 has been that the few required categories are very broad in nature. As a result, the commingling of the numerous items all summarized in one annual figure has been of little or no value to either the Board's staff or the air carriers as far as definitive identification of transactions is concerned.

Indeed, during the reviews at the carrier offices, the Board's staff found that there were deficiencies in all carrier submissions and that many of these deficiencies were directly attributable to a misunderstanding of what was called for by the rule.

In order to monitor transactions between the carrier and its affiliates, as required by ER-707,¹ it is necessary to obtain comparable figures on a periodic basis that are not commingled in this manner. In the design of the proposed Schedule B-44 and the identification of the nature of transactions in column (1), it was the Board's purpose to isolate specific types of transactions so that

¹ The Board established the need for monitoring transactions between the carrier and its affiliates in Regulation ER-707, adopted September 22, 1971.

such transactions could be monitored within the intent of ER-707. To accomplish this greater specificity, we elected to define more narrowly what is to be included on each line item. Although this resulted in more transaction categories, we believe they are necessary to provide a clearer presentation.

In view of the foregoing, we will not accept Pan American's recommendation to retain the transaction categories that appear in column (1) on the current Schedule B-44.

Northwest pointed out what they believed was an oversight in the rulemaking notice on Schedule B-41, "Receivables, Payables and Investments relating to Affiliates and Other Investment Data." This schedule contains a parenthetical note which instructs carriers not to report data in certain columns in a section of that schedule captioned "Other Investments." Northwest stated that one of the columns used to report "Notes and Accounts Payable" may have been inadvertently deleted from the parenthetical note. The carrier pointed out that this information was not required on the B-41 schedule which will be superseded by this rule and that a considerable burden would be involved if carriers were required to report such data.

Northwest's assertion is correct. The information was not reported on the old Schedule B-41, and it was not our intention to now require it by this rule. Accordingly, the number of the column relating to "Notes and Accounts Payable" has been inserted in the parenthetical note and carriers will not be required to report these data in the "Other Investments" section of Schedule B-41.

This rule will become effective 80 days after FEDERAL REGISTER publication and shall be applicable to all reports coming due after that date. Moreover, the requirement for filing Schedule B-4(b) shall be terminated with the report covering the quarter ended June 30, 1977.

In consideration of the foregoing, the Civil Aeronautics Board amends Part 241 of its Economic Regulations effective December 5, 1977, as follows:

1. Amend section 03—Definitions for Purposes of This System of Accounts and Reports, so as to delete the definition "Subsidiary company" and have section 03 read in pertinent part:

Section 03 Definitions for Purposes of This System of Accounts and Reports.

Stops, technical—Aircraft landings made for purposes other than enplaning or deplaning traffic. For purposes of identifying reporting entities, landings made for stopover passengers are regarded as technical stops.

Tariff, published— * * *

2. Amend section 1—Introduction to System of Accounts and Reports, to specifically exclude leasing operations by having section 1-6, "Accounting entities," read in pertinent part:

Sec. 1-6 Accounting entities.

(a) Separate accounting records shall be maintained for each air transport entity for which separate reports to the Civil Aeronautics Board are required to be made by sections 21(i) or 32(h), as applicable, and for each separate corporate or organizational division of the air carrier. For purposes of this Uniform System of Accounts and Reports, each nontransport entity conducting an activity which is not related to the air carrier's transport activities and each transport-related activity or group of activities qualifying as a nontransport venture pursuant to paragraph (b) of this section, whether or not formally organized within a distinct organizational unit, shall be treated as a separately operated organizational division; except that the provisions of this paragraph and paragraph (b) shall not apply to leasing activities.

(b) As a general rule, . . .

3. Amend section 2—General Accounting Policies, as follows:

A. By amending section 2-1, "Basis of allocation between entities" by changing paragraph (c) so that section 2-1 reads in pertinent part as follows:

Sec. 2-1 Basis of allocation between entities.

(c) For purposes of this section, investments by the air carrier used in common by the regulated air carrier and those transport-related revenue services defined as separate nontransport ventures under section 1-6(b) shall not be allocated between such entities but shall be reflected in total in the appropriate accounts of the entity which predominantly uses those investments. Where the entity of predominant use is a nontransport venture, the air carrier shall reflect the investment in account 1520, "Advances to Associated Companies."

B. By amending section 2-18—Transactions between members of an affiliated group, to eliminate the word "incidental" from paragraph (c) so that section 2-18 reads in pertinent part as follows:

Sec. 2-18 Transactions between members of an affiliated group.

(c) The cost, less all associated valuation allowance accumulations, of services and assets sold by or transferred from the regulated activity of an air carrier to other activities of an affiliated group shall be charged by the air carrier to either applicable transport-related revenues or capital gain income accounts, as appropriate. Where such services and assets are reflected in tariffs filed with the Board or in price lists held out to the general public, the associated revenues shall be recorded at the rates, fares, or charges contained therein in the appropriate transport-related services, capital gains or air transport income accounts. Where no tariff or prevailing price list is applicable, the associ-

ated revenue shall be recorded at the higher of cost or estimated fair market value of the asset or service involved. Any difference between the revenue so recorded and the agreed consideration to the air carrier shall be recorded in subaccount 88.1 Intercompany Transaction Adjustment-Credit or subaccount 89.1 Intercompany Transaction Adjustment-Debit.

(d) Income taxes . . .

4. Amend section 5—Balance Sheet Account Groupings, so that paragraph (b) of section 5-2, "Investments and special funds" reads in pertinent part as follows:

Sec. 5-2 Investments and special funds.

(b) Investments in investor controlled companies shall be recorded at cost plus the equity in undistributed earnings or losses since acquisition, except as provided in paragraph (c) of this section. Investments in all other associated or nonassociated companies shall be recorded at cost, except as provided in paragraph (c).

(c) Permanent impairment . . .

Section 22 [Amended]

5. Amend section 22—General Reporting Instructions, as follows:

A. By revising the list of reporting schedules to eliminate Schedule B-4(b) and change the title of Schedules B-41 and B-44 so that the list reads in pertinent part as follows:

Schedule No.	Schedule title	Filing frequency
B-3	Statement of changes in stockholder's equity.	Quarterly.
B-4	Allowance for uncollectible accounts.	Do.
B-5	Property and equipment.....	Do.
B-14	Summary of property obtained under long-term lease.	Quarterly.
B-41	Receivables, payables and investments relating to affiliates and other investment data.	Annually.
B-43	Inventory of airframes and aircraft engines.	Do.
B-44	Transactions between air carrier and affiliates—annual summary.	Do.
B-46	Long-term and short-term non-trade debt.	Do.

B. By revising paragraph (d) to include a new subparagraph (16) and other editorial changes so that paragraph (d) will read in pertinent part:

(d) Statements of accounting or statistical procedures required to be filed under this system of accounts and reports are recapitulated below. As a general rule these statements or revisions thereof shall be filed prior to the date on which the procedures are to become effective. However, in certain cases, where a change in procedure or the initial adoption of a new procedure is necessitated by events or transactions occurring for the first time or by new requirements of professional or regulatory bodies, air carriers are permitted to file new or

amended statements within thirty days after the close of the first calendar quarter in which the procedures become effective. The procedures shall be regarded as accepted unless the carrier is notified of Board objections within ninety days after receipt. These statements shall be filed in triplicate on standard forms AP-1 through AP-16.

(1) Procedures for assigning or prorating profit and loss items between operating entities as described in section 2-1.

(10) Procedures for assigning or prorating expenses between transport operations and transport-related operations as prescribed by section 10-7100 or 11-7100.

(14) Procedures for accounting for investments in investor controlled and other associated companies, including change in status from associated to investor controlled company or vice versa and adjustments as prescribed in sections 6-1510.1 and 6-1510.2.

(16) Procedures for allocating income taxes among the transport entities of the air carrier, its nontransport divisions and members of an affiliated group in accordance with section 2-18(d).

Section 23 [Amended]

6. Amend section 23—Certification and Balance Sheet Elements, as follows:

A. By revising the reporting instructions applicable to Schedule B-4 to delete the portion of the instructions dealing with accounts with investor controlled companies, other associated companies and nontransport divisions, so that the new title and instructions for this schedule read, in their entirety, as follows:

Schedule B-4—Allowance for uncollectible accounts.

(a) This schedule shall be filed by all route air carriers.

(b) Each allowance for uncollectible accounts shall be separately identified in the indicated section of this schedule. Columns 1 and 2 shall reflect the account number and description of the asset against which each allowance is provided. The sum of the balances at the end of each quarter which are provided against each asset account shall agree with the corresponding amount reported on Schedule B-1 Balance Sheet.

B. By revising paragraph (c) to exclude the term "subsidiaries" from the instructions applicable to Schedule B-12 so that the instructions for Schedule B-12 read in pertinent part:

Schedule B-12—Statement of changes in financial position.

(c) In determining working capital generated by operations, net income as reported in item 9899 on Schedule P-1.1 or Schedule P-1.2 shall be increased by expenses not requiring working capital

in the current period and shall be decreased by income not generating working capital in the current period such as gains on property retirements and undistributed earnings of investor controlled companies. * * *

C. By revising the instructions to Schedule B-41 so that the new title and reporting instructions for this schedule read, in their entirety, as follows:

Schedule B-41—Receivables, payables and investments relating to affiliates and other investment data.

(a) This schedule shall be filed by all route air carriers.

(b) The data shall be grouped and separately subtotaled according to:

(1) investments in investor controlled companies (account 1510.1); (2) investments in other associated companies (account 1510.2); (3) investments in nontransport divisions and other investments; and (4) notes and accounts receivable due to the air carrier.

(c) Column 1 shall reflect the name of each associated company, and each other issuer of securities held by the air carrier. This column shall also reflect the name of each company from which notes and accounts receivable, both current and noncurrent, are due to the air carrier. Additionally, this column shall show the name of each nontransport division for which separate records and books of account are maintained.

(d) Column 2 shall reflect gross amounts due from associated companies which are settled currently.

(e) Column 3 shall reflect advances, loans, and other amounts not settled currently, due from associated companies. This column shall also reflect the net amount receivable from each nontransport division.

(f) Column 4 "Investments at Cost" shall reflect the cost to the air carrier at date of acquisition of investments in associated companies. The cost of investments in investor controlled companies plus the equity in undistributed earnings or losses since acquisition reflected in column 5 "Equity in Undistributed Earnings" shall agree in the aggregate with the corresponding amounts in balance sheet subaccount 1510.1 Investments in Investor Controlled Companies. The cost of investments in other associated companies shall agree with the corresponding amounts in balance sheet subaccount 1510.2 Investments in Other Associated Companies.

(g) Column 5 "Equity in Undistributed Earnings" shall reflect the equity in undistributed earnings or losses of investor controlled companies since acquisition.

(h) Column 6 "Other Investments and Receivables" shall reflect the amount of the investments and receivables of a noncurrent nature for those companies listed in column 1 under "Other Investments."

(i) Column 7 "Notes and Accounts Payable" shall reflect the gross amounts due on current notes and open accounts with associated companies.

(j) Column 8 "Advances" shall reflect, from accounts 2210, "Long-Term Debt"

and 2240, "Advances from Associated Companies," the amounts due associated companies for notes, loans and advances which are not settled currently. Also, column 8 shall reflect the advances from Nontransport Divisions in account 2240.

(k) Column 9 shall reflect the amount of dividends received during the year on all securities held for companies reported in column 1, except those received from investor controlled companies. Also, column 9 shall reflect the amount of interest received during the year on all bonds, notes and other investments for companies reported in column 1.

(l) Column 10 shall reflect the type of security, such as stocks, bonds, notes, or accounts receivable (abbreviate "a/c rec.") with respect to investments and noncurrent receivables.

(m) Column 11 shall reflect the words "yes" for investments held in the name of the air carrier and "no" for investments held in the name of others for the account of the air carrier. If the answer is "no" carriers should supply the name and address of each person in whose name the interest is held at the bottom of the schedule.

(n) Column 12 "Number of Shares or Debt Principal Amount" shall reflect the number of shares of stock or the principal amount of bonds or notes held by the carrier.

(o) Column 13 "Percent of Total Issue Outstanding" shall reflect, for the associated companies listed in column 1, the percent of outstanding stock owned by the air carrier. Column 13 is not applicable for "Other Investments" or for "Nontransport Divisions" listed in column 1.

D. By revising the instructions to Schedule B-44 so that the new title and reporting instructions for this schedule read, in their entirety, as follows:

Schedule B-44—Transactions between air carrier and affiliates—annual summary.

(a) This schedule shall be filed by all route air carriers.

(b) The aggregate annual amounts of transactions exchanged between the carrier and any of its affiliates, including any of its nontransport divisions, shall be grouped on this schedule by line item under four major groupings: (1) increase in carrier's resources, (2) decrease in carrier's resources, (3) dividends, and (4) income tax transactions.

(c) For the purposes of this schedule the term "affiliate" means associated companies including investor controlled companies and organizational divisions as defined in section 1-6 and the term "resources" shall mean assets such as current, noncurrent other than fixed, and fixed assets; it includes cash, receivables, securities, investments, equipment, supplies, buildings and land; and operational services. Net income from investor controlled companies and organizational divisions, as defined in section 1-6, shall be reported as an increase in a resource and net loss incurred by investor controlled companies and organizational divisions as defined in section 1-6 shall be reported as a decrease in a resource. Authorized but unissued

bonds or stock, estimated revenue not yet accrued or collected and contingent assets, shall not be considered resources for the purposes of reporting on Schedule B-44.

(d) Within the transaction groupings for resources, the term "operational services" shall include the providing of benefits to other parties by an expenditure of assets, labor, material, supplies, know-how, or any combination of these in the conduct of business operations; permission granted for rights of entry or rights under leases will not be considered operational services; however, the cash disbursed or cash received for those rights will be reported under the appropriate classification.

(e) Within the transaction grouping for resource increases, on the line entitled "Cash received by carrier from affiliate," carriers shall report both cash and checks. This includes for example: (1) Cash advanced by an affiliate, (2) cash remittances by an affiliate to the carrier for purchases or services procured from the carrier, (3) cash remittances to the carrier by an affiliate for repayment of advances or loans, (4) cash dividends paid by an affiliate to the carrier, (5) cash remittances by affiliate to carrier in settlement of income tax transactions, (6) cash remittances by affiliate to carrier in settlement of "current account" transactions, and (7) checks drawn by an affiliate payable to the carrier in exchange for cash or cash in kind. Within the transaction grouping for resource decreases, on the line entitled "Cash disbursed by carrier to affiliate" carriers shall report cash paid out by the carrier to an affiliate, whether in cash or by check; this includes, for example, (1) cash advanced to an affiliate, (2) cash disbursed by the carrier to an affiliate for purchases or services procured from an affiliate, (3) cash disbursed by the carrier to an affiliate for repayment of advances or loans, (4) cash dividends paid by the carrier to an affiliate, (5) cash disbursed by the carrier to an affiliate in settlement of income tax transactions, (6) cash disbursed by carrier in settlement of "current account" transactions, and (7) checks drawn by the carrier payable to an affiliate in exchange for cash or cash in kind.

(f) Within the transaction grouping for resource increases, on the line entitled "Contribution of capital by affiliate to carrier," carriers shall report any increase in assets without regard to the type of asset which results from the purchase of additional securities or any other contribution of capital. Within the transaction groupings for resource decreases, on the line entitled, "Contribution of capital by carrier to affiliate," carriers shall report increases in the investment accounts as the result of a purchase of additional securities or any other contribution of capital. Any transaction reported on the lines discussed in this paragraph (f) or in paragraph (g) below which exceeds one percent of the carrier's net stockholder equity reported on line 2995 of Schedule B-1, "Balance Sheet," shall be described as to the na-

ture of the transaction and the amount involved on Schedule P-2, "Notes to Income Statement."

(g) Within the transaction grouping for resource increases, on the line entitled "Credit adjustments to affiliate's retained earnings," carriers shall report credit adjustments to the affiliate's capital accounts which do not flow through the income statement such as credit adjustments to the opening balance of retained earnings. Within the transaction grouping for resource decreases, on the line entitled "Debit adjustments to affiliate's retained earnings," carriers shall report debit adjustments to the affiliate's capital accounts which do not flow through the income statement such as debit adjustments to the opening balance of retained earnings.

(h) Within the transaction grouping for resource increases, on the line entitled "Net income of affiliate for year (Debit to Investment and Credit to Account 8100)," the carrier shall report its proportionate share of the net income of an investor controlled company accounted for under the equity method. Within the transaction grouping for resource decreases, on the line entitled "Net loss of affiliate for year (Debit to Account 8100 and Credit to Investment)," the carrier shall report its proportionate share of the net loss of an investor controlled company accounted for under the equity method.

(i) Within the transaction grouping for resource increases and the transaction grouping for resource decreases, on the lines entitled "Operational services performed by affiliate for carrier" and "Operational services performed by carrier for affiliate," carriers shall report the amount of operational services flowing to and from the air carrier, respectively.

(j) Within the transaction grouping for resource increases and resource decreases, on the lines entitled "Property, equipment, and other assets acquired by carrier from affiliate" and "Property, equipment, and other assets disposed of by carrier to affiliate," air carriers shall report assets acquired from affiliates and assets disposed of to affiliates, respectively. These lines shall not include contributions of capital or cash transactions which shall be reported as directed in paragraphs (e) and (f) above.

(k) Within the transaction grouping for resource increases and resource decreases, on the lines entitled "Resources pledged by affiliate in the interest of carrier" and "Resources pledged by the carrier in the interest of affiliate" carriers shall report the assets, including receivables which have been pledged for the benefit of the carrier by the affiliate or by carrier for the benefit of the affiliate such as collateral or security for loans.

(l) Within the transaction grouping for dividends, carriers shall report cash dividends and property dividends paid or received. Both cash and property dividends shall also be reported in the appropriate line item under the resource increase or resource decrease transaction grouping. The basis used in valuing prop-

erty dividends (cost, market value, etc.) shall be footnoted and described in the space provided at the bottom of the form.

(m) In the transaction group for income tax transactions, on the first two lines carriers shall report the amount of income taxes billed by the carrier to the affiliate and by the affiliate to the carrier. These amounts shall not be reported in resource increase or resource decrease transaction groupings until remittances are made. On the second two lines, carriers shall report the amounts of investment tax credits transferred, if any, pursuant to any tax allocation agreement, formal or informal, used in the preparation of consolidated tax returns. The last two lines shall reflect the transfer, if any, of net operating losses pursuant to any tax allocation agreement, formal or informal, used in the preparation of consolidated tax returns. No amount reported in the last four lines of this section shall be reported in the resource increase or resource decrease transaction groupings.

(n) In the blank space provided under the word "Affiliate" at the top of columns 2 through 9, carriers shall insert the name of the affiliate with whom the transactions took place, using a separate column for each affiliate.

(o) Columns 2, 3, 4, 5, 6, 7, 8, and 9 shall be used, one column for each affiliated group member, to separately reflect the annual aggregate dollar amount of the transactions exchanged between the carrier and the affiliate for each line item indicated in column 1 under each of the four transaction groupings.

Section 32 [Amended]

7. Amend section 32—General Reporting Instructions, as follows:

A. By revising the list of reporting schedules to change the title of Schedules B-41 and B-44 so that the list reads in pertinent part as follows:

Schedule No.	Schedule title	Filing frequency
B-14	Summary of property obtained under long-term lease.	Do.
B-11	Receivables, payables and investments relating to affiliates and other investment data.	Annually.
B-12	Inventory of airframes and aircraft engines.	Do.
B-44	Transactions between air carrier and affiliates—annual summary.	Do.
B-46	Long-term and short-term non-trade debt.	Do.

B. By revising paragraph (d) to include a new subparagraph (15) and other editorial changes so that paragraph (d) will read in pertinent part:

(d) Statements of accounting or statistical procedures required to be filed under this system of accounts and reports are recapitulated below. As a general rule these statements or revisions thereof shall be filed prior to the date on which the procedures are to become effective. However, in certain cases, where a change in procedure or the initial adoption of a new procedure is necessi-

tated by events or transactions occurring for the first time or by new requirements of professional or regulatory bodies, air carriers are permitted to file new or amended statements within thirty days after the close of the first calendar quarter in which the procedures become effective. The procedures shall be regarded as accepted unless the carrier is notified of Board objections within ninety days after receipt. These statements shall be filed in triplicate on standard forms AP-1 through AP-16.

(1) Procedures for assigning or prorating profit and loss items between operating entities as described in section 2-1.

(12) Procedures for accounting for investments in investor controlled and other associated companies, including change in status from associated to investor controlled company or vice versa and adjustments as prescribed in sections 6-1510.1 and 6-1510.2.

(15) Procedures for allocating income taxes among the transport entities of the air carrier, its nontransport divisions, and members of an affiliated group in accordance with section 2-18(d).

Section 33 [Amended]

8. Amend section 33—Certification and Balance Sheet Elements, as follows:

A. By revising paragraph (b) to exclude the term subsidiaries from the instructions applicable to Schedule B-12 so that the instructions for Schedule B-12 read in pertinent part:

Schedule B-12—Statement of changes in financial position.

(b) In determining working capital generated by operations, net income as reported in item 9899 on Schedule P-1.1 or Schedule P-1.2 shall be increased by expenses not requiring working capital in the current period and shall be decreased by income not generating working capital in the current period such as gains on property retirements and undistributed earnings of investor controlled companies.

B. By revising the instructions to Schedule B-41 so that the new title and reporting instructions for this schedule read, in their entirety, as follows:

Schedule B-41—Receivables, payables and investments to affiliates and other investment data.

(a) This schedule shall be filed by all supplemental air carriers.

(b) The data shall be grouped and separately subtotaled according to: (1) Investments in investor controlled companies (account 1510.1); (2) investments in other associated companies (account 1510.2); (3) investments in nontransport divisions and other investments; and (4) notes and accounts receivable due to the air carrier.

(c) Column 1 shall reflect the name of each associated company, and each other issuer of securities held by the air carrier. This column shall also reflect the name of each company from which notes and accounts receivable, both current and noncurrent, are due to the air carrier. Additionally, this column shall show the name of each nontransport division for which separate records and books of account are maintained.

(d) Column 2 shall reflect gross amounts due from associated companies which are settled currently.

(e) Column 3 shall reflect advances, loans, and other amounts not settled currently, due from associated companies. This column shall also reflect the net amount receivable from each nontransport division.

(f) Column 4 "Investments at Cost" shall reflect the cost to the air carrier at date of acquisition of investments in associated companies. The cost of investments in investor controlled companies plus the equity in undistributed earnings or losses since acquisition reflected in column 5 "Equity in Undistributed Earnings" shall agree in the aggregate with the corresponding amounts in balance sheet subaccount 1510.1 Investments in Investor Controlled Companies. The cost of investments in other associated companies shall agree with the corresponding amounts in balance sheet subaccount 1510.2 Investments in Other Associated Companies.

(g) Column 5 "Equity in Undistributed Earnings" shall reflect the equity in undistributed earnings or losses of investor controlled companies since acquisition.

(h) Column 6 "Other Investments and Receivables" shall reflect the amount of the investments and receivables of a noncurrent nature for those companies listed in column 1 under "Other Investments."

(i) Column 7 "Notes and Accounts Payable" shall reflect the gross amounts due on current notes and open accounts with associated companies.

(j) Column 8 "Advances" shall reflect, from accounts 2210, "Long-Term Debt" and 2240, "Advances from Associated Companies," the amounts due associated companies for notes, loans and advances which are not settled currently. Also, column 8 shall reflect the advances from Nontransport Divisions in account 2240.

(k) Column 9 shall reflect the amount of dividends received during the year on all securities held for companies reported in column 1, except those received from investor controlled companies. Also, column 9 shall reflect the amount of interest received during the year on all bonds, notes, and other investments for companies reported in column 1.

(l) Column 10 shall reflect the type of security, such as stocks, bonds, notes, or accounts receivable (abbreviate "a/c rec.") with respect to investments and noncurrent receivables.

(m) Column 11 shall reflect the words "yes" for investments held in the name of the air carrier and "no" for investments held in the name of others for

the account of the air carrier. If the answer is "no" carriers should supply the name and address of each person in whose name the interest is held at the bottom of the schedule.

(n) Column 12 "Number of Shares or Debt Principal Amount" shall reflect the number of shares of stock or the principal amount of bonds or notes held by the carrier.

(o) Column 13 "Percent of Total Issue Outstanding" shall reflect, for the associated companies listed in column 1, the percent of outstanding stock owned by the air carrier. Column 13 is not applicable for "Other Investments" nor for "Nontransport Divisions" listed in column 1.

C. By revising the instructions to Schedule B-44 so that the new title and reporting instructions for this schedule read, in their entirety, as follows:

Schedule B-44—Transactions between air carrier and affiliates—annual summary.

(a) This schedule shall be filed by all supplemental air carriers.

(b) The aggregate annual amounts of transactions exchanged between the carrier and any of its affiliates, including any of its nontransport divisions, shall be grouped on this schedule by line item under four major groupings: (1) increase in carrier's resources, (2) decrease in carrier's resources, (3) dividends, and (4) income tax transactions.

(c) For the purpose of this schedule the term "affiliate" means associated companies including investor controlled companies and organizational divisions as defined in section 1-6 and the term "resources" shall mean assets such as current, noncurrent other than fixed, and fixed assets; it includes cash, receivables, securities, investments, equipment, supplies, buildings and land, and operational services. Net income from investor controlled companies and organizational division, as defined in section 1-6, shall be reported as an increase in a resource and net loss incurred by investor controlled companies and organizational divisions as defined in section 1-6 shall be reported as a decrease in a resource. Authorized but unissued bonds or stock, estimated revenue not yet accrued or collected, and contingent assets, shall not be considered resources for the purpose of reporting on Schedule B-44.

(d) Within the transaction groupings for resources, the term "operational services" shall include the providing of benefits to other parties by an expenditure of assets, labor, material, supplies, know-how, or any combination of these in the conduct of business operations; permission granted for rights of entry or rights under leases will not be considered operational services; however, the cash disbursed or cash received for those rights will be reported under the appropriate classification.

(e) Within the transaction grouping for resource increases, on the line entitled "Cash received by carrier from affiliate," carriers shall report both cash and checks. This includes for example: (1) Cash advanced by an affiliate, (2)

cash remittances by an affiliate to the carrier for purchases or services procured from the carrier, (3) cash remittances to the carrier by an affiliate for repayment of advances or loans, (4) cash dividends paid by an affiliate to the carrier, (5) cash remittances by affiliate to carrier in settlement of income tax transactions, (6) cash remittances by affiliate to carrier in settlement of "current account" transactions, and (7) checks drawn by an affiliate payable to the carrier in exchange for cash or cash in kind. Within the transaction grouping for resource decreases, on the line entitled "Cash disbursed by carrier to affiliate" carriers shall report cash paid out by the carrier to an affiliate, whether in cash or by check; this includes, for example, (1) cash advanced to an affiliate, (2) cash disbursed by the carrier to an affiliate for purchases or services procured from an affiliate, (3) cash disbursed by the carrier to an affiliate for repayment of advances or loans, (4) cash dividends paid by the carrier to an affiliate, (5) cash disbursed by the carrier to an affiliate in settlement of income tax transactions, (6) cash disbursed by carrier in settlement of "current account" transactions, and (7) checks drawn by the carrier payable to an affiliate in exchange for cash or cash in kind.

(f) Within the transaction grouping for resource increases, on the line entitled "Contribution of capital by affiliate to carrier," carriers shall report any increase in assets without regard to the type of asset which results from the purchase of additional securities or any other contribution of capital. Within the transaction groupings for resource decreases, on the line entitled, "Contribution of capital by carrier to affiliate," carriers shall report increases in the investment accounts as the result of a purchase of additional securities or any other contribution of capital. Any transaction reported on the lines discussed in this paragraph (f) or in paragraph (g) below which exceeds one percent of the carrier's net stockholder equity reported on line 2995 of Schedule B-1, "Balance Sheet," shall be described as to the nature of the transaction and the amount involved on Schedule P-2, "Notes to Income Statement."

(g) Within the transaction grouping for resource increases, on the line entitled "Credit adjustments to affiliate's retained earnings," carriers shall report credit adjustments to the affiliate's capital accounts which do not flow through the income statement such as credit adjustments to the opening balance of retained earnings. Within the transaction grouping for resource decreases, on the line entitled "Debit adjustments to affiliate's retained earnings," carriers shall report debit adjustments to the affiliate's capital accounts which do not flow through the income statement such as debit adjustments to the opening balance of retained earnings.

(h) Within the transaction grouping for resource increases, on the line entitled "Net income of affiliate for year

(Debit to Investment and Credit to Account 8100), the carrier shall report its proportionate share of the net income of an investor controlled company accounted for under the equity method. Within the transaction grouping for resource decreases, on the line entitled "Net loss of affiliate for year (Debit to Account 8100 and Credit to Investment)," the carrier shall report its proportionate share of the net loss of an investor controlled company accounted for under the equity method.

(i) Within the transaction grouping for resource increases and the transaction grouping for resource decreases, on the lines entitled "Operational services performed by affiliate for carrier" and "Operational services performed by carrier for affiliate," carriers shall report the amount of operational services flowing to and from the air carrier, respectively.

(j) Within the transaction grouping for resource increases and resource decreases, on the lines entitled "Property, equipment, and other assets acquired by carrier from affiliate" and "Property, equipment, and other assets disposed of by carrier to affiliate," air carriers shall report assets acquired from affiliates and assets disposed of to affiliates, respectively. These lines shall not include contributions of capital or cash transactions which shall be reported as directed in paragraphs (e) and (f) above.

(k) Within the transaction grouping for resource increases and resource de-

creases, on the lines entitled "Resources pledged by affiliate in the interest of carrier" and "Resources pledged by carrier in the interest of affiliate," carriers shall report the assets, including receivables which have been pledged for the benefit of the carrier by the affiliate or by carrier for the benefit of the affiliate such as collateral or security for loans.

(l) Within the transaction grouping for dividends, carriers shall report cash dividends and property dividends paid or received. Both cash and property dividends shall also be reported in the appropriate line item under the resource increase or resource decrease transaction grouping. The basis used in valuing property dividends (cost, market value, etc.) shall be footnoted and described in the space provided at the bottom of the form.

(m) In the transaction group for income tax transactions, on the first two lines carriers shall report the amount of income taxes billed by the carrier to the affiliate and by the affiliate to the carrier. These amounts shall not be reported in resource increase or resource decrease transaction groupings until remittances are made. On the second two lines, carriers shall report the amounts of investment tax credits transferred, if any, pursuant to any tax allocation agreement, formal or informal, used in the preparation of consolidated tax returns. The last two lines shall reflect the transfer, if any, of net operating losses pursuant to any tax allocation agreement, formal or

informal, used in the preparation of consolidated tax returns. No amount reported in the last four lines of this section shall be reported in the resource increase or resource decrease transaction groupings.

(n) In the blank space provided under the word "Affiliate" at the top of columns 2 through 9, carriers shall insert the name of the affiliate with whom the transactions took place, using a separate column for each affiliate.

(o) Columns 2, 3, 4, 5, 6, 7, 8, and 9 shall be used, one column for each affiliated group member, to separately reflect the annual aggregate dollar amount of the transactions exchanged between the carrier and the affiliate for each line item indicated in column 1 under each of the four transaction groupings.

9. Amend CAB Form 41 schedules to reflect the foregoing changes in accounting as shown in Exhibits A, B, and C, and add a new accounting plan form AP-16 as shown in Exhibit D.

(Secs. 204(a), 407, Federal Aviation Act of 1958, as amended, 72 Stat. 743 and 766; (49 U.S.C. 1324, 1377).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

NOTE.—The Civil Aeronautics Board is submitting this rule to the Comptroller General for such review as may be appropriate under the Federal Reports Act, 44 U.S.C. 3512. The effective date of this rule accordingly reflects the inclusion of the 45-day period which that statute allows for such review. 46 U.S.C. 3512(c)(2).

EXHIBIT A

RECEIVABLES, PAYABLES AND INVESTMENTS RELATING TO AFFILIATES AND OTHER INVESTMENT DATA (PURSUANT TO SECTION 609(a) OF THE FEDERAL AVIATION ACT)	AIR CARRIER		As at December 31, 79									
	1209, 1210 Accounts Receivable	1209 Advances	1210 Instruments at Cost	1209 Equity in Domesticated Exchanges	1209 Other Investments and Receivables	LIABILITY ACCOUNTS 2000, 2001, 2002, 2003 & Accounts Payable	1210, 1216 Advances	Amount of Dividend or Interest Income During Year	Type of Security (Type or No.)	Number of Record (Type or No.)	Shares or Practical Amount	Percent of Total Issue Outstanding
COMPANY OR DIVISION (1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
ASSOCIATED COMPANIES (Grouped and separately subtotaled according to investor controlled companies and other associated companies.)												
OTHER INVESTMENTS (Columns 2, 3, 4, 5, 7, 8 and 13 are not applicable to this group)												
MONTANA AIR DIVISIONS												

1/ In the event the answer is "yes" in column 13, specify the state and address of each person in whose name the instrument is held in the space provided below.

EXHIBIT B

TRANSACTIONS BETWEEN AIR CARRIER AND AFFILIATES ANNUAL SUMMARY		AGGREGATE ANNUAL AMOUNTS OF TRANSACTIONS WITH CARRIER									
		AFFILIATE	AFFILIATE	AFFILIATE	AFFILIATE	AFFILIATE	AFFILIATE	AFFILIATE	AFFILIATE	AFFILIATE	AFFILIATE
1	INCREASE IN CARRIER'S RESOURCES Cash received by carrier from affiliate	100	100	100	100	100	100	100	100	100	100
2	Contribution of capital by affiliate to carrier*										
3	Credit adjustments to affiliate's retained earnings*										
4	Net income of affiliate for year (Debit to Investment and Credit to Account E200)										
5	Operational services performed by affiliate for carrier										
6	Property, equipment, and other assets acquired by carrier from affiliate										
7	Revenues pledged by affiliate, in the interest of carrier										
8	DECREASE IN CARRIER'S RESOURCES Cash advanced by carrier to affiliate										
9	Contribution of capital by carrier to affiliate*										
10	Debit adjustments to affiliate's retained earnings*										
11	Net loss of affiliate for year (Debit to Account E100 and Credit to Investment)										
12	Operational services performed by carrier for affiliate										
13	Property, equipment and other assets disposed of by carrier to affiliate										
14	Revenues pledged by carrier, in the interest of affiliate										
15A	DISPOSALS Paid by affiliate to carrier - from Investor Controlled Companies										
15B	Paid by affiliate to carrier - from Other Affiliates										
16	Paid by carrier to affiliate										
17	INCOME TAX TRANSACTIONS Income taxes billed by carrier to affiliate										
18	Income taxes billed by affiliate to carrier										
19	Investment tax credits transferred by carrier to affiliate										
20	Investment tax credits transferred by affiliate to carrier										
21	Net operating losses transferred by carrier to affiliate										
22	Net operating losses transferred by affiliate to carrier Expenses of funds used in valuing property of related										

CAB Form 43
(Rev. 11-77)

*Any transaction reported on these lines which involves the payment of the carrier's net absolute equity shall be disclosed as to nature and amount on Schedule P-2, Net to Income Statement.

Schedule B - 44

STATUS OF ACCOUNTING PLANS REQUIRED TO BE FILED		Air Carrier _____ 12 Months Ended <u>June 30</u> , 19____			
Statement No.	Subject (1)	Applicable Section (2)	Was Plan Revised This Period (Yes or No) (3)	Latest Plan	
				Date Filed (4)	Effective Date (5)
1	Assigning or prorating profit and loss items between operating entities	2-1.			
2	Retroactive adjustments made to conform accounts with mail rate actions	2-4(d)			
3	[Reserved]				
4	Equalization reserves	2-13(d)			
5	Depreciation	2-14(b)			
6	Airframe and aircraft engine overhauls and airworthiness reserves	5-4(g)			
7	Amortization of developmental and preoperating costs and other intangibles	5-5(b) 6-1870(c) 6-1880			
8	Obsolescence and deterioration allowances — expendable parts	6-1311(d)			
9	Air traffic liability and physical verification procedures	6-2160(e)			
10	Assigning or prorating expenses between transport-related services and transport operations	10-7100 11-7100			
11	Application of maintenance burden	10-5300(c) 11-5300(c) 24-P-6(f)			
12	Computation of available seat-miles and available ton-miles	19-2(g) 35-T-3.1			
13	Accrued vacation liability	6-2120(c)			
14	Accounting for investments in investor controlled and other associated companies, including change in status from associated to investor controlled company, or vice versa, and adjustments in investment accounts.	6-1510.1 6-1510.2			
15	Accounting for pension plans	2-19 12-57			
16	Allocating income taxes	2-18(d)			

NOTE: If not applicable, use the abbreviation "NA"

SCHEDULE A-1

CAB Form 41
(Rev. 11-77)

Carrier _____

PROCEDURES FOR ALLOCATING INCOME TAXES AMONG TRANSPORT ENTITIES, AFFILIATES AND NONTRANSPORT DIVISIONS

Procedures to become effective on _____, 19____

Requirement for filing: Section 22(d) [] or 32(d) [] and Section 2-18(d) of the Uniform System of Accounts and Reports

PART A

Please check applicable box:

Carrier files Federal income tax returns as an independent company

Income of carrier reported to Internal Revenue Service as a part of a consolidated tax return

If carrier reports income as a part of a consolidated tax return, please list below the affiliated companies that are included in the consolidated tax return:

Describe allocation procedures used to allocate income taxes among the affiliated group: (In the event there is a written tax allocation agreement, the furnishing of a copy of such agreement will be considered response)

CERTIFICATION

I certify that this statement was prepared under my direction and that the procedures specified herein will be practiced on and after the effective date of the procedures.

SIGNED: _____

TITLE: _____

DATE: _____

CAB Form AP-16a
(11-77)

RULES AND REGULATIONS

EXHIBIT D
Page 2 of 2

Carrier _____

PROCEDURES FOR ALLOCATING INCOME TAXES AMONG TRANSPORT ENTITIES, AFFILIATES AND NONTRANSPORT DIVISIONS

Procedures to become effective on _____, 19 _____

Requirement for filing: Section 22(d) [] or 32(d) [] and Section 2-18(d) of the Uniform System of Accounts and Reports

PART B

Describe allocation procedures used to allocate income taxes among the transport entities of the air carrier and its nontransport divisions in compliance with section 2-18(d).

CERTIFICATION

I certify that this statement was prepared under my direction and that the procedures specified herein will be practiced on and after the effective date of the procedures.

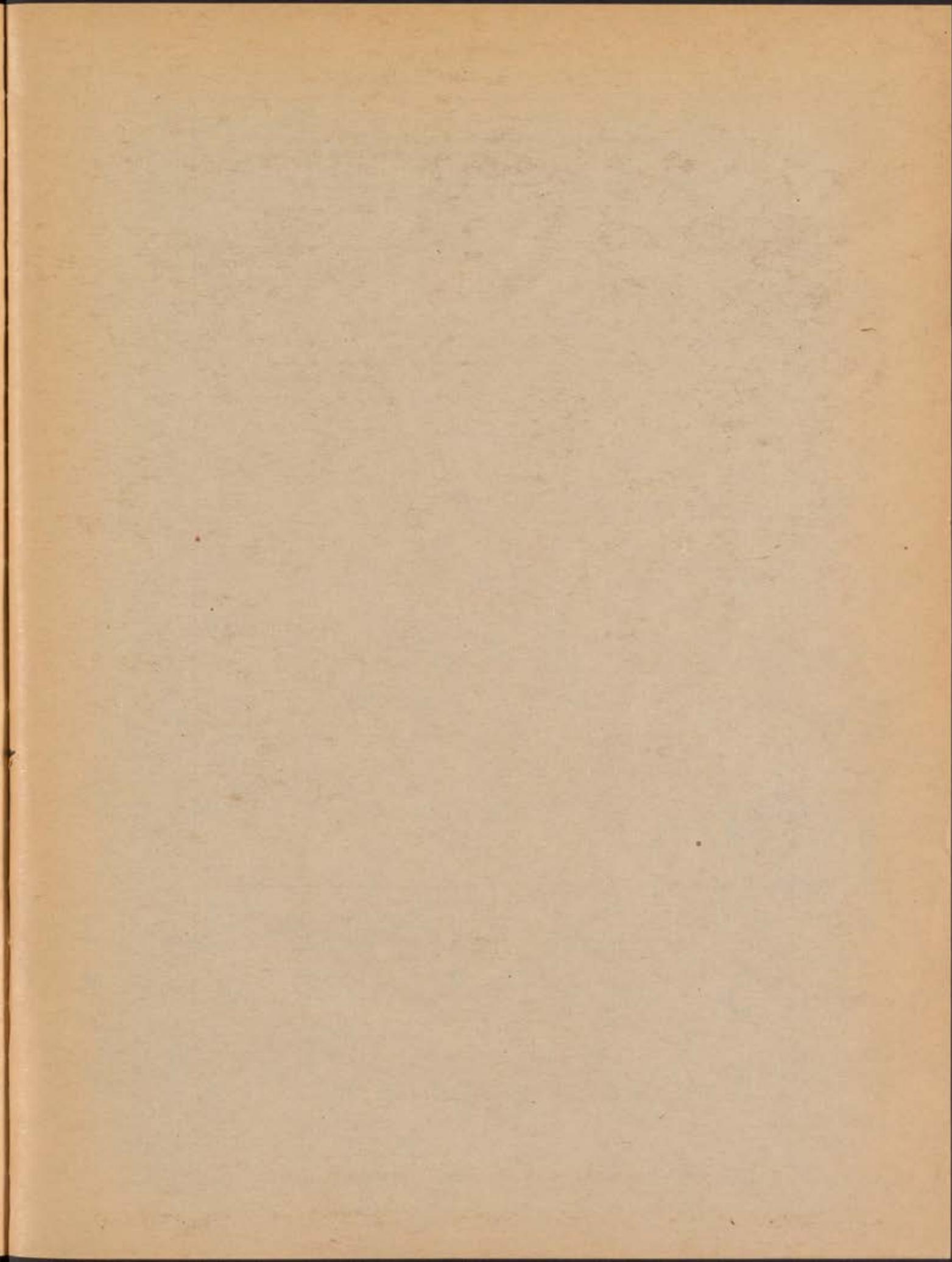
SIGNED: _____

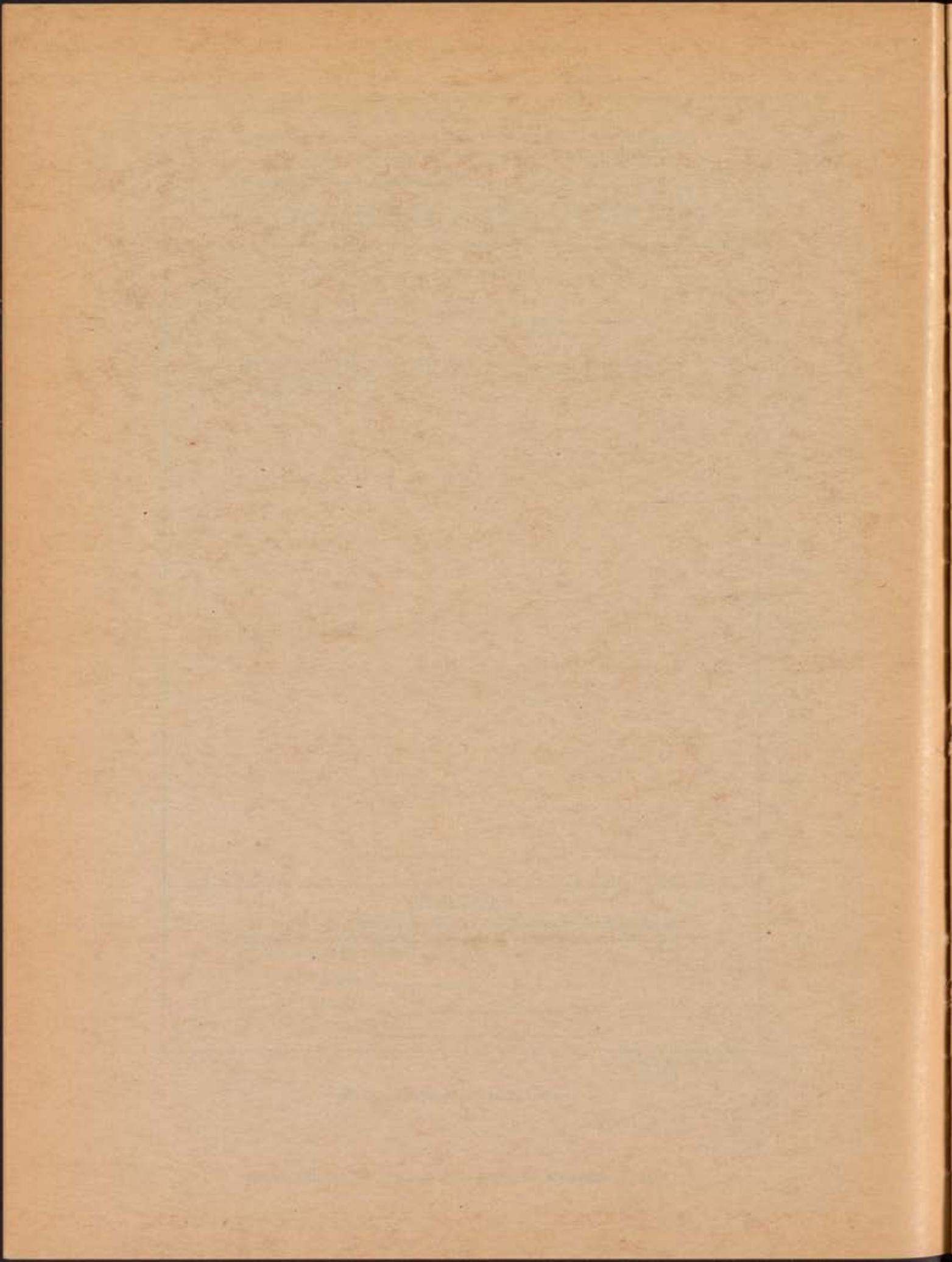
TITLE: _____

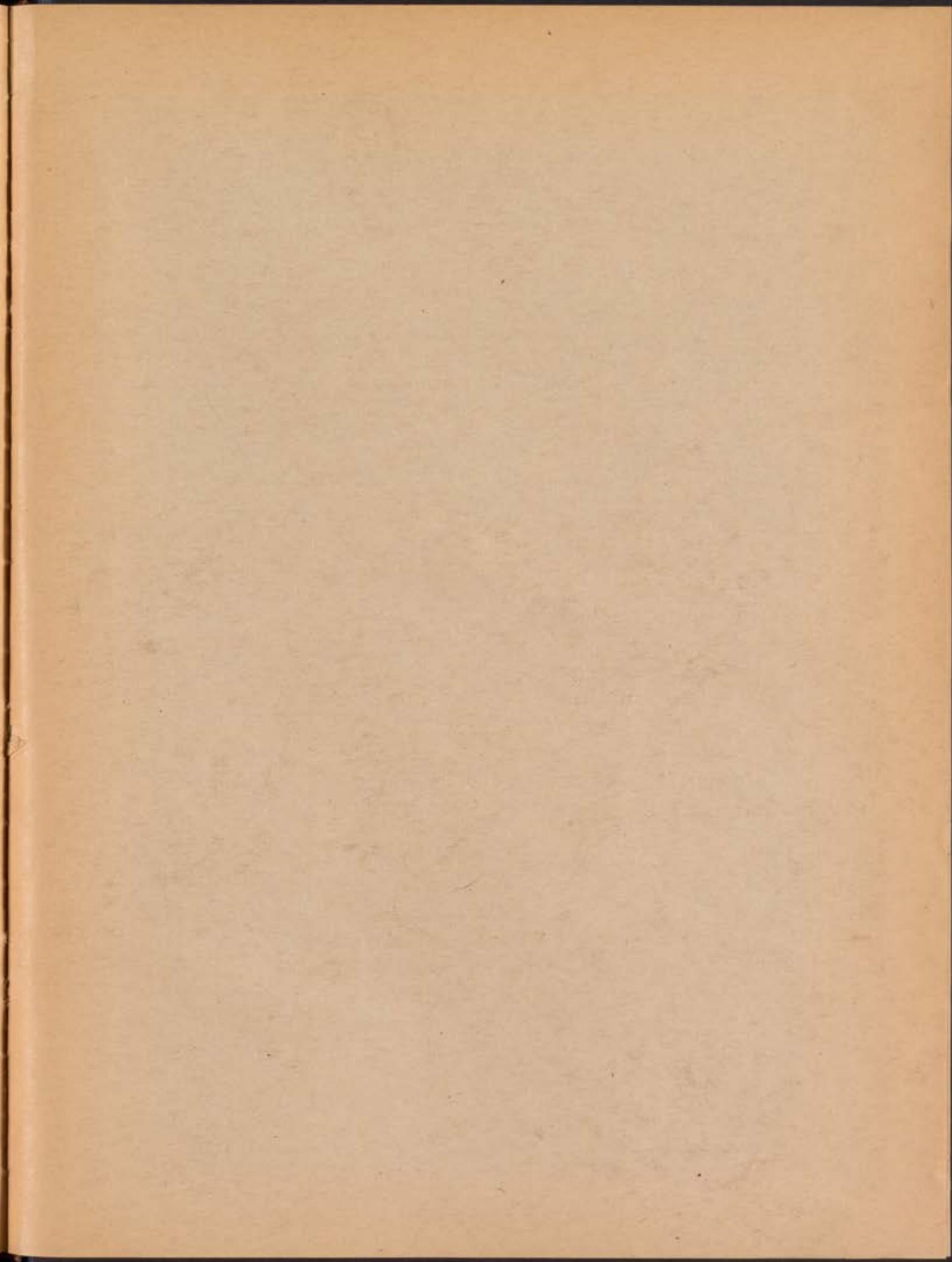
DATE: _____

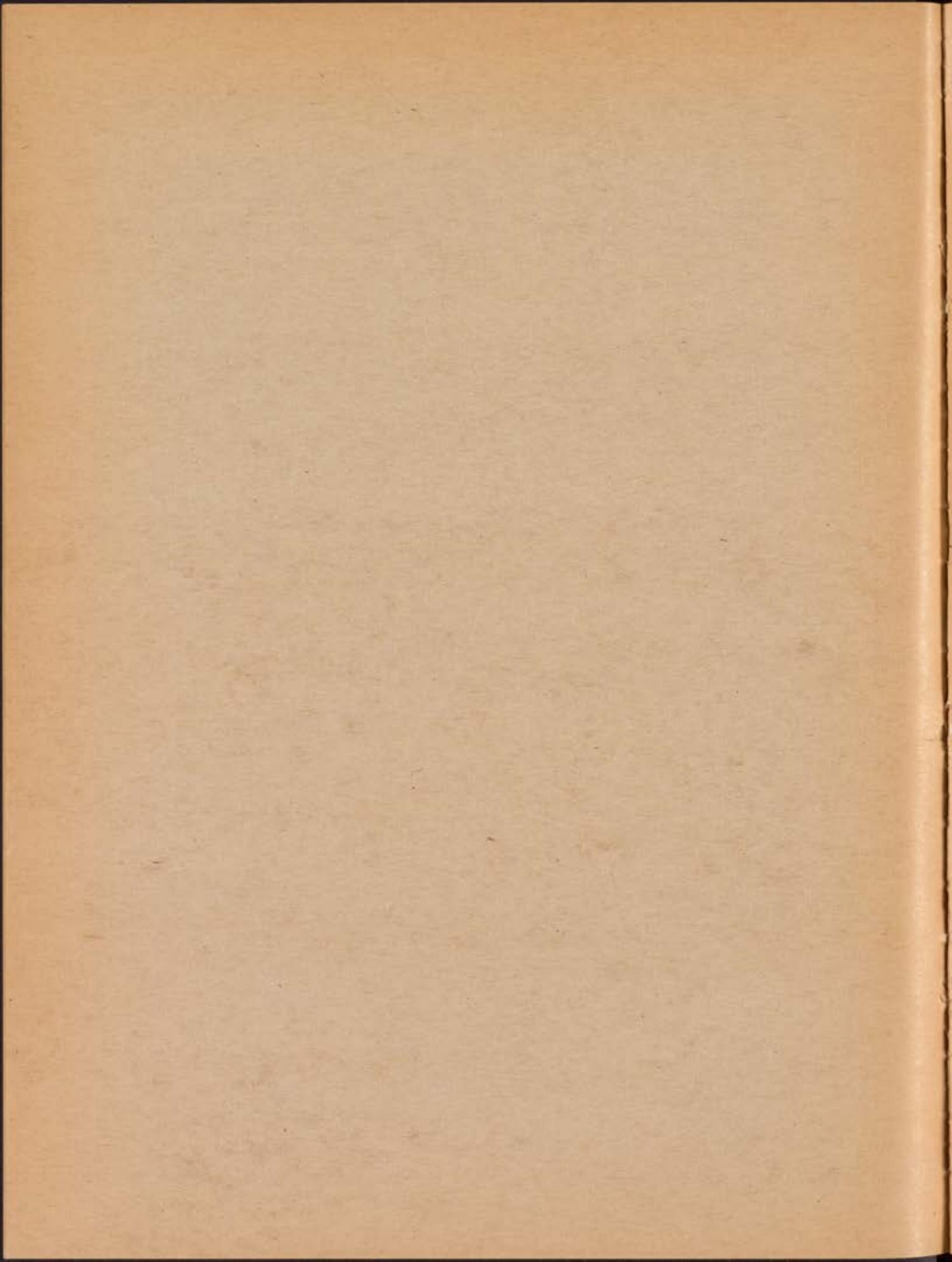
CAB Form AP-16b
(11-77)

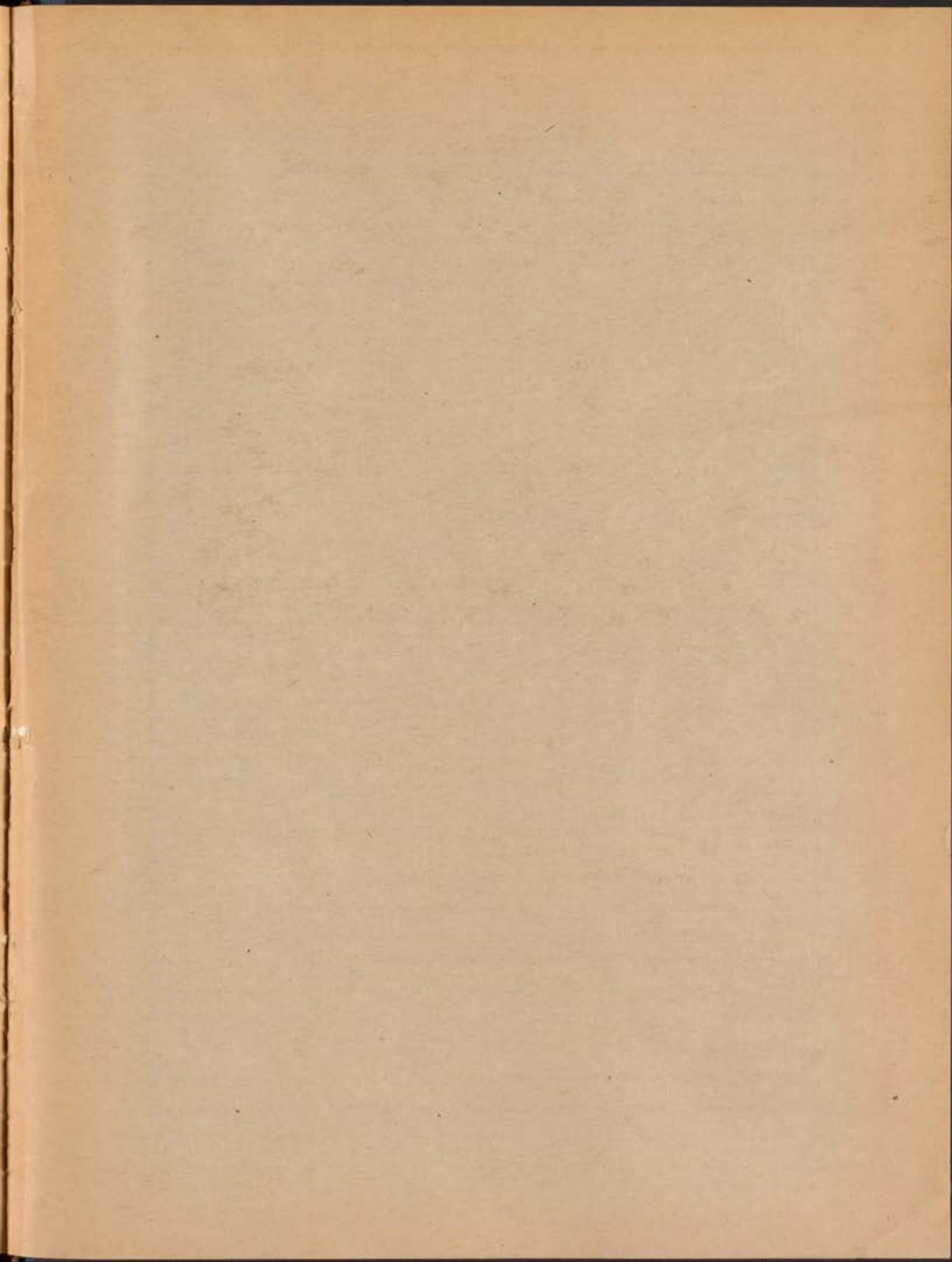
[FR Doc.77-26722 Filed 9-14-77;8:45 am]













would you like to know

if any changes have been made in certain titles of the CODE OF FEDERAL REGULATIONS without reading the Federal Register every day? If so, you may wish to subscribe to the "Cumulative List of CFR Sections Affected," the "Federal Register Index," or both.

Cumulative List of CFR Sections Affected
\$10.00
per year

The "Cumulative List of CFR Sections Affected" is designed to lead users of the Code of Federal Regulations to amendatory actions published in the Federal Register, and is issued monthly in cumulative form. Entries indicate the nature of the changes.

Federal Register Index \$8.00
per year

Indexes covering the contents of the daily Federal Register are issued monthly, quarterly, and annually.

Entries are carried primarily under the names of the issuing agencies. Significant subjects are carried as cross-references.

A finding aid is included in each publication which lists Federal Register page numbers with the date of publication in the Federal Register.

Note to FR Subscribers: FR Indexes and the "Cumulative List of CFR Sections Affected" will continue to be mailed free of charge to regular FR subscribers.

Mail order form to:
Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

There is enclosed \$_____ for _____ subscription(s) to the publications checked below:

..... CUMULATIVE LIST OF CFR SECTIONS AFFECTED (\$10.00 a year domestic; \$12.50 foreign)

..... FEDERAL REGISTER INDEX (\$8.00 a year domestic; \$10.00 foreign)

Name _____

Street Address _____

City _____ State _____ ZIP _____

Make check payable to the Superintendent of Documents

☆ GPO: 1976-O-58-000