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MONDAY, JANUARY 9, 1978



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

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[3410-37]

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Revisions of Delegations of Authority

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document revises the delegations of authority from the Secretary and general officers as previously published in the FEDERAL REGISTER on Monday, July 11, 1977 (42 FR 35625). This revision is necessary to correct certain oversights, omissions, and typographical errors contained in the July 11, 1977, delegation. The amended delegation of authorities will clarify certain functional responsibilities associated with the Agricultural Marketing Act of 1946, as amended, and place other functions in their proper organizational setting as was the original intention of the July 11, 1977, publication in the FEDERAL REGISTER.

EFFECTIVE DATE: January 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Penelope S. Farthing, 202-447-7089, Food Safety and Quality Service, U.S. Department of Agriculture, Room 3165 South Building, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: The delegations of the Department of Agriculture as published in the FEDERAL REGISTER on Monday, July 11, 1972 (42 FR 35625), are amended by revising the delegations to the Assistant Secretaries for Marketing Services and Food and Consumer Services. Similarly, the delegations to the Administrators, Agricultural Marketing Service, Animal and Plant Health Inspection Service, and Food Safety and Quality Service are also changed. The responsibility for exercising the functions of the Secretary of Agriculture with respect to the Process or Renovated Butter Act (26 U.S.C. 4817, 4818) is transferred to the Assistant Secretary for Food and Consumer Services and the Food Safety and Quality Service. The delegations are amended to clarify that the Assistant Secretary for Food and Consumer Services and the Food Safety and Quality Service is charged with the responsibility for the voluntary inspection of technical animal fat and certified products for dogs, cats, and other carnivora, and that the Assistant Secretary for Marketing Services and the Animal and Plant Health Inspection Service is responsible for exercising the functions of the Secretary of Agriculture with respect to inedible animal byproducts such as any inedible part or combination of inedible parts of carcasses of livestock or poultry, such as tankage, blood meal, bones, bone meal, hides, skins, wool, and hair. In addition, corrections required by minor oversights, typographical errors, and printing omissions have been made in the delegations. The Department believes this alignment of functions conforms to the missions of the agencies involved and will enable the Department to serve the public more efficiently.

Accordingly, Part 2, Subtitle A, Title 7, Code of Federal Regulations is amended as follows:

Subpart C—Delegations of Authority to the Deputy Secretary, Assistant Secretaries, the Director of Economics, Policy Analysis and Budget, and the Director, Office of Governmental and Public Affairs

1. Section 2.15 is amended by revising paragraph (a)(1) and by adding a new paragraph (a)(2)(x) to read as follows:

§ 2.15 Delegations of authority to the Assistant Secretary for Food and Consumer Services.

* * * * *

(a) * * *

(1) Exercise the functions of the Secretary of Agriculture contained in the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621-1627) relating to meat and poultry grading and standardization; grading and standardization of eggs; voluntary inspection of egg products; voluntary inspection of poultry and edible products thereof; voluntary inspection and certification of technical animal fat; certified products for dogs, cats, and other carnivora; inspection, grading, and standardization of dairy products; standardization and voluntary grading and inspection of fresh and processed fruits and vegetables and related products; grading and standardization and voluntary inspection of rabbits and edible products thereof and voluntary inspection and certification of edible meat and other products.

(2) * * *

(x) Process or Renovated Butter Act (26 U.S.C. 4817-4818).

* * * * *

2. Section 2.17 is amended by revoking and reserving paragraph (a)(3)(xxi) and by revising paragraph (b)(28) to read as follows:

§ 2.17 Delegations of authority to the Assistant Secretary for Marketing Services.

* * * * *

(a) * * *

(3) * * *

(xxi) [Revoked and reserved]

* * * * *

(b) * * *

(28) The Agricultural Marketing Act of 1946, sections 203, 205, as amended (7 U.S.C. 1622, 1624), with respect to voluntary inspection and certification of inedible animal byproducts and inspection, testing, treatment, and certification of animals.

* * * * *

Subpart F—Delegations of Authority by the Assistant Secretary for Marketing Services

3. Section 2.50 is amended by revoking and reserving paragraph (a)(3)(xxi) as follows:

§ 2.50 Administrator, Agricultural Marketing Service.

(a) * * *

(3) * * *

(xxi) [Revoked and reserved]

* * * * *

4. Section 2.51 is amended by revising paragraph (a)(28) to read as follows:

§ 2.51 Administrator, Animal and Plant Health Inspection Service.

(a) * * *

(28) The Agricultural Marketing Act of 1946, sections 203, 205 as amended

(7 U.S.C. 1622, 1624), with respect to voluntary inspection and certification of inedible animal byproducts and inspection, testing, treatment, and certification of animals.

* * * * *

Subpart L—Delegations of Authority by the Assistant Secretary for Food and Consumer Services

5. Section 2.92 is amended by revising paragraph (a)(1) and adding a new paragraph (a)(2)(xi) to read as follows:

§ 2.92 Administrator, Food Safety and Quality Service.

(a) * * *

(1) Exercise the functions of the Secretary of Agriculture contained in the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621-1627) relating to meat and poultry grading and standardization; grading and standardization of eggs; voluntary inspection of egg products; voluntary inspection of poultry and edible products thereof; voluntary inspection and certification of technical animal fat; certified products for dogs, cats, and other carnivora; inspection, grading, and standardization of dairy products; standardization and voluntary grading and inspection of fresh and processed fruits and vegetables and related products; grading and standardization and voluntary inspection of rabbits and edible products thereof and voluntary inspection and certification of edible meat and other products.

(2) * * *

(xi) Process or Renovated Butter Act (26 U.S.C. 4817, 4818).

(5 U.S.C. 301 and Reorganization Class No. 2 of 1953.)

For Subpart C, dated: January 3, 1978.

BOB BERGLAND,
Secretary of Agriculture.

For Subpart F, dated: January 3, 1978.

JERRY C. HILL,
Deputy Assistant Secretary for Marketing Services.

For Subpart L, dated: January 3, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary for Food and Consumer Services.

[FR Doc. 78-399 Filed 1-6-78; 8:45 am]

[3410-07]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER K—PROPERTY MANAGEMENT
[FmHA Instruction 1955-B]

PART 1955—REAL ESTATE AND CHATTEL PROPERTIES

Subpart B—Management of Property

AFFIRMATIVE FAIR HOUSING MARKETING PLAN

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulation to incorporate affirmative fair housing marketing plan requirements and to provide for payment of real estate taxes which became due and payable after January 1, 1977, on Government-owned Rural Housing property. This action is intended to insure that individuals of similar income levels in a housing market area will have similar housing choices available regardless of their race, religion, sex, or national origin, and to provide for payment or certain real estate taxes on Government-owned Rural Housing property.

EFFECTIVE DATE: This amendment is effective on January 9, 1978. Comments must be received on or before February 8, 1978.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, 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. R. M. Yates, 202-447-3752.

SUPPLEMENTARY INFORMATION: The FmHA amends § 1955.63 (a) and (f) of Subpart B of Part 1955, Title 7 in the Code of Federal Regulations (41 FR 32698). Paragraphs (a)(1) and (a)(2) of this section are amended by adding new paragraphs (a)(1)(i) and (a)(2)(i) identically entitled, "Affirmative Fair Housing Marketing Plan." The new paragraphs (a)(1)(i) and (a)(2)(i) incorporate the Agency's implementations of its affirmative action requirement, published at 42 FR 45893, that certain participants in its Rural Housing programs submit a fair housing affirmative marketing plan or be a signatory to a voluntary fair housing affirmative marketing agreement approved by the Department of Housing and Urban Development. Implementation of this plan is placed under "Methods of Managing Property" in two categories—First: Lease; and secondly: Management agreement, and involves the redesignation of the following paragraphs under § 1955.63: The present paragraphs (a)(1)(i) through (a)(1)(iii); (a)(2)(i) through (a)(2)(v) are redesignated (a)(1) (ii) through (iv) and (a)(2) (ii) through (vi), respectively. Paragraph (f) of this section is amended to permit FmHA to pay real estate taxes which were levied after January 1, 1977, on Rural Housing property that is in Government inventory, as the result of legislative changes in Title V of the Housing Act of 1949.

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 exemption in 5 U.S.C. 553 with respect to such rules. These amendments, however, are not published for proposed rulemaking since to reconcile this Subpart with other regulations previously published and implement legislative changes on real estate taxes which allow Rural Housing property in Government inventory to be handled like farms and urban housing and any delay in implementing the rule would be contrary to public interest. The Agency is, however, interested in receiving public comments. Such comments may be sent to the address given above. Accordingly, as amended § 1955.63 (a) and (f) read as follows:

§ 1955.63 [Amended]

1. In § 1955.63, paragraphs (a)(1)(i) through (a)(1)(iii) are redesignated as (a)(1)(ii) through (a)(1)(iv) without change; a new paragraph (a)(1)(i) is added as follows:

(a) *Methods of managing property.* * * *

(1) *Lease.* * * *

(i) *Affirmative fair housing marketing plan.* In cases where acquired property is to be leased, the county supervisor will, in accordance with § 1901.203(c) of this chapter, make a special effort to reach those prospective tenants in the marketing area who traditionally would not be expected to apply for such housing because of existing racial or socio-economic patterns.

* * * * *

2. In § 1955.63, paragraphs (a)(2)(i) through (a)(2)(v) are redesignated as (a)(2)(ii) through (a)(2)(vi) without change; a new paragraph (a)(2)(i) is added as follows:

(a) * * *

(2) *Management agreement.* * * *

(i) *Affirmative fair housing marketing plan.* The manager or management firm operating five or more rental housing units under a management agreement will submit an affir-

mative fair housing marketing plan on Form HUD 935.2, "Affirmative Fair Housing Marketing Plan," or be signatory to a voluntary affirmative marketing agreement approved by FmHA.

* * * * *

3. In § 1955.63, paragraphs (f) (1) and (2) are amended as follows:

* * * * *

(f) *Taxes.* (1) Property acquired by FmHA is subject to taxation by State, Commonwealth, territory, district, and local political subdivisions in the same manner and to the same extent as other property, unless State law specifically exempts taxation of real estate owned by the Federal Government. However, taxes and assessments on RH inventory property may not be paid for any time prior to January 1, 1977. For taxes levied on such property prior to January 1, 1977, FmHA may pay such tax prorated from January 1, 1977, for the time the property was owned by FmHA.

(2) The county supervisor will notify the appropriate taxing authority in writing when title to real estate has been acquired by the Government, and that claims for taxes during the Government's ownership will be billed to FmHA at the county office address. If taxes become due and payable while the Government owns the property and are not paid by a prior lien holder, the county supervisor will pay taxes by using Standard Form 1034.

(7 U.S.C. 1989, 42 U.S.C. 1480, 42 U.S.C. 2942, 5 U.S.C. 301, sec. 10, Pub. L. 93-357, 88 Stat. 392, delegation of authority by the Secretary of Agriculture, 7 CFR 2.23, delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70, delegations of authority by Director, OEO 29 FR 14764, 33 FR 9850.)

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: December 19, 1977.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-400 Filed 1-6-78; 8:45 am]

[3410-07]

SUBCHAPTER N—OTHER LOAN PROGRAMS

[FmHA Instruction 1980-A]

PART 1980—GUARANTEED LOAN PROGRAMS

Subpart A—General

INSPECTIONS

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulation to clarify the provisions relating to FmHA inspections made during construction and after issuance of the loan note guarantee.

EFFECTIVE DATE: January 9, 1978. Comments may be submitted on or before February 8, 1978.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, 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:

Darryl H. Evans, Loan Specialist, telephone 202-447-4150.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration amends § 1980.60(b) of Subpart A of Part 1980, chapter XVIII, Title 7, Code of Federal Regulations (41 FR 47462, 42 FR 12036, 42 FR 24252, and 42 FR 33263).

Section 1980.60(b) is amended to make it clear that FmHA's position is that any inspections or reviews it makes are for the benefit of FmHA only and not for other parties who may have an interest in the loan. The lender is responsible for supervising any construction and to conduct periodic inspections. The lender is not to rely upon any FmHA inspections to fulfill its responsibilities. This amendment is intended to eliminate any misunderstanding concerning inspections involved in the FmHA guaranteed loan programs.

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 exemption in 5 U.S.C. 553 with respect to such rules. This amendment, however, is not published for proposed rulemaking, such procedure being unnecessary since the purpose of the change is clarification of the FmHA position, and not a revision of this position. The change is, therefore, procedural and not substantive.

However, we encourage submission of any comments pertaining to this amendment which we will review for possible incorporation as a further amendment.

Until such time as further changes are made on the basis of comments received, or otherwise, this revision shall remain in effect.

Accordingly, as amended § 1980.60(b) reads as follows:

§ 1980.60 Conditions precedent to issuance of the Loan Note Guarantee.

* * * * *

(b) *Inspections.* The lender will notify FmHA of any scheduled field inspections during construction and after issuance of the loan note guarantee. FmHA may attend such field inspections. Any inspections or reviews conducted by FmHA, including those with the lender, are for the benefit of FmHA only and not for other parties of interest. FmHA inspections do not relieve any parties of interest of their responsibilities to conduct necessary inspections, nor can these parties rely on FmHA's inspections in any manner whatsoever.

* * * * *

(7 U.S.C. 1989; 42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

NOTE.—The Farmers Home Administration has determined 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: December 23, 1977.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-401 Filed 1-6-78; 8:45 am]

[3128-01]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION, DEPARTMENT OF ENERGY[1]

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

Termination of Crude Oil Supplier/Purchaser Relationships by a Producer

AGENCY: Department of Energy.

ACTION: Ruling.

SUMMARY: The appended Ruling is issued by the Department of Energy (DOE) Office of General Counsel pursuant to 10 CFR 205.150 to set forth DOE's determination as to certain issues that have arisen with respect to the termination of crude oil supplier/purchaser relationships by a producer. A written comment on or objection to the appended Ruling may be filed at any time with the DOE Office of General Counsel pursuant to the provisions of 10 CFR 205.153.

FOR FURTHER INFORMATION CONTACT:

Ted Gerarden (Office of General Counsel), 12th and Pennsylvania

[1] Editorial Note. Chapter II will be renamed at a future date to reflect that it contains regulations administered by the Economic Regulatory Administration of the Department of Energy.

Avenue NW., Room 1119, Washington, D.C. 20461, 202-566-9070.

Issued in Washington, D.C.

Dated: January 3, 1978.

WILLIAM S. HEFFELFINGER,
Director of Administration.

[RULING 1977-8]

TERMINATION OF CRUDE OIL SUPPLIER/PURCHASER RELATIONSHIPS BY A PRODUCER

I. INTRODUCTION

On September 30, 1977, the Federal Energy Administration (FEA), a predecessor agency to the Department of Energy (DOE), amended the crude oil supplier/purchaser rule (the rule) of the Mandatory Petroleum Allocation Regulations, as set forth in 10 CFR 211.63, to permit a crude oil producer to unilaterally terminate its crude oil supplier/purchaser relationship with a reseller, subject to certain conditions. 42 FR 54261 (October 5, 1977). The amendments, which became effective on December 1, 1977, generally permit a crude oil producer to terminate its crude oil supplier/purchaser relationship with a reseller, and to substitute a new reseller, provided that the new reseller offers to continue to supply the crude oil involved to the refiners which had been purchasing that crude oil from the existing reseller. As will be discussed in more detail below, the amendments are intended to foster competition in the crude oil reseller industry while providing adequate protection to refiners' domestic crude oil supplies.

Refiners purchase crude oil from crude oil producers for a number of reasons: (1) For direct use as a refinery feedstock; (2) for exchange (through direct exchanges, matching purchase and sale agreements, time trades, etc.) to obtain suitable crude oil for refinery feedstock; (3) for use in accommodation sales; and (4) to resell for profit.

In light of the fact that no definition of the term "reseller" appears in 10 CFR Part 211, it is necessary to clarify which of these activities of a refiner will be deemed to be "reseller" transactions for purposes of permitting the termination of a supplier/purchaser relationship pursuant to 10 CFR 211.63(d)(1)(iv).

Purchases of crude oil by a refiner from a producer for direct use as refinery feedstock clearly do not involve resales of that crude oil. Likewise, crude oil exchange agreements do not constitute resales, because in each such arrangement the refiner receives an equivalent volume of crude oil (subject to customary quality and location differentials) for use as refinery feedstocks.[1] On the other hand, resales of crude oil by a refiner for profit, often accomplished through a trading subsidiary, are obviously reseller activities to which the termination provisions of 10 CFR 211.63(d)(1)(iv) apply. Less clear, however, is the treatment to be accorded crude oil accommodation sales by refiners, and whether a refiner may be deemed to be a reseller for purposes of terminating crude oil supplier/purchaser relationships. Therefore, this Ruling is intended to interpret the meaning of the term "reseller" in the context of the crude oil supplier/purchaser rule.

II. EVOLUTION AND PURPOSES OF THE RESELLER TERMINATION PROVISION

The crude oil supplier/purchaser rule was adopted by the Federal Energy Office (FEO), in January 1974, to maintain intact the national crude oil distribution system as it existed on December 1, 1973, and thereby to assure refiners, particularly small and independent refiners, continued access to domestic crude oil supplies. 39 FR 1974 (January 15, 1974). The FEA (and now the DOE) was concerned, however, with the possible anticompetitive effects of freezing domestic crude oil supplier/purchaser relationships between producers and resellers. Accordingly, the rule was amended on three occasions to provide increasing amounts of flexibility in those relationships.

In November 1975, 10 CFR 211.63(d) was promulgated to permit a producer to substitute a new reseller for its previous reseller, provided that the refiners receiving the producer's crude oil consented to the substitution. 40 FR 5422 (November 24, 1975). In June 1976, § 211.63(d) was amended to permit a producer to terminate the supplier/purchaser relationship with its reseller without the consent of the refiners processing the producer's crude oil, so long as the new reseller offered to continue to supply the crude oil to the same refiners with no increase in handling and transportation charges. 41 FR 24338 (June 16, 1976). The latest amendment permits a producer to terminate its supplier/purchaser relationship with a reseller without the consent of the refiners, provided that the new reseller offers the refiners a right of first refusal to continue to purchase the crude oil. Where the refiner is a small refiner, however, it must consent to the substitution for the termination to be effective.

When § 211.63(d) was first proposed in April 1975, the FEA emphasized that it was attempting to devise a rule that would:

* * * promote efficiency in the transportation and marketing of crude oil by providing greater flexibility for producers and refiners to arrange for transportation and other services normally performed by resellers of crude oil on the most favorable terms available. 40 FR 18182 (April 25, 1975).

Each successive amendment to the rule has provided measures carefully designed to foster competition without endangering refiners' continued access to crude oil supplies. The FEA noted its concern for stable crude oil supplies to refiners in the preamble promulgating the rule currently in effect:

The FEA believes that the reseller substitution method set forth * * * today is reasonably well adapted to accomplishing the goal of permitting greater flexibility on the part of producers to select the resellers with which they do business, while at the same time avoiding undue disruption in the crude oil supply system and protecting the crude oil supply of refiners. * * * (B)y providing all refiners the right of first refusal as to their volumes of crude oil, the amendments provide a means for all refiners to assure continuation of their supplies of domestic crude oil. 42 FR 54261(October 5, 1977).

The thrust of the successive amendments to the crude oil supplier/purchaser rule is unmistakable. It is to increase competition in the crude oil distribution system while preserving stable sources of domestic crude oil supplies to refiners for refinery operations.

III. RESELLERS

The FEA has described the functions of crude oil resellers as follows:

Resellers generally purchase crude oil from producers (and occasionally from other resellers) and transport such crude oil by truck and/or pipeline to a delivery point where the crude oil is sold, generally to refiners for processing. Producers of small volumes of crude oil and producers of crude oil at locations which are inconveniently located with respect to delivery points often are unable to obtain direct access to major pipelines because of the volume or location of the crude oil they produce * * *. (C)rude oil resellers began to enter the marketplace in the late 1940's and early 1950's in response to the need of such producers to move small and/or inconveniently located volumes of crude oil to the major pipelines * * *. The purchase and resale of crude oil by such firms appears to be an important historical element in the crude oil distribution chain. 41 FR 47077 (October 27, 1976).

Resellers' profits are based upon the increased prices they charge to refiners (or subsequent resellers) for the curde oil they purchase from producers. This price, of course, is subject to the restraints imposed by the price rule of the Mandatory Petroleum Price Regulations.

The term "reseller" is not presently defined in the Mandatory Petroleum Allocation Regulations. However, a definition did appear in the allocation regulations initially adopted by the FEO, which defined a reseller as "any person, firm, corporation or sub-division thereof that carries on the trade or business of purchasing any allocated substance and reselling it without substantially changing its form." 39 FR 1924 (January 15, 1974). This definition was deleted on May 1, 1974, as part of amendments which introduced the definitions of "wholesale purchaser-reseller" and "wholesale purchaser-consumer." 39 FR 15960 (May 6, 1974). Through an apparent oversight, when 10 CFR 211.63(d) was added in November 1975, a definition of reseller was not reinserted into the regulations.

IV. REFINERS

Refiners are firms which own facilities for "processing crude oil feedstock and manufacturing refined petroleum products * * *." (10 CFR 211.51). In some cases, however, refiners may nonetheless perform some of the functions traditionally associated with resellers of crude oil.[2] Often refiners, particularly major, integrated refiners, will purchase crude oil directly from producers for use in their refineries. While most of this crude oil is destined to become part of that refiner's crude oil feedstocks, either directly or by exchange, in some cases a portion of the crude oil is sold by the refiner.

Since a refiner may act in a reseller capacity (most obviously in the case of a refiner which owns a crude oil reseller entity), it is necessary, in light of the purposes underlying the promulgation of the September 30, 1977, amendments to § 211.63, to determine if accommodation sales of crude oil by refiners constitute sales in which the refiner is acting in the capacity of a "reseller."

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[1] In the Preamble to the amendments to the price regulations applicable to resales of crude oil, effective January 1, 1978, exchanges are not treated as resales. 42 FR 64856 (December 29, 1977).

[2] The concept of a firm acting in dual capacities is explicitly recognized in the allocation regulations. For example, pursuant to 10 CFR 211.9(e), a supplier (which may include a refiner), may also act in the capacity of a wholesale purchaser-reseller.

Accommodation sales, which divest a refiner of excess volumes of crude oil (as in the case of inventory adjustments) or which accommodate other refiners in return for past or future accommodations, are a necessary and integral part of the refining industry's crude oil supply arrangements. Such sales serve important purposes. For instance, refiners often must blend their crude oil feedstock before processing. Refiners carefully tailor their crude oil feedstocks, taking into account such considerations as the gravity and sulfur content of the crude oils to be processed. The feedstock blend may have a vital effect on the ability of the refiner to maximize production from the refinery and to achieve the optimal production of a product slate, which may change to reflect varying market conditions and seasonal demands. Accommodation sales of crude oil may also be necessary as a result of refinery shutdowns, refinery maintenance operations, or natural disasters which alter the refiners' projections for crude oil consumption. In short, the purpose of accommodation sales is to enable a refiner to obtain the proper crude oil quantity and mix to operate its refinery.

Although traditionally in the domestic refining industry accommodation sales do not give rise to a formal contractual right to receive equivalent volumes of crude oil in return (as in the case of an exchange), such sales are made with the expectation of future "balancing" accommodation purchases.

Thus, accommodation agreements, incidental to refinery operations, serve to further the goal expressed in the Emergency Petroleum Allocation Act of 1973 (EPAA) Pub. L. No. 93-159, where Congress declared that the Mandatory Petroleum Allocation and Price Regulations should provide for "the allocation of suitable types, grades, and quality of crude oil to refineries in the United States to permit such refineries to operate at full capacity" (EPAA, § 4(b)(1)(E)).

It should be emphasized that a significant aspect of accommodation sales is that they are typically made at a price reflecting the refiner's acquisition cost, plus transportation charges. In this regard, refiner's accommodation sales differ fundamentally from the sales made by resellers, in that no resale profit is involved.

V. MEANING OF THE TERM "RESELLER" IN THE CONTEXT OF THE CRUDE OIL SUPPLIER/PURCHASER RULE

In considering the most recent amendments to the crude oil supplier/purchaser rule, the FEA specifically sought comments on whether the rule should permit a producer to terminate its supplier/purchaser relationship with any "firm," rather than with a "reseller." The effect of such a provision would be to permit the displacement of refiners, as well as resellers, in existing supplier/purchaser relationships. (42 FR 39395, August 4, 1977.) After reviewing the comments submitted in response to this proposal, the FEA concluded that such an extension of 10 CFR 211.63(d)(1)(iv) was inappropriate at the time, and declined to adopt such a rule. In the preamble to the current amendments, the FEA explained its decision as follows:

* * * several commenters suggested that the substitution rule should be applicable to any supplier/purchaser relationship between a crude oil producer and any 'firm.' This language would have permitted a substitution not only among resellers, but also between resellers and refiners. Thus, it would have permitted a reseller to be inserted between a producer and a refiner that had a direct supplier/purchaser relationship, as well as permitting a refiner to 'eliminate' a reseller. However, several refiners expressed the concern that allowing a reseller to be inserted (against the refiner's wishes) would be likely to result in higher costs, by introducing a middleman's margin where none previously existed. Of course, whether increased costs would in fact result would be partly dependent upon the relative efficiencies of the refiner and the reseller in the performance of the same functions; but the possibility of increased costs occurring simply as a result of the introduction of a third party must be recognized and addressed.

FEA continues to be of the view that it would be generally desirable to further open up the crude oil distribution chain to competition, and thus to provide further flexibility in supplier/purchaser relationships in this chain, to the extent that this can be done consistent with the need to protect crude oil supplies to refiners and in a manner that does not result in unjustified increases in crude oil prices. Therefore, the FEA will attempt to formulate specific criteria and necessary safeguards under which such substitutions might be permitted * * *.

When the preliminary formulation of such criteria is accomplished, the FEA anticipates that it will issue a notice of proposed rulemaking requesting comments upon whether it would be feasible to permit certain additional substitutions under certain specified conditions. (42 FR 54261, October 5, 1977).

FEA's concern over inserting a reseller into the crude oil distribution system was clearly aimed at preventing a reseller from becoming an additional layer in the relationship between producers and refiners. That is, where a refiner is purchasing crude oil directly from a producer, the FEA was fearful that the insertion of a reseller (who would then be required, pursuant to 10 CFR 211.63(d)(iv)(B)(2)(c), to offer to sell that same crude oil to the refiner) would unnecessarily increase the cost of the crude oil the refiner would ultimately receive.

Since refiners utilize exchanges and accommodation sales of their crude oil purchased from producers as a means to obtain suitable crude oil for use in their refineries, the insertion of a reseller into the producer-refiner relationship may in such cases increase the cost of that crude oil to the refiner.

On the other hand, in those cases when, for example, a refiner owns a crude oil trading subsidiary which purchases crude oil from producers for sale at a profit, such activity is not incidental to refinery operations and is identical to that performed by independent crude oil resellers. Where a refiner is reselling crude oil in this manner, the underlying purposes expressed in the preamble to the September 30, 1977, amendments, require that such transactions not be shielded from competition from independent crude oil resellers.

VI. CONCLUSION

There is a fundamental difference between the sale of crude oil for profit by resellers and accommodation sales of crude oil utilized of necessity by refiners for the efficient operation of their refineries. In promulgating the September 30, 1977, amendments to § 211.63(d), the FEA did not intend to broaden the regulatory concept of "reseller" to include refiners who engage in these accommodation sales. As indicated above a refiner's accommodation sales, made on an acquisition cost basis, are incidental to the operation of its refineries and, although not constituting an exchange of crude oil, are made in the expectation that such sales will be balanced through accommodation purchases at a later date. Accordingly, § 211.63(d)(1)(iv) does not permit a producer to terminate its supplier/purchaser relationship with a refiner who engages in an accommodation sale of crude oil purchased from a producer.

VII. ADDITIONAL MATTERS

As indicated in the preamble to the September 30, 1977, amendments to the crude oil supplier/purchaser rule, the DOE is continuing to study means to increase competition in the crude oil distribution chain, and is considering issuing a notice of proposed rulemaking that would extend the termination provisions of 10 CFR 211.63(d)(1)(iv) to refiners generally, including their accommodation sales, subject to safeguards that will prevent unnecessary increases in the cost of marketing domestic crude oil. The DOE would welcome comments (as provided by 10 CFR 205.153), as to the effect of this ruling on competition in the crude oil marketing industry, and will consider such comments in any future notice of proposed rulemaking on terminations of supplier/purchaser relationships.

Issued in Washington, D.C., December 30, 1977.

ERIC J. FYGI,
Acting General Counsel,
Department of Energy.

[FR Doc. 78-373 Filed 1-6-78; 8:45 am]

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 77-NW-30-AD; Amdt. 39-3112]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 707-300/300B/300C/400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This Airworthiness Directive (AD) requires visual inspections of the horizontal stabilizer center section rear spar upper chord. The inspections are required to assure the structural capability of the center section.

DATE: January 15, 1978.

ADDRESSES: Boeing service bulletins specified in this directive may be obtained upon request to Boeing Commercial Airplane Co., P.O. Box 3707, Seattle, Wash. 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108.

FOR FURTHER INFORMATION CONTACT:

Harold N. Wantiez, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108, telephone 206-767-2516.

SUPPLEMENTARY INFORMATION: This AD provides the necessary instructions for inspecting the horizontal stabilizer center section rear spar. A fracture of the upper chord and web could lead to a situation in which the remaining structure with additional cyclic fatigue damage would be marginal in carrying failsafe loads. As long as the upper chord and web are intact, all design loads can be carried.

This AD was coordinated with The Boeing Company and the operators through the Air Transport Association (ATA) prior to issuance.

DRAFTING INFORMATION

The principal authors of this document are Harold N. Wantiez, Engineering and Manufacturing Branch, FAA Northwest Region, and Jonathan Howe, Regional Counsel, FAA Northwest Region.

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

ADOPTION OF THE AMENDMENT

Accordingly, 39.13 of the Federal Aviation Regulations (14 CFR 39), is amended as follows:

BOEING. Applies to all Boeing 707-300/400/300B/300C series airplanes upon the accumulation of, or with more than 8,000 landings.

Visually inspect the center section rear spar upper chord for cracks between terminal fittings in accordance with Boeing Service Bulletin 3331 or with the method specified in paragraph B at the time interval specified in paragraph A below. Chords found cracked are to be reworked in accordance with one of the methods noted in paragraph C or replaced with a chord of the same part number prior to further flight.

A. Inspect within the next 375 landings after the effective date of this AD and thereafter at intervals not to exceed 375 landings. Report all cracks found during the initial inspection to the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, noting airplane indentification, hours time in service, crack locations and magnitude.

B. Inspection may be accomplished by gaining access to the upper rear surface of the center section and examining the exposed surfaces of the upper chord using a bright light and a mirror at the aft upper and lower surfaces of the chord. If indications of a crack are found, eddy-current or penetrant inspection should be used to confirm presence of crack.

C. Rework in accordance with one of the following:

1. An FAA approved repair provided by The Boeing Co.

2. A method approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

D. With permission of the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, the airplane may be flown in accordance with FAR 21.197 to a base where the inspection or repair can be accomplished.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to Boeing Commercial Airplane Co., P.O. Box 3707, Seattle, Wash. 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108.

This amendment becomes effective January 15, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423) and Section 6(c) of the 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 the preparation of an Economic Impact Statement under Executive Order 11821 as amended by Executive Order 11949, and OMB Circular A107.

Issued in Seattle, Wash., on December 27, 1977.

J. H. TANNER,
Acting Director,
Northwest Region.

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

[FR Doc. 78-253 Filed 1-6-78; 8:45 am]

[4910-13]

[Docket No. 77-NW-18-AD; Amdt. 39-3113]

PART 39—AIRWORTHINESS DIRECTIVE

Boeing 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive to require that thrust lever actuated switches which operate autospeed brake and auto wheel brake inhibit circuits for Boeing Model 727 airplanes be set to provide positive operation down to −65° F temperatures.

This AD action is necessary because at low temperatures, it is possible to set the thrust levers at a position insufficient to actuate the inhibit switches, with the result that the autospeed brake or auto wheel brakes could be actuated during the takeoff roll, causing an unsafe condition.

DATES: Effective date January 16, 1978.

Compliance times as described in the body of the AD.

ADDRESSES: Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket, Docket No. 77-NW-18-AD, 9010 East Marginal Way South, Seattle, Wash. 98108.

Boeing Service Bulletins specified in this directive may be obtained upon request to Boeing Commercial Airplane Co., P.O. Box 3707, Seattle, Wash. 98124. These documents may also be examined at the Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108.

FOR FURTHER INFORMATION CONTACT:

A. V. Rasmussen, 767-2500.

SUPPLEMENTARY INFORMATION: The autospeed brake and auto wheel brake inhibit systems on Boeing Model 727 airplanes use thrust lever actuated switches to assure that the speed brake and wheel brakes will not operate when thrust levers are advanced for takeoff. When thrust requirements are obtained by thrust lever action insufficient to actuate the switches, such as would be the case on a cold day or planned reduced thrust takeoff, autospeed brake and auto wheel brake inhibit circuits would not be engaged, and the takeoff warning would not be armed.

Inadvertent speed brake extension or wheel brake application during takeoff will create an unsafe condition.

This proposed AD will require adjustment of the throttle switches to provide actuation down to a minimum temperature of −65° F.

In response to the NPRM a number of comments were received from affected operators. Several objected to specifying thrust lever switch settings of 12.5±1° in addition to requiring the activation of these switches down to minimum temperature of −65° F since coverage to this temperature can be achieved with the switch settings higher than 12.5±1°, depending upon the rating of engines in use by these operators. The FAA agrees with this objection and the adopted rule will specify only that the switch actuation coverage must be good to −65° F.

A commentator also pointed out that the proposed AD only referenced setting of switches S197 and S784, which are in the autospeed brake circuit, and not switches S553 and S555 which are in the auto wheel brake circuit. This was an oversight, and the adopted rule will list all of the above switches as needing adjustment.

DRAFTING INFORMATION

The principal authors of this document are A. V. Rasmussen, Engineering and Manufacturing Branch, Northwest Region, and Jonathan Howe, Regional Counsel, Northwest Region.

ADOPTION OF THE AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend paragraph 39.13 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

BOEING. Applies to all Model 727 series airplanes certificated in all categories with autospeed brake system installed and airplanes with auto wheel brakes in conjunction with JT8D-17R engines and Boeing automatic throttle clutches, except airplanes with Engine Pressure Ratio (EPR) activated takeoff warning system.

Compliance required as indicated. This amendment is effective January 16, 1978.

Within 2,000 hours time in service after the effective date of this AD, unless already accomplished, set the thrust lever operated switches S197, S784, S553, and S555 to provide actuation down to and including −65° F per applicable part of Boeing Service Bulletin 727-31-30, or later FAA approved revisions, or equivalent approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

For airplanes which have automatic throttles not designed by Boeing, the modification kits available from Boeing may not be applicable. Operators of those airplanes must submit their proposed modifications to the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108.

(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 preparing of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Seattle, Wash., on December 28, 1977.

J. H. TANNER,
Acting Director,
Northwest Region.

NOTE.—The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 78-252 Filed 1-6-78; 8:45 am]

[4910-13]

[Docket No. 77-EA-53; Amdt. 39-3111]

PART 39—AIRWORTHINESS DIRECTIVES

DeHavilland Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule (AD) adopts an airworthiness directive (AD) that would require alteration to wiring and shielding of relays in the reverse current relay box of DHC-6 type airplanes. The AD is needed to prevent a fire in one generating system destroying the remaining generating system, which could result in complete loss of electrical power.

EFFECTIVE DATE: January 9, 1978. Compliance is required within 800 hours of service.

ADDRESSES: DeHavilland Service Bulletins may be obtained from the manufacturer at DeHavilland of Canada, Ltd., at Downsview, Ontario, Canada.

FOR FURTHER INFORMATION CONTACT:

M. Mavricos, Systems and Equipment Section, AEA-213, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430; telephone 212-995-3373.

SUPPLEMENTARY INFORMATION: There have been reports of in-flight electrical fires in the reverse current relay box which resulted in a total loss of electrical power. While the electrical system has two parallel d.c. sources, the collocation of the reverse current relays permitted a fire in one to disable the other. Since this condition exists in other airplanes of similar type design, the proposal would require alteration of the wiring and installation of shielding around the relays in the reverse current relay box. A notice of proposed rulemaking was published in the FEDERAL REGISTER on October 6, 1977 (42 FR 54428). Interested parties were given time to submit comments. The Airline Transport Association (ATA) objected to an 800-hour requirement and urged 1,400 hours in service. However, there was no substantiation commensurate with the overriding safety aspect and thus no change will be made in the rule. No other objections have been received.

DRAFTING INFORMATION

The principal authors of this document are M. Mavricos, Flight Standards Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

It has been determined that the expected impact of the proposed regulation is so minimal that the proposal does not warrant an evaluation.

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 adopting the new airworthiness directive as published.

Effective date: This amendment is effective January 9, 1978.

(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 Jamaica, N.Y., on December 23, 1977.

WILLIAM E. MORGAN,
Director, Eastern Region.

DEHAVILLAND. Applies to DeHavilland of Canada DHC-6 series aircraft serial Nos. 1 through 530.

Compliance required within 800 hours in service after the effective date of this AD unless already accomplished, or DeHavilland modification 6/1591 is incorporated.

To preclude the possibility of total electrical failure due to contact welding of the reverse current relay and subsequent burning of the adjacent wiring, the other reverse current relay and the battery circuit wiring, install DeHavilland modification 6/1598 in accordance with DeHavilland Service Bulletin No. 6/353 dated May 13, 1977, or later revision, or an equivalent approved by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

[FR Doc. 78-251 Filed 1-6-78; 8:45 am]

[4910-13]

[Docket No. 17532; Amdt. 39-3122]

PART 39—AIRWORTHINESS DIRECTIVES

Kawasaki Heavy Industries, Ltd., Model KV-107 Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), which requires inspections, replacements and/or modifications, as necessary, of certain components on Kawasaki models KV-107-II and KV-107-IIA helicopters. The AD is needed to detect and prevent certain unsafe conditions found on these Kawasaki models which had been earlier found on the similar Boeing Vertol Model 107-II helicopters, and which could result in the loss of the helicopter.

DATE: Effective January 23, 1978.

Compliance required within the next 25 hours time in service after the effective date of this AD, unless already accomplished.

ADDRESS: The applicable service bulletins may be obtained from Kawasaki Heavy Industries, Ltd., Aircraft Manufacturing Division, 346-299 Sohara Mikakino-cho, Kagamihara-shi, Gifu Prefecture, Japan.

A copy of each of the service bulletins referenced in this AD is contained in the Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Gary K. Nakagawa, Chief, Engineering and Manufacturing District Office, APC-210, Pacific-Asia Region, Federal Aviation Administration, P.O. Box 4009, Honolulu, Hawaii 96813, telephone 808-546-8650.

SUPPLEMENTARY INFORMATION: Kawasaki KV-107-II and KV-107-IIA model helicopters are manufactured in Japan under a licensing agreement with the Boeing-Vertol Co., and derive from the Boeing-Vertol Model 107-II helicopter for which a number of airworthiness directives have been previously issued. In view of the similarity of the type design of the Kawasaki model and the Boeing-Vertol model, it is likely that the same unsafe conditions exist on the Kawasaki models. Accordingly, an airworthiness directive is being issued which requires inspections, replacements and/or modifications as necessary of the following components on the Kawasaki models KV-107-II and KV-107-IIA helicopters.

A copy of each of the service bulletins referenced in this AD is contained in the Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

Component	*To prevent*
1. Forward rotor transmission shaft and aft rotor drive shaft.	Fatigue cracks on forward and aft rotor drive shafts.
2. Quill shafts and collector gears.	Fatigue failure of the aft rotor transmission quill shaft.
3. Rotor drive system.....	Cracking in the synchronizing shaft splined adapter.
4. Sockets and rotor housings.	Fatigue failure of the rotor pitch housing.
5. Fire detection system ..	Simultaneous engine false fire warnings caused by electrical wiring system malfunction.
6. Aft transmission collector gear.	Failure of the aft transmission collector gear and separation of the aft transmission planetary carrier retention nut.
7. Aft transmission quill shaft.	Failure of the aft transmission quill shaft due to surface defects.
8. Installation of rotor blade integral spar inspection system (ISIS).	Failure of rotor blade due to undetected cracks in spar.
9. Main rotor blade spars	Cracking of the main rotor blade spars due to corrosion.
10. Forward rotor shaft and carrier, and aft planetary carrier.	Fatigue cracks on forward and aft carriers.

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

The principal authors of the document are G. K. Nakagawa, Pacific-Asia Region, H. Hellebrand and F. Kelley, Flight Standards Service, and P. Lynch, Office of the Chief Counsel.

ADOPTION OF AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

KAWASAKI HEAVY INDUSTRIES, LTD. Applies to models KV-107-II and KV-107-IIA helicopters certificated in all categories.

Compliance is required as indicated.

1. To prevent fatigue cracks on the forward and aft rotor drive shafts, accomplish the following:

Within the next 25 hours time in service after the effective date of this AD, unless already accomplished, replace the forward transmission rotor shaft, P/N 107D1259, and aft rotor shaft extension, P/N 107D3147, in accordance with Kawasaki Service Bulletin No. KSB107-2 dated September 30, 1977, or an FAA-approved equivalent. Prior to the accumulation of the hours specified in KSB107-2 Section 1.d., retire from service all rotor drive shafts. Compliance with Boeing-Vertol Service Bulletin No. 107-3(R-3) dated March 20, 1963, is considered an FAA-approved equivalent.

2. To prevent fatigue failure of the aft rotor transmission quill shaft, P/N 107D2067-1, accomplish the following:

Within the next 25 hours time in service after the effective date of this AD, unless already accomplished, and thereafter at intervals not to exceed 120 hours time in service from the last inspection, remove the aft transmission assembly, inspect the mix box and aft transmission assemblies and replace parts in accordance with Kawasaki Service Bulletin No. KSB107-55 dated September 30, 1977, or an FAA-approved equivalent. Prior to installation on certificated aircraft inspect spare mix box and spare aft transmission assemblies. Compliance with Boeing-Vertol Service Bulletins No. 107-113 dated October 28, 1963, No. 107-113A dated November 22, 1963, and No. 107-182 dated October 7, 1964, is considered an FAA-approved equivalent.

3. To prevent cracking in the synchronizing shaft splined adapter, accomplish the following:

Within the next 25 hours time in service after the effective date of this AD, unless already accomplished, and thereafter at intervals not to exceed 120 hours time in service from the last inspection, inspect synch shaft splined adapter P/N 107D3154-2 in accordance with Kawasaki Service Bulletin No. KSB107-56(R-1) dated September 30, 1977, or an FAA-approved equivalent. Prior to the accumulation of 500 hours of operation retire from service the adapter. Adapter which is modified in accordance with KSB107-56(R-1) may continue to remain in service for up to 2,500 hours of operation. Compliance with Boeing-Vertol Service Bulletin No. 107-116(R-1) dated April 6, 1965, is considered an FAA-approved equivalent.

4. To prevent fatigue failure of the rotor pitch housing, accomplish the following:

Within the next 25 hours time in service after the effective date of this AD, unless already accomplished, and thereafter at intervals not to exceed 25 hours time in service from the last inspection, inspect the rotor pitch housing P/N 107R2553, and blade root sockets, P/N 42R1043, in accordance with Kawasaki Service Bulletin No. KSB107-4(R-1) dated September 30, 1977, or an FAA-approved equivalent. Prior to the accumulation of the hours stated in KSB107-4(R-1) retire from service the rotor pitch housing and blade root sockets. Compliance with Boeing-Vertol Service Bulletin No. 107-19 dated November 6, 1962, is considered an FAA-approved equivalent.

5. To prevent simultaneous engine false fire warnings caused by electrical wiring system malfunction, accomplish the following:

Within the next 25 hours time in service after the effective date of this AD, unless already accomplished, remove the engine fire detector test switch, P/N BAC-S30-AZ-3-1N5 (JANCO No. 1-1919-1N5) or P/N 1-1917-2N5, and install test switch, P/N BAC-S30AZ-3-2N5 (JANCO No. 1-1919-2N5), and modify the wiring arrangements in accordance with Kawasaki Service Bulletin No. KSB107-137 dated September 30, 1977, or an FAA-approved equivalent. Compliance with Boeing-Vertol Service Bulletin No.107-219 dated September 20, 1965, and No. 107-219A dated October 22, 1965, is considered an FAA-approved equivalent.

6. To prevent failure of the aft transmission collector gear and separation of the aft transmission planetary carrier retention nut either of which may cause dephasing of the main rotors, accomplish the following:

Within the next 25 hours time in service after the effective date of this AD, unless already accomplished, inspect for cracks and modify the aft transmission collector gear, P/N 107D2066-10, -12, -14, -16, and -18, in accordance with Kawasaki Service Bulletin No. KSB-V107-336, dated September 25, 1972, or an FAA-approved equivalent. Additionally, torque and install lock pins in the aft transmission planetary carrier retention nut, P/N BAC-N10GR39, P/N VS10304-39 or P/N 107D1276-7, in accordance with Kawasaki Service Bulletin KSB-V107-332 dated January 26, 1972, or an FAA-approved equivalent. Compliance with Boeing-Vertol Service Bulletin No. A107-318(R-1) dated June 19, 1972, is considered an FAA-approved equivalent.

7. To prevent failure of the aft transmission quill shaft, P/N 107D2067, due to surface defects, accomplish the following:

Within the next 25 hours time in service after the effective date of this AD, unless already accomplished, inspect the quill shaft in accordance with Kawasaki Service Bulletin No. KSB-V107-370B dated September 30, 1977, or an FAA-approved equivalent. Compliance with Boeing-Vertol Service Bulletins No. A107-320 dated April 30, 1973, No. 107-320A dated December 21, 1973, No. A107-320B dated February 25, 1974, and No. 107-320C dated September 25, 1974, is considered an FAA-approved equivalent.

8. To prevent failure of the rotor blade, P/N 107R1202, due to undetected cracks in the spar, accomplish the following:

Within the next 25 hours time in service after the effective date of this AD, unless al-

ready accomplished, modify the rotor blades and install the Integral Spar Inspection System (ISIS) in accordance with Kawasaki SB No. KSB-V107-478 dated September 30, 1977, or an FAA-approved equivalent. Additionally, operate, inspect, and maintain the ISIS rotor blades in accordance with Kawasaki Service Bulletin No. KSB-V107-495 dated September 30, 1977, or an FAA-approved equivalent. The visual checks of the rotor blade ISIS indicator may be performed by the pilot. Compliance with Boeing-Vertol Service Bulletins No. 107-319 dated November 12, 1973, No. 107-326 dated May 20, 1974, and No. 107-329 dated June 7, 1974 is considered an FAA-approved equivalent.

NOTE.—Installation of the rotor blade leading edge protective strip, P/N WR1017-1, is not mandatory.

9. To prevent cracking of the main rotor blade spars due to corrosion, accomplish the following:

Within the next 25 hours time in service after the effective date of this AD, unless already accomplished, and thereafter at intervals not to exceed 36 months, inspect for corrosion and alter, as necessary, in accordance with Kawasaki SB KSB-V107-547 dated September 30, 1977, or an FAA-approved equivalent. Compliance with Boeing-Vertol Service Bulletin No. 107-334 dated October 29, 1976, is considered an FAA-approved equivalent.

10. To prevent fatigue cracks on the forward transmission rotor shaft and carrier, and aft transmission planetary carrier, accomplish the following:

Within 25 hours time in service after the effective date of this AD, unless already accomplished, replace or modify forward transmission rotor shaft and carrier, P/N A02D1259 or P/N A07D1269, in accordance with the retirement times specified in Kawasaki SB No. KSB-V107-558 dated September 30, 1977, or an FAA-approved equivalent. Additionally, replace aft rotor transmission planetary carrier with parts of the same design, P/N 107D2419-1, prior to the accumulation of 10,000 hours of operation. Compliance with Boeing-Vertol Service Bulletin No. 107-335 dated May 15, 1977, is considered an FAA-approved equivalent.

11. The equivalent means of compliance specified in paragraphs 1 through 10 of this AD must be approved by the Chief, Engineering and Manufacturing District Office, FAA, Pacific-Asia Region, Honolulu, Hawaii.

This amendment becomes effective January 23, 1978.

(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 Washington, D.C., on December 30, 1977.

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

[FR Doc. 78-331 Filed 1-6-78; 8:45 am]

[4910-13]

[Docket No. 7360; Amdt. 39-3121]

PART 39—AIRWORTHINESS DIRECTIVES

British Aircraft Corp. BAC 1-11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD) applicable to British Aircraft Corp. BAC 1-11 200 and 400 Series airplanes by extending the replacement time intervals of certain components of the rudderjacks. The amendment is needed to relieve an unnecessary burden on operators because the FAA has determined that longer life limits have been substantiated.

EFFECTIVE DATE: January 23, 1978. Compliance schedule—as prescribed in the body of the AD.

ADDRESSES: The applicable service bulletin may be obtained from British Aircraft Corp., Inc., 13850 McLearen Road, Herndon, Va. 22070, telephone 703-435-9100.

A copy of the service bulletin is contained in the Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, telephone 513.38.30.

SUPPLEMENTARY INFORMATION: This amendment amends Amendment 39-265 (39 FR 10074) AD 66-19-01 which requires retirement of ram rod eye ends of the rudder jacks on British Aircraft Corp. BAC 1-11, 200 and 400 Series airplanes. After issuing Amendment 39-265, the FAA has determined that the manufacturer has substantiated longer life limits. Therefore, the FAA is amending Amendment 39-265 to increase the service life of these components.

Since this amendment relieves a restriction and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and good cause exists for making this amendment effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are F. Karnowski, Europe, Africa, and Middle East Region, AEU-100, F. Kelley, Flight Standards Service, and P. Lynch, Office of the Chief Counsel.

ADOPTION OF AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Amendment 39-265 (39 FR 10074), AD 66-19-01, as follows:

§ 39.13 [Amended]

(1) By striking out the words "5,000 hours" where it appears in paragraph (c) and inserting the words "10,000 hours" in its place.

(2) By striking out the words "15,000 hours" where it appears in paragraph (d) and inserting the words "30,000 hours" in its place.

(3) By adding a new paragraph (e) to read as follows:

(e) For a ram rod eye end assembly, P/N P183.45.363, which has expended part of its life on pre-modification PM 1715 (Mark I) rudder jacks, determine the remaining life of the ram rod eye end on a post-modification PM 1715 (Mark II) rudder jack on a pro-rata basis by which the established life limit for the part as installed on the post modification PM 1715 rudder jack is reduced by the percentage of the life limit expended prior to incorporation of modification PM 1715.

This amendment becomes effective January 23, 1978.

(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)); 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 Washington, D.C., on December 30, 1977.

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

[FR Doc. 78-332 Filed 1-6-78; 8:45 am]

[4910-13]

[Docket No. 77-GL-25; Amdt. 39-3120]

PART 39—AIRWORTHINESS DIRECTIVES

Two Bladed Feathering and Constant Speed McCauley Model D2AF34C305 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 hub of some Model D2AF34C305 propellers for cracks. The affected propellers are installed on the rear

engine of certain Cessna T337G and FT337GP "Turbo Super" Skymaster aircraft. This action is considered necessary to preclude failures of the hub which could result in separation of the propeller from the aircraft.

DATES: Effective: January 16, 1978. 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 Co., 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, Ill. 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: There have been several instances of cracks which were found around the circumference of the hub extension between the spinner bulkhead and the engine mounting face of the McCauley D2AF34C305 propellers. These cracks were discovered as the source of engine oil leakage. Since this condition is likely to exist in other propellers of the same design, an airworthiness directive is being issued requiring periodic inspection of the hubs of the D2AF34C305 rear engine propellers on the 1973 and 1974 Cessna T337G and FT337GP aircraft. Cracked propeller hubs must be removed and replaced prior to further flight.

Since a situation exists that required 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. W. Hacker, 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 Model D2AF34C305 propellers installed on the rear engine of certain Cessna T337G aircraft (having Serial Nos. P337-0001 through P337-0193), and Cessna FT337GP aircraft (having Serial Nos. FP33700001 through FP33700013).

Compliance requires as indicated, unless already accomplished.

To detect propeller hub cracks and prevent possible failures, accomplish the following:

(a) Propellers with less than 490 hours time in service, as of the effective date of this AD, inspect in accordance with paragraph (c) within 500 hours total time in service and reinspect every 50 hours from the last inspection in accordance with paragraph (c).

(b) Propellers with 500 or more hours in service, or whose total time in service is unknown, as of the effective date of this airworthiness directive inspect in accordance with paragraph (c) within the next 10 hours time in service and reinspect every 50 hours from the last inspection in accordance with paragraph (c).

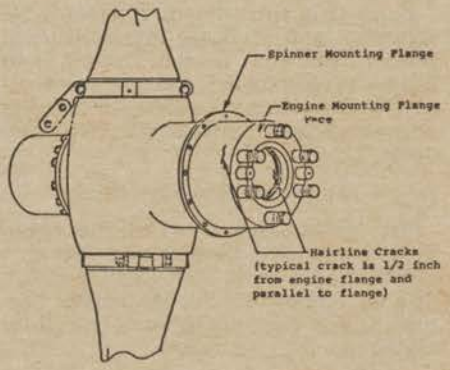
(c) The following inspection(s) (1) or (2), as applicable, should be made by a Federal Aviation Administration certificated A & P Mechanic, or an appropriately rated certificated repair station:

(1) Visually inspect hub extension exterior surface for cracks with a 10X (power) glass between the spinner bulkhead and engine flange. Refer to notes and sketch which follow. Removal of the cowl or propeller spinner is not necessary for this inspection. Replace before further flight any cracked hub with an airworthy hub.

(2) In the event that the propeller is removed from the engine, remove the 'O' ring from the hub and clean. Inspect the interior and exterior surfaces for cracks within the first inch and a half from the engine mounting flange by dye penetrant method. Refer to notes and sketch which follow. Replace before further flight any cracked hub with an airworthy hub.

NOTES.—(i) Excessive paint overspray from the exterior painting of aircraft may be present in this area and must be removed prior to inspection.

(ii) If a new hub is installed, inspection requirements will again return to the start of the 500 hour inspection requirement then followed by the 50 hour inspection requirement.



(McCauley Service Bulletin No. 128-A and Cessna Service Letter ME77-21, or later Federal Aviation Administration approved revisions, 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 January 16, 1978.

(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 December 28, 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. 78-334 Filed 1-6-78; 8:45 am]

[4910-13]

[Docket No. 77-WE-26-AD; Amdt. 39-3119]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC-9 Series Airplanes Including Military Type C-9A, C-9B, and VC-9C

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts an airworthiness directive which requires repetitive inspections of the McDonnell Douglas Model DC-9 Series airplane elevator spar for stress corrosion cracking that could, if allowed to grow beyond certain limits, result in structural failure and loss of an elevator surface.

DATES: Effective February 13, 1978.

Compliance required within the next 3,400 hours time in service, unless already accomplished within the past 200 hours time in service, and thereafter at intervals not to exceed 3,600 hours time in service, on all airplanes with over 5,000 hours time in service as of, and after, the effective date of this AD.

ADDRESSES: Persons affected by this AD may obtain copies of applicable McDonnell Douglas service information cited in this AD by writing to: McDonnell Douglas Corp., 3855 Lakewood Boulevard, Long Beach, Calif. 90846. Attention: L. A. Eisenberg, C1-750, 54-60.

Also, a copy of the service information may be reviewed at, or a copy obtained from: Rules Docket in Room 916, FAA, 800 Independence Avenue SW., Washington, D.C. 20591; or Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, Calif. 90261.

FOR FURTHER INFORMATION CONTACT:

Jerry J. Presba, Executive Secretary, Airworthiness Directives Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009, telephone 213-536-6351.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring repetitive inspections of the elevator spar on McDonnell Douglas Model DC-9 Series airplanes was published in the FEDERAL REGISTER at 42 FR 54429. The proposal was prompted by several reports of stress corrosion cracking of the spar that could, if allowed to grow beyond certain limits, result in structural failure and loss of an elevator surface.

Interested persons have been afforded an opportunity to participate in the making of the amendment and two comments were received, one of which represented the inputs of several operators. Most of the operators agreed with the basic intent of the proposed AD, but several requested an increase in the initial inspection time to allow large fleet operators to establish an inspection schedule that would not require disruption of service. In support of this request, the commenters felt the structural redundancy inherent in the design of the DC-9 elevator would permit the requested increase without compromising safety. The FAA agrees and the initial inspection time has been increased to 3,400 hours.

Another comment requested that the AD include a repair method developed by one operator which can be accomplished without removing the elevator from the airplane. The AD visualizes the acceptability of FAA approved repair manual data for this purpose. The repair scheme proposed by the commenter is considered acceptable in principle and is scheduled to be published in a future revision of the applicable service bulletin as an alternate method.

DRAFTING INFORMATION

The principal authors of this document are Everett W. Pittman, Aircraft Engineering Division, and F. C. Woodruff, Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, section 39.13 of Part 39 of the Federal Aviation regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive.

MCDONNELL DOUGLAS: Applies to Model DC-9 Series airplanes, certificated in all categories, including Military Type C-9A, C-9B, and VC-9C, F/N's 1 through 839.

Compliance required within the next 3,400 hours time in service, unless already accomplished within the past 200 hours time in service, and thereafter at intervals not to exceed 3,600 hours time in service, on all airplanes with over 5,000 hours time in service as of, and after, the effective date of this AD.

To detect cracks and prevent failure of the elevator spar, comply with the following:

(a) Perform an X-ray or dye-penetrant inspection of the elevator spars, P/N (9918450-1 or -501, in accordance with the inspection procedures of McDonnell Douglas DC-9 Service Bulletin 55-28, dated August 29, 1977, or later FAA approved revision, or McDonnell Douglas All Operators Letter AOL 9-1000, dated November 3, 1976.

(b) Cracked parts found during any of the inspections of paragraph (a) which do not exceed the crack limits in McDonnell Douglas DC-9 Service Bulletin 55-28, dated August 29, 1977, or later FAA approved revisions, may be continued in service. However, in addition to the 3600 hour repetitive general inspection requirements of paragraph (a), the area 12 inches inboard and outboard of all cracks must be X-ray or dye penetrant inspected at intervals not to exceed the following:

(1) Length of longest crack up to two inches—800 hours time in service.

(2) Length of longest crack between two and four inches—400 hours time in service.

(c) If cracks are found during any of the inspections of paragraph(a) or (b) which exceed the crack limits of McDonnell Douglas DC-9 Service Bulletin 55-28, dated August 29, 1977, or later FAA approved revision, the cracked spar must be repaired or replaced before further flight.

(d) Equivalent inspections may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(e) If the original 7075-T651 spars (P/N 9918450 -1 or -501) are replaced with 7075-T7351 spars (P/N 9918450-503), the inspection requirements of this AD will not apply to that airplane.

(f) Special flight permits may be issued in accordance with FAR's 21.197 and 21.199 to authorize operation of an airplane to a base for the accomplishment of the inspections required by this AD.

(g) Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Chief, Aircraft Engineering Division, FAA Western Region, may adjust the repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

(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 Los Angeles, Calif., on December 29, 1977.

ROBERT H. STANTON,
Director,
FAA Western Region.

[FR Doc. 78-335 Filed 1-6-78; 8:45 am]

[4910-13]

[Docket No. 77-WE-27-AD; Amdt. 39-3118]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC-8 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts an airworthiness directive (AD) which requires modifications to increase clearances on McDonnell Douglas Model DC-8 Series airplanes to reduce the possibility of jamming of the elevator and the installation of an elevator position indicator system to give the pilot positive indication of elevator movement.

DATES: Effective—February 13, 1978. Compliance schedule—As prescribed in body of AD.

ADDRESSES: Persons affected by this AD may obtain copies of McDonnell Douglas DC-8 Service Bulletins 27-254, 27-262, and 27-264 by writing to: McDonnell Douglas Corp., 3855 Lakewood Boulevard, Long Beach, Calif. 90846. Attention: L. A. Eisenberg, C1-750, 54-60. Also, a copy of the service bulletins may be reviewed at, or a copy obtained from: Rules Docket in room 916, FAA, 800 Independence Avenue SW., Washington, D.C. 20591; or Rules Docket in room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, Calif. 90261.

FOR FURTHER INFORMATION CONTACT:

Jerry J. Presba, Executive Secretary, Airworthiness Directives Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009, telephone 213-536-6351.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring installation of an elevator position indicator system and modifications to improve clearances on McDonnell Douglas DC-8 Series airplanes to preclude jamming of the elevator was published in the FEDERAL REGISTER at 42 FR 43407. The proposal was prompted by the takeoff accident of a DC-8 airplane which apparently had the elevator jammed due to an overtravel condition caused by gusty wind conditions while parked with the gust lock disengaged.

Interested persons have been afforded an opportunity to participate in the making of the amendment. At the request of the ATA, a meeting with operator airlines, the manufacturer and the FAA was held on October 7, 1977, to allow an in-depth discussion of the airlines comments on the NPRM. Several of the commenters requested that the AD include a procedure developed by one operator which allows the necessary clearance improvements to be made without removing the elevator. The FAA agrees that the procedure is acceptable and is desirable from a time-savings standpoint in doing the modification. Accordingly the manufacturer is preparing a revision to DC-8 Service Bulletin 27-262 to include the new procedure as an alternative to removing the elevator. Several commenters asked that the AD allow specific maintenance and operational procedures as an alternate means of compliance to the installation of the elevator position indicator system. They expressed their belief that the elevator position indicator installation was too costly and time-consuming to incorporate in large fleets and that it only added to the workload of the cockpit crew, without adding safety beyond that obtained by certain operational procedures. At the October 7 meeting, the FAA agreed to review a new pretakeoff procedure developed by one operator as a possible alternative to the position indicator system. After an extensive review of that procedure, the FAA has determined that the procedure has merit but is not acceptable as an alternate to the installation of the elevator position indicator.

Another commenter suggested that, if the AD requires an elevator position indicator system to be installed, provision should be made for continued flight if the system malfunctions. The FAA agrees that provision for limited flight until repairs can be accomplished is necessary and a paragraph has been added to the final rule to allow flights to continue until a base is reached where the necessary repairs can be made, provided the operational procedure of DC-8 Alert Service Bulletin A27-264 is followed.

The AD differs from the NPRM in the above, relieving respect and in the incorporation of editorial changes and minor changes for clarification.

DRAFTING INFORMATION

The principal authors of this document are Everett W. Pittman, Aircraft Engineering Division, and Fred C. Woodruff, Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive.

MCDONNELL DOUGLAS: Applies to Model DC-8 Series airplanes, certificated in all categories.

Compliance required as indicated.

To prevent failure of the elevator geared tab crank arms and to provide a means of detecting jamming of the elevator surface, comply with the following:

(a) Within the next 12 months after the effective date of this AD, unless already accomplished, increase the elevator geared tab crank assembly clearance by modifying the elevator leading edge cutouts and covers, and modify and reidentify the elevator geared tab links, modify rod ends as required, and chamfer the horizontal stabilizr box fittings in accordance with McDonnell Douglas DC-8 Service Bulletin 27-262 dated July 15, 1977, or later FAA approved revisions

NOTE: Compliance with the following requirements of Service Bulletin 27-262 is optional:

(i) The installation of steel geared-tab links to replace the existing links. 3802767-1 (new) for 4710541; 3802768-1 (new) for 4710542.

(ii) The provision of additional clearance between the elevator hinge support fitting Part No. 3619433 and the elevator leading edge spar (view D-D, page 8 of DC-8 Service Bulletin 27-262.)

(b) Within the next 18 months after the effective date of this AD, unless already accomplished, install an elevator position indicator system in accordance with McDonnell Douglas DC-8 Service Bulletin 27-254 dated March 5, 1975, or later FAA approved revision.

(c) Equivalent modifications or operational procedures may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(d) Special flight permits may be issued in accordance with FAR's 21.197 and 21.199 to authorize operation of an airplane to a base for the accomplishment of the modifications required by this AD.

(e) Aircraft which have been modified in accordance with Paragraph (b) may be operated with the elevator position indicator system inoperative provided:

(i) Prior to each takeoff verify proper elevator operation by a ground observer, and by utilizing the elevator flight control check procedure of McDonnell Douglas DC-8 Alert Service Bulletin A27-264 dated May 14, 1977, or later FAA approved revision.

(ii) The aircraft is not dispatched from a station where repairs or replacements on the elevator position indicator system can be made.

(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 Los Angeles, Calif., on December 29, 1977.

ROBERT H. STANTON,
Director, FAA Western Region.

[FR Doc. 78-336 Filed 1-6-78; 8:45 am]

[4910-13]

[Docket No. 77-WE-22-AD; Amdt. 39-3117]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC-9 and Military C-9 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires repetitive inspections or replacement of the engine pylon rear spar upper straps (caps) on the McDonnell Douglas Model DC-9 and Military C-9 Series airplanes for fatigue cracks to preclude failure that could result in separation of the engine from the aircraft.

DATES: Effective date—February 13, 1978. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service bulletin may be obtained from: McDonnell Douglas Corp., 3855 Lakewood Boulevard, Long Beach, Calif. 90846. Attention: L. A. Eisenbert, C1-75, (54-60). Also, a copy of the service bulletin may be reviewed at, or a copy obtained from: Rules Docket in Room 916, FAA, 800 Independence Avenue SW., Washington, D.C. 20591; or Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, Calif. 90261.

FOR FURTHER INFORMATION CONTACT:

Jerry J. Presba, Executive Secretary, Airworthiness Directives Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los

Angeles, Calif. 90009, telephone 213-536-6351.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring repetitive inspections for cracks and replacement, if necessary, of the engine pylon rear spar upper strap (cap) on McDonnell Douglas DC-9 airplanes was published in the FEDERAL REGISTER at 42 FR 43989. The proposal was prompted by two reported failures of the engine pylon rear spar upper strap (cap) which results in drooping of the engine and possible separation of the engine from the aircraft.

Interested persons have been afforded an opportunity to participate in the making of the amendment.

One commenter felt that the AD should be published as proposed. A second commenter stated his opinion that the AD was not necessary based upon his inspection results which failed to reveal evidence of cracks leading the commenter to conclude that the two cracks previously reported were isolated cases. This commenter further stated that, if an AD were still considered necessary by the FAA, the reinspection intervals should be extended from 2,400 landings to 5,000 landings to better fit the established inspection interval of certain operators.

After careful consideration of all the data including an additional failure discussed below, the FAA concludes that the AD is required and that the reinspection interval cannot be safely extended to the 5,000 landings requested in the comment. Rather, the 2,400 landing reinspection requirements proposed in the NPRM is being retained based upon crack propagation data supporting the lower value.

In addition, subsequent to the publication of the NPRM, a crack in the engine pylon rear spar upper strap was found on a DC-9 aircraft with less than 20,000 landings. In light of this new information, the FAA has reevaluated the initial inspection requirement contained in the NPRM and has determined that the AD should be issued with an initial inspection at 15,000 landings rather than 20,000 landings as proposed in the NPRM.

Further, the FAA is of the opinion that publication of a new NPRM covering this new initial inspection requirement would result in a delay inconsistent with safety and would be impractical.

In addition to the above noted change, this AD includes editorial changes for purposes of clarification. The effective date of this AD is unchanged.

Since a situation exists requiring immediate adoption of this regulation, additional notice and public procedure thereon are impracticable.

DRAFTING INFORMATION

The principal authors of this document are Stanton R. Wood, Aircraft Engineering Division, and Frederick C. Woodruff, Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

MCDONNELL DOUGLAS: Applies to Model DC-9 and Military C-9 Series Airplanes certificated in all categories, Fuselage Numbers 1 through 851, inclusive which correspond to the factory serial numbers listed in Douglas DC-9 Service Bulletin No. 54-31, dated August 24, 1976, or later FAA approved revisions.

To detect cracks and prevent possible failure of the engine pylon aft upper spar straps (caps) comply with the following:

(a) For airplanes with 35,000 or more landings on the effective date of this AD, within the next 600 landings unless already accomplished within the last 1,800 landings and thereafter at intervals not to exceed 2,400 landings, accomplish Paragraph (f).

(b) For airplanes with 30,000 to 34,999 landings on the effective date of this AD, within the next 900 landings, unless already accomplished within the last 1,500 landings, and thereafter at intervals not to exceed 2,400 landings, accomplish Paragraph (f).

(c) For airplanes with 25,000 to 29,999 landings on the effective date of this AD, within the next 1,200 landings, unless already accomplished within the last 1,200 landings, and thereafter at intervals not to exceed 2,400 landings, accomplish Paragraph (f).

(d) For airplanes with 15,000 to 24,999 landings on the effective date of this AD, within the next 2,000 landings, unless already accomplished within the last 400 landings, and thereafter at intervals not to exceed 2,400 landings, accomplish Paragraph (f).

(e) For airplanes with less than 15,000 landings on the effective date of this AD, within the first 2,000 landings, after accumulating 15,000 landings, and thereafter at intervals not to exceed 2,400 landings, accomplish Paragraph (f).

(f) As required by Paragraphs (a) through (e):

(1) Ultrasonically inspect the engine pylon aft upper spar straps (caps), Part Number 9958154-5/-6 or 9958154-37/-38 per Paragraph 2.B of Douglas DC-9 Service Bulletin A54-31 dated December 22, 1976, or later FAA approved revision, or an alternate method approved by the Chief, Aircraft Engineering Division, Western Region. If there is evidence of cracking, magnetic particle inspection per Paragraph 2.C may be used to confirm the evidence of cracking.

(2) If cracks are detected, before further flight replace the strap with new Part Numbers 9958154-5/-6 or 9958154-37/-38 and resume the inspections after the part has accumulated 15,000 landings or modify in accordance with Douglas Service Bulletin 54-31 dated August 24, 1976, or later FAA approved revision.

(3) At the option of the operator, the ultrasonic inspection may be deleted if the magnetic particle inspection is accomplished. If the magnetic particle inspection procedure is used, after two bearing replacements it is necessary to replace the strap with a new Part Number 9958154-5/-6 or 9958154-37/-38 or modified per Douglas Service Bulletin 54-31 dated August 24, 1976, or later FAA approved revision.

(g) Upon completion of modification of the engine pylon rear spar straps (caps) per Douglas Service Bulletin 54-31 dated August 24, 1976, or later FAA approved revision the inspection requirements of this AD are terminated.

(h) For the purpose of complying with this AD, if records of landings are not available, the number of landings for the purpose of establishing initial compliance may be determined by dividing each airplane's hours in service by the operator's appropriate fleet average time from takeoff to landing. This procedure is subject to acceptance by the assigned FAA maintenance inspector.

(i) Special flight permits may be issued in accordance with FAR's 21.197 and 21.199 to authorize operation of an airplane to a base for the accomplishment of the inspections required by this AD.

(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 Los Angeles, Calif., on December 29, 1977.

ROBERT H. STANTON,
Director, FAA Western Region.

[FR Doc. 78-337 Filed 1-6-78; 8:45 am]

[4910-13]

[Docket No. 77-WE-20-AD; Amdt. 39-3116]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC-9 Series Airplanes including Military Type C-9A, C-9B, and VC-9C

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which modifies the tail cone emergency exist release handle locating and operating markings on passenger and passenger/cargo McDonnell Douglas DC-9 airplanes. The AD is prompted by one incident in which the inability to locate and operate the tail cone release handle caused a delay in evacuating the airplane during an emergency.

DATE: Effective date February 13, 1978.

Compliance required within the next 180 days after the effective date of this AD.

The applicable service bulletin may be obtained from: McDonnell Douglas

Corp., Douglas Aircraft Co., 3855 Lakewood Boulevard, Long Beach, Calif. 90801. Attention: Product Support.

Also, a copy of this service bulletin may be reviewed at, or a copy obtained from: Rules Docket in Room 916, FAA, 800 Independence Avenue SW., Washington, D.C. 20591, or Rules Docket in Room 6W14, FAA, Western Region, 15000 Aviation Boulevard, Hawthorne, Calif. 90261.

FOR FURTHER INFORMATION CONTACT:

Jerry J. Presba, Executive Secretary, Airworthiness Directives Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. Telephone: 213-536-6351.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring modification of the tail cone emergency exit release handle locating and operating markings on McDonnell Douglas DC-9 airplanes was published in the FEDERAL REGISTER at 41 FR 41647. The proposal was prompted by one incident in which the inability to locate and operate the tail cone emergency exit release handle caused a delay in evacuating the airplane during an emergency.

Interested persons have been afforded an opportunity to participate in the making of the amendment. The FAA received six separate comments to this proposed rulemaking.

One commenter suggested the AD be worded to indicate applicability to passenger carrying aircraft only because the tail cone emergency exit is not required on DC-9s operated exclusively in an all cargo configuration. The FAA agrees with this comment and the AD has been revised to apply to passenger and passenger/cargo configurations only.

Four separate comments were received which stated that the addition of markings to locate and operate the tail cone emergency exit release handle are not sufficient to solve the problem. In view of the comments received the FAA again evaluated the tail cone emergency exit release handle location, operation, and markings under night lighting conditions. Based upon our subsequent review, the FAA has determined that the tail cone emergency exit release handle can be located and operated by both crewmembers and passengers under day and night lighting conditions when the modifications described in McDonnell Douglas Service Bulletin 53-134, Revision 1, are accomplished.

While reviewing the markings in the tail cone area, it was noted that the current production airplanes include the markings "Arrow" "Exit" "Arrow" on the catwalk which leads from the pressure bulkhead door at the end of the cabin to the tail cone emergency exit release handle location. These markings are not on the first 160 production DC-9 airplanes. The FAA considers these markings on the catwalk to be necessary to mark the exit path which leads from the cabin to the location of the tail cone emergency exit release handle. The McDonnell Douglas Service Bulletin 53-134 has been revised to include these markings on the catwalk and they will be required by this AD.

One commenter suggested that an additional light source should be located in close proximity to the release handle or the handle should be self-illuminating. Those comments further urge that extensive trials be performed on the McDonnell Douglas paint schemes before approval is given in the AD. The manufacturer, before submitting Service Bulletin 53-134 to the FAA for approval, performed extensive Human Factor studies on methods to increase the visual awareness of the tail cone release handle. Different paint schemes were evaluated along with reflective paint and radioactive markings. From these Human Factor studies the manufacturer presented Service Bulletin 53-134 to the FAA for review and the FAA determined during the initial and subsequent reviews that these modifications provide the minimum level of safety required. In addition, the FAA observed a test in which the test subject, a person unfamiliar with the tail cone area, was able to locate and operate the tail cone exit release handle under night lighting conditions. The two reviews by the FAA, along with the above noted test, and the manufacturer's Human Factor studies all indicate that the tail cone exit release handle can be located and operated without extensive further tests.

Another commenter suggested the AD require a high intensity light to be installed in the tail cone exit along with self-illuminating directional placards and a self-illuminating release handle containing the word "PULL". In addition, it was stated that painting the release handle red is unsafe. The FAA reviewed the present light level in the tail cone area and determined that it does provide the minimum illumination level required by the Federal Aviation Regulations (FARs). In addition, the FAA does not agree that painting the release handle red is unsafe. The manufacturer tested different shades of red in combination with the background colors before deciding on the specific color combinations specified in the AD.

Another commenter recommended that the AD be issued requiring both the implementation of Service Bulletin 53-134, and the installation of additional lights to shine on the release handle. These comments stated that additional placards and operating instructions would have little effect unless they can be read and interpreted. Based upon the FAA's evaluation, it was determined that the additional marking at the release handle can be read and operated with the present emergency lights operating in the tail cone area.

One commenter did not feel that improved markings to point out the location of the DC-9 tail cone release handle were appropriate for adoption as an AD and recommended a light source be placed near the exit release handle. Again the FAA does not agree and has determined that these additional markings will provide the required minimum level of safety.

Another comment received which had no objection to the proposed AD stated that a 90 day compliance time with a 45 day delivery time for parts is unrealistic and requested the compliance time be increased to 180 days. Also questioned was the need to specify exact shades of red and white paint in the service bulletins and this commenter further suggested that the AD allow use of a broader range of colors so that airlines could use paint presently in their inventories. Since this AD will require additional markings on the catwalk and envisions a 45 day delivery time for parts, the FAA has extended the compliance time to 180 days. With regard to a wider variety of colors, the specific colors listed in the service bulletin were selected by the manufacturer after evaluating different color combinations and are considered satisfactory by the FAA. An alternate color combination or method of compliance with this AD may be used if approved by the Chief, Aircraft Engineering Division, Western Region, as specified in the AD.

DRAFTING INFORMATION

The principal authors of this document are Robert M. Stacho, Aircraft Engineering Division, and DeWitte T. Lawson, Jr., Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive.

MCDONNELL DOUGLAS: Applies to all passenger and passenger/cargo Model DC-9 airplanes certificated in all categories, including C-9A, C-9B, and VC-9C.

Compliance required within 180 days from the effective date of this AD, unless already accomplished.

To identify the location and operation of the tail cone emergency exit release handle, accomplish the following:

Modify the tail cone emergency exit release handle locating and operating markings in accordance with McDonnell Douglas Service Bulletin 53-134, Revision 1, dated December 16, 1977 or later FAA approved revision, or an equivalent modification approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(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 Los Angeles, Calif., on December 29, 1977.

ROBERT H. STANTON,
Director, FAA Western Region.

[FR Doc. 78-338 Filed 1-6-78; 8:45 am]

[4910-13]

[Airspace Docket No. 77-SW-53]

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

Designation of Transition Area: Higgins, Tex.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This designates a transition area at Higgins, Tex., to provide controlled airspace for aircraft executing instrument approach procedures to the Higgins Municipal Airport, using the Gage, Oklahoma VORTAC. Coincident with this action the airport is changed from VFR to IFR.

EFFECTIVE DATE: March 23, 1978.

FOR FURTHER INFORMATION CONTACT:

David Gonzalez, Airspace and Procedures Branch (ASW-536), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

HISTORY

On October 27, 1977, a notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 56621) stating that the Federal Aviation Administration proposed to designate the Higgins, Tex., transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Three responses were received in which two commenters posed no objection to the proposal.

DISCUSSION OF COMMENTS

The Department of Air Force representative objected to the proposed rule. The commenter expressed concern that establishment of the transition area would require realignment and/or renegotiations of an All Weather Low Altitude Route (AWLAR) which overlies a portion of the proposed airspace and delay scheduled military training operations. The FAA concludes that changes to the published AWLAR route are unnecessary since they can overlap transition areas. Utilization of the controlled airspace by IFR flights will be separated by the appropriate air traffic control facility to avoid conflict. Military flights on the AWLAR can be conducted under Visual Flight Rules (VFR) only when weather conditions are equal to or better than 3,000 feet ceiling and 5 miles visibility. Under these conditions, both civil and military aircraft are governed by the "see and be seen" concepts in accordance with Federal Aviation Regulations.

THE RULE

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) designates the Higgins, Tex., transition area. This action provides controlled airspace from 700 feet above the ground for the protection of aircraft executing instrument approach procedures to the Higgins Municipal Airport.

DRAFTING INFORMATION

The principal authors of this document are David Gonzalez, Airspace and Procedures Branch, and Robert C. Nelson, Office of the 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) as republished (42 FR 440) is amended, effective 0901 GMT, March 23, 1978, as follows.

In Subpart G, § 71.181 (42 FR 440), the following transition area is added:

HIGGINS, TEX.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Higgins Municipal Airport, Higgins, Tex., (latitude 36°06'20" N., longitude 100°01'30" W.), and within 2 miles each side of the 207° radial of the Gage, Okla., VORTAC, extending from the 5.5-mile radius to 6.5 miles Northeast of the Airport.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(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 December 27, 1977.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc. 78-339 Filed 1-6-78; 8:45 am]

[4910-13]

[Airspace Docket No. 77-SW-52]

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

Designation of Transition Area: Sweetwater, Tex.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This designates a transition area at Sweetwater, Tex., to provide controlled airspace for aircraft executing the newly established NDB instrument approach procedure to Sweetwater Municipal Airport.

EFFECTIVE DATE: March 23, 1978.

FOR FURTHER INFORMATION CONTACT:

David Gonzalez, Airspace and Procedures Branch (ASW-536), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

HISTORY

On October 27, 1977, a notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 56620) stating that the Federal Aviation Administration proposed to designate the Sweetwater, Tex., transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Five comments were received without objections. Except for editorial changes this amendment is that proposed in the notice.

THE RULE

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) designates the Sweetwater, Tex., transition area. This action provides controlled airspace from 700 feet above the ground for the protection of aircraft executing instrument approach procedures to the Sweetwater Municipal Airport.

DRAFTING INFORMATION

The principal authors of this document are David Gonzalez, Airspace and Procedures Branch, and Robert C.

Nelson, Office of the 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) as republished (42 FR 440) is amended, effective 0901 GMT, March 23, 1978, as follows.

In Subpart G, § 71.181 (42 FR 440), the following transition area is added:

SWEETWATER, TEX.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Sweetwater Municipal Airport (latitude 32°28'00" N., longitude 100°28'00" W.) and within 3.5 miles each side of the 350° bearing from the Sweetwater RBN (latitude 32°27'41" N., longitude 100°27'59" W.) extending from the 9-mile radius area to 11.5 miles north of the RBN.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(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 December 27, 1977.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc. 78-340 Filed 1-6-78; 8:45 am]

[4910-13]

[Airspace Docket No. 77-SW-44]

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

Alteration of Transition Area: Hobart, Okla.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This alters the transition area at Hobart, Okla., to provide controlled airspace for aircraft executing a newly established VOR/DME instrument approach procedure to Tipton Municipal Airport.

EFFECTIVE DATE: March 23, 1978.

FOR FURTHER INFORMATION CONTACT:

David Gonzalez, Airspace and Procedures Branch (ASW-536), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

HISTORY

On October 17, 1977, a notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 55477) stating that the Federal Aviation Administration proposed to alter the Hobart, Okla., transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Four comments were received without objections. Except for editorial changes, this amendment is that proposed in the notice.

THE RULE

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) alters the Hobart, Okla., transition area. This action provides additional controlled airspace from 700 feet above the ground for the protection of aircraft executing newly established instrument approach procedures to the Tipton Municipal Airport.

DRAFTING INFORMATION

The principal authors of this document are David Gonzalez, Airspace and Procedures Branch, and Robert C. Nelson, Office of the 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) as republished (42 FR 440) is amended, effective 0901 GMT, March 23, 1978, as follows.

In Subpart G, § 71.181 (42 FR 440), the Hobart, Okla., transition area is amended by adding the following:

* * * and within a 6-mile radius of the Tipton Municipal Airport excluding the portion which overlies the Frederick, Okla., transition area.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(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 December 27, 1977.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc. 78-341 Filed 1-6-78; 8:45 am]

[4910-13]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Docket No. 17530; Amdt. No. 95-276]

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: January 26, 1978.

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) prescribe 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 immediate 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. Fioretti, 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: January 26, 1978.

(Secs. 307 and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348 and 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 25 FR 6489 and paragraph 802 of Order FSP 1100.1, as amended March 9, 1973.)

NOTE.—The Federal Aviation Administration has determined that this amendment 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 December 29, 1977.

JAMES M. VINES,
Chief,
Aircraft Programs Division.

§95.1001 DIRECT ROUTES—U.S.
is amended to delete:

FROM	TO	MEA
Kalamazoo, Mich. VOR	Centreville INT, Mich.	2500
St. Johns INT, Mich. *2200—MOCA	Lyons INT, Mich.	*4000

§95.1001 DIRECT ROUTES—U.S.
is amended by adding:

FROM	TO	MEA
Silver City, N.M. VOR *12200—MOCA	Albuquerque, N.M. VOR COP SVC 50	*14000
Alamosa, Colo. VORTAC	Shrew INT, Colo.	18000 MAA—35000
Kremmling, Colo. VOR	Kremmling, Colo. VOR R-128/10 NM	13000
Kremmling, Colo. VOR R-128/10 NM *14700—MOCA	Gorey INT, Colo.	*16000
Gorey INT, Colo. *15400—MOCA	Funds INT, Colo.	*16000
Lampasas, Tex. VOR *2500—MOCA	Waco, Tex. VOR	*3500
Lampasas, Tex. VOR *2700—MOCA	Acton, Tex. VOR	*3500
Salmon, Id. VOR	Missoula, Mont. VOR	18000 MAA—45000
Missoula, Mont. VOR	Kalispell, Mont. VOR	18000 MAA—45000
Kalispell, Mont. VOR	U.S. Canadian Border COP 82 FCA	18000 MAA—45000
Flying Cloud, Minn. VOR	Sioux Falls, S.D. VORTAC	17000 MAA—25000
Pendleton, Ore. VORTAC	Dillon, Mont. VORTAC	#24000

#MEA is established with a gap in navigational signal coverage.

§95.1001 DIRECT ROUTES—U.S.
is amended to read in part:

FROM	TO	MEA
Dillon, Mont. VORTAC	Sheridan, Wyo. VORTAC	#33000 MAA—45000
MEA is established with a gap in navigational signal coverage.		
Sheridan, Wyo. VORTAC	Rapid City, S.D. VORTAC	18000 MAA—45000
Battle Creek, Mich. VOR	Centreville INT, Mich.	2700
Battle Creek, Mich. VOR *2200—MOCA	Kalamazoo, Mich. VOR	*2800
Battle Creek, Mich. VOR *2200—MOCA	Sherwood INT, Mich.	*2800
Flint, Mich. VOR	St. Johns INT, Mich.	2600
Grand Rapids, Mich. VOR	Bellevue INT, Mich.	*2700
Kalamazoo, Mich. VOR *2300—MOCA	Lings INT, Mich.	*2900
Lansing, Mich. VOR	Bellevue INT, Mich.	2700
Kaiser, Mo. NDB *2400—MOCA	Forney, Mo. VOR	*3000
Natchez, Miss. VOR	Vicksburg, Miss. RBN	2000
Ukiah, Calif. VOR *6600—MOCA	INT 331 M rad Ukiah VOR & SE Crs Arcata ILS	*11000
INT 331 M rad Ukiah VOR & SE crs Arcata ILS *7200—MOCA	Bridgeville INT, Calif.	*11000
Bridgeville INT, Calif. *6400—MOCA	Yager INT, Calif.	*7000

Atlantic Routes

AR 2 is deleted.

AR 7 is amended to read in part:

*Adoor INT, Fla. *30000—MRA	Panal INT, Fla.	25000 MAA—45000
Panal INT, Fla.	Haw, N.C. NDB	2500 MAA—45000

§95.5000 HIGH ALTITUDE RNAV ROUTES

FROM/TO	TOTAL DISTANCE	CHANGEOVER POINT DISTANCE FROM GEOGRAPHIC LOCATION		TRACK ANGLE	MEA	MAA
J810R is amended to delete:						
Avast, Pa. W/P Penns, N.J. W/P	113.1	22.0 41-04-11N	Avast 76-54-17W	106/286 to COP 112/292 to Penns	18000	45000
J810R is amended by adding:						
Avast, Pa. W/P Sweet, N.J. W/P	113.1	22	Avast	106/286 to COP 112/292 to Sweet	18000	45000
J860R is amended to read:						
Ashop, Tenn. W/P Lepol, Ind. W/P	201	55	Ashop	044/224 to COP 046/226 to Lepol	18000	45000
J875R is amended to read in part:						
Birmingham, Ala. W/P Banks, Miss. W/P	145	45	Birmingham	295/115 to COP 294/114 to Banks	18000	45000

§95.5000 HIGH ALTITUDE RNAV ROUTES

FROM/TO	TOTAL DISTANCE	CHANGEOVER POINT DISTANCE FROM GEOGRAPHIC LOCATION	TRACK ANGLE	MEA	MAA
J938R is amended to delete:					
Palis, Calif. W/P Alcoa, Calif. W/P	112		260/080 to Alcoa	28000	45000
J938R is amended by adding:					
Palis, Calif. W/P Bebop, Calif. W/P	80		226/046 to COP 228/048 to Arose	18000	45000
J964 is amended to delete:					
Merle, Calif. W/P Clukh, Calif. W/P	122		216/036 to Clukh	29000	45000
J964 is amended by adding:					
Merle, Calif. W/P Bebop, Calif. W/P	106		243/063 to Arose	18000	45000

§95.6002 VOR FEDERAL AIRWAY 2
is amended to read in part:

FROM	TO	MEA
Milwaukee, Wis. VOR Via S alter.	Squib INT, Mich. Via S alter.	2900
Squib INT, Mich. Via E alter. *2100–MOCA	Muskegon, Mich. VOR Via E alter.	*2700

§95.6002 VOR FEDERAL AIRWAY 2
is amended by adding:

FROM	TO	MEA
*Ellensburg, Wash. VOR Via S alter. *6700–MCA Ellensburg, W-bound	Rubel INT, Wash. Via S alter.	6000
Rubel INT, Wash. Via S alter.	Moses Lake, Wash. VOR Via S alter.	4000

§95.6003 VOR FEDERAL AIRWAY 3
is amended to read in part:

FROM	TO	MEA
Biscayne Bay, Fla. VOR	Ft. Lauderdale, Fla. VOR	2000
Ft. Lauderdale, Fla. VOR	Palm Beach, Fla. VOR	2000

§95.6004 VOR FEDERAL AIRWAY 4
is amended to read in part:

FROM	TO	MEA
Gill, Colo. VOR Via N alter. *9000–MRA	*Hudds INT, Colo. Via N alter.	7000
Hudds INT, Colo. Via N alter.	Denver, Colo. VOR Via N alter.	7000
Kansas City, Mo. VOR	Lexington INT, Mo.	2700
Ellensburg, Wash. VOR Via N alter	INT 086 M rad Ellensburg VOR & 210 M rad Moses Lake VOR Via N alter.	6000
INT 086 M rad Ellensburg VOR & 210 M rad Moses Lake VOR Via N alter.	Pasco, Wash. VOR Via N alter.	4700

§95.6006 VOR FEDERAL AIRWAY 6
is amended to read in part:

FROM	TO	MEA
Waterville, Ohio VOR	Cleveland, Ohio VOR	2600

§95.6007 VOR FEDERAL AIRWAY 7
is amended to delete:

FROM	TO	MEA
Miami, Fla. VOR *2500–MRA **1200–MOCA	*Westo INT, Fla.	*2000
Miami, Fla. VOR Via E alter. *1200–MOCA	Wimco INT, Fla. Via E alter.	*2000
Wimco INT, Fla. Via S alter.	Ft. Myers, Fla. VOR Via S alter.	2000

§95.6007 VOR FEDERAL AIRWAY 7
is amended by adding:

FROM	TO	MEA
Biscayne Bay, Fla. VOR *1500–MOCA	Westo INT, Fla.	*6000
Biscayne Bay, Fla. VOR Via E alter.	Miami, Fla. VOR Via E alter.	2000
Miami, Fla. VOR Via E alter.	Gilbi INT, Fla. Via E alter.	2000
Gilbi INT, Fla. Via E alter. *1500–MOCA	Ruthy INT, Fla. Via E alter.	*3500

VOR FEDERAL AIRWAY 7–cont'd.
is amended by adding:

Ruthy INT, Fla. Via E alter.	Ft. Myers, Fla. VOR Via E alter.	2000
Ft. Myers, Fla. VOR Via E alter. *1300–MOCA	Rinse INT, Fla. Via E alter.	*2000
Rinse INT, Fla. Via E alter.	Lakeland, Fla. VOR Via E alter.	2000

§95.6007 VOR FEDERAL AIRWAY 7
is amended to read in part:

FROM	TO	MEA
Chicago Heights, Ill. VOR Via E alter.	Hites INT, Ill. Via E alter.	2500
Hites INT, Ill. Via E alter. *3000–MRA **1700–MOCA	*Story INT, Ill. Via E alter.	**3000
Story INT, Ill. Via E alter. *1700–MOCA	Taylor INT, Wis. Via E alter.	*3000
*Bount INT, Ala. Via E alter. *4000–MRA **7000–MRA	**Folso INT, Ala. Via E alter.	3000

§95.6008 VOR FEDERAL AIRWAY 8
is amended to read in part:

FROM	TO	MEA
Goren INT, Ind. *4000–MRA **2200–MOCA	*Grabi INT, Ind.	**4000
Grabi INT, Ind. *2200–MOCA	Twerp INT, Ind.	*4000
Twerp INT, Ohio	Findlay, Ohio VOR	2600
Bellaire, Ohio VOR	Galls INT, Pa.	3600
Galls INT, Pa.	Grantsville, Md. VOR	5000

§95.6009 VOR FEDERAL AIRWAY 9
is amended to read in part:

FROM	TO	MEA
St. Louis, Mo. VOR *2000–MOCA	Capital, Ill. VOR	*2700
Capital, Ill. VOR	Pontiac, Ill. VOR	2600
Pontiac, Ill. VOR	Jayar INT, Ill.	2500
Jayar INT, Ill. *2100–MOCA	Swett INT, Ill.	*3000
Swett INT, Ill. *5000–MRA	*Noahe INT, Ill.	2700
Belvi INT, Ill.	Milwaukee, Wis. VOR	2900
Milwaukee, Wis. VOR	Oshkosh, Wis. VOR	3000
Oshkosh, Wis. VOR *2100–MOCA	Green Bay, Wis. VOR	*3000
Green Bay, Wis. VOR	Iron Mountain, Mich. VOR	3000
Iron Mountain, Mich. VOR	Houghton, Mich. VOR	3600

§95.6010 VOR FEDERAL AIRWAY 10
is amended to read in part:

FROM	TO	MEA
Emporia, Kans. VOR	Napoleon, Mo. VOR	3000
Napoleon, Mo. VOR Via N alter.	Lawson INT, Mo. Via N alter.	2700

§95.6011 VOR FEDERAL AIRWAY 11
is amended to read in part:

FROM	TO	MEA
Evansville, Ind. VOR	Macky INT, Ind.	2300
Macky INT, Ind. *2000–MOCA	Scoto INT, Ind.	*4000

VOR FEDERAL AIRWAY 11—cont'd.

is amended to read in part:

Evansville, Ind. VOR	Augusta INT, Ind.	
Via E alter.	Via E alter.	2400
Augusta INT, Ind.	*Jiger INT, Ind.	
Via E alter.	Via E alter.	**3500
*3500—MRA		
**1900—MOCA		
Jiger INT, Ind.	Bloomington, IND. VOR	
Via E alter.	Via E alter.	2700
Bloomington, Ind. VOR	Indianapolis, Ind. VOR	
Via E alter.	Via E alter.	2700
Marion, Ind. VOR	Ft. Wayne, Ind. VOR	2600
Ft. Wayne, Ind. VOR	*Grabi INT, Ind.	3000
*4000—MRA		
Grabi INT, Ind.	Edgee INT, Ind.	3000
Edgee INT, Ind.	Hudson INT, Mich.	*3500
*2100—MOCA		
Hudson INT, Mich.	Salem, Mich. VOR	3000
Salem, Mich. VOR	Bloomer INT, Mich.	2800

§95.6012 VOR FEDERAL AIRWAY 12

is amended to read in part:

FROM	TO	MEA
Cofax INT, Pa.	Germs INT, Pa.	*6000
*4300—MOCA		
Germs INT, Pa.	Harrisburg, Pa. VOR	*8500
*4300—MOCA		
Emporia, Kans. VOR	Napoleon, Mo. VOR	3000
Troy, Ill. VOR	Bible Grove, Ill. VOR	2300
Lewis, Ind. VOR	Shelbyville, Ind. VOR	2600
Shelbyville, Ind. VOR	Richmond, Ind. VOR	2800
Richmond, Ind. VOR	Dayton, Ohio VOR	2900

§95.6014 VOR FEDERAL AIRWAY 14

is amended to read in part:

FROM	TO	MEA
Prairie INT, Ill.	Vandalia, Ill. VOR	2500
Vandalia, Ill. VOR	Terre Haute, Ind. VOR	2400
Terre Haute, Ind. VOR	Indianapolis, Ind. VOR	2600
Terre Haute, Ind. VOR	Indianapolis, Ind. VOR	
Via S alter.	Via S alter.	2700
Indianapolis, Ind. VOR	Muncie, Ind. VOR	2900
Muncie, Ind. VOR	Findlay, Ohio VOR	3000
Cleveland, Ohio VOR	Jefferson, Ohio VOR	3000
Cleveland, Ohio VOR	Fairport INT, Ohio	
Via N alter.	Via N alter.	2500
Fairport INT, Ohio	Erie, Pa. VOR	
Via N alter.	Via N alter.	2700

§95.6015 VOR FEDERAL AIRWAY 15

is amended to read in part:

FROM	TO	MEA
Bismarck, N.D. VOR	Minot, N.D. VOR	4000

§95.6016 VOR FEDERAL AIRWAY 16

is amended to read in part:

FROM	TO	MEA
Statesville INT, Tenn.	Hinch Mountain, Tenn. VOR	*5000
*2400—MOCA		
Hinch Mountain, Tenn. VOR	Bucky INT, Tenn.	5000
Bucky INT, Tenn.	Knoxville, Tenn. VOR	3500

§95.6017 VOR FEDERAL AIRWAY 17

is amended to read in part:

FROM	TO	MEA
Cotulla, Tex. VOR	Milet INT, Tex.	*2500
*1800—MOCA		

VOR FEDERAL AIRWAY 17—cont'd.

is amended to read in part:

Milet INT, Tex.	Somer INT, Tex.	*4000
*1900—MOCA		
Somer INT, Tex.	San Antonio, Tex. VOR	*4000
*2400—MOCA		
Cotulla, Tex. VOR	Milet INT, Tex.	
Via E alter.	Via E alter.	*2500
*1800—MOCA		
Milet INT, Tex.	Lemig INT, Tex.	
Via E alter.	Via E alter.	*2500
*1900—MOCA		
Lemig INT, Tex.	San Antonio, Tex. VOR	
Via E alter.	Via E alter.	2500
San Antonio, Tex. VOR	Micky INT, Tex.	
Via E alter.	Via E alter.	3000
Micky INT, Tex.	Austin, Tex. VOR	
Via E alter.	Via E alter.	*3000
*2300—MOCA		
San Antonio, Tex. VOR	Dents INT, Tex.	
Via W alter.	Via W alter.	*3000
*2500—MOCA		
Dents INT, Tex.	Cedil INT, Tex.	
Via W alter.	Via W alter.	**3400
*3500—MRA		
**2700—MOCA		

§95.6018 VOR FEDERAL AIRWAY 18

is amended to read in part:

FROM	TO	MEA
Atlanta, C . VOR	Conni INT, Ga.	*3000
*2300—MOCA		
Conni INT, Ga.	*Maddi INT, Ga.	**4000
*3500—MRA		
**2100—MOCA		

§95.6020 VOR FEDERAL AIRWAY 20

is amended to read in part:

Monroeville, Ala. VOR	*Picks INT, Ala.	2300
*3500—MRA		
Picks INT, Ala.	Montgomery, Ala. VOR	2300

§95.6024 VOR FEDERAL AIRWAY 24

is amended to read in part:

FROM	TO	MEA
Caldo INT, Minn.	Lone Rock, Wis. VOR	3000
Waukon, Iowa VOR	Lone Rock, Wis. VOR	
Via S alter.	Via S alter.	3000

§95.6026 VOR FEDERAL AIRWAY 26

is amended to read in part:

FROM	TO	MEA
Farmington, Minn. VOR	Eau Claire, Wis. VOR	
Via S alter.	Via S alter.	*3000
*2400—MOCA		
Eau Claire, Wis. VOR	*Cadott INT, Wis.	3000
*3500—MRA		
Cadott INT, Wis.	Edger INT, Wis.	3000
		MAA—14000
Wausau, Wis. VOR	Wolf INT, Wis.	3000
Wolf INT, Wis.	Green Bay, Wis. VOR	2600
Green Bay, Wis. VOR	Nero INT, Wis.	3000

VOR FEDERAL AIRWAY 26—cont'd.
is amended to read in part:

Lansing, Mich. VOR	Chems INT, Mich.	
Via N alter.	Via N alter.	2900
Chems INT, Mich.	Salem, Mich. VOR	
Via N alter.	Via N alter.	2800
Walkerville INT, Mich.	White Cloud, Mich. VOR	2700
White Cloud, Mich. VOR	Orleans INT, Mich.	*2900
*2300—MOCA		
Orleans INT, Mich.	Lansing, Mich. VOR	2500

§95.6027 VOR FEDERAL AIRWAY 27
is amended to read in part:

FROM	TO	MEA
Ventura, Calif. VOR	Golet INT, Calif.	5000
Golet INT, Calif.	Gaviota, Calif. VOR	6000

§95.6030 VOR FEDERAL AIRWAY 30
is amended to read in part:

FROM	TO	MEA
Milwaukee, Wis. VOR	Squib INT, Mich.	2900
Squib INT, Mich.	Pullman, Mich. VOR	*2700
*1900—MOCA		
Milwaukee, Wis. VOR	Pike INT, Wis.	
Via S alter.	Via S alter.	2700

§95.6035 VOR FEDERAL AIRWAY 35
is amended to delete:

FROM	TO	MEA
Ft. Myers, Fla. VOR	St. Petersburg, Fla. VOR	
Via W alter.	Via W alter.	2000

§95.6035 VOR FEDERAL AIRWAY 35
is amended by adding:

FROM	TO	MEA
Ft. Myers, Fla. VOR	Sarasota, Fla. VOR	
Via W alter.	Via W alter.	2000
Sarasota, Fla. VOR	St. Petersburg, Fla. VOR	
Via W alter.	Via W alter.	2000

§95.6038 VOR FEDERAL AIRWAY 38
is amended to read in part:

FROM	TO	MEA
Medan INT, Ill.	Peotone, Ill. VOR	2400
Peotone, Ill. VOR	Lucit INT, Ill.	2500
Lucit INT, Ill.	Cleft INT, Ind.	*4000
*2400—MOCA		
Cleft INT, Ind.	Ft. Wayne, Ind. VOR	2600
Findlay, Ohio VOR	Appleton, Ohio VOR	3000
Zanesville, Ohio VOR	Parkersburg, W. Va. VOR	3000

§95.6042 VOR FEDERAL AIRWAY 42
is amended to read in part:

FROM	TO	MEA
Flint, Mich. VOR	U.S. Canadian Border	3000

§95.6043 VOR FEDERAL AIRWAY 43
is amended to read in part:

FROM	TO	MEA
Youngstown, Ohio VOR	Erie, Pa. VOR	3000

§95.6044 VOR FEDERAL AIRWAY 44
is amended to read in part:

FROM	TO	MEA
Mounds INT, Ill.	Centralia, Ill. VOR	2300
Centralia, Ill. VOR	Samsville, Ill. VOR	2400
Samsville, Ill. VOR	Decker INT, Ill.	2300
Decker INT, Ill.	Nabb, Ind. VOR	3000

§95.6045 VOR FEDERAL AIRWAY 45
is amended to read in part:

FROM	TO	MEA
Waterville, Ohio VOR	Japer INT, Mich.	2500
Saginaw, Mich. VOR	Benet INT, Mich.	
Via W alter.	Via W alter.	2200
Benet INT, Mich.	*Banjo INT, Mich.	
Via W alter.	Via W alter.	2500
*3000—MRA		
Banjo INT, Mich.	Zable INT, Mich.	
Via W alter.	Via W alter.	*5000
*2600—MOCA		
Zable INT, Mich.	Alpena, Mich. VOR	
Via W alter.	Via W alter.	3000

§95.6047 VOR FEDERAL AIRWAY 47
is amended to read in part:

FROM	TO	MEA
Rosewood, Ohio VOR	Bremen INT, Ohio	
Via W alter.	Via W alter.	3000
Cincinnatti, Ohio VOR	Mizza INT, Ohio	2700
Mizza INT, Ohio	Rosewood, Ohio VOR	3000

§95.6049 VOR FEDERAL AIRWAY 49
is amended to read in part:

*Bount INT, Ala.	**Folso INT, Ala.	3000
*4000—MRA		
**7000—MRA		

§95.6048 VOR FEDERAL AIRWAY 48
is amended to read in part:

FROM	TO	MEA
Ottumwa, Iowa VOR	Burlington, Iowa VOR	2300
Burlington, Iowa VOR	Peoria, Ill. VOR	2400

§95.6050 VOR FEDERAL AIRWAY 50
is amended to read in part:

FROM	TO	MEA
Quincy, Ill. VOR	Capital, Ill. VOR	3000
Decatur, Ill. VOR	Terre Haute, Ind. VOR	2500
Terre Haute, Ind. VOR	Indianapolis, Ind. VOR	2600
Indianapolis, Ind. VOR	Muncie, Ind. VOR	
Via N alter.	Via N alter.	2900

§95.6051 VOR FEDERAL AIRWAY 51
is amended to delete:

FROM	TO	MEA
Miami, Fla. VOR	Newer INT, Fla.	*2000
*1300—MOCA		
Newer INT, Fla.	Pahokee, Fla. VOR	*2000
*1300—MOCA		
Biscayne Bay, Fla. VOR	Anemo INT, Fla.	
Via E alter.	Via E alter.	2000
Anemo INT, Fla.	INT. 178 M rad Vero Beach VOR & 348 M rad Biscayne Bay VOR	
Via E alter.	Via E alter.	*4000
*1300—MOCA		
INT. 178 M rad Vero Beach VOR & 348 M rad Biscayne Bay VOR	Vero Beach, Fla. VOR	
Via E alter.	Via E alter.	*2000
*1300—MOCA		

§95.6051 VOR FEDERAL AIRWAY 51
is amended by adding:

FROM	TO	MEA
Miami, Fla. VOR	Pahokee, Fla. VOR	2000
Biscayne Bay, Fla. VOR	Ft. Lauderdale, Fla. VOR	
Via E alter.	Via E alter.	2000

VOR FEDERAL AIRWAY 51—cont'd.

is amended to read in part:

Ft. Lauderdale, Fla. VOR	Arkes INT, Fla.	
Via E alter.	Via E alter.	*2000
*1500—MOCA		
Arkes INT, Fla.	Pahokee, Fla. VOR	
Via E alter.	Via E alter.	1500

§95.6051 VOR FEDERAL AIRWAY 51

is amended to read in part:

FROM	TO	MEA
Nabb, Ind. VOR	Shelbyville, Ind. VOR	2600
Shelbyville, Ind. VOR	Ockel INT, Ind.	2900
Ockel INT, Ind.	Lafayette, Ind. VOR	2500

§95.6052 VOR FEDERAL AIRWAY 52

is amended to read in part:

FROM	TO	MEA
Quincy, Ill. VOR	*Hardin INT, Ill.	2600
*3700—MRA		
Troy, Ill. VOR	Cartter INT, Ill.	2300
Cartter INT, Ill.	Evansville, Ind. VOR	*4500
*2100—MOCA		

§95.6053 VOR FEDERAL AIRWAY 53

is amended to read in part:

FROM	TO	MEA
House INT, Ind.	Mouth INT, Ind.	*2800
*2200—MOCA		
Indianapolis, Ind. VOR	Jakks INT, Ind.	2700
Jakks INT, Ind.	Lafayette, Ind. VOR	2600
Lafayette, Ind. VOR	Kenla INT, Ind.	2600
Kenla INT, Ind.	Peotone, Ill. VOR	*2600
*2000—MOCA		

§95.6054 VOR FEDERAL AIRWAY 54

is amended to read in part:

FROM	TO	MEA
Little Rock, Ar. VOR	Walet INT, Miss. VOR	*4000
*1800—MOCA		
Walet INT, Miss. VOR	Holly Springs, Miss. VOR	*2500
*1800—MOCA		

§95.6055 VOR FEDERAL AIRWAY 55

is amended to read in part:

FROM	TO	MEA
Bonnie INT, Ohio	Ft. Wayne, Ind. VOR	*2600
*2000—MOCA		
South Bend, Ind. VOR	Keeler, Mich. VOR	2600
Pullman, Mich. VOR	Muskegon, Mich. VOR	2500
Whitehall INT, Mich.	Nero INT, Wis.	*5000
*2100—MOCA		
Nero INT, Wis.	Green Bay, Wis. VOR	3000
Green Bay, Wis. VOR	Stevens Point, Wis. VOR	3000
Stevens Point, Wis. VOR	Eau Claire, Wis. VOR	3000

§95.6059 VOR FEDERAL AIRWAY 59

is amended to read in part:

FROM	TO	MEA
Parkersburg, W. Va. VOR	Newcomerstown, Ohio VOR	*3000
*2400—MOCA		

§95.6063 VOR FEDERAL AIRWAY 63

is amended to read in part:

FROM	TO	
Burlington, Iowa VOR	Moline, Ill. VOR	*2600
*2000—MOCA		
Davenport, Iowa VOR	Rockford, Ill. VOR	2600
Rockford, Ill. VOR	Janesville, Wis. VOR	2600
Janesville, Wis. VOR	Milwaukee, Wis. VOR	3000
Milwaukee, Wis. VOR	Oshkosh, Wis. VOR	3000
Oshkosh, Wis. VOR	Stevens Point, Wis. VOR	3000

§95.6066 VOR FEDERAL AIRWAY 66

is amended to read in part:

FROM	TO	MEA
Abilene, Tex. VOR	*Breckenridge INT, Tex.	**4000
*5000—MRA		
**3400—MOCA		
Chapel INT, Tex.	Bridgeport, Tex. VOR	3000

§95.6067 VOR FEDERAL AIRWAY 67

is amended to read in part:

FROM	TO	MEA
Cunningham, Ky. VOR	Marion, Ill. VOR	2600
Marion, Ill. VOR	Centralia, Ill. VOR	2300
Centralia, Ill. VOR	Vandalia, Ill. VOR	2500
Vandalia, Ill. VOR	Capital, Ill. VOR	2500
Capital, Ill. VOR	Burlington, Iowa VOR	2500

§95.6068 VOR FEDERAL AIRWAY 68

is amended by adding:

FROM	TO	MEA
San Antonio, Tex. VOR	Marcs INT, Tex.	*3500
*3000—MOCA		
Marcs INT, Tex.	Crays INT, Tex.	*2500
*2000—MOCA		
Crays INT, Tex.	Industry, Tex. VOR	2200
Industry, Tex. VOR	Sealy INT, Tex.	2000
Sealy INT, Tex.	Hobby, Tex. VOR	2000

§95.6069 VOR FEDERAL AIRWAY 69

is amended to read in part:

FROM	TO	MEA
Capital, Ill. VOR	Pontiac, Ill. VOR	2600
Troy, Ill. VOR	Capital, Ill. VOR	2400

§95.6072 VOR FEDERAL AIRWAY 72

is amended to read in part:

FROM	TO	MEA
Bible Grove, Ill. VOR	Mattoon, Ill. VOR	2500
Mattoon, Ill. VOR	Bloomington, Ill. VOR	2700
Rosewood, Ohio VOR	Mansfield, Ohio VOR	3000

§95.6078 VOR FEDERAL AIRWAY 78

is amended to read in part:

FROM	TO	MEA
Eau Claire, Wis. VOR	Rhinelander, Wis. VOR	3700
Pellston, Mich. VOR	*Rabbo INT, Mich.	2600
*4000—MRA		
Rabbo INT, Mich.	Alpena, Mich. VOR	2600

§95.6080 VOR FEDERAL AIRWAY 80

is amended by adding:

FROM	TO	MEA
Denver, Colo. VOR	Wiggi INT, Colo.	7500
Wiggi INT, Colo.	Akron, Colo. VOR	7000

§95.6082 VOR FEDERAL AIRWAY 82

is amended to read in part:

FROM	TO	MEA
Dells, Wis. VOR	Timmerman, Wis. VOR	3000

§95.6084 VOR FEDERAL AIRWAY 84

is amended to read in part:

FROM	TO	MEA
Northbrook, Ill. VOR	*Story INT, Ill.	**2500
*3000—MRA		
**1900—MOCA		
Story INT, Ill.	*Tadds INT, Mich.	**2500
*3200—MRA		
**1900—MOCA		
Pullman, Mich. VOR	Lansing, Mich. VOR	3000
Flint, Mich. VOR	Peck, Mich. VOR	2800

§95.6085 VOR FEDERAL AIRWAY 85
is amended by adding:

FROM	TO	MEA
Denver, Colo. VOR	Maboy INT, Colo.	7600
Maboy INT, Colo.	*Drako INT, Colo.	10500
*13400–MCA Drako INT NW-bound		
Drako INT, Colo.	Benam INT, Colo.	13400
Benam INT, Colo.	Estus INT, Colo.	15600
Estus INT, Colo.	Medicine Bow, Wyo. VOR	*15600
*14700–MOCA		

§95.6089 VOR FEDERAL AIRWAY 89
is amended to read in part:

FROM	TO	MEA
Denver, Colo. VOR	*Hudds INT, Colo.	
Via E alter.	Via E alter.	7000
*9000–MRA		
Hudds INT, Colo.	Gill, Colo. VOR	
Via E alter.	Via E alter.	7000

§95.6092 VOR FEDERAL AIRWAY 92
is amended to read in part:

FROM	TO	MEA
Goshen, Ind. VOR	Bagel INT, Ind.	2700
Bagel INT, Ind.	Edgee INT, Ohio	*3000
*2400–MOCA		
Waterville, Ohio VOR	Mansfield, Ohio VOR	2900

§95.6096 VOR FEDERAL AIRWAY 96
is amended to read in part:

FROM	TO	MEA
Indianapolis, Ind. VOR	Kokomo, Ind. VOR	2700

§95.6097 VOR FEDERAL AIRWAY 97
is amended to delete:

FROM	TO	MEA
Biscayne Bay, Fla. VOR	Miami, Fla. VOR	2000

§95.6097 VOR FEDERAL AIRWAY 97
is amended to read in part:

FROM	TO	MEA
Miami, Fla. VOR	Gilbi INT, Fla.	
Via E alter.	Via E alter.	2000
Gilbi INT, Fla.	LaBelle, Fla. VOR	
Via E alter.	Via E alter.	*2000
*1300–MOCA		
Cincinnati, Ohio VOR	Shelbyville, Ind. VOR	2800
Shelbyville, Ind. VOR	Ockel INT, Ind.	2900
Ockel INT, Ind.	Lafayette, Ind. VOR	2500
Indianapolis, Ind. VOR	Leban INT, Ind.	
Via W alter.	Via W alter.	*2400
*2300–MOCA		
Leban INT, Ind.	Ockel INT, Ind.	
Via W alter.	Via W alter.	2900
Ockel INT, Ind.	Lafayette, Ind. VOR	
Via W alter.	Via W alter.	2500
Chicago O'Hare, Ill. VOR	Farmm INT, Ill.	2700
Farmm INT, Ill.	Janesville, Wis. VOR	*2900
*2300–MOCA		
Janesville, Wis. VOR	Thebo INT, Wis.	*2900
*2300–MOCA		

§95.6098 VOR FEDERAL AIRWAY 98
is amended to read in part:

FROM	TO	MEA
Carleton, Mich. VOR	U.S. Canadian Border	2400

§95.6103 VOR FEDERAL AIRWAY 103
is amended to read in part:

FROM	TO	MEA
U.S. Canadian Border	Salem, Mich. VOR	*2800
*2200–MOCA		

§95.6111 VOR FEDERAL AIRWAY 111
is amended by adding:

FROM	TO	MEA
Patty INT, Calif.	Modesto, Calif. VOR	*3000
*2500–MOCA		

§95.6114 VOR FEDERAL AIRWAY 114
is amended to read in part:

FROM	TO	MEA
Gregg Co., Tex. VOR	Carthage INT, Tex.	2300
Gregg Co., Tex. VOR	*Woodlawn INT, Tex.	
Via N alter.	Via N alter.	2300
*3000–MRA		

§95.6115 VOR FEDERAL AIRWAY 115
is amended to read in part:

FROM	TO	MEA
Parkersburg, W. Va. VOR	Newcomerstown, Ohio VOR	*3000
*2400–MOCA		
Pigon INT, Ala.	*Reddi INT, Ala.	2500
*5500–MRA		
Reddi INT, Ala.	Montgomery, Ala. VOR	2500

§95.6116 VOR FEDERAL AIRWAY 116
is amended to read in part:

FROM	TO	MEA
Quincy, Ill. VOR	Bryant INT, Ill.	2500
Bryant INT, Ill.	Peoria, Ill. VOR	2300
Peoria, Ill. VOR	Mossville, Ill. VOR	2300
Mossville, Ill. VOR	Joliet, Ill. VOR	2500
Nepts INT, Mich.	Keeler, Mich. VOR	*2600
*2000–MOCA		

§95.6125 VOR FEDERAL AIRWAY 125
is added to read:

FROM	TO	MEA
Cape Girardeau, Mo. VOR	Engen INT, Ill.	*3500
*MOCA–2700		
Engen INT, Ill.	St. Louis, Mo. VOR	*3500
*MOCA–2600		

§95.6126 VOR FEDERAL AIRWAY 126
is amended to read in part:

FROM	TO	MEA
Waterville, Ohio VOR	Cleveland, Ohio VOR	2600
Goshen, Ind. VOR	Bagel INT, Ind.	2700
Bagel INT, Ind.	Edgee INT, Ohio	*3000
*2400–MOCA		
Cleveland, Ohio VOR	Jefferson, Ohio VOR	3000

§95.6127 VOR FEDERAL AIRWAY 127
is amended to read in part:

FROM	TO	MEA
Bradford, Ill. VOR	Wynet INT, Ill.	2700
Wynet INT, Ill.	Polo, Ill. VOR	2600
Polo, Ill. VOR	Rockford, Ill. VOR	2600

§95.6127 VOR FEDERAL AIRWAY 127
is amended to read in part:

Malta INT, Ill.	*Noahe INT, Ill.	
Via E alter.	Via E alter.	2700
*5000–MRA		
Noahe INT, Ill.	Rockford, Ill. VOR	
Via E alter.	Via E alter.	2700

§95.6128 VOR FEDERAL AIRWAY 128
is amended to read in part:

FROM	TO	MEA
Peotone, Ill. VOR	Kenla INT, Ind.	*2600
*2000–MOCA		
Kenla INT, Ind.	*Swani INT, Ind.	2600
*4000–MRA		
*Swani INT, Ind.	Vages INT, Ind.	2600
Vages INT, Ind.	*Potes INT, Ind.	**4000
*4000–MRA		
**2100–MOCA		
Potes INT, Ind.	Jakks INT, Ind.	*4000
*2100–MOCA		
Jakks INT, ind.	Indianapolis, Ind. VOR	2700
Indianapolis, Ind. VOR	Heron INT, Ind.	2600
Heron INT, Ind.	Cincinnatti, Ohio VOR	2800

§95.6129 VOR FEDERAL AIRWAY 129
is amended to read in part:

FROM	TO	MEA
Capital, Ill. VOR	Peoria, Ill. VOR	2500
Peoria, Ill. VOR	Genso INT, Ill.	2500
Genso INT, Ill.	Davenport, Iowa VOR	2600
Nodine, Minn. VOR	Eau Claire, Wis. VOR	3000

§95.6133 VOR FEDERAL AIRWAY 133
is amended to read in part:

FROM	TO	MEA
Hometown INT, W. Va.	Zanesville, Ohio VOR	3000
Zanesville, Ohio VOR	Tiverton, Ohio VOR	3000
Salem, Mich. VOR	Russell INT, Mich.	2900
Russell INT, Mich.	Flint, Mich. VOR	*2900
*2300–MOCA		
Flint, Mich. VOR	*Flipe INT, Mich.	2700
*3000–MRA		
Flipe INT, Mich.	Saginaw, Mich. VOR	2400
Saginaw, Mich. VOR	Wheeler INT, Mich.	2400
Wheeler INT, Mich.	*Lake City INT, Mich.	**3500
*4000–MRA		
**2600–MOCA		
Lake City INT, Mich.	Broadman INT, Mich.	*3500
*2600–MOCA		

§95.6134 VOR FEDERAL AIRWAY 134
is amended to read in part:

FROM	TO	MEA
Grand Junction, Colo. VOR	Traci INT, Colo.	9000
Traci INT, Colo.	*Paces INT, Colo.	11000
*12700–MCA Paces INT, E-bound		
Paces INT, Colo.	Conti INT, Colo.	*13000
*12200–MOCA		
Conti INT, Colo.	Gleno INT, Colo.	13000
Gleno INT, Colo.	Basam INT, Colo.	*14000
*12000–MOCA		
Basam INT, Colo.	*Herls INT, Colo.	
	E-bound	16000
	W-bound	14000
*17000–MCA Herls INT, E-bound		
*15500–MRA		
Herls INT, Colo.	Funds INT, Colo.	*17000
*16000–MOCA		
Funds INT, Colo.	Camos INT, Colo.	17000
Camos INT, Colo.	*Golde INT, Colo.	
	W-bound	17000
	E-bound	12800
*12800–MCA Golde INT, W-bound		
Golde INT, Colo.	Denver, Colo. VOR	7600
Funds INT, Colo.	Shrew INT, Colo.	
Via S alter.	Via S alter.	16000

VOR FEDERAL AIRWAY 134–cont'd.
is amended to read in part:

Shrew INT, Colo.	Byson INT, Colo.	
Via S alter.	Via S alter.	14500
Byson INT, Colo.	Muris INT, Colo.	
Via S alter.	Via S alter.	*13000
*12000–MOCA		
*Muris INT, Colo.	Denver, Colo. VOR	
Via S alter.	Via S alter.	9000
*11300–MCA Muris INT, SW-bound		

§95.6144 VOR FEDERAL AIRWAY 144
is amended to read in part:

FROM	TO	MEA
Peotone, Ill. VOR	Lucit INT, Ill.	2500
Lucit INT, Ill.	Cleft INT, Ind.	*4000
*2400–MOCA		
Cleft INT, Ind.	Ft. Wayne, Ind. VOR	2600
Findlay, Ohio VOR	Appleton, Ohio VOR	3000

§95.6156 VOR FEDERAL AIRWAY 156
is amended to read in part:

FROM	TO	MEA
Moscow INT, Iowa	Moline, Ill. VOR	2600
Bradford, Ill. VOR	Peotone, Ill. VOR	*2700
*2100–MOCA		
Peotone, Ill. VOR	Lucit INT, Ill.	2500
Lucit INT, Ill.	Mapps INT, Ind.	*4000
*2400–MOCA		
Mapps INT, Ind.	Knox, Ind. VOR	*3000
*2200–MOCA		
Knox, Ind. VOR	South Bend, Ind. VOR	2600

§95.6157 VOR FEDERAL AIRWAY 157
is amended to read in part:

FROM	TO	MEA
Kinston, N.C. VOR	Tar River, N.C. VOR	2200
Tar River, N.C. VOR	Lawrenceville, Va. VOR	2000

§95.6158 VOR FEDERAL AIRWAY 158
is amended to read in part:

FROM	TO	MEA
Dubuque, Iowa VOR	Polo, Ill. VOR	2800

§95.6161 VOR FEDERAL AIRWAY 161
is amended to read in part:

FROM	TO	MEA
Napoleon, Mo. VOR	Lawson INT, Mo.	2700

§95.6161 VOR FEDERAL AIRWAY 161
is amended by adding:

FROM	TO	MEA
Llano, Tex. VOR	*Pridy INT, Tex.	**3400
*5000–MRA		
**2800–MOCA		
Pridy INT, Tex.	Duffa INT, Tex.	*3400
*2700–MOCA		
Duffa INT, Tex.	Polka INT, Tex.	*3400
*2500–MOCA		
Polka INT, Tex.	Millsap, Tex. VOR	*3000
*2400–MOCA		
Millsap, Tex. VOR	Bridgeport, Tex. VOR	*3000
*2500–MOCA		

§95.6163 VOR FEDERAL AIRWAY 163
is amended by adding:

FROM	TO	MEA
San Antonio, Tex. VOR	Lampases, Tex. VOR	*3500
*2800–MOCA		
Lampases, Tex. VOR	Acton, Tex. VOR	3000

VOR FEDERAL AIRWAY 163—cont'd.
is amended by adding:

Acton, Tex. VOR *2500—MOCA	Bridgeport, Tex. VOR	*3000
San Antonio, Tex. VOR Via W alter. *4300—MRA **2600—MOCA	*Guada INT, Tex. Via W alter.	**3300
Guada INT, Tex. Via W alter. *3200—MOCA	Stonewall, Tex. VOR Via W alter.	*4000
Stonewall, Tex. VOR Via W alter. *3200—MOCA	Llano, Tex. VOR Via W alter.	*4000
Llano, Tex. VOR Via W alter. *5000—MRA **2800—MOCA	*Pridy INT, Tex. Via W alter.	**4500
Pridy INT, Tex. Via W alter. *2500—MOCA	Acton, Tex. VOR Via W alter.	*3000

§95.6163 VOR FEDERAL AIRWAY 163
is amended to delete:

FROM	TO	MEA
San Antonio, Tex. VOR *3100—MOCA	Winters INT, Tex.	*3300
Winters INT, Tex. *3300—MRA **3000—MOCA	*Wirtz INT, Tex.	**4000
Wirtz INT, Tex. *2800—MOCA	Lometa, Tex. VOR	*3200
San Antonio, Tex. VOR Via W alter. *4300—MRA **2500—MOCA	*Guada INT, Tex. Via W alter.	**3000
Guada INT, Tex. Via W alter. *3200—MOCA	Llano, Tex. VOR Via W alter.	*4000
Llano, Tex. VOR Via W alter. *2700—MOCA	Lometa, Tex. VOR Via W alter.	*3200
Lometa, Tex. VOR *5000—MRA **2800—MOCA	*Adann INT, Tex.	**4000
Adann INT, Tex. *2800—MOCA	Mills INT, Tex.	*4000
Mills INT, Tex. *2400—MOCA	Millsap, Tex. VOR	*3000
Lometa, Tex. VOR Via E alter. *4000—MRA **2700—MOCA	*Carou INT, Tex. Via E alter.	**3400
Carou INT, Tex. Via E alter. *2400—MOCA	Acton, Tex. VOR Via E alter.	*3000
Acton, Tex. VOR Via E alter. *2100—MOCA	Millsap, Tex. VOR Via E alter.	*2800
Millsap, Tex. VOR *2500—MOCA	Bridgeport, Tex. VOR	*3000

§95.6163 VOR FEDERAL AIRWAY 163
is amended to read in part:

FROM	TO	MEA
*Carou INT, Tex. Via E alter. *4000—MRA	Acton, Tex. VOR Via E alter.	3000
Three Rivers, Tex. VOR Via W alter.	Lemig INT, Tex. Via W alter.	2000
Lemig INT, Tex. Via W alter.	San Antonio, Tex. VOR Via W alter.	2500

§95.6170 VOR FEDERAL AIRWAY 170
is amended to read in part:

FROM	TO	MEA
Dells, Wis. VOR	Milwaukee, Wis. VOR	3000
Hickory INT, Mich. *3000—MOCA	Lessy INT, Mich.	*4500
Milwaukee, Wis. VOR	Squib INT, Mich.	2900
Squib INT, Mich. *1900—MOCA	Pullman, Mich. VOR	*2700

§95.6171 VOR FEDERAL AIRWAY 171
is amended to read in part:

FROM	TO	MEA
Louisville, Ky. VOR	Maize INT, Ind.	2900
Maize INT, Ind. *2000—MOCA	Honos INT, Ind.	*2700
Honos INT, Ind.	Scoto INT, Ind.	2700
Louisville, Ky. VOR Via E alter.	Maize INT, Ind. Via E alter.	2900
Maize INT, Ind. Via E alter. *2000—MOCA	Honos INT, Ind. Via E alter.	*2700
Lewis, Ind. VOR *2600—MRA	*Clinton INT, Ind.	2400
Clinton INT, Ind.	Danville, Ill. VOR	2400
Danville, Ill. VOR	Peotone, Ill. VOR	2500
Peotone, Ill. VOR	Joliet, Ill. VOR	2400
Joliet, Ill. VOR *5000—MRA	*Noahe INT, Ill.	2700
Noahe INT, Ill.	Rockford, Ill. VOR	2700
Rockford, Ill. VOR	Glars INT, Wis.	2900

§95.6172 VOR FEDERAL AIRWAY 172
is amended to read in part:

FROM	TO	MEA
Denver, Colo. VOR	Wiggi INT, Colo.	7500
Wiggi INT, Colo. *8000—MRA **6600—MOCA	*Fowls INT, Colo.	**8000
Fowls INT, Colo. *6600—MOCA	Holyo INT, Colo.	*13000
Holyo INT, Colo. *4800—MOCA	North Platte, Neb. VOR	*6000
Cedar Rapids, Iowa VOR	Lisbon INT, Iowa	2500
Lisbon INT, Iowa	Charlotte INT, Iowa	2700
Charlotte INT, Iowa	Polo, Ill. VOR	2700
Polo, Ill. VOR	Du Page, Ill. VOR	2700
Du Page, Ill. VOR	Chicago O'Hare, Ill. VOR	2600
Chicago O'Hare, Ill. VOR *2500—MOCA	Nepts INT, Mich.	*4000
Nepts INT, Mich.	South Bend, Ind. VOR	2600

§95.6173 VOR FEDERAL AIRWAY 173
is amended to read in part:

FROM	TO	MEA
Capital, Ill. VOR	Kenns INT, Ill.	2300
Kenns INT, Ill. *6000—MCA Theme INT, NE-bound	*Theme INT, Ill.	2700

§95.6176 VOR FEDERAL AIRWAY 176
is amended to read:

FROM	TO	MEA
Pontiac, Mich. VOR *2400—MOCA	U.S. Canadian Border	*3000

§95.6177 VOR FEDERAL AIRWAY 177
is amended to read in part:

FROM	TO	MEA
Du Page Ill. VOR	Janesville, Wis. VOR	2800
Janesville, Wis. VOR	Madison, Wis. VOR	2800

VOR FEDERAL AIRWAY 177—cont'd.
is amended to read in part:

Madison, Wis. VOR	Stevens Point, Wis. VOR	2800
Dells, Wis. VOR	Stevens Point, Wis. VOR	
Via W alter.	Via W alter.	3000
Wausau, Wis. VOR	Westboro INT, Wis.	3700
Westboro INT, Wis.	Union INT, Wis.	*6000
*2800—MOCA		

§95.6186 VOR FEDERAL AIRWAY 186
is amended to read in part:

FROM	TO	MEA
Santa Barbara, Calif. VOR	INT 250 M rad Fillmore VOR & 107 M rad Santa Barbara VOR	6000
INT 250 M rad Fillmore VOR & 107 M rad Santa Barbara VOR	Hener INT, Ca.	5000
Hener INT, Ca.	Fillmore, Calif. VOR	6000

§95.6189 VOR FEDERAL AIRWAY 189
is amended to read:

FROM	TO	MEA
Tar River, N.C. VOR	Franklin, Va. VOR	2000
Franklin, Va. VOR	Hopewell, Va. VOR	2000

§95.6190 VOR FEDERAL AIRWAY 190
is amended to read in part:

FROM	TO	MEA
Farmington, Mo. VOR	Marion, Ill. VOR	3000

§95.6191 VOR FEDERAL AIRWAY 191
is amended to read in part:

FROM	TO	MEA
Troy, Ill. VOR	Decatur, Ill. VOR	2500
Roberts, Ill. VOR	Herscher INT, Ill.	2500
Northbrook, Ill. VOR	Milwaukee, Wis. VOR	2800
Milwaukee, Wis. VOR	Oshkosh, Wis. VOR	3000
Oshkosh, Wis. VOR	Rhinelander, Wis. VOR	*4500
*3000—MOCA		
Rhinelander, Wis. VOR	Ironwood, Mich. VOR	3500
Rhinelander, Wis. VOR	Ironwood, Mich. VOR	
Via E alter.	Via E alter.	3500
Ironwood, Mich. VOR	Duluth, Minn. VOR	3500

§95.6192 VOR FEDERAL AIRWAY 192
is amended to read:

FROM	TO	MEA
Champaign, Ill. VOR	Terre Haute, Ind. VOR	2500

§95.6193 VOR FEDERAL AIRWAY 193
is amended to read in part:

FROM	TO	MEA
Musky INT, Mich.	Pullman, Mich. VOR	2400
Pullman, Mich. VOR	Comstock INT, Mich.	2700
Comstock INT, Mich.	White Cloud, Mich. VOR	*2800
*2200—MOCA		
White Cloud, Mich. VOR	Traverse City, Mich. VOR	3400
Manistee, Mich. VOR	Traverse City, Mich. VOR	
Via W alter.	Via W alter.	*2800
*2200—MOCA		
Traverse City, Mich. VOR	Pellston, Mich. VOR	3000

§95.6194 VOR FEDERAL AIRWAY 194
is amended to read in part:

FROM	TO	MEA
Raleigh-Durham, N.C. VOR	Tar River, N.C. VOR	2000
Tar River, N.C. VOR	Cofield, N.C. VOR	*1800
*1400—MOCA		

§95.6198 VOR FEDERAL AIRWAY 198
is amended by adding:

FROM	TO	MEA
Junction, Tex. VOR	*Arper INT, Tex.	
Via N alter.	Via N alter.	**4000
*5500—MRA		
**3400—MOCA		

§95.6198 VOR FEDERAL AIR 198
is amended by adding:

Arper INT, Tex.	Stonewall, Tex. VOR	
Via N alter.	Via N alter.	*4000
*3300—MOCA		
Stonewall, Tex. VOR	Gobby INT, Tex.	
Via N alter.	Via N alter.	*3500
*3000—MOCA		
Gobby INT, Tex.	Dents INT, Tex.	
Via N alter.	Via N alter.	*3500
*2800—MOCA		
Dents INT, Tex.	Marcs INT, Tex.	
Via N alter.	Via N alter.	*3500
*2600—MOCA		
Marcs INT, Tex.	Weimar INT, Tex.	
Via N alter.	Via N alter.	*4500
*2000—MOCA		
Weimar INT, Tex.	Eagle Lake, Tex. VOR	
Via N alter.	Via N alter.	2100

§95.6207 VOR FEDERAL AIRWAY 207
is amended to read in part:

FROM	TO	MEA
Denver, Colo. VOR	*Hudds INT, Colo.	7000
*9000—MRA		
Hudds INT, Colo.	Gill, Colo. VOR	7000

§95.6210 VOR FEDERAL AIRWAY 210
is amended to read in part:

FROM	TO	MEA
Indianapolis, Ind. VOR	Muncie, Ind. VOR	2900

§95.6213 VOR FEDERAL AIRWAY 213
is amended to read in part:

FROM	TO	MEA
Eureka INT, N.C.	Tar River, N.C. VOR	*2000
*1400—MOCA		
Tar River, N.C. VOR	Mason INT, Va.	*2000
*1500—MOCA		

§95.6214 VOR FEDERAL AIRWAY 214
is amended to read in part:

FROM	TO	MEA
Kokomo, Ind. VOR	Marion, Ind. VOR	2600
Marion, Ind. VOR	Muncie, Ind. VOR	2700
Muncie, Ind. VOR	Richmond, Ind. VOR	2900

§95.6215 VOR FEDERAL AIRWAY 215
is amended to read in part:

FROM	TO	MEA
*Tadds INT, Mich.	Sales INT, Mich.	**3500
*3200—MRA		
**1600—MOCA		
White Cloud, Mich. VOR	Cargo INT, Mich.	4000
Cargo INT, Mich.	Gaylord, Mich. VOR	3000

§95.6216 VOR FEDERAL AIRWAY 216
is amended to read in part:

FROM	TO	MEA
Wacks INT, Ill.	Janesville, Wis. VOR	2800
Janesville, Wis. VOR	Wind Lake INT, Wis.	3000
Muskegon, Mich. VOR	Trufa INT, Mich.	*2800
*2200—MOCA		

VOR FEDERAL AIRWAY 216-cont'd.

is amended to read in part:

Trufa INT, Mich. *2400–MOCA	Elm INT, Mich.	*3000
Saginaw, Mich. VOR Via S alter.	Peck, Mich. VOR Via S alter.	3000
Pike INT, Wis. *2000–MOCA	Squib INT, Mich.	*5000
Squib INT, Mich. *2100–MOCA	Muskegon, Mich. VOR	*2700

§95.6217 VOR FEDERAL AIRWAY 217

is amended to read in part:

FROM	TO	MEA
Chicago O'Hare, Ill. VOR/DME *2100–MOCA	Taylor INT, Wis.	*4000
*Pike INT, Wis. *7000–MCA Pike INT, S-bound	Milwaukee, Wis. VOR	2700
Milwaukee, Wis. VOR	Chilton INT, Wis.	3000
Chilton INT, Wis.	Sherwood INT, Wis.	2700
Sherwood INT, Wis.	Green Bay, Wis. VOR	2500
Green Bay, Wis. VOR *2100–MOCA	Cecil INT, Wis.	*2700
Cecil INT, Wis. *3000–MOCA	Rhinelander, Wis. VOR	*3600
Rhinelander, Wis. VOR *4000–MOCA	Duluth, Minn. VOR	*6000

§95.6218 VOR FEDERAL AIRWAY 218

is amended to read in part:

FROM	TO	MEA
Fowler INT, Mich. *2300–MOCA	Pontiac, Mich. VOR	*2900
Pontiac, Mich. VOR	Novi INT, Mich.	2800
Novi INT, Mich.	U.S. Canadian Border	3000

§95.6220 VOR FEDERAL AIRWAY 220

is amended to read in part:

FROM	TO	MEA
Platt INT, Colo. *9000–MRA **6900–MOCA	*Hudds INT, Colo.	**9000
Hudds INT, Colo. *6700–MOCA	Wiggi INT, Colo.	*9000
Wiggi INT, Colo.	Akron, Colo. VOR	7000

§95.6221 VOR FEDERAL AIRWAY 221

is amended to read in part:

FROM	TO	MEA
Muncie, Ind. VOR	Ft. Wayne, Ind. VOR	2700
Ft. Wayne, Ind. VOR	Goren INT, Ind.	2600
Goren INT, Ind.	Litchfield, Mich. VOR	3000

§95.6222 FOR FEDERAL AIRWAY 222

is amended to delete:

FROM	TO	MEA
Junction, Tex. VOR *5500–MRA **3400–MOCA	*Arper INT, Tex.	**4000
*Arper INT, Tex. *5500–MRA **3300–MOCA	Stonewall INT, Tex.	**4000
Stonewall INT, Tex. *4300–MRA **3200–MOCA	*Guada INT, Tex.	**4000
Guada INT, Tex. *2500–MOCA	San Antonio, Tex. VOR	*3000
San Antonio, Tex. VOR *2600–MOCA	Stage INT, Tex.	*3000

is amended by adding:

Stage INT, Tex. *2000–MOCA	Lippy INT, Tex.	*2600
Lippy INT, Tex. *1900–MOCA	Industry, Tex. VOR	*2200

§95.6222 VOR FEDERAL AIRWAY 222

is amended by adding:

FROM	TO	MEA
Junction, Tex. VOR *5500–MRA **3400–MOCA	*Arper INT, Tex.	**4000
Arper INT, Tex. *3300–MOCA	Stonewall, Tex. VOR	*4000
Stonewall, Tex. VOR *3000–MOCA	Gobby INT, Tex.	*3500
Gobby INT, Tex. *2800–MOCA	Dents INT, Tex.	*3500
Dents INT, Tex. *2600–MOCA	Marcs INT, Tex.	*3500
Marcs INT, Tex. *2000–MOCA	Crays INT, Tex.	*2500
Crays INT, Tex.	Industry, Tex. VOR	2200

§95.6222 VOR FEDERAL AIRWAY 222

is amended to read in part:

FROM	TO	MEA
Kentt INT, Ala.	La Grange, Ga. VOR	2500

§95.6022 VOR FEDERAL AIRWAY 222

is amended to read in part:

Monroeville, Ala. VOR *3500–MRA	*Picks INT, Ala.	2300
Picks INT, Ala.	Montgomery, Ala. VOR	2300
Montgomery, Ala. VOR *3500–MRA	*Marst INT, Ala.	2000

§95.6224 VOR FEDERAL AIRWAY 224

is amended to read:

FROM	TO	MEA
Marquette, Mich. VOR	Schoolcraft County, Mich. VOR	3000

§95.6227 VOR FEDERAL AIRWAY 227

is amended to read in part:

FROM	TO	MEA
Lafayette, Ind. VOR *4000–MRA	*Swani INT, Ind.	2600
Swani INT, Ind.	Roberts, Ill. VOR	2600
Roberts, Ill. VOR	Pontiac, Ill. VOR	2500
Pontiac, Ill. VOR	Tride INT, Ill.	2600
Tride INT, Ill.	Rockford, Ill. VOR	2700

§95.6228 VOR FEDERAL AIRWAY 228

is amended to read in part:

FROM	TO	MEA
Northbrook, Ill. VOR	Nepts INT, Mich.	2500
Nepts INT, Mich.	South Bend, Ind. VOR	2600

§95.6233 VOR FEDERAL AIRWAY 233

is amended to read in part:

FROM	TO	MEA
Capital, Ill. VOR	Kenns INT, Ill.	2300
Kenns INT, Ill.	Roberts, Ill. VOR	2700
Roberts, Ill. VOR *2200–MOCA	Knox, Ind. VOR	*3000
Knox, Ind. VOR	Goshen, Ind. VOR	2600
Goshen, Ind. VOR	Litchfield, Mich. VOR	2800
Litchfield, Mich. VOR *2400–MOCA	Lansing, Mich. VOR	*3000
Cargo INT, Mich.	Gaylord, Mich. VOR	3000
Gaylord, Mich. VOR	Pellston, Mich. VOR	3000
Traverse City, Mich. VOR Via W alter.	Pellston, Mich. VOR Via W alter.	3000

§95.6243 VOR FEDERAL AIRWAY 243
is amended to read in part:

FROM	TO	MEA
Cloverport INT, Ky. *3500–MRA **2000–MOCA	*Jiger INT, Ind.	**4000
Jiger INT, Ind.	Lewis, Ind. VOR	2300

§95.6244 VOR FEDERAL AIRWAY 244
is amended to read in part:

FROM	TO	MEA
Stockton, Calif. VOR	Woodward INT, Calif.	
	E-bound	3000
	W-bound	2000

§95.6246 VOR FEDERAL AIRWAY 246
is amended to read in part:

FROM	TO	MEA
Nodine, Wis. VOR	Milto INT, Wis.	3000

§95.6251 VOR FEDERAL AIRWAY 251
is amended to read:

FROM	TO	MEA
Decatur, Ill. VOR	Champaign, Ill. VOR	2500
Champaign, Ill. VOR	Danville, Ill. VOR	2500
Danville, Ill. VOR	Lafayette, Ind. VOR	2500

§95.6262 VOR FEDERAL AIRWAY 262
is amended to read in part:

FROM	TO	MEA
Peoria, Ill. VOR *3000–MRA	*Dunlap INT, Ill.	2700
Dunlap INT, Ill.	Bradford, Ill. VOR	2700
Bradford, Ill. VOR	Joliet, Ill. VOR	2700

§95.6267 VOR FEDERAL AIRWAY 267
is amended to delete:

FROM	TO	MEA
Biscayne Bay, Fla. VOR	Miami, Fla. VOR	2000
Miami, Fla. VOR Via E alter.	Palm Beach, Fla. VOR Via E alter.	2000

§95.6267 VOR FEDERAL AIRWAY 267
is amended by adding:

FROM	TO	MEA
Biscayne Bay, Fla. VOR *1600–MOCA	Gremm INT, Fla.	*5000
Gremm INT, Fla. *1300–MOCA	Dougs INT, Fla.	*5000
Dougs INT, Fla.	Pahokee, Fla. VOR	1500
Biscayne Bay, Fla. VOR Via E alter. *1600–MOCA	Gremm INT, Fla. Via E alter.	*5000
Gremm INT, Fla. Via E alter.	Palm Beach, Fla. VOR Via E alter.	2000

§95.6271 VOR FEDERAL AIRWAY 271
is amended to read:

FROM	TO	MEA
Muskegon, Mich. VOR *2200–MOCA	Manistee, Mich. VOR	*2800
Manistee, Mich. VOR *2100–MOCA	Escanaba, Mich. VOR	*3000

§95.6274 VOR FEDERAL AIRWAY 274
is amended to read:

FROM	TO	MEA
Pullman, Mich. VOR	Grand Rapids, Mich. VOR	2700
Grand Rapids, Mich. VOR	Saginaw, Mich. VOR	2600

§95.6275 VOR FEDERAL AIRWAY 275
is amended to read in part:

FROM	TO	MEA
Cincinnati, Ohio VOR	Dayton, Ohio VOR	2800
Richmond, Ind. VOR Via W alter.	Dayton, Ohio VOR Via W alter.	2900
Kline INT, Ohio *2100–MOCA	Moter INT, Ohio	*5500

§95.6277 VOR FEDERAL AIRWAY 277
is amended to read:

FROM	TO	MEA
Rosewood, Ohio VOR	Ft. Wayne, Ind. VOR	3000
Ft. Wayne, Ind. VOR	Keeler, Mich. VOR	2700

§95.6279 VOR FEDERAL AIRWAY 279
is amended to read:

FROM	TO	
Columbus, Ohio LF/RBN	Grindell INT, Ohio	3000
Grindell INT, Ohio *2300–MOCA	Findlay, Ohio VOR	*3000

§95.6285 VOR FEDERAL AIRWAY 285
is amended to read in part:

FROM	TO	MEA
Indianapolis, Ind. VOR	Kokomo, Ind. VOR	2700
Indianapolis, Ind. VOR Via E alter.	Weldo INT, Ind. Via E alter.	2900
Weldo INT, Ind. Via E alter.	Kokomo, Ind. VOR Via E alter.	2700
Kokomo, Ind. VOR *2000–MOCA	Goshen, Ind. VOR	*2600
Grand Rapids, Mich. VOR	Comstock INT, Mich.	2600
Comstock INT, Mich. *2200–MOCA	White Cloud, Mich. VOR	*2800

§95.6297 VOR FEDERAL AIRWAY 297
is amended to read in part:

FROM	TO	MEA
Akron, Ohio VOR	U.S. Canadian Border	3500
Carleton, Mich. VOR	Livingston INT, Mich.	2900
Livingston INT, Mich. *2600–MOCA	Owosso INT, Mich.	*4000
Saginaw, Mich. VOR	Benet INT, Mich.	2200
Benet INT, Mich. *3000–MRA	*Banjo INT, Mich.	2500
Banjo INT, Mich. *2600–MOCA	Zable INT, Mich.	*5000
Zable INT, Mich.	Pellston, Mich. VOR	3000

§95.6300 VOR FEDERAL AIRWAY 300
is amended to read in part:

FROM	TO	MEA
U.S. Canadian Border *2300–MOCA	Srade INT, Mich.	*#9000
#MEA is established with a gap in navigational signal coverage.		
Srade INT, Mich. *2400–MOCA	Sault Ste. Marie, Mich. VOR	*3000

§95.6310 VOR FEDERAL AIRWAY 310
is amended to read in part:

FROM	TO	MEA
Raleigh-Durham, N.C. VOR	Tar River, N.C. VOR	2000
Tar River, N.C. VOR *1500–MOCA	Elizabeth City, N.C. VOR	*1800

§95.6313 VOR FEDERAL AIRWAY 313
is amended to read in part:

FROM	TO	MEA
Cape Girardeau, Mo. VOR	Gents INT, Ill.	3500

VOR FEDERAL AIRWAY 313—cont'd.

is amended to read in part:

Gents INT, Ill.	Centralia, Ill. VOR	*3000
*2400—MOCA		
Centralia, Ill. VOR	Decatur, Ill. VOR	2500

§95.6316 VOR FEDERAL AIRWAY 316

is amended to read:

FROM	TO	MEA
Ironwood, Mich. VOR	Hermy INT, Mich.	*4100
*3000—MOCA		
Hermy INT, Mich.	Marquette, Mich. VOR	3600
Marquette, Mich. VOR	Train INT, Mich.	3300
Train INT, Mich.	Eckerman INT, Mich.	*5500
*2300—MOCA		
Eckerman INT, Mich.	Sault Ste. Marie, Mich. VOR	*2800
*2100—MOCA		
Sault Ste. Marie, Mich. VOR	U.S. Canadian Border	2400

§95.6320 VOR FEDERAL AIRWAY 320

is amended to read:

FROM	TO	MEA
Peck, Mich. VOR	U.S. Canadian Border	*2600
*2000—MOCA		

§95-6329 VOR FEDERAL AIRWAY 329

is amended to read in part:

Andal INT, Ala.	*Hemmo INT, Ala.	**3000
*5000—MRA		
**2500—MOCA		
Hemmo INT, Ala.	Montgomery, Ala. VOR	*3000
*2500—MOCA		

§95.6335 VOR FEDERAL AIRWAY 335

is amended to read in part:

FROM	TO	MEA
Crystal City INT, Mo.	Engen INT, Ill.	*3500
*2100—MOCA		
Engen INT, Ill.	Marion, Ill. VOR	2400

§95.6337 VOR FEDERAL AIRWAY 337

is amended to read in part:

FROM	TO	MEA
Calcutta INT, Ohio	Akron, Ohio VOR	3000
U.S. Canadian Border	Dyke INT, Mich.	2100
Dyke INT, Mich.	Bloomer INT, Mich.	2500
Bloomer INT, Mich.	Saginaw, Mich. VOR	3000
Saginaw, Mich. VOR	Mt. Pleasant, Mich. VOR	2600
Mt. Pleasant, Mich. VOR	White Cloud, Mich. VOR	*3000
*2300—MOCA		

§95.6341 VOR FEDERAL AIRWAY 341

is amended to read in part:

FROM	TO	MEA
Madison, Wis. VOR	Oshkosh, Wis. VOR	2700

§95.6345 VOR FEDERAL AIRWAY 345

is amended to read in part:

FROM	TO	MEA
Milto INT, Wis.	Fallen INT, Wis.	3500
Fallen INT, Wis.	Eau Claire, Wis. VOR	*3000
*2400—MOCA		

§95.6347 VOR FEDERAL AIRWAY 347

is amended to read:

FROM	TO	MEA
Ironwood, Mich. VOR	Houghton, Mich. VOR	*3700
*3000—MOCA		

§95.6353 VOR FEDERAL AIRWAY 353

is amended to read:

FROM	TO	MEA
Jackson, Mich. VOR	Flint, Mich. VOR	2800

§95.6356 VOR FEDERAL AIRWAY 356

is added to read:

FROM	TO	MEA
Cheyenne, Wyo. VOR	Gill, Colo. VOR	8500
Gill, Colo. VOR	Keann INT, Colo.	7500

§95.6358 VOR FEDERAL AIRWAY 358

is amended by adding:

FROM	TO	MEA
San Antonio, Tex. VOR	*Guada INT, Tex.	**3300
*4300—MRA		
**2600—MOCA		
Guada INT, Tex.	Stonewall, Tex. VOR	*4000
*3200—MOCA		
Stonewall, Tex. VOR	Feltz INT, Tex.	*3800
*3000—MOCA		
Felta INT, Tex.	Kevin INT, Tex.	3000
Kevin INT, Tex.	Lampasas, Tex. VOR	3000
Lampases, Tex. VOR	Bandi INT, Tex.	*3000
*2300—MOCA		
Bandi INT, Tex.	Waco, Tex. VOR	*2800
*2000—MOCA		

§95.6361 VOR FEDERAL AIRWAY 361

is added to read:

Kremmling, Colo. VOR	Benam INT, Colo.	15000
Benam INT, Colo.	Cheyenne, Wyo. VOR	13000

§95.6371 VOR FEDERAL AIRWAY 371

is amended to read:

FROM	TO	MEA
Lafayette, Ind. VOR	Knox, Ind. VOR	2500

§95.6421 HAWAII VOR FEDERAL AIRWAY 21

is amended to read in part:

FROM	TO	MEA
Lanai, Hawaii VOR	Merlo INT, Hawaii	5000

§95.6420 VOR FEDERAL AIRWAY 420

is amended to read in part:

FROM	TO	MEA
Traverse City, Mich. VOR	Gaylord, Mich. VOR	3000
Gaylord, Mich. VOR	Alpena, Mich. VOR	3000

§95.6422 VOR FEDERAL AIRWAY 422

is amended to read:

FROM	TO	MEA
Chicago Heights, Ill. VOR	Knox, Ind. VOR	2500
Knox, Ind. VOR	Wolflake, Ind. VOR	2700
Wolflake, Ind. VOR	Twerp INT, Ohio	*2700
*2100—MOCA		
Twerp INT, Ohio	Findlay, Ohio VOR	2600

§95.6426 VOR FEDERAL AIRWAY 426

is amended to read in part:

FROM	TO	MEA
Godfrey INT, Ill.	Gifts INT, Ill.	2500
Gifts INT, Ill.	Pomer INT, Ill.	*4000
*2000—MOCA		

§95.6429 VOR FEDERAL AIRWAY 429

is amended to read in part:

FROM	TO	MEA
Cape Girardeau, Mo. VOR	Marion, Ill. VOR	*3000
*2100—MOCA		

VOR FEDERAL AIRWAY 429—cont'd.

is amended to read in part:

Marion, Ill. VOR	Bible Grove, Ill. VOR	2300
Bible Grove, Ill. VOR	Mattoon, Ill. VOR	2500
Mattoon, Ill. VOR	Champaign, Ill. VOR	2400
Champaign, Ill. VOR	Roberts, Ill. VOR	2600
Roberts, Ill. VOR	Medan INT, Ill.	2500
Medan INT, Ill.	Joliet, Ill. VOR	2400

§95.6430 VOR FEDERAL AIRWAY 430

is amended to read in part:

FROM	TO	MEA
Duluth, Minn. VOR	Ironwood, Mich. VOR	3500
Ironwood, Mich. VOR	Iron Mountain, Mich. VOR	*3700
*3000—MOCA		

§95.6434 VOR FEDERAL AIRWAY 434

is amended to read in part:

FROM	TO	MEA
Grandview INT, Iowa	Moline, Ill. VOR	2500
Moline, Ill. VOR	Peoria, Ill. VOR	2600
Peoria, Ill. VOR	Champaign, Ill. VOR	2700
Champaign, Ill. VOR	Indianapolis, Ind. VOR	2700

§95.6435 VOR FEDERAL AIRWAY 435

is amended to read in part:

FROM	TO	MEA
Rosewood, Ohio VOR	INT 042 M rad Rosewood VOR & 255 M rad Cleveland VOR	*3500
*2500—MOCA		

§95.6443 VOR FEDERAL AIRWAY 443

is amended to read in part:

FROM	TO	MEA
Tiverton, Ohio VOR	Cleveland, Ohio VOR	3000
Fairport INT, Ohio	U.S. Canadian Border	*3000
*1700—MOCA		

§95.6446 VOR FEDERAL AIRWAY 446

is amended to read:

FROM	TO	MEA
Troy, Ill. VOR	Samsville, Ill. VOR	2300

§95.6450 VOR FEDERAL AIRWAY 450

is amended to read in part:

FROM	TO	MEA
Larrabee INT, Wis.	Muskegon, Mich. VOR	2600
Muskegon, Mich. VOR	Comstock INT, Mich.	*2700
*2100—MOCA		
Comstock INT, Mich.	Owosso INT, Mich.	2700
Owosso INT, Mich.	Flint, Mich. VOR	2600
Flint, Mich. VOR	Hunter INT, Mich.	2800

§95.6454 VOR FEDERAL AIRWAY 454

is amended to read in part:

Liberty, N.C. VOR	Lawrenceville, Va. VOR	*5000
*2000—MOCA		

§95.6493 VOR FEDERAL AIRWAY 493

is amended to read in part:

FROM	TO	MEA
Upper Sandusky INT, Ohio	Waterville, Ohio VOR	2600
Owosso INT, Mich.	Mt. Pleasant, Mich. VOR	3000

§95.7010 JET ROUTE NO. 10 is amended to read in part:

FROM	TO	MEA	MAA
Denver, Colo. VORTAC	North Platte, Neb. VORTAC	18000	45000

§95.7013 JET ROUTE NO. 13 is amended to read in part:

FROM	TO	MEA	MAA
Cheyenne, Wyo. VORTAC	Casper, Wyo. VORTAC	18000	45000
Casper, Wyo. VORTAC	Billings, Mont. VORTAC	18000	45000

§95.7017 JET ROUTE NO. 17 is amended to read in part:

FROM	TO	MEA	MAA
Amarillo, Tex. VORTAC	Tobe, Colo. VORTAC	18000	45000
Tobe, Colo. VORTAC	Pueblo, Colo. VORTAC	18000	45000

§95.7024 JET ROUTE NO. 24 is amended by adding:

FROM	TO	MEA	MAA
Myton, Utah VORTAC	Hayden, Colo. VOR	18000	45000
Hayden, Colo. VOR	Kiowa, Colo. VORTAC	18000	45000

§95.7044 JET ROUTE NO. 44 is amended by adding:

FROM	TO	MEA	MAA
Farmington, N. Mex. VORTAC	Alamosa, Colo. VORTAC	18000	45000
Alamosa, Colo. VORTAC	Int. 351 M rad Alamosa VORTAC & 214 M rad Denver VORTAC	24000	45000
Int. 351 N rad Alamosa VORTAC & 214 M rad Denver VORTAC	Byson INT, Colo.	18000	45000

§95.7049 JET ROUTE NO. 49 is amended to delete:

FROM	TO	MEA	MAA
Presque Isle, Me. VORTAC	U.S. Canadian Border	18000	45000

§95.7053 JET ROUTE NO. 53 is amended to delete:

FROM	TO	MEA	MAA
Key West, Fla. VORTAC	Miami, Fla. VORTAC	18000	45000
Miami, Fla. VORTAC	Orlando, Fla. VORTAC	18000	45000

§95.7053 JET ROUTE NO. 53 is amended by adding:

FROM	TO	MEA	MAA
Biscayne Bay, Fla. VORTAC	Orlando, Fla. VORTAC	18000	45000

§95.7056 JET ROUTE NO. 56 is amended to delete:

FROM	TO	MEA	MAA
Salt Lake City, Utah VORTAC	Meeker, Colo. VORTAC	18000	45000
Meeker, Colo. VORTAC	Denver, Colo. VORTAC	18000	45000

§95.7056 JET ROUTE NO. 56 is amended by adding:

FROM	TO	MEA	MAA
Salt Lake City, Utah VORTAC	Hayden, Colo. VOR	#22000	45000
#MEA is established with a gap in navigational signal coverage.			
Hayden, Colo. VOR	Drako INT, Colo.	18000	45000

§95.7079 JET ROUTE NO. 79 is amended to delete:

FROM	TO	MEA	MAA
Biscayne Bay, Fla. VORTAC	Vero Beach, Fla. VORTAC	18000	45000

§95.7079 JET ROUTE NO. 79 is amended by adding:

FROM	TO	MEA	MAA
Key West, Fla. VORTAC	Miami, Fla. VORTAC	18000	45000
Miami, Fla. VORTAC	Palm Beach, Fla. VORTAC	18000	45000
Palm Beach, Fla. VORTAC	Vero Beach, Fla. VORTAC	18000	45000

§95.7085 JET ROUTE NO. 85 is amended to delete:

FROM	TO	MEA	MAA
Miami, Fla. VORTAC	Lakeland, Fla. VORTAC	18000	45000

§95.7085 JET ROUTE NO. 85 is amended by adding:

FROM	TO	MEA	MAA
Biscayne Bay, Fla. VORTAC	Lakeland, Fla. VORTAC	18000	45000

§95.7130 JET ROUTE NO. 130 is amended by adding:

FROM	TO	MEA	MAA
Grand Junction, Colo. VORTAC	Int. 074 M rad Grand Junction VORTAC & 245 M rad Kiowa VORTAC	26000	45000
Int. 074 M rad Grand Junction VORTAC & 245 M rad Kiowa VORTAC	Byson INT, Colo.	18000	45000

§95.7137 JET ROUTE NO. 137 is added to read:

FROM	TO	MEA	MAA
Capital, Ill. VORTAC	Farmington, Mo. VORTAC	18000	45000
Farmington, Mo. VORTAC	Walnut Ridge, Ar. VORTAC	18000	45000
Walnut Ridge, Ar. VORTAC	Little Rock, Ar. VORTAC	18000	45000

§95.7157 JET ROUTE NO. 157 is added to read:

FROM	TO	MEA	MAA
Keann INT, Colo.	Scottsbluff, Neb. VORTAC	18000	45000
Scottsbluff, Neb. VORTAC	Rapid City, S.D. VORTAC	18000	45000

§95.7163 JET ROUTE NO. 163 is added to read:

FROM	TO	MEA	MAA
Rock Springs, Wyo. VORTAC	Hayden, Colo. VOR	18000	45000
Hayden, Colo. VOR	Kiowa, Colo. VORTAC	18000	45000
Kiowa, Colo. VORTAC	Hugo, Colo. VORTAC	18000	45000
Hugo, Colo. VORTAC	Lamar, Colo. VORTAC	18000	45000

§95.7170 JET ROUTE NO. 170 is added to read:

FROM	TO	MEA	MAA
Crazy Woman, Wyo. VORTAC	Casper, Wyo. VORTAC	18000	45000
Casper, Wyo. VORTAC	Medicine Bow, Wyo. VORTAC	18000	45000
Medicine Bow, Wyo. VORTAC	Drako INT, Colo.	18000	45000

§95.7171 JET ROUTE NO. 171 is added to read:

FROM	TO	MEA	MAA
Tobe, Colo. VORTAC	Hugo, Colo. VORTAC	18000	45000
Hugo, Colo. VORTAC	Kiowa, Colo. VORTAC	18000	45000

§95.7172 JET ROUTE NO. 172 is added to read:

FROM	TO	MEA	MAA
Keann INT, Colo.	Sidney, Neb. VORTAC	18000	45000

By amending Sub-part D as follows:

§95.8003 VOR FEDERAL AIRWAYS CHANGEOVER POINTS

AIRWAY SEGMENT FROM	TO	CHANGEOVER POINTS DISTANCE FROM	
V-190 is amended to delete:			
Phoenix, Ariz. VOR	St. Johns, Ariz.	69	Phoenix
V-12 is amended by adding:			
Johnstown, Pa. VOR	Harrisburg, Pa. VOR	73	Johnstown
V-213 is amended to delete:			
Rocky Mt., N.C. VOR	Hopewell, Va. VOR	43	Rocky Mt.
V-213 is amended by adding:			
Tar River, N.C. VOR	Hopewell, Va. VOR	43	Tar River
V-163 is amended to delete:			
Llano, Tex. VOR	Lometa, Tex. VOR		
Via W alter.	Via W alter.	13	Llano
Lometa, Tex. VOR	Acton, Tex. VOR		
Via E alter.	Via E alter.	37	Lometa

§95.8005 JET ROUTES CHANGEOVER POINTS

AIRWAY SEGMENT FROM	TO	CHANGEOVER POINTS DISTANCE FROM	
J-56 is amended to delete:			
Salt Lake City, Utah VORTAC	Meeker, Colo. VORTAC	47	Salt Lake City
J-115 is amended to delete:			
Nikolski, Alas. NDB	Cold Bay, Alas. VORTAC	131	Cold Bay

[FR Doc. 78-227 Filed 1-6-78; 8:45 am]

[6320-01]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-1038, Amdt. 40]

PART 221—CONSTRUCTION, PUBLICATION, FILING AND POSTING OF TARIFFS OF AIR CARRIERS AND FOREIGN AIR CARRIERS

Statutory Filing Periods

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: These amendments will conform the Board's tariff filing rules to the amended statutory filing periods specified in Pub. L. 95-163, and will provide for filing periods other than the statutory period where such other dates are specified in bilateral agreements executed between the United States and a foreign government.

DATES: Effective: December 30, 1977. Adopted: December 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard Juhnke, Associate General Counsel, Rates and Agreements, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5436.

SUPPLEMENTARY INFORMATION: Pub. L. 95-163 amends section 403(c) of the Federal Aviation Act to require air carriers and foreign air carriers to file any proposed change in passenger fares 45 days before the effective date of the proposed change. It also amends section 403(c) to require direct air carriers to file any change in freight rates 60 days before the effective date of the proposed change, and indirect air carriers to file any change in freight rates 45 days before the effective date of the proposed change. This rule amends § 221.160(a) to replace the prior 30-day notice period with the new statutory notice periods.

Bilateral agreements such as Bermuda II may specify filing periods other than those provided by statute. We need not decide at this point how we might resolve any direct conflict between a bilateral agreement and our statutory mandate because, in our view, we can give effect to the advance tariff filing provisions of those agreements without raising such conflict. We will therefore add additional language to § 221.160(a) clarifying that we will recognize the advance filing periods provided for in bilateral agreements for any tariffs subject to such agreements. Additional amendments are technical in nature and, by reference to the statutory notice requirements provided by the amended language of § 221.160(a), will conform various other sections to the filing provisions of Pub. L. 95-163.

In addition, § 302.505(b) of the Procedural Regulations is being amended contemporaneously to change the deadline for filing complaints requesting suspension of tariffs. Previously such complaints were required to be filed at least 18 days before the effective date of the tariff. In view of the fact that Pub. L. 65-163 now requires the Board to act on tariff filings at least 15 days before the effective date, this amendment will insure that the Board continues to have an 18-day period in which to consider such complaints. The amendment does not affect the amount of time parties have to prepare complaints requesting suspension or answers to such complaints.

Because this rule concerns our rules of practice and because of the need to conform our rules to the already effective statutory amendment as quickly as possible, we find good cause why this amendment can be accomplished by final rule effective immediately upon adoption, without providing for notice, responsive comments, and without advance publication.

Accordingly, the Board amends Part 221 of its Economic Regulations (14 CFR Part 221) as follows:

1. Section 221.4 is amended by adding the definition of "statutory notice," in the appropriate place to read as follows:

§ 221.4 Definitions.

* * * * *

"Statutory Notice" means the number of days required for tariff filings in § 221.160(a).

* * * * *

2. Section 221.22 is amended by revising paragraph (b)(6) to read as follows:

§ 221.22 Specifications applicable only to loose-leaf tariff publications.

* * * * *

(b) *Information required on all interior pages.* Each original page and revised page following the title page of a loose-leaf tariff shall contain the following information in the location specified:

* * * * *

(6) In the lower right corner, the effective date on which the fares, rates, charges, rules, and other provisions will become effective (see § 221.160). When a page which is published back-to-back with another page on the same leaf is reissued without change in its provisions, the same general effective date shall be shown on both pages: *Provided, however,* That the general effective date on the page which reissues matter without change shall allow at least the statutory notice (see § 221.160) and shall not be earlier than the general effective date of the prior issue of such page.

3. Section 221.31 is amended by revising subparagraph (a)(10), to read as follows:

§ 221.31 Title page.

(a) *Contents.* Except as otherwise required in this part, or by other regulatory agencies, the title page of every tariff shall contain the following information to be shown in the order named in subparagraphs (1) to (12) of this paragraph and shall contain no other matter:

* * * * *

(10) *Issued date or posting date.* The date on which the tariff is issued shall be shown in the lower left-hand portion of the title page in the following manner:

Issued: ——, 19—. (Show month, date, and year in full, using no abbreviations.)

Provided, however, That a posting date may be set forth in the lower left-hand portion of the title page in lieu of an issued date. Notwithstanding the notice of provisions of § 221.160 and the posting periods required by § 221.171, any tariff on which a posting date is shown must be received by the Board on or before the designated posting date; must be posted by each carrier part thereto at its stations, terminals or offices on or before the designated posting date; and must contain a posting date that is earlier than the last day on which the tariff could be filed on statutory notice (see § 221.160). The posting date and accompanying "Note" shall be set forth as follows:

Posting date: ——, 19—. (Show month, date, and year in full, using no abbreviations.)

NOTE.—In accordance with § 302.505 of this chapter (CAB Procedural Regulations) any complaints as to this tariff must be filed within 12 days after this date.

4. Section 221.160 is amended by revising paragraphs (a), (b)(1), (b)(3), and (b)(4) to read as follows:

§ 221.160 Required notice.

(a) *Statutory notice required.* Unless otherwise authorized by the Board, or otherwise provided in a bilateral agreement between the United States and the Government of a foreign country,[1] all tariffs, supplements, and

[1] Tariffs filed in accordance with bilateral agreements, such as the Air Services Agreement between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland, signed at Bermuda July 23, 1977 (Bermuda II), are governed by the filing dates specified in such bilateral agreements.

loose-leaf tariff pages and all fares, rates, charges, ratings, routings, rules, amendments and other tariff provisions therein (including initial rates, fares, charges, and tariff provisions) as required by this part shall be filed with the Board at least the following number of days before the date they are to become effective regardless of whether or not any changes are effected thereby:

(1) For tariffs pertaining to air transportation of persons, at least 45 days;

(2) For tariffs pertaining to air transportation of property, at least 60 days if filed by an air carrier or foreign air carrier directly engaged in the operation of aircraft, or at least 45 days if filed by an air carrier not directly engaged in the operation of aircraft.

(b) *When single publication contains changes effective on different dates.* Each tariff, supplement, or loose-leaf tariff page which contains various changes to become effective on different dates shall:

(1) Bear a general effective date which shall allow at least the statutory notice,

* * * * *

(3) Show in connection with each change which is to become effective earlier or later than such general effective date, its specific effective date which shall allow at least the statutory notice unless the Board authorized the change to be filed on less notice.

(4) When matter is authorized by the Board to be filed on less than the statutory notice, show reference to the Board's order, regulation, or special tariff permission authorizing such filing. Such reference shall be shown (immediately following the specific effective date of such matter) in the manner required by the order, regulation, or special tariff permission, for example:

Effective: ————. Issued on — days' notice under Special Tariff Permission No. —— of the Civil Aeronautics Board. (See also § 221.194.)

* * * * *

5. Section 221.171 is amended by revising paragraph (c), to read as follows:

§ 221.171 Posting at stations, offices, or locations other than principal or general office.

* * * * *

(c) Each tariff publication bearing an issued date shall be posted by each carrier party thereto no later than the last day on which such tariff could be filed on statutory notice, and each tariff publication bearing a posting date shall be posted on or before the designated posting date as provided in § 221.31(a)(10), except that in the case of carrier stations, offices or locations situated outside the United States, its territories and possessions, the time shall be not later than five days after the last day a publication bearing an issue date could be filed on statutory notice, and except that a tariff publication which the Board has authorized to be filed on shorter notice shall be posted by the carrier on like notice as authorized for filing.

§§ 221.190, 221.191, 221.192, 221.211, 221.221 and 221.233 [Amended]

6. The term "thirty days" is hereby deleted, and the term "statutory" inserted in its place in the following sections and subsections: 221.190(a); 221.190(b) (1), (2), (3), and (4); 221.190(c); 221.191(a); 221.191(c); 221.192; 221.211(d); 221.221(d); and 221.233.

(Secs. 204, 403 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 758, as amended (49 U.S.C. 1324, 1373).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

FR Doc. 78-453 Filed 1-6-78; 8:45 am]

[6320-01]

SUBCHAPTER B—PROCEDURAL REGULATIONS

[Reg. PR-169, Amdt. 34]

PART 302—RULES OF PRACTICE IN ECONOMIC PROCEEDINGS

Complaints Requesting Suspension of Tariffs—Answers to Such Complaints

AGENCY: Civil Aeronautics Board.

ACTION: Final Rule.

SUMMARY: This amendment changes the due date for complaints requesting suspension of a tariff governing interstate and overseas air transportation from 18 to 33 days prior to the effective date of the tariff. The amendment is necessary to maintain the current 18-day period between complaints and the date Board suspension action is required, because Pub. L. 95-163 requires the Board to suspend at least 15 days prior to the effective date of the tariff. Further information concerning this amendment is set forth in the Supplemental Information to ER-1038, issued contemporaneously with this amendment.[1]

[1] For the reasons expressed in that Supplemental Information, we find good cause why this rule can be made effective immediately upon adoption, without notice, responsive comments, and advance publication.

DATES: Effective: December 30, 1977. Adopted: December 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard Juhnke, Associate General Counsel, Rates and Agreements, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5436.

Accordingly, the Board amends Part 302 of its Procedural Regulations (14 CFR Part 302) as follows:

Section 302.505 is amended by revising paragraph (b) to read as follows.

§ 302.505 Complaints requesting suspension of tariffs—answers to such complaints.

* * * * *

(b) A complaint requesting suspension, pursuant to section 1002(g) of the Act, of a tariff for interstate or overseas air transportation ordinarily will not be considered unless made in conformity with this section and filed at least thirty-three (33) days before the effective date of the tariff, or, in the event a posting date is printed on the tariff, unless the complaint is filed within twelve (12) days after said posting date.

(Secs. 204 and 403 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 758, as amended (49 U.S.C. 1324, 1373).)

By the Civil Aeronautics.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-454 Filed 1-6-78; 8:45 am]

[6351-01]

Title 17—Commodity and Securities Exchanges

CHAPTER I—COMMODITY FUTURES TRADING COMMISSION

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

Revision of Form to Report Changes in Registration Information

AGENCY: Commodity Futures Trading Commission.

ACTION: Adoption of revised form.

SUMMARY: In May 1977, the Commodity Futures Trading Commission ("Commission") revised its registration forms for all categories of registrants. Form 3-R, which is used by registrants to report deficiencies, inaccuracies and changes in their registration applications subsequent to their original filings, was not revised at that time. Form 3-R has now been revised primarily to substitute references to the new forms and the items thereon in place of the old forms and items.

EFFECTIVE DATE: January 16, 1978. See "Effective Date" under SUPPLEMENTARY INFORMATION.

FOR FURTHER INFORMATION CONTACT:

Robert Shiner, Office of Qualifications and Registration, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, 202-254-9703.

SUPPLEMENTARY INFORMATION: On May 10, 1977, the Commission revised the forms used for registration and renewal of registration by futures commission merchants, floor brokers, associated persons, commodity trading advisors and commodity pool operators and amended the related rules under the Commodity Exchange Act ("Act"), 7 U.S.C. 1 et seq. (Supp. V, 1975).[1] Amended § 1.14 of the regulations requires that registrants and applicants keep certain items on their application forms, Forms 7-R and 8-R, accurate and current between registration dates. For this purpose, they are required to file a Form 3-R if changes have occurred.

The instructions to Form 3-R have been revised to bring them into conformity with amended rule 1.14 which refers to the new Forms 7-R and 8-R and supplemental statements thereto. The items to be kept current are generally the same as previously required.

The revised Form 3-R allows a person who is registered in more than one capacity on Form 7-R (e.g., as a futures commission merchant and a commodity pool operator) to file one Form 3-R to correct all of the information on its registration applications instead of two or more separate forms as previously. Also, the revised Form 3-R may be used to comply with the notification provisions of § 32.3 of the Commission's regulations which permit persons already registered with the Commission as a futures commission merchant, associated person or floor broker to engage in certain activities in connection with commodity option transactions without reregistration, provided notification is given to the Commission that a person has commenced, or intends to commence, engaging in those activities (41 FR 51808, November 24, 1976). As in the past, the form may also be used to report the discontinuance of business. Of course, notification of discontinuance of business does not effect a withdrawal of registration. The Commission intends shortly to publish regulations regarding the procedure to be followed to effect a withdrawal.

However, Form 3-R may not be used for certain types of changes. Instead, in accordance with § 1.15 of the regulations, a new application for registration must be filed in the event of a change in the name of the registrant, the form of organization of the registrant, the ownership of the business in the case of a sole proprietorship, or the personnel of a partnership resulting from the death, withdrawal, or addition of a partner. (If the latter change does not, as a matter of law, create a new partnership, the change may be reported by the registrant on Form 3-R within 10 days of the change and, if so reported, a new application for registration is not required.)

Effective Date

Revised Form 3-R becomes effective on January 16, 1978. On and after that date, those persons who have applied for registration on Form 7-R (futures commission merchants, commodity trading advisors and commodity pool operators) or Form 8-R (associated persons and floor brokers) and individuals affiliated with these registrants who are also required to file Form 8-R must use revised Form 3-R to report changes as required by § 1.14 of the Commission's regulations (42 FR 23989, May 11, 1977). Current registrants who applied for registration on Forms 1-R, 2-R, 4-R, 5-R, or 6-R and whose registrations remain in effect may continue to report changes on the old Form 3-R until such registration expires, in accordance with the provisions of § 1.14, prior to its amendment on May 10, 1977

Availability of Forms

The revised Form 3-R will be available after January 10, 1978 from the Commission's main office in Washington, D.C. or from any regional office. Addresses are listed below:

Washington, D.C. Office, 2033 K Street NW., Washington, D.C. 20581.
Eastern Regional Office, One World Trade Center, Suite 4747, New York, N.Y. 10048.
Central Regional Office, 233 South Wacker Drive, 46th Floor, Chicago, Ill. 60606.
Minneapolis Office, Central Region, 510 Grain Exchange Building, Minneapolis, Minn. 55415.
Western Regional Office, 4901 Main Street, Room 208, Kansas City, Mo. 64112.
San Francisco Office, Western Region, Two Embarcadero Center, Suite 975, San Francisco, Calif. 94111.

The Commission hereby adopts revised Form 3-R, as set forth below.

(7 U.S.C. 6f, 6k, 6n, and 12a (Supp. V, 1975).)

The Commission finds that these revisions in Form 3-R are technical in nature to conform to existing requirements and that, therefore, the notice and other public procedures provided for in the Administrative Procedure Act, as codified, 5 U.S.C. 553, are not required.

Issued in Washington, D.C., on December 30, 1977, by the Commission.

William T. Bagley,
Chairman, Commodity Futures Trading Commission.

[1] 42 FR 23988, May 11, 1977.

CFTC 3-R
Rev 1-78

COMMODITY FUTURES TRADING COMMISSION

SUPPLEMENTAL STATEMENT TO APPLICATION FOR REGISTRATION
(Changes and corrections in registration information)

See instructions on reverse side

(Check where applicable)

☐ FUTURES COMMISSION MERCHANT
☐ COMMODITY TRADING ADVISOR
☐ COMMODITY POOL OPERATOR
☐ FLOOR BROKER
☐ ASSOCIATED PERSON
☐ OTHER INDIVIDUAL

NAME OF REGISTRANT OR, IF "OTHER INDIVIDUAL" BOX IS CHECKED, NAME OF INDIVIDUAL

BUSINESS ADDRESS (Include name of firm, if not shown above)

STATEMENT NO. *(Number in order of filing)*

APPLICATION FORM AND SCHEDULE	ITEM NUMBER	CHANGES AND CORRECTIONS OF INFORMATION CONTAINED IN APPLICATION FOR REGISTRATION OR IN SUPPLEMENTAL STATEMENTS *(Indicate whether you are reporting a change or correcting information previously reported.)*	EFFECTIVE DATE

SAMPLE

Willful falsification or misrepresentation or willful omission of any material fact constitutes cause for suspension or revocation of registration and prosecution under criminal statutes.

CERTIFICATION

We (I) hereby represent that all statements contained or incorporated herein are true to the best of our (my) knowledge and belief.

DATE

SIGNATURE

If this is a report filed by a futures commission merchant, commodity trading advisor or commodity pool operator, show title (i.e., corporate officer, partner or sole proprietor) of individual signing on behalf of registrant

INSTRUCTIONS TO FORM 3-R

1. The filing of this form is required by section 1.14 of the regulations under the Commodity Exchange Act, if the information reported in any of the items listed below in an application for registration on Form 7-R or Form 8-R, or on any schedule or supplemental statement thereto, is found to be incorrect or incomplete or if changes occur which no longer render accurate and current this information.*

(a) For a FUTURES COMMISSION MERCHANT — ANY ITEM on Form 7-R** and the following items on Schedule A of Form 7-R: Item 3 (correspondents and agents operating within the United States authorized to solicit or accept orders in the name of the registrant); Item 4 (memberships in United States commodity markets); and Item 5 (participation in commodity option transactions). Futures commission merchants must remit appropriate fees for new domestic branch offices and new correspondents and agents.

(b) For a COMMODITY TRADING ADVISOR — ANY ITEM on Form 7-R** and the following items on Schedule B of Form 7-R: Item 4(a) (manner of furnishing advisory services); and Item 6 (ownership in, control or management authority over, or reciprocal business arrangements with futures commission merchants or their agents, commodity pools, commodity pool operators, floor brokers, associated persons or other commodity trading advisors).

(c) For a COMMODITY POOL OPERATOR — ANY ITEM on Form 7-R** and the following items on Schedule C of Form 7-R: Item 3 (name and form of organization of each pool); and Item 8 (ownership in, control or management authority over, or reciprocal business arrangements with futures commission merchants or commodity trading advisors).

(d) For a FLOOR BROKER — the following items on Form 8-R: Item 1 (name of individual); Item 2 (any other names by which the individual has been known); Item 5 (business address); and Items 11 and 12 (adverse actions as specified in Form 8-R). Also the following items on Schedule A of Form 8-R: Item 3 (name of each clearing member through whom the registrant clears commodity futures transactions for accounts which he controls or in which he has a financial interest); and Item 4 (name of each clearing member for whom the registrant is currently engaged as floor broker).

(e) For an ASSOCIATED PERSON AND OTHER INDIVIDUALS REQUIRED TO FILE ON FORM 8-R — the following items on Form 8-R: Item 1 (name of individual); Item 2 (any other names by which the individual has been known); Item 4 (home address and telephone number, if an associated person); and Items 11 and 12 (adverse actions as specified in Form 8-R).

2. Whenever there is an addition of the name of a natural person in Items 5 or 6 of Form 7-R, such person must complete a Form 8-R which should be attached to this form. If the individual is registered or applying for registration as an associated person or floor broker, or has previously submitted a Form 8-R in connection with an existing registration or application of another futures commission merchant, commodity trading advisor or pool operator, no Form 8-R need be filed with this form. The futures commission merchant, commodity trading advisor or pool operator should note on its statement the reason for not attaching a Form 8-R for these individuals and, if the individual is a registered associated person, also furnish his or her license number.

3. If a futures commission merchant, commodity trading advisor or pool operator is registered in more than one capacity, the same Form 3-R may be used to amend all applications by checking the appropriate boxes at the top of the form. (See special instructions on "WHERE TO FILE;" below.)

4. This form may be used to comply with the notification provisions of section 32.3 of the Commission's regulations which permit persons already registered with the Commission as a futures commission merchant, associated person or floor broker to engage in certain activities in connection with commodity option transactions without reregistration, provided notification is given to the Commission that a person has commenced, or intends to commence, engaging in those activities.

5. This form may also be used to amend an application for registration before the effective date of the registration, unless instructed otherwise.

6. This form may also be used to report the discontinuance of business.

7. WHERE TO FILE:

(a) FUTURES COMMISSION MERCHANT OR FLOOR BROKER — File original of this statement with the nearest regional office of the Commodity Futures Trading Commission.

(b) COMMODITY TRADING ADVISOR OR COMMODITY POOL OPERATOR — File original of this statement with the Eastern Regional Office of the Commodity Futures Trading Commission.

(c) MULTIPLE REGISTRANTS ON FORM 7-R — If you are registered with the Commission as a futures commission merchant and a commodity trading advisor and/or pool operator, or registered as a commodity trading advisor and a pool operator, you may file only one Form 3-R to report changes. If you elect to do so, file the original of this statement with the Eastern Regional Office of the Commodity Futures Trading Commission. Be sure to check all appropriate boxes at the top of the form.

(d) ASSOCIATED PERSON — File original of this statement with the Central Regional Office of the Commodity Futures Trading Commission.

(e) OTHER INDIVIDUAL (i.e., NOT registered or applying for registration as an associated person or floor broker) — If you filed a Form 8-R as a supplement to the application for registration of a futures commission merchant, commodity trading advisor or pool operator, file the original of this statement in accordance with (a), (b) or (c), above.

A duplicate copy of this statement should be kept for your files.

* Current registrants who applied for registration on Forms 1-R, 2-R, 4-R, 5-R or 6-R and whose registrations remain in effect may continue to report changes on the old Form 3-R until such registration expires, in accordance with the provisions of section 1.14, prior to its amendment on May 10, 1977.

** Please note that section 1.15 of the regulations under the Commodity Exchange Act requires that a NEW application for registration be filed in the event of a change in: (a) the name of the registrant; (b) the form of organization of the registrant; (c) the ownership of the business of the registrant in the case of a sole proprietorship; and (d) the personnel of a partnership resulting from the death, withdrawal, or addition of a partner (*Provided*, that if such change does not, as a matter of law, create a new partnership, it may be reported by the registrant to the Commission on Form 3-R within 10 days of the date of such change, and if so reported a new registration shall not be required).

[FR Doc. 78-278 Filed 1-6-78; 8:45 am]

[8010-01]

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-14325; File No. 4-180]

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

Off-Board Agency Trading Restrictions

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The rule amendment expands the scope of off-board agency restrictions which an exchange is prohibited from imposing on its members, the effect of which is to eliminate all such restrictions except those relating to "in-house" agency cross transactions. The restrictions removed by the rule amendment represented a continuing burden on competition not necessary or appropriate in furtherance of the purposes of the Securities Exchange Act of 1934.

EFFECTIVE DATE: March 1, 1978.

FOR FURTHER INFORMATION CONTACT:

John Osborn, Division of Market Regulation, room 392, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, 202-755-8961.

SUPPLEMENTARY INFORMATION: The Commission has announced the adoption, effective March 1, 1978, of an amendment to Rule 19c-1 (17 CFR 240.19c-1) under the Securities Exchange Act of 1934 ("act") (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)), which expands the scope of the existing rule to require that a member of a national securities exchange ("exchange") be permitted to effect over-the-counter agency transactions in securities listed or admitted to unlisted trading privileges on an exchange ("listed equity securities") with any other person not also represented as agent by that member (i.e., precluding only "in-house" agency cross transactions). Rule 19c-1, adopted by the Commission in December 1975,[1] amended exchange rules which theretofore prevented exchange members from effecting over-the-counter transactions in listed equity securities as agent with third market makers and non-member block positioners.[2] The Commission determined in the December Release that remaining exchange rules which preclude members from effecting over-the-counter transactions in listed equity securities as agent "in-house" or otherwise ("remaining off-board agency restrictions"), or as principal ("off-board principal restrictions"), have anti-competitive effects, effects the Commission believed were significant in the case of off-board principal restrictions. Nevertheless, the Commission determined at that time to allow those restrictions to remain in effect pending further review and receipt of the views of the National Market Advisory Board.

On June 23, 1977, the Commission issued a release[3] announcing a proceeding pursuant to section 19(c) of the act to consider various rule proposals, including the amendment to rule 19c-1.[4] The Commission stated that its analysis in the December Release of the burdens on competition represented by off-board agency restrictions, as they existed prior to adoption of rule 19c-1, focused primarily on two particular effects of those restrictions: (i) The boycott of third-market makers (who thus were deprived of an opportunity to compete for agency orders handled by exchange members); and (ii) the impediment represented by those restrictions to the exercise of brokerage judgment in seeking favorable execution opportunities for customers. Rule 19c-1 effectively eliminated the third market maker boycott, at least to the extent that that boycott was the result of off-board agency restrictions theretofore imposed by exchange rules. While existing rule 19c-1 does permit brokers greater latitude in exercising judgment as to how best to serve agency customers than previously existed,[5] their exercise of such judgment is still encumbered to some degree by remaining off-board agency restrictions. For example, nonmembers other than third-market makers and nonmember block positioners, such as third-market brokers, still are precluded from effecting transactions in listed equity securities for exchange members seeking the most favorable execution of customer orders for listed equity securities.[6] The Commission announced in the June release that, in connection with the off-board trading proceeding, it would conduct public hearings in August 1977 ("August Hearings"), concerning the rule proposals contained therein and solicited comment on those rule proposals and associated issues.

The proposed amendment to rule 19c-1 drew limited comment during the August Hearings and the formal comment period. Of those specifically commenting on the amendment, Institutional Networks Corp. ("Instinet"), urged that the amendment be promptly adopted and stated that for the Commission to delay action on the amendment until it had concluded its consideration of all issues raised in the June release would be "to continue the inequitable boycott of Instinent's marketplace," which Instinet did not believe was intended by the Commission.[7] The New York Stock Exchange, Inc. ("NYSE"), stated that it did not object to the amendment and that it did not believe that adoption of the amendment "would have a significant adverse impact upon the auction market as it exists today."[8]

In light of such comments and its own further study of the issues associated with the amendment, the Commission has concluded that the remaining off-board agency restrictions which would be removed by the amendment (i.e., all such restrictions other than those on "in-house" agency cross transactions[9]), represent a continuing burden on competition which is neither necessary nor appropriate in furtherance of the purposes of the act. Moreover, removal of those remaining restrictions should further the pur-

[1] Securities Exchange Act Release No. 11942 (December 19, 1975), 41 FR 4507 ("December Release").

[2] Since March 31, 1976, the effective date of Rule 19c-1, exchange members have been permitted to effect over-the-counter transactions as agent in listed equity securities. Until January 2, 1977, however, the Rule permitted each exchange to continue to require its members to satisfy public limit orders on that exchange, at prices equal or superior to the over-the-counter transaction price, as a condition to effecting any such transactions.

[3] Securities Exchange Act Release No. 13662 (June 23, 1977), 42 FR 33510 ("June Release").

[4] In the June release, supra note 3, the Commission also published for comment proposed rule 19c-2 under the act, which would remove exchange restrictions on "in-house" agency cross and off-board principal transactions, and a series of rules (rules 15c5-1[A], 15c5-1[B], 15c5-1[C] and 15c5-1[D] under the act), which were designed to prevent the overreaching of nonprofessional customers which might occur in certain over-the-counter transactions if proposed rule 19c-2 were adopted.

[5] Rule 19c-1, which removed most exchange restrictions on the ability of members to effect over-the-counter agency trades, appears to have had virtually no impact to date on historical patterns of market selection by exchange members acting as brokers. See June release, supra note 3.

[6] See letter from Jerome M. Pustilnik, president, Institutional Networks Corp., to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, February 11, 1977 (File No. 4-180).

[7] Prepared statement of Jerome M. Pustilnik before the Securities and Exchange Commission in respect of the elimination of rule 390 (August 24, 1977), at 4 (File No. 4-180).

[8] NYSE, response to Securities Exchange Act Release No. 13662 (August 31, 1977), attachment B at 2-3 (File No. 4-180).

[9] "In-house" agency cross transactions appear to raise many of the same problems (e.g., fragmentation and "internalization"), that are raised by the possible removal of off-board principal restrictions and, accordingly, such transactions are addressed as part of the consideration of proposed rule 19c-2. See December release, supra note 1, and June release, supra note 3.

poses of the act. Thus, for example, where a member seeks to execute a customer's order otherwise than on an exchange, removal of those restrictions would eliminate an unfair competitive advantage for third-market makers and nonmember block positioners over other nonmembers, including third-market brokers.[10] In addition, removal of those restrictions will enhance the practicability of brokers executing investors' orders in the best market,[11] improve customers' ability to achieve the most economically efficient executions of their securities transactions[12] and enhance the opportunity for investors' orders to be executed without the participation of a dealer.[13]

The Commission is not aware of any reasons to support the retention of remaining off-board agency restrictions (other than those on "in-house" agency crosses), which have not already been considered and rejected in the context of the Commission's deliberations leading to the adoption of rule 19c-1.[14] Further, in view of the limited change in trading patterns following the adoption of rule 19c-1,[15] it appears that adoption of the proposed amendment would not significantly alter those patterns. However, notwithstanding its limited significance, adoption of the proposed amendment should provide certain persons, including third-market brokers such as Instinet, with a fairer opportunity to compete.

The Commission is continuing its consideration of the issues-related to the other rule proposals[16] announced in the June release. Since those proposals present more complex problems than those posed by the amendment to rule 19c-1, the Commission has determined to adopt the amendment to avoid unnecessary delay while its deliberations continue with respect to the remaining proposals.

The Securities and Exchange Commission hereby adopts the amendment to rule 19c-1 (17 CFR 240.19c-1), effective March 1, 1978, pursuant to its authority under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)), and particularly sections 2, 3, 6, 11, 11A, 17, 19, and 23 thereof (15 U.S.C. 78b, 78c, 78f, 78k, 78k-1, 78q, 78s, and 78w). The Commission deems, for the reasons expressed in this release, that the adoption of the amendment is necessary or appropriate in furtherance of the purposes of the act, and in order to conform rules of exchanges to the requirements of the act. The Commission finds that the amendment does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the act.

Accordingly, 17 CFR Part 240 is amended by revising § 240.19c-1 to read as follows:

§240.19c-1 Governing certain off-board agency transactions by members of national securities exchanges.

The rules of each national securities exchange shall provide as follows:

(a) No rule, stated policy, or practice of this exchange shall prohibit or condition, or be construed to prohibit or condition or otherwise limit, directly or indirectly, the ability of any member acting as agent to effect any transaction otherwise than on this exchange with another person (except when such member also is acting as agent for such other person in such transaction), in any equity security listed on this exchange or to which unlisted trading privileges on this exchange have been extended.

(Secs. 2, 3, 6, 11, 17, 19, 23, Pub. L. 78-291, 48 Stat. 881, 882, 885, 891, 897, 898, 901, as amended by secs. 2, 3, 6, 14, 16, 18, Pub. L. 94-29, 89 Stat. 97, 104, 110, 137, 146, 155 (15 U.S.C. 78b, 78c, 78f, 78k, 78q, 78s, 78w, as amended by Pub. L. 94-29 (June 4, 1975)); sec. 7, Pub. L. 94-29, 89 Stat. 111 (15 U.S.C. 78k-1).)

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 30, 1977.

[FR Doc. 78-420 Filed 1-6-78; 8:45 am]

[10] See section 11A(a)(1)(C)(ii) of the act.
[11] See section 11A(a)(1)(C)(iv) of the act.
[12] See section 11A(a)(1)(C)(i) of the act.
[13] See section 11A(a)(1)(C)(v) of the act.
[14] See, SEC, "Report of the Securities and Exchange Commission on Rules of National Securities Exchanges Which Limit or Condition the Ability of Members to Effect Transactions Otherwise Than on Securities Exchanges" (September 2, 1975); and December Release, supra note 1. See also June release, supra note 3.
[15] See June release, supra note 3.
[16] See note 4 supra.

[4910-22]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER G—ENGINEERING AND TRAFFIC OPERATIONS

[FHWA Docket No. 77-2, Notice 2]

PART 640—CERTIFICATION ACCEPTANCE

PART 642—SECONDARY ROAD PLAN

AGENCY: Federal Highway Administration, DOT.

ACTION: Interim rule on Part 640—Certification Acceptance and final rule on Part 642—Secondary Road Plan.

SUMMARY: Certification Acceptance (CA), and Secondary Road Plan (SRP), regulations are revised to implement amendments to Title 23 U.S.C. which were made by the Federal-Aid Highway Act of 1976.

The regulations are intended to provide an alternative procedure for processing Federal-aid highway projects in a more efficient manner by using State laws, regulations, directives and standards, and reducing Federal involvement.

DATES: The effective date for these CA interim regulations and SRP final regulations is: January 13, 1978. Comments on the interim CA regulations are invited and must be received on or before February 23, 1978.

ADDRESS: All comments should refer to FHWA Docket No. 77-2, Notice 2, and should be submitted in triplicate to the Federal Highway Administration, 400 Seventh Street SW., room 4230, Washington, D.C. 20590. Copies of all written communications received will be available for examination during normal business hours, 7:45 a.m. to 4:15 p.m., at the foregoing address.

FOR FURTHER INFORMATION CONTACT:

Joseph W. Burdell, Jr., Chief, Federal-Aid Division, 202-426-0442; Ruth R. Johnson, Office of the Chief Counsel, 202-426-0780, Federal Highway Administration, Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION: The SRP regulations were originally published on May 7, 1973 (38 FR 11341), and codified as 23 CFR Part 305. These regulations were later redesignated at 39 FR 10430 on March 20, 1974, and codified as 23 CFR Part 642.

Regulations on CA were first published on May 15, 1974 (30 FR 17309), and codified as 23 CFR Part 640 at that time to implement Section 116 of the Federal-Aid Highway Act of 1973. They were amended on November 19, 1975 (40 FR 53728). The regulations were then revised and interim regulations were published on February 13, 1976 (41 FR 6914).

On June 10, 1976, following enactment of the Federal-Aid Highway Act of 1976, FHWA published an Advance Notice of Proposed Rulemaking (41 FR 23421), to revise the interim CA regulations. A Notice of Proposed Rulemaking was published on March 29, 1977 (42 FR 16734), FHWA Docket No. 77-2, covering both CA and the SRP. These previous publications describe the development of CA and the regulations to implement it.

Section 116 of the Federal-Aid Highway Act of 1976 (Pub. L. 94-280 May 5,

1976), amended section 117 of title 23 to achieve the original purpose of certification acceptance by requiring only that the States have State laws and standards which will "accomplish the policies and objectives contained in or issued pursuant to (title 23)." The Secretary must find that affected projects will be carried out in accordance with such laws and standards. In addition, the pre-1973 SRP was reinstated to undergird section 117.

The CA and SRP regulations are being revised to implement these two major changes which were made by the 1976 act. Both regulations are complete rewritings of their predecessor regulations and are intended to be in accord with President Carter's policy of brevity and simplicity in the writing of Federal regulations. They incorporate appropriate changes which were suggested in the comments received.

The CA regulations are being issued as interim regulations as substantial changes have been made from the version proposed in the notice of proposed rulemaking.

DISCUSSION OF COMMENTS: There were 32 comments submitted to the Docket in response to the March 29 Notice of Proposed Rulemaking. All but 3 of these were from State or local governments. Most of the comments endorse the certification acceptance program principle, but many State and county agencies think that the proposed CA and SRP regulations do not go far enough. The Commission on Federal Paperwork also endorses the concept and urges FHWA to consider further steps to reduce unnecessary paperwork and red tape. The Center for Auto Safety and the Atlanta Coalition on the Transportation Crisis, two public interest groups, are highly critical of the proposed regulations and the way FHWA has implemented 23 U.S.C. 117. After the closing of the docket, the FHWA "Regulations Reduction Task Force" completed its study report which recommends further expansion of CA to improve the Federal-aid delivery system.

The Center for Auto Safety's comments stressed the importance of a requirement that a finding of capability be made as a prerequisite to CA approval, assessing both past and future performance. The Center maintains that this should include a careful and detailed review of a State's performance and resources. This capability finding is also at issue in pending litigation between the Center and FHWA in the U.S. District Court for the District of Columbia, *Center for Auto Safety* v. *Tiemann*, 428 F. Supp. 118 (D.D.C. 1977).

Certainly a State must be capable of performing Federal-aid highway project responsibilities. Since the enactment of 23 U.S.C. 302 in 1921, it has been a normal procedure of FHWA to evaluate State highway department operations on a continuing basis with the objective of upgrading State capability and efficiency. Over the years the States have been required to gear up and adjust their operations (including organization, staffing etc.), to accommodate evolving changes in the Federal-aid highway programs. Thus CA procedures place considerable emphasis on evaluation of State performance, but it is not uniquely a CA requirement. The March 29, 1977, notice of proposed rulemaking (42 FR 16734), contained a discussion of State capability. The new CA regulations issued today further expand upon and clarify the concept of evaluating State performance before accepting State certifications (CA applications).

Section 640.109 below specifically requires a finding by FHWA based upon an evaluation of both a State's performance and its resources. It is also more specific on the materials which may be considered by FHWA in arriving at a determination that the State highway agency will accomplish title 23 policies and objectives under CA. A new subsection (c) has been added to express current agency practice with regard to the acceptance or rejection of a State certification in the event of deficiencies.

The Commission on Federal Paperwork, while endorsing CA, commented that the proposed regulations fail to meet the intent of substantially reducing paperwork due to the required lists and copies of State laws, regulations, etc., as well as an extensive description of other procedures. The Commission recommends a simple certification form or check-off sheet which would indicate administrative functions and projects to be assigned by the State; it recommends that only a signature by the responsible State official certifying that sufficient staff capability, State laws, regulations, directives and standards exist to accomplish the policies and objectives in title 23 be required. A number of State Highway agencies commented that the submission and review of State laws, directives and standards along with revisions and amendments to keep the CA document current will require considerable effort, additional paperwork, and delays.

We have carefully considered these comments but have not adopted the recommendations. The language of 23 U.S.C. 117 requires the Secretary to make a finding that projects "* * * will be carried out in accordance with State laws, regulations, directives and standards which will accomplish the policies and objectives contained in or issued pursuant to title 23." This language is not interpreted to permit the acceptance of a certification in lieu of an objective FHWA evaluation of how State laws address title 23 policies. Even under more simplified procedures for the SRP, the Secretary must actually approve State standards and procedures. (23 U.S.C. 117(f).)

The Center for Auto Safety and the Atlanta Coalition on the Transportation Crisis urged that the requirements be more specific in regard to the standards for State compliance, and the Center requested an explanation of the deletions from former CA regulations. Both the CA and SRP regulations are complete rewritings of the former issuances. They focus on policy rather than detailed procedures. They conform with President Carter's mandate to shorten and simplify Federal regulations. One State highway agency commented that the efforts to reduce the lengthy CA directive from 17 pages to 8 pages is commendable. One comment expressed the view that requirements would be simplified if a State could use its own laws, regulations, and policies or include the requirements of applicable Federal laws by reference as was specifically allowed in a prior version. The regulations do not preclude a State from adopting Federal requirements as their own if the State chooses to do so.

A number of comments expressed the view that little savings in overall time and paperwork will actually be accomplished since other requirements such as environmental evaluation and section 404 permits remain unchanged. The legislation does not permit FHWA to discharge responsibilities under other Federal laws by State certification. Only time and experience will prove the savings in time and paperwork.

Six State highway agencies and the Commission on Federal Paperwork specifically endorsed the limited CA provision for projects which are both nonmajor actions and estimated to cost less than $500,000. The Center for Auto Safety alleges that FHWA lacks the statutory authority to adopt this provision. Federal legislation authorizes the Secretary to promulgate such guidelines and regulations as may be necessary to carry out section 117. Nothing in the section prevents the Secretary from making reasonable classifications for limited CA applications. The major-nonmajor classification is consistent with the reasons the Congress distinguished the SRP from CA generally. Limiting distinctions to system classifications would be unrealistic when the projects are similar and this flexibility is both desirable and permissible.

Several comments questioned the merit of the $500,000 limitation in this option and recommended elimination of the dollar limit, using the nonmajor criteria by itself. This cost figure was inserted in order to insure that "limit-

ed coverage" State Certifications would apply only to projects similar to typical SRP projects. In response to one comment for clarification, the regulation now states that the $500,000 limitation applies to physical construction costs.

Two local agencies commented that the regulations should specifically recognize that States may in turn transfer administrative responsibilities to local agencies so that the regulations cannot be construed to preclude such delegation. Both the CA and SRP regulations have been revised to specifically provide that the States may permit performance and project certification by capable local governments.

A number of comments questioned the need to revise existing State SRP agreements and to include the additional information called for in proposed 23 CFR 642.109 (b) and (c). In response to the comments received, subsection 109 has been revised and clarified. The necessity for an outline or flowchart of project activities has been eliminated and the requirements now more closely follow the contents of existing SRP's. While the SRP regulations do not add any more procedures, most existing SRP's will have to be reviewed and possibly revised because the requirements of Federal law outside of title 23 (such as NEPA and the Uniform Act), were not in effect when earlier SRP's were approved.

One comment expressed the opinion that a conflict exists in applying the proposed SRP regulations to projects on the Federal-aid secondary system regardless of funding category. 23 U.S.C. 117(f)(1) applies to plans, specifications, estimates, surveys, contract awards, design, inspection and construction of all projects on the Federal-aid secondary system. The law is not limited to the projects constructed with Federal-aid secondary funds.

Several States suggested that the regulations permit coverage of projects which are not on a Federal-aid highway system. Since 23 U.S.C. 117(a) specifies "projects on Federal-aid systems," it was not believed appropriate to specifically authorize off-system coverage in these regulations. However, wording has been added to allow off-system projects to be administered under CA or the SRP if the legislation which authorized the affected program and the implementing regulations for that program permit. The legislation and regulation covering the Safer Off-System Road program do permit such coverage.

The Center for Auto Safety expressed the view that the previous detailed rules on evaluation, particularly with regard to phase reviews, should be reinstated and that evaluations should be made by the Division Administrator along with Federal officials who are not a part of the FHWA Division or Region offices. In response to the Center's comments, the requirement for reviews has been clarified consistent with our intent to conduct phase reviews of various program areas on a continuing basis. However, the Center's comments relating to the internal management of FHWA and personnel assignments is not a proper subject for rulemaking procedures. As a matter of interest, FHWA Headquarters personnel do periodically participate in field reviews.

Our field offices pointed out that the proposed regulations were inconsistent in requiring a 5 year evaluation cycle for SRP and a 3 year cycle for CA. They also asserted that a 3 year cycle is too short to be practical. In response to these comments phase evaluations are to be made periodically, with coverage of all phases of the State's operations at least once every 4 years for both CA and SRP.

Several States objected to the unilateral authority of FHWA to rescind CA or withdraw from the SRP as described in previous issuances. The regulations are now written to permit a State, as well as FHWA, to withdraw from use of the alternative certification procedures.

In consideration of the foregoing, and under the authority of 23 U.S.C. 101(e), 117, and 315 and the delegation of authority by the Secretary of Transportation at 49 CFR 1.48(b), Chapter I, Parts 640 and 642 are revised as set forth below.

NOTE.—The FHWA 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.

Issued on December 29, 1977.

L. P. LAMM,
Executive Director.

23 CFR Part 640 is revised as follows:

PART 640—CERTIFICATION ACCEPTANCE

Sec.

640.101 Purpose.
640.103 Definitions.
640.105 Effect of certification acceptance.
640.107 Coverage.
640.109 Requirements for certification acceptance.
640.111 Content of State certification.
640.113 Procedures.
640.115 Evaluation.
640.117 Rescission.

Appendix A—FHWA reports.

AUTHORITY: 23 U.S.C. 101(e), 117, and 315; delegation of authority by the Secretary of Transportation, 49 CFR 1.48(b).

§ 640.101 Purpose

The purpose of this regulation is to provide instructions for preparation and acceptance of State certification proposals to accomplish the policies and objectives of Title 23, using State laws, regulations, directives, and standards. Also covered are procedures for administering projects under certification acceptance and evaluating State performance.

§ 640.103 Definitions.

As used in this directive:

(a) Certification acceptance (CA).—The alternative procedure authorized by 23 U.S.C. 117(a) for administering Federal-aid projects not on the Interstate System.

(b) Secondary road plan is described in 23 CFR Part 642.

(c) State certification.—A written statement prepared by a State highway agency setting forth the laws, regulations, directives, and standards it will use, or cause to be used, in the administration of certain highway projects.

(d) An approved action plan is as described in FHPM 7-7-1 (23 CFR Part 795).

(e) All other definitions are in accordance with 23 U.S.C. 101.

§ 640.105 Effect of certification acceptance

(a) Acceptance of a State certification permits a State to discharge certain responsibilities otherwise assigned to the Secretary under Title 23 for Federal-aid projects. A State may permit performance and project certification by capable local governments.

(b) Acceptance of a State certification does not constitute a commitment or obligation of Federal funds.

(c) Acceptance of a State certification does not preclude FHWA access to and review of a Federal-aid project at any time.

(d) Certification acceptance as an alternative procedure does not replace the fundamental provisions of law in Title 23 with respect to the basic structure of the Federal-aid highway program, such as the authorization of funds (23 U.S.C. 102), Federal-aid systems (23 U.S.C. 103), apportionments (23 U.S.C. 104), programs (23 U.S.C. 105), designation of urbanized area boundaries (23 U.S.C. 101(a)), allocation of urban system funds (23 U.S.C. 150), Federal share payable (23 U.S.C. 120), toll roads and bridges (23 U.S.C. 129), and maintenance (23 U.S.C. 116). Acceptance of a CA proposal does not preclude application of any provision of Title 23 that may be advantageous to the State.

(e) Nothing in this directive shall affect or discharge any responsibility or obligation of the FHWA under any Federal law other than Title 23.

§ 640.107 Coverage

(a) Certification acceptance may apply to projects on all Federal-aid highway systems except the Interstate System. If other FHWA regulations and Title 23 permit, projects not on a Federal-aid system may be administered under the provisions of an ac-

cepted State certification. A State may elect to include all or only a part of the eligible programs or project phases in its State certification.

(b) The CA procedure shall not apply to transportation planning and research (23 U.S.C. 134 and 307), highway safety (Chapter 4, Title 23), or those public transportation projects not administered by FHWA under Title 23.

(c) A State certification may provide for either full or partial coverage of the eligible systems, programs, phases of work, and classes of projects as described in subsection (a) above.

(d) A simplified CA application procedure is provided in § 640.109(c) of this chapter, should a State desire to limit coverage to projects which are both: (1) Determined to be a nonmajor action in accordance with 23 CFR 771.9, and (2) estimated to cost less than $500,000 for physical construction. Such limited-coverage State certification will apply only to the FHWA responsibilities for project plans, specifications, estimates, surveys, contract award, design, inspection, and/or construction.

§ 640.109 Requirements for certification acceptance.

(a) Acceptance of either a full or partial coverage State certification as described in § 640.107(c) above, will be based upon:

(1) A State request and submission of the State laws, regulations, directives, and standards that will accomplish the policies and objectives contained in or issued pursuant to Title 23, and

(2) A FHWA finding that the State highway agency has the capability to carry out projects in accordance with such State requirements.

State laws, regulations, directives, and standards, either separately or collectively, must be aimed at accomplishing the following Title 23 policies and objectives:

(*1*) Public involvement in the development of projects in the location and design stages.

(*2*) Application of appropriate design and construction standards,

(*3*) Emphasis on increasing safety in location, design, and construction of projects,

(*4*) Controls to assure quality and economy of construction and maintenance,

(*5*) Provision of adequate signing, marking, and traffic control devices,

(*6*) Minimizing adverse economic, social and environmental impacts of any project,

(*7*) Equal employment opportunity and highway construction training,

(*8*) Competitive bidding and payment of prevailing wage rates on construction contracts, and

(*9*) Preservation of natural beauty.

(b) The finding that the State highway agency has the capability to carry out project responsibilities will be based on an FHWA evaluation of the State's performance and resources.

(*1*) Evaluation of a State's performance shall be based on previously conducted reviews, including Secondary road plan reviews, action plan reviews, safety reviews and reports, audit reports, reviews of State bidding practices, inspections in depth, and/or maintenance inspections. If these reviews are considered to be insufficient to form a conclusive judgment, they may be supplemented by inquiries or additional reviews in specific areas to determine the State's performance. These additional reviews may involve examination of a sample of typical projects in varying degrees of development.

(*2*) Evaluation of a State's resources shall be based on previously conducted reviews, including financial and administrative studies and reports, or on FHWA's general knowledge of the State and its highway agency. If this information is considered to be insufficient to form a reasonable judgment of State resource adequacy, inquiries or additional reviews may be made of the State highway agency. These inquiries or reviews may include such things as the availability of professional and technical personnel, training provided State personnel, control of contract administration, the planned reassignment of responsibilities and/or personnel if the State certification is accepted, and the State's internal review practices.

(c) Acceptance of a limited-coverage State certification as described in § 640.107(d) above will be based on an evaluation of the State's operations and performance under an approved secondary road plan. These evaluations must support findings that:

(1) The policies and objectives of Title 23 are being accomplished under the State's approved secondary road plan and action plan. Supplementary standards and procedures appropriate to the types of projects to be added to the coverage must provide similar assurance, and

(2) The State's performance under the plan has been found to be satisfactory in the last 4 years by an FHWA evaluation of the State's operation.

(d) A State certification may be accepted in whole or in part, depending on FHWA findings. Where minor deficiences are found, acceptance may be conditioned or may exclude the affected State operations until the deficiencies are corrected. Where deficiencies are found which are of such magnitude as to create doubt that the policies and objectives of Title 23 would be accomplished, the State certification will not be accepted until the deficiencies are corrected.

§ 640.111 Content of State certification.

(a) The State certification shall include the following:

(1) The name of the State highway agency and the legal authority which permits such agency to accomplish the policies and objectives contained in or issued pursuant to Title 23, U.S.C.,

(2) A statement of the systems, programs, phases of work, and classes of projects or combinations thereof that the State is including in the certification being submitted for acceptance.

(3) For submissions providing general coverage of projects as described in § 640.109(a) above, a listing and a copy of the State laws, regulations, directives, and standards marked to show coverage to accomplish the objectives of Title 23. For submissions providing limited coverage as described in § 640.109(c) above, supplementary standards and procedures, which, together with the State's approved secondary road plan, will apply to the types of projects to be covered. Design standards include noise, geometric, hydraulic, structural (pavements), and traffic control device standards. Construction standards include standards plans and standard specifications covering contract, construction, and material requirements.

(4) A description of the State's methods for assuring local government knowledge of and compliance with State and Federal requirements where they perform services on projects administered under this alternative procedure.

(b) Existing assurances and formal agreements between the State and FHWA with respect to equal employment opportunity, current billing, and control of outdoor advertising will continue in full force and effect and may be incorporated by reference. Likewise, the State's approved action plan may be incorporated by reference.

(c) State certifications are to be signed by the chief official of the State highway agency and submitted through the FHWA Division Administrator.

(d) Revisions or amendments to State certifications will be made when necessary and processed as provided in paragraph (4)(c) above. The existing State certification is to be reviewed periodically to determine its adequacy in light of this regulation, the statutes in effect at the time of the review and the operational reviews made by FHWA.

§ 640.113 Procedures.

(a) Established procedures for system revisions, program actions, and record retention will not be affected by acceptance of a State certification.

(b) Authorization by FHWA to proceed with any phase of a CA project shall be in writing in response to a request from the State highway agency.

Such authorization shall be issued only after applicable prerequisite requirements of Federal laws and implementing regulations and directives have been satisfied (e.g., NEPA, 4f, Civil Rights, and the Uniform Act).

(c) If the State finds that exceptions to CA procedures or standards are appropriate on a project, such exceptions shall be brought promptly to the attention of the FHWA for consideration.

(d) A project agreement shall be executed on Form PR-2 (Federal-Aid Project Agreement). Contract prices shall be used in the project agreement for physical construction items.

(e) Reports requested by FHWA are to be furnished by the State for projects administered under CA. (See Appendix A).

(f) The FHWA shall make an inspection of each physical construction project upon its completion. The State is to notify FHWA when a project is complete and/or ready for such inspection. Form FHWA 1446C may be used for this purpose.

(g) Final vouchers shall be submitted to the FHWA on Form FHWA 1447, on which the State certifies that the plans, design, and construction for the project were in accord with the laws, regulations, directives and standards contained in the State certification or such project exceptions as were approved by the FHWA.

§ 640.115 Evaluations.

(a) Periodically, evaluations of the State's operations under CA shall be made. These evaluations shall include coverage of all areas of the State's administration of CA projects at least once every 4 years.

(b) If a failure to comply with Federal or State laws occurs and the State is unable or unwilling to effect corrective action of the deficiency, an evaluation report, together with recommendations of the regional office, shall be furnished to FHWA Headquarters office for advice.

§ 640.117 Rescission.

The acceptance of a State certification may be rescinded at any time upon request of the State or if considered necessary by FHWA to protect the Federal interest. The rescission may be applied to all or part of the programs or projects covered in the State certification.

FHWA REPORTS

(Originating in the field and in program areas that can be included under CA)

Original office	Title	Format	Frequency	Due date	Respondents
	Associate Administrator for Engineering and Traffic Operations (HEO)				
HNG	Force account affirmative finding (except projects on FAS system).	Nar	SA	January 15, July 15.	States.
HNG	Bid price data*	PR-45	AR	Award of contract.	Do.
HNG	Report on opening of bids (except projects on FAS system).	Tabulation	AR	Do.	Do.
HHO	Federal-aid highway construction contractor's semiannual training report.	FHWA-1409	SA	January 20, July 20.	Contractors.
HHO	Federal-aid highway construction semiannual training report.	FHWA-1410	SA	January 30, July 30.	States.
HNG	Statement of materials and labor used by contractors on highway construction involving Federal funds*.	PR-47	AR	Completion of project.	Contractors.
HNG	Lists of candidate bridges for replacement.	Punched computer cards (5).	AR	ASAP.	States.
HNG	Urban railroad demonstration project status.	Nar	Q	EOQ + 30.	Do.
	Associate Administrator for Safety (HHS)				
HHS	Progress and effectiveness of unified safety improvement programs (4).	Nar	A	August 31.	Do.
HHS	Progress and effectiveness of pavement marking demonstration program.	Nar with FHWA 1451.	A	September 30.	Do.
	Associate Administrator for Right-of-Way and Environment (HRE)				
HRW	Outdoor advertising and junkyard report.	FHWA 1424	Q	EOQ + 45.	Do.
	Associate Administrator for Administration (HAD)				
HFS	Accounting statement, accrued unbilled costs.	FHWA-186	Q	EOQ + 8th work day.	Do.
HFS	Project status record	PR-37	AR	ASAP.	Division-Region.
	Office of Chief Counsel (HCC)				
HCC	Semiannual labor compliance enforcement report.	PR-1286	SA	January 10, July 10.	States, Division, Region.

*Except any project on FAS system, or projects on the FAP or FAU systems costing less than $500,000.

23 CFR Part 642 is revised as follows:

PART 642—SECONDARY ROAD PLAN

Sec.

642.101 Purpose.
642.103 Definition.
642.105 Policy.
642.107 Applicability.
642.109 Content.
642.111 Procedures.
642.113 Evaluations.
642.115 Withdrawal.

Appendix A—FHWA reports.

AUTHORITY: 23 U.S.C. 101(e), 117(f), and 315; delegation of authority by the Secretary of Transportation, 49 CFR 1.48(b).

§ 642.101 Purpose.

The purpose of this regulation is to prescribe policies and procedures for the development and administration of secondary road plans.

§ 642.103 Definition.

Secondary road plan.—A written statement setting forth the standards and procedures adopted by the State highway agency to be used in the administration of Federal-aid projects on the Federal-aid secondary (FAS) system. It provides for certifying that all work undertaken on covered pro-

jects was in accord with those standards and procedures. (The term "secondary road plan" is hereinafter referred to as the "plan.")

§ 642.105 Policy.

(a) It is the policy of the Federal Highway Administration (FHWA) to extend to States maximum flexibility in selection of standards, procedures, and operations under the plan and to encourage maximum local involvement in selecting, developing, and constructing projects under the plan. Secondary road plans may include performance and project certification by capable local governments.

(b) The Federal Highway Administrator's responsibilities and obligations under Federal laws other than Title 23 will not be affected by approval of a State plan.

(c) Personnel of the FHWA are available to the State for consultation and advice on plan projects.

(d) All plan projects are subject to review by FHWA at any time.

§ 642.107 Applicability.

The plan shall apply to the plans, specifications, estimates, surveys, contract awards, design, inspection, and construction of projects financed with Federal-aid highway funds on the Federal-aid secondary (FAS) system. When other FHWA directives so provide, other projects may be administered under the provisions of an approved plan.

§ 642.109 Content.

(a) The plan shall include:

(1) An organization chart of the State highway agency and a description of the secondary road unit prescribed in 23 U.S.C. 302(a), which will administer the plan. Positions within the organization responsible for administration of plan project activities shall be identified,

(2) Operating procedures to be used in administering plan projects. These may be covered in State directives, manuals, operating guides or other issuances. Safety provisions and fiscal responsibility shall be specifically addressed in plan operating procedures. Procedures that are adequately covered in the State's action plan may be incorporated by reference,

(3) A statement of the design and construction standards applicable to plan projects. Design standards include noise, geometric, hydraulic, structual, and traffic control device standards; construction standards include standard plans and standard specifications covering contract, construction, and materials requirements, and

(4) A description of the State highway agency's methods for assuring local government knowledge of and compliance with State and Federal requirements on plan projects when such local governments accomplish any phase of the work.

(b) The plan and any subsequent revision shall be signed by the chief official of the State highway agency and submitted to the FHWA for approval.

§ 642.111 Procedures.

(a) Established procedures for system revisions, program actions and record retention will not be affected by approval of a plan.

(b) Authorization by FHWA to proceed with any phase of a plan project shall be in writing in response to a request from the State highway agency. Such authorization shall be issued only after applicable prerequisite requirements of Federal laws and implementing regulations and directives have been satisfied (e.g., NEPA, 4(f), Civil Rights, and the Uniform Act).

(c) If the State finds that exceptions to plan procedures or standards are appropriate on a project, such exceptions shall be brought promptly to the attention of the FHWA for consideration.

(d) A project agreement shall be executed on Form PR-2 (Federal-Aid Project Agreement). Contract prices shall be used in the project agreement for physical construction items.

(e) Reports requested by FHWA are to be furnished by the State for projects administered under the plan. (See Appendix A.)

(f) The FHWA shall make an inspection of each physical construction project upon its completion. The State is to notify FHWA when a project is complete and/or ready for such inspection. Form FHWA 1446 C may be used for this purpose.

(g) Final vouchers shall be submitted to the FHWA on Form FHWA 1447, on which the State certifies that the plans, design, and construction for the project were in accord with those standards and procedures contained in the plan or such project exceptions as were approved by the FHWA.

§ 642.113 Evaluations.

(a) Periodically, evaluations of the State's operations under the plan shall be made. These evaluations shall include coverage of all areas of the State's administration of plan projects at least once every 4 years.

(b) If a failure to comply with Federal or State laws occurs and the State is unable or unwilling to effect corrective action of the deficiency, an evaluation report, together with recommendations of the regional office, shall be furnished to FHWA Headquarters Office for advice.

§ 642.115 Withdrawal.

The approval of a secondary road plan may be withdrawn at any time upon request of the State or if considered necessary by FHWA to protect the Federal interest. The withdrawal may be applied to all or part of the projects or responsibilities in the plan.

FHWA REPORTS

(Originating in the field and in program areas that can be included under the Plan)

Original office	Title	Format	Frequency	Due date	Respondents
	Associate Administrator for Engineering and Traffic Operations (HEO)				
HHO	Federal-aid highway construction contractor's semiannual training report.	FHWA-1409	SA	January 20, July 20.	Contractors.
HHO	Federal-aid highway construction semiannual training report.	FHWA-1410	SA	January 30, July 30.	States.
HNG	Lists of candidate bridges for replacement.	Punched computer cards (5).	AR	ASAP.	States.
	Associate Administrator for Safety (HSA)				
HHS	Progress and effectiveness of unified safety improvement programs (4).	Nar	A	August 31.	States.
HHS	Progress and effectiveness of pavement marking demonstration program.	Nar with FHWA 1451.	A	September 30.	States.
	Associate Administrator for Administration (HAD)				
HFS	Accounting statement, accrued unbilled costs.	FHWA-186	Q	EOQ + 8th work day.	States.
HFS	Project status record	PR-37	AR	ASAP.	Division-Region.
	Office of Chief Counsel (HCC)				
HCC	Semiannual labor compliance enforcement report.	PR-1286	SA	January 10, July 10.	States, Division, Region.

[FR Doc. 78-318 Filed 1-6-78; 8:45 am]

[7708-01]

Title 29—Labor

CHAPTER XXVI—PENSION BENEFIT GUARANTY CORPORATION

PART 2615—DETERMINATION OF PLAN SUFFICIENCY AND TERMINATION OF SUFFICIENT PLANS—FINAL RULE ON PROVIDING EARLY RETIREMENT BENEFITS

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This regulation sets forth as a final rule that portion of the proposed regulation on "Determination of Plan Sufficiency and Termination of Sufficient Plans" dealing with the conditions under which the Pension Benefit Guaranty Corporation ("PBGC") will provide the early retirement benefit of a participant who had not retired before his plan terminated.

It is necessary to make that portion of the proposed regulation final at this time because a terminating plan is required to distribute its assets; a participant's right to elect early retirement may continue after a plan terminates; and a terminating plan might not be able to purchase from an insurer a contract that would provide the same benefit as the plan if the participant chooses to retire early.

The effect of this regulation is to allow the plan administrator of a terminating sufficient plan to arrange for the PBGC to become responsible for providing an early retirement benefit if three conditions are met. The first condition is that the participant has not retired on or before the date plan assets are distributed. The second condition is that the participant does not elect a different form of benefit, and the third condition is that the participant's benefit, including the early retirement option, cannot be purchased from an insurer at a price that reflects the possibility that the participant might not retire immediately.

EFFECTIVE DATE: January 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Gerald E. Cole, Jr., Special Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, D.C. 20006, telephone 202-254-4895.

SUPPLEMENTARY INFORMATION:

INTRODUCTION

On November 3, 1976, the PBGC published in the FEDERAL REGISTER a proposed regulation on "Determination of Plan Sufficiency and Termination of Sufficient Plans." (41 FR 48504.) Under proposed § 2615.6(b), the PBGC would provide the annuity benefit of a participant in a sufficient plan who was entitled to retire early as of the date of plan termination but had not retired if:

(1) The participant did not retire before the date plan assets were distributed;

(2) The participant's benefit (including the early retirement option) could not be purchased from an insurer at a cost that reasonably reflected the benefit's value; and

(3) Plan assets had been allocated to the benefit.

This regulation sets forth the final rule for provision of early retirement benefits by the PBGC. The remainder of the Sufficiency Regulation will be issued in final form at a later date, after the PBGC completes its review of the proposal and of the comments received on it. The reason for making the early retirement rule final now is that many plan administrators that have received a Notice of Sufficiency are unable or unwilling to close out the plan because either (1) they cannot obtain bids for the early retirement benefits, or (2) the bids obtained are substantially higher than the present value of the early retirement benefits.

Only three of the seventeen comments on the proposal referred to the early retirement area. One of the comments suggested that PBGC should not publish rules for valuing the early retirement benefit because of the difficulty of doing so in a terminating plan. The second comment opposed publication of any PBGC rate assumptions. It noted, however, that insurers' initial estimates of the cost of the early retirement benefit would be high because insurers have not had to deal with this risk in the past.

The comment further noted that in pricing the benefit some insurers apparently have assumed that all eligible participants would retire immediately. If an insurer prices the early retirement benefit on that assumption, it is charging for an annuity that is payable immediately but would in fact be paid only upon retirement.

PBGC proposed to offer early retirement benefits and promulgated a method for valuing those benefits in order to remedy the problems noted in these comments. If early retirement benefits are not available from insurers, the PBGC realized that it must provide the benefits so that plans can wind up their affairs. If the benefits are only available at unreasonably high rates, PBGC should provide the benefits so that the drain on plan assets to provide such benefits is not excessive.

The third comment suggested that to avoid the problems of valuing early retirement rights, participants should be required to elect irrevocably an early retirement age at the time of plan termination. The difficulties with this alternative are: (1) It deprives participants of their options under the plan, and (2) participants would, in many cases, elect the earliest retirement age but not retire until a later age and thereby distort the allocation of assets. Because of these problems, the PBGC has decided not to adopt the comment's recommendation.

THE REGULATION

Section 2615.1 sets forth the purpose and scope of the regulation. The purpose is to allow plans that receive a Notice of Sufficiency to make arrangements with the PBGC for the PBGC to provide early retirement benefits for participants who had vested in an early retirement benefit on or before the date the plan terminated but had not yet retired. This regulation applies to all plans that receive a Notice of Sufficiency.

Section 2615.3 contains the rules prescribing the conditions necessary for PBGC to provide the early retirement annuity. The rules have been changed from the proposal to make it clear that they apply to vested deferred early retirement benefits as well as early retirement benefits of participants who had reached early retirement age before the plan terminated.

The PBGC will provide the benefit of a participant only to the extent plan assets have been allocated to the benefit and only in the annuity form to which the participant was entitled on the date of plan termination. That form is the normal form of benefit payable under the terms of the plan upon retirement, unless the participant elected an optional form before the date of plan termination. For example, if the normal form of early retirement benefit under the plan is a single life annuity, but the plan allows a participant to elect a 10 year certain and continuous benefit, the PBGC will provide only the single life annuity unless the participant had elected the optional form before the plan terminated. The value of an early retirement benefit is computed under the Valuation of Plan Benefits regulation by determining the age at which a participant is expected to retire and computing the value of the benefit payable at the expected retirement age.

See 29 CFR 2610.7 (41 FR 48489, November 3, 1976).

Because this rule is needed to allow plans to complete the termination process, the PBGC finds that good cause exists for making this regulation effective immediately.

In consideration of the foregoing, Chapter XXVI of Title 29, Code of Federal Regulations is amended by adding thereto a new Part 2615 to read as follows:

Sec.
2615.1 Purpose and scope.
2615.2 Definitions.
2615.3 Provision of early retirement benefits.

AUTHORITY: Secs. 4002(b)(3), 4041, and 4044, Pub. L. 93-406, 88 Stat. 1004, 1020-21, 1025-27, (29 U.S.C. 1302(b)(3)), 1341, 1344 (Supp. V, 1975).

§ 2615.1 Purpose and scope.

(a) *Purpose.* The purpose of this regulation is to prescribe the conditions under which the plan administrator of a terminating plan may arrange for the PBGC to become responsible for the payment of an early retirement benefit.

(b) *Scope.* This part applies to terminating pension plans covered by Title IV of the Act for which the PBGC issues a Notice of Sufficiency.

§ 2615.2 Definitions.

"Act" means the Employee Retirement Income Security Act of 1974.

"Early retirement" means retirement before the normal retirement age.

"Insurer" means a company authorized to do business as an insurance carrier under the laws of a State or the District of Columbia.

"Normal form of benefit" means the form in which a benefit is payable under a plan absent an election by the participant.

"Notice of Sufficiency" means a notice that the PBGC has determined that plan assets are sufficient to pay guaranteed benefits when due after such assets have been allocated to benefits in accordance with section 4044 of the Act.

"PBGC" means the Pension Benefit Guaranty Corporation.

§ 2615.3 Provision of early retirement benefits.

(a) *Application of section.* This section applies to the annuity benefit of a participant (to the extent plan assets have been allocated to the benefit under section 4044 of the Act) who before the date of plan termination has obtained a nonforfeitable right to early retirement but who has not retired as of that date if:

(1) The participant does not retire on or before the date plan assets are distributed;

(2) The participant does not elect before the date plan assets are distributed to receive his annuity benefit in a form other than the form to which he was entitled on the date of plan termination; and

(3) The plan administrator is unable to obtain a bid from an insurer for the annuity benefit that reasonably reflects the probabilities that the participant might not retire until some future date.

(b) *Annuity to which participant entitled.* For purposes of this part, the annuity, if any, to which a participant is entitled on the date of plan termination is:

(1) The normal form of benefit payable under the plan, unless before the date of plan termination, the participant has elected an optional form of benefit payable under the plan; or

(2) If the participant has elected an optional form of benefit payable under the plan before the date of plan termination, the optional annuity form, if any, that he or she elected.

(c) *Obtaining the benefit from PBGC.* The PBGC will provide a benefit to which this section applies if the plan administrator (or other person acting as the plan administrator) of a terminating plan notifies the PBGC that the conditions of paragraph (a) of this section apply and pays the PBGC the value of the benefit. The value of the benefit is computed by the PBGC under § 2610.7 of this chapter. The PBGC may require such proof as it considers necessary that this section applies to any benefit that PBGC is asked to provide. The plan administrator shall furnish any information requested by the PBGC that is necessary to calculate and pay an early retirement benefit to be provided by the PBGC under this part (e.g. name, address, and age of the participant, copies of the plan and the trust agreement, and any records of the participant's service and earnings necessary to compute the benefit).

Issued in Washington, D.C., on this 19th day of December 1977.

Issued on the date set forth above pursuant to a resolution of the Board of Directors approving these regulations and authorizing its Chairman to issue them.

RAY MARSHALL,
Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

HENRY ROSE,
Secretary, Pension Benefit Guaranty Corporation.

[FR Doc. 78-485 Filed 1-6-78; 8:45 am]

[4810-25]

Title 31—Money and Finance: Treasury

CHAPTER V—OFFICE OF FOREIGN ASSETS CONTROL, DEPARTMENT OF THE TREASURY

PART 500—FOREIGN ASSETS CONTROL REGULATIONS

Remittances to Close Relatives in Vietnam

AGENCY: Office of Foreign Assets Control, Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control is amending its Foreign Assets Control Regulations by the addition of § 500.565. The purpose of the amendment is to authorize persons in the United States to send up to $300 in any three-month period to close relatives in Vietnam. Additional remittances of $750, on a one-time basis per person, are authorized for the purpose of enabling the payee to emigrate from Vietnam. The amendment does not allow any remittances to be made from blocked accounts. The need for the amendment is to authorize these remittances despite the general prohibition on such remittances, so as to implement developments in U.S. Government policy toward Vietnam. The effect of the amendment is to authorize limited remittances.

EFFECTIVE DATE: January 4, 1978.

FOR FURTHER INFORMATION CONTACT:

George F. Hazard, Chief of Licensing, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220, 202-376-0428.

SUPPLEMENTARY INFORMATION: Since this amendment relaxes existing restrictions and involves a foreign affairs function, the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rule making, opportunity for public participation, and a delay in effective date are inapplicable.

Section 500.565 is added to read as follows:

§ 500.565 Family Remittances to Vietnam.

(a) Remittances to any close relative of the remitter or of the remitter's spouse, who is a national of Vietnam and who is a resident of and within Vietnam, are authorized, provided they are not made from blocked accounts. Such remittances may be made only as follows:

(1) For the support of the payee, or for the support of the payee and members of his household, in amounts not exceeding $300 in any consecutive three-month period to any one payee or to any one household; and

(2) For the purpose of enabling the payee to emigrate from Vietnam, in an amount not exceeding $750, to be made only once to any one payee.

(b) The term "close relative" used with respect to any person means spouse, child, grandchild, parent, grandparent, uncle, aunt, brother, sister, nephew, niece, or spouse, widow, or widower of any of the foregoing.

(c) The term "member of a household" used with respect to any person means a close relative sharing a common dwelling with such person.

Dated: December 22, 1977.

STANLEY L. SOMMERFIELD,
Acting Director.

Approved:

BETTE B. ANDERSON,
Under Secretary.

[FR Doc. 78-393 Filed 1-6-78; 8:45 am]

[4810-25]

PART 515—CUBAN ASSETS CONTROL REGULATIONS

Remittances to Close Relatives in Cuba

AGENCY: Office of Foreign Assets Control, Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control is amending its Cuban Assets Control Regulations by the addition of § 515.563. The purpose of the amendment is to authorize persons in the United States to send a maximum of $500 in any three-month period to close relatives in Cuba. Additional remittances of $500, on a one-time basis per person, are authorized for the purpose of enabling the payee to emigrate from Cuba. The amendment does not allow any remittances to be made from blocked accounts. The need for the amendment is to authorize these remittances despite the general prohibition on such remittances, so as to implement developments in U.S. Government policy toward Cuba. The effect of the amendment is to authorize limited remittances.

EFFECTIVE DATE: January 4, 1978.

FOR FURTHER INFORMATION CONTACT:

George F. Hazard, Chief of Licensing, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220, 202-376-0428.

SUPPLEMENTARY INFORMATION: Since this amendment relaxes existing restrictions and involves a foreign affairs function, the provisions of the Administrative Procedure Act (5 U.S.C. 553), requiring notice of proposed rule making, opportunity for public participation, and a delay in effective date are inapplicable.

Section 515.563 is added to read as follows:

§ 515.563 Family Remittances to Cuba

(a) Remittances to any close relative of the remitter or of the remitter's spouse, who is a national of Cuba and who is a resident of and within Cuba, are authorized, provided they are not made from blocked accounts. Such remittances may be made only as follows:

(1) For the support of the payee, or for the support of the payee and members of his household, in amounts not exceeding $500 in any consecutive three-month period to any one payee or to any one household; and

(2) For the purpose of enabling the payee to emigrate from Cuba, in an amount not exceeding $500, to be made only once to any one payee.

(b) The term "close relative" used with respect to any person means spouse, child, grandchild, parent, grandparent, uncle, aunt, brother, sister, nephew, niece, or spouse, widow, or widower of any of the foregoing.

(c) The term "member of a household" used with respect to any person means a close relative sharing a common dwelling with such person.

Dated: December 22, 1977.

STANLEY L. SOMMERFIELD,
Acting Director.

Approved:

BETTE B. ANDERSON,
Under Secretary.

[FR Doc. 78-392 Filed 1-6-78; 8:45 am]

[3710-08]

Title 32—National Defense

CHAPTER V—DEPARTMENT OF THE ARMY

[Army Reg. 340-21]

PART 505—PERSONAL PRIVACY AND RIGHTS OF INDIVIDUALS REGARDING THEIR PERSONAL RECORDS

Exemptions

AGENCY: Department of Defense, Department of the Army.

ACTION: Final rule.

SUMMARY: In 42 FR 20314 of the FEDERAL REGISTER, April 19, 1977, a proposed exemption rule was published to add an exemption to the Department of the Army Privacy Act rules for a system of records identified as A0713.09aTRADOC, entitled "Skill Qualification Test". No comments were received. Through administrative oversight, the final rule was inadvertently not published.

EFFECTIVE DATE: This exemption rule is effective on January 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Cyrus H. Fraker, 202-693-0973.

SUPPLEMENTARY INFORMATION: The system of records for which this exemption may be invoked was published in 42 FR 50547, September 28, 1977. The following exemption rule, under the provisions of 5 U.S.C. 552a(k)(6), is added and should be inserted before exemption rule ID-A0720.04aDAPE, SYSNAME-Individual Correctional Treatment Files (42 FR 51511).

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

JANUARY 4, 1978.

§ 505.9 Exemption rules for Army systems of records.

* * * * *

EXEMPTED RECORD SYSTEMS

(Specific Exemptions)

ID:

A0713.09aTRADOC.

SYSNAME:

Skill Qualification Test.

Exemption:

All portions of this system which fall under 5 U.S.C. 552a(k)(6) are exempt from the following provisions of Title 5 U.S.C., Section 552a(d).

Authority:

5 U.S.C. 552a(k)(6).

Reasons:

An exemption is required for those portions of the Skill Qualification Test system pertaining to individual item responses and scoring keys to preclude compromise of the test and to insure fairness and objectivity of the evaluation system.

* * * * *

[FR Doc. 78-490 Filed 1-6-78; 8:45 am]

[4910-14]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 75-216]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Norwalk River, Conn.

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: This amendment changes the operation regulations governing the Conrail drawbridge across the Norwalk River to provide more restrictive openings during the night. The data submitted demonstrated that the nighttime openings were not sufficient to justify full-time attendance at this drawbridge. The amendment relieves Conrail of the obligation of providing a full-time drawtender during the night.

EFFECTIVE DATE: This amendment is effective on February 8, 1978.

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.

SUPPLEMENTARY INFORMATION: On November 21, 1975, the Coast Guard published a proposed rule (40 FR 54258) concerning this amendment. The Commander, Third Coast Guard District, also issued a public notice on November 25, 1975. Interested persons were given until December 31, 1975, to submit comments.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Lieutenant Edward J. Gill, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF COMMENTS

Eight comments were received. Five supported the proposal or had no comment thereon. Three objected to the original proposal that evening openings would be made only if the bridge owner was notified before 4 p.m. After these objections were made known to the bridge owner, Conrail agreed to open the draw if at least four hours notice is given. The Coast Guard feels that this compromise will provide for the reasonable needs of navigation, and the four hour notice provision is incorporated in the final rule. If conditions change significantly these regulations may be further amended.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising § 117.145(d) to read as follows:

§ 117.145 Norwalk River, Norwalk, Conn., bridges.

* * * * *

(d) * * *

(2) *The railroad bridge.* (i) The draw shall open on signal from 5 a.m. to 9 p.m. except that—

(A) Monday through Friday, excluding holidays or an emergency, the draw need not open from 7 a.m. to 8:45 a.m., and from 4 p.m. to 6 p.m.; and

(B) The draw need not open more than once in any 60-minute period from 5:45 a.m. to 7 a.m., and from 6 p.m. to 7:45 p.m.

(ii) From 9 p.m. to 5 a.m., the draw shall open on signal if at least four hours notice is given.

(iii) A delay of up to 20 minutes in the opening of the draw may be expected if a train is approaching the bridge so closely that the train may not be safely stopped.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937 (33 U.S.C. 499, 49 U.S.C. 1655(g)(2)); 49 CFR 1.46(c)(5).)

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

Dated: December 29, 1977.

E. L. PERRY,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[FR Doc. 78-463 Filed 1-6-78; 8:45 am]

[4910-14]

[CGD 77-094]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Grand River, Mich.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: These amendments will provide more restrictive opening periods for the U.S. 31 Highway bridge. The purpose of these amendments is to relieve congestion caused by heavy vehicular traffic in the area of the bridge, particularly during periods of greatest use (midspring to midfall).

EFFECTIVE DATE: This amendment is effective on February 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), room 7300, Nassif Building, 400 7th Street SW., Washington, D.C. 20590, 202-426-0942.

SUPPLEMENTARY INFORMATION: On August 22, 1977, the Coast Guard published a proposed rule (42 FR 42234) concerning this amendment. The Commander, Ninth Coast Guard District, also published these proposals as a Public Notice dated September 19, 1977. Interested persons were given until September 23, 1977, to submit comments.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Lieutenant Edward J. Gill, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF COMMENTS

No comments were received.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations, is amended by:

§ 117.641 [Amended]

1. Revoking § 117.641(f) (3) and (4).

2. Revising § 117.685 to read as follows:

§ 117.685 Grand River and the channel at the mouth of Spring Lake, Mich., bridges.

(a) Grand Trunk Western Railroad bridge, mile 2.8.

(1) The draw shall open on signal from March 16 through December 14.

(2) The draw shall open on signal from December 15 through March 15 if at least 24 hours notice is given.

(3) The opening signal is one blast of a whistle, horn, or by shouting.

(b) U.S. Highway 31 bridge, mile 2.9.

(1) From March 16 through May 14, and from October 15 through December 14, the draw shall open on signal.

(2) From May 15 through October 14, the draw shall open on signal from 9:03 p.m. until 6:03 a.m. From 6:03 a.m. until 9:03 p.m., the draw shall open on signal from three minutes before to three minutes after the hour and half-hour.

(3) From December 15 through March 15, the draw shall open on signal if at least 24 hours notice is given.

(4) Commercial vessels, public vessels of the United States, vessels in distress, and state or local government vessels used for public safety shall be passed through the draw as soon as possible at any time even though the closed periods may be in effect.

(5) The owner of or agency controlling this bridge shall keep a copy of these regulations conspicuously posted both upstream and downstream, either on the bridge or elsewhere in such a manner that it can easily be read from an approaching vessel at all times, with a notice stating exactly how notice is to be given to the authorized representative of the bridge owner to effect an opening.

(6) The opening signal for this bridge is one long blast followed by one short blast of a whistle, horn, or by shouting.

(c) Railroad drawbridge across the mouth of Spring Lake.

(1) The draws shall open on signal from March 16 through December 14. From December 15 through March 15 the draws shall open on signal if at least 24 hours notice is given.

(2) The opening signal is two blasts of a whistle, horn, or by shouting.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937 (33 U.S.C. 499, 49 U.S.C. 1655(g)(2)); 49 CFR 1.46(c)(5).)

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

Dated: December 30, 1977.

E. L. PERRY,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[FR Doc. 78-461 Filed 1-6-78; 8:45 am]

[4910-14]

[CGD 77-119]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Missouri River, S. Dak.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment allows the draw of the highway bridge across the Missouri River at Yankton, S. Dak., and the draw of the railroad bridge at Pierre, S. Dak., to remain closed to the passage of vessels. The highway bridge has been opened once in the past five years for the passage of a vessel, and the railroad bridge has been opened once in the past 10 years for the passage of a vessel. These changes will provide for decreased costs for maintaining the bridges.

EFFECTIVE DATE: This amendment is effective on February 8, 1978.

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.

SUPPLEMENTARY INFORMATION: On August 1, 1977, the Coast Guard published a proposed rule (42 FR 38920) concerning this amendment. The Commander (obr), Second Coast Guard District, also published these proposals as a Public Notice dated August 2, 1977. Interested persons were given until August 31, 1977, to submit comments.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Lieutenant Edward J. Gill, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF COMMENTS

Three comments were received. Two had no objection or no comment to the proposal. One suggested that the draws be closed on a temporary basis until a determination of future river traffic in this reach of the Missouri River is made. If such changes in navigation should occur, the Coast Guard would make whatever change in the regulations are deemed appropriate at that time.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations, is amended by revising § 117.560(g)(9) to read as follows:

§ 117.560 Mississipi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * *

(g) * * *

(9) Missouri River at Yankton and Pierre, S. Dak. The draw of the Yankton Highway bridge at Yankton and the draw of the Chicago Northwestern Railroad bridge at Pierre need not be opened for the passage of vessels in paragraphs (b) to (e) of this section shall not apply to these bridges.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937 (33 U.S.C. 499, 49 U.S.C. 1655(g)(2)); 49 CFR 1.46(c)(5).)

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

Dated: December 30, 1977.

E. L. PERRY,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[FR Doc. 78-462 Filed 1-6-78; 8:45 am]

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER A—GENERAL

[FRL 825-5]

PART 3—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Filing of Public Financial Disclosure

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rule prescribes procedures to be followed by Environmental Protection Agency (EPA) employees in filing public financial disclosure statements under the Environmental Research, Development, and Demonstration Authorization Act of 1978 (ERDDAA). Section 12 of ERDDAA requires each officer or employee of EPA who performs any function or duty under ERDDAA and has any known financial interest in any person who applies for or receives grants, contracts, or other forms of financial assistance under ERDDAA to file a written statement of such interests. Under this rule each EPA employee who is not specifically exempted must file a statement of known financial interests on February 1 of each year beginning in 1978. These statements will be available to the public for examination and copying in the EPA Public Information Reference Unit. Due to the internal nature of this rule and the short time available for promulgation in order to meet the February 1, 1978 initial filing deadline, this rule is published as a final rule and is effective immediately.

EFFECTIVE DATE: January 9, 1978.

FOR FURTHER INFORMATION CONTACT:

James C. Nelson, Office of General Counsel, Contracts and General Administration Branch (A-134), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. Telephone: 202-755-0794.

40 CFR Chapter I, Part 3, is amended as follows:

1. The Table of Sections, Subpart C is amended by adding § 3.308 and Appendix H and by revising Appendix F to read as follows:

Subpart C—Financial Interests and Investments

Sec.

* * * * *

3.308 Statements of known financial interests under the Environmental Research, Development, and Demonstration Authorization Act of 1978.

* * * * *

Appendix F—Positions whose incumbents are exempt from filing statements of known financial interests under the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976.

* * * * *

Appendix H—Positions whose incumbents are exempt from filing statements of known financial interests under the Environmental Research, Development, and Demonstration Authorization Act of 1978.

2. Section 3.301 is amended by revising the fourth sentence of paragraph (a) and the first sentence of paragraph (d) to read as follows:

§ 3.301 General.

(a) * * * The third type is the requirement under four specific statutes: the Toxic Substances Control Act (15 U.S.C. 2601 et seq., 90 Stat. 2003, Pub. L. 94-469), the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq., 90 Stat. 2795, Pub. L. 94-580), the Clean Air Act, as amended (42 U.S.C. 7401 et seq., 91 Stat. 685, Pub. L. 95-95), and the Environmental Research, Development, and Demonstration Authorization Act of 1978 (91 Stat. 1257, Pub. L. 95-155), that employees performing any functions or duties under any of the stat-

utes must file a written statement of known financial interests in persons subject to or receiving benefits under any of the statutes. * * *

* * * * *

(d) All employees must file the statements of known financial interests referred to in paragraph (a) of this section in accordance with §§ 3.305, 3.306, 3.307, and 3.308 and with the procedures set forth in Appendix D of this subpart. * * *

3. Subpart C is amended by adding the following new section after § 3.307:

§ 3.308 Statements of known financial interests under the Environmental Research, Development, and Demonstration Authorization Act of 1978.

(a) Under section 12 of the Environmental Research, Development, and Demonstration Authorization Act of 1978 (P.L. 95-155) each employee who performs any function or duty under the Act shall submit on February 1 of each year a statement of known financial interests the employee had in the preceding calendar year in any person who applies for or receives grants, contracts, or other forms of financial assistance under the Act. Any employee who knowingly violates this section may be subject to a fine of not more than $2,500 or imprisonment for not more than one year, or both.

(b) Certain employees are exempted from the requirement to file the statement of known financial interests. These employees are specified in Appendix H to this subpart.

(c) Each nonexempt employee shall submit the statement of known financial interests in accordance with the procedures set forth in Appendix D to this subpart.

(d) The following definitions apply to this section:

(1) "Known financial interest" has the meaning given in § 3.305(d)(1) which is incorporated by reference.

(2) "Person who applies for or receives grants, contracts, or other forms of financial assistance under the Act" means any natural person, corporation, partnership, association, consortium, governmental entity, or any entity organized for a common business purpose that is an applicant or bidder for or recipient of a grant, contract, or other form of financial assistance under the Act.

(3) "Policy" has the meaning given in § 3.305(d)(3) which is incorporated by reference.

(4) "Policymaking position" has the meaning given in § 3.305(d)(4) which is incorporated by reference.

(e) Section 12 of the act specifies that statements of known financial interests filed under the act are available to the public.

(f) If an employee believes that the position he holds should be listed in Appendix H as exempt from the requirement to submit a statement of known financial interests because (1) he does not perform any function or duty under the act, or (2) if he does perform a function or duty, his position is not a policymaking position under the act, the employee may file a request with his Deputy Counselor for exemption of his position from the requirements of this section. The Deputy Counselor shall evaluate the request within 30 days of receipt and submit his recommendation to the Agency Counselor. The Agency Counselor shall make a decision and notify the employee within 30 days of receipt of the recommendation. The Agency Counselor may, with the approval of the Administrator, amend Appendix H whenever appropriate, on his own initiative or in response to a request for exemption. Any amendments shall be distributed to affected employees and all Deputy Counselors and shall be available for inspection in the office of the Agency Counselor.

(g) Each December, each Deputy Counselor shall review the exemptions in Appendix H to determine whether amendments would be appropriate. The Deputy Counselor shall report any recommended changes to the Agency Counselor. The Agency Counselor shall, with the approval of the Administrator, publish any amendments to Appendix H, including any exemptions granted under paragraph (f) of this section, in the FEDERAL REGISTER by December 31 to be applicable to the statements of known financial interests to be filed the following February 1. (Sec. 12, Pub. L. 95-155, 91 Stat. 1257.)

4. Subpart C is amended by adding the following new appendix after Appendix G:

APPENDIX H—POSITIONS WHOSE INCUMBENTS ARE EXEMPT FROM FILING STATEMENTS OF KNOWN FINANCIAL INTERESTS UNDER THE ENVIRONMENTAL RESEARCH, DEVELOPMENT, AND DEMONSTRATION AUTHORIZATION ACT OF 1978

Employees who occupied positions listed below for the entire preceeding calendar year and who continue to occupy a position listed below through the February 1 filing date are exempt from filing statements of known financial interest under the Environmental Research, Development, and Demonstration Authorization Act of 1978. If at any time during the preceding calendar year or through the February 1 filing date an employee occupies a position not listed below, the employee must file a statement of known financial interests. Whenever the title of a position is used in the list below, it includes any person who occupies the position as "acting."

5. Section 3.607 is amended by adding a new paragraph (f) to read as follows:

§ 3.607 Other Statutes.

* * * * *

(f) Under section 12 of the Environmental Research, Development, and Demonstration Authorization Act of 1978, special Government employees are required to file a statement of known financial interests unless specifically exempted from the requirement to file. Special Government employees shall be subject to the requirements and procedures of § 3.308.

Dated: December 23, 1977.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc. 78-327 Filed 1-6-78; 8:45 am]

[6560-01]

[FRL 816-4]

Part 20—Certification of Facilities

Revision of EPA Regulations for Certification of Pollution Control Facilities To Conform to Section 2112 of the Tax Reform Act of 1976

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: These regulations revise EPA regulations for certification of pollution control facilities to implement reinstated provisions of the Internal Revenue Code authorizing rapid amortization of certified pollution control facilities.

EFFECTIVE DATE: These regulations are effective on January 9, 1978.

ADDRESS: Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Donnell L. Nantkes, Office of General Counsel at the above address, telephone 202-755-0775.

SUPPLEMENTARY INFORMATION: On August 4, 1977, the Environmental Protection Agency published proposed regulations (42 FR 39414) to revise EPA provisions for certification of pollution control facilities to be consistent with section 2112 of the Tax Reform Act of 1976 (Pub. L. 94-455, Oct. 4,1976), which reinstated the provisions of the Internal Revenue Code (26 U.S.C 169) authorizing rapid amortization of certified pollution control facilities. Section 2112 of the Act changed the definition of "certified pollution control facilities" to include equipment which "prevents" the creation of pollutants; e.g. fuel desulfurization equipment used in connection with a taxpayer's plant. The new law further provides that the term "certified pollution control facility" does

not include a facility which "significantly" increases the output or capacity, extends the useful life, or reduces the total operating costs of the plant or other property with which it is used. (The Conference Committee indicated that any increase, extension, or reduction greater than 5 percent was to be considered "significant" and that this percentage was to be applied to the "operating unit" of the plant most directly associated with the pollution control facility. See House Report No. 94-1515, page 498).

The benefits of section 169 are now available with respect to facilities used in connection with a plant or other property in operation before January 1, 1976 (the former law established January 1, 1969, as the operable date).

Further, as to facilities installed after December 31, 1976, a taxpayer may claim 50 percent of the investment credit otherwise allowable under section 48 of the Code in addition to rapid amortization (the former law required an election between rapid amortization and any investment credit).

Three comments were received. Since none of the comments has been adopted, the regulations will be published as proposed except for a revision to § 20.2(f) to make the definition of "facility" conform to the new statutory definition by addition of the words "or prevents the creation of" to modify "pollutants, contaminants, wastes, or heat."

DISCUSSION OF MAJOR COMMENTS

Two commenters suggested that proposed § 20.8(a)(2) be revised to eliminate the requirement that a certifiable pollution control facility may not extend the useful life or increase the output or capacity of the plant or other property by a factor or more than 5 percent. One commenter stated that taxpayers should not be penalized because a new pollution control facility costs less to maintain than the facility it replaces.

This comment is not adopted because the legislative history of the 1976 amendments clearly indicates that Congress intended that any extension of useful life, reduction in total operating costs, or increase in the output or capacity of a plant greater than 5 percent was to be considered "significant."

Moreover, the regulation applies the 5 percent rule to the "plant or other property" and not to the pollution control facility. A new pollution control facility which costs less to maintain may thus be certified, if otherwise eligible, where the "operating unit of the plant or other property" is separate and distinct from the pollution control facility itself and the output or capacity has not been increased by more than 5 percent.

One commenter suggested that the "extension of useful life" limitation be reconsidered because plant rearrangement necessary to meet pollution control requirements could possibly extend the useful life of the relevant operating unit of the plant.

This comment is likewise not adopted because (1) pollution control expenditures which "significantly" extend useful plant life are ineligible for certification under the statute and (2) costs of plant rearrangement are not eligible in any event, since a mere rearrangement would not be a "facility" within the definition of § 20.2(f) of the regulation. However, where plant rearrangement is necessary to accommodate a separate pollution control facility, an extension of useful life caused by the rearrangement would not necessarily render the facility ineligible because the facility itself would not have caused the extension.

Another commenter suggested that the regulations be revised to list specific types of pollution control facilities which would automatically be eligible for certification, thus eliminating the requirement of § 20.5 that detailed information accompany applications for certification of these types of facilities.

This comment is rejected at this time. EPA guidelines for certification under the former section 169 published September 29, 1971 (36 FR 19132), presently list examples of eligible facilities for guidance of EPA Regional Offices. These guidelines will be revised in the near future to include discussion of eligibility limits under section 2112 of the Tax Reform Act of 1976.

It is impractical to eliminate the requirement for data to accompany applications for certification, even for facilities generally recognized as eligible, because of the need to determine whether a new facility increases output or capacity, extends useful life or reduces the operating costs of a taxpayer's plant by more than 5 percent. Moreover, it is also necessary to determine whether a facility will be used in connection with more than one plant, one of which was not in operation before January 1, 1976, to determine whether a facility performs a function other than pollution abatement, and to allocate eligible costs accordingly (see CFR 20.8(d) and (e)).

1. Accordingly, 40 CFR, Part 20 is amended by revising § 20.1 as follows:

§ 20.1 Applicability.

The regulations of this part apply to certifications by the Administrator of water or air pollution control facilities for purposes of section 169 of the Internal Revenue Code of 1954, as amended, 26 U.S.C. 169, as to which the amortization period began after December 31, 1975. Certification of air or water pollution control facilities as to which the amortization period began before January 1, 1976, will continue to be governed by Environmental Protection Agency regulations published November 25, 1971, at 36 FR 22382. Applicable regulations of the Department of Treasury are at 26 CFR 1.169 et seq.

2. By revising paragraph (a) and subparagraph (1) of paragraph (b) and paragraph (f) of § 20.2 as follows:

§ 20.2 Definitions.

* * * * *

(a) "Act" means, when used in connection with water pollution control facilities, the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.) or, when used in connection with air pollution control facilities, the Clean Air Act, as amended (42 U.S.C. 1857 et seq.).

(b) * * *

(1) For water pollution control facilities, the State pollution control agency as defined in section 502 of the Act.

(f) "Facility" means property comprising any new identifiable treatment facility which removes, alters, disposes of, stores, or prevents the creation of pollutants, contaminants, wastes, or heat.

* * * * *

3. By revising the last sentence of paragraph (h) of § 20.3 to read as follows:

§ 20.3 General provisions.

(h) * * * Within 60 days after receipt of such appeal the Administrator shall affirm, modify, or revoke the decision of the Regional Administrator, stating in writing his reasons therefor.

§ 20.5 [Amended]

4. By revising paragraphs (d), (e), (f), (g), and (n) of § 20.5 and by adding a new paragraph (o) as follows:

* * * * *

(d) A general description of the operation in connection with which the facility is (or will be) used and a description of the specific process or processes resulting in discharges or emissions which are (or will be) controlled or prevented by the facility.

(e) If the facility is (or will be) used in connection with more than one plant or other property, one or more of which were not in operation before January 1, 1976, a description of the operations of the facility in respect to each plant or other property, including a reasonable allocation of the costs of the facility among the plants being serviced, and a description of the reasoning and accounting method or methods used to arrive at these allocations.

(f) A description of the effect of the facility in terms of type and quantity of pollutants, contaminants, wastes, or heat, removed, altered, stored, disposed of, or prevented by the facility.

(g) If the facility performs a function other than removal, alteration, storage, prevention, or disposal of pollutants, contaminants, wastes, or heat, a description of all functions performed by the facility, including a reasonable identification of the costs of the facility allocable to removal, alteration, storage, prevention, or disposal of pollutants, contaminants, wastes, or heat and a description of the reasoning and accounting method or methods used to arrive at the allocation.

* * * * *

(n) The percentage (if any, and if the taxpayer claims that the percentage is 5 percent or less) by which the facility (1) increases the output or capacity, (2) extends the useful life, or (3) reduces the total operating costs of the operating unit of the plant or other property most directly associated with the pollution control facility and a description of the reasoning and accounting method or methods used to arrive at this percentage.

(o) Such other information as the Administrator deems necessary for certification.

(5) By revising subparagraphs (2) and (3) of paragraph (a); subparagraphs (1), (2), and (3) of paragraph (B); paragraph (d); and paragraph (e) of § 20.8 to read as follows:

§ 20.8 Requirements of certification

(a) * * *

(2) That the facility: (i) Removes, alters, disposes of, stores, or prevents the creation of pollutants, contaminants, wastes, or heat, which, but for the facility, would be released into the environment;

(ii) Does not by a factor or more than 5 percent: (A) Increase the output or capacity, (B) extend the useful life, or (C) reduce the total operating costs of the operating unit (of the plant or other property) most directly associated with the pollution control facility; and

(iii) Does not significantly alter the nature of the manufacturing or production process or facility.

(3) The applicant is in compliance with all regulations of Federal agencies applicable to use of the facility, including conditions specified in any NPDES permit issued to the applicant under section 402 of the Act.

(b) * * *

(1) All applicable water quality standards, including water quality criteria and plans of implementation and enforcement established pursuant to section 303 of the Act or State laws or regulations;

(2) Decisions issued pursuant to section 310 of the Act;

(3) Water pollution control programs required pursuant to any one or more of the following sections of the Act: Section 306, section 307, section 311, section 318, or section 405; or in order to be consistent with a plan under section 208.

(d) A facility that removes elements or compounds from fuels that would be released as pollutants when such fuels are burned is eligible for certification if the facility is—

(1) Used in connection with a plant or other property in operation before January 1, 1976 (whether located and used at a particular plant or as a centralized facility for one or more plants), and

(3) Is otherwise eligible for certification.

(e) Where a facility is used in connection with more than one plant or other property, one or more of which were not in operation before January 1, 1976, or where a facility will perform a function other than the removal, alteration, storage, disposal, or prevention of pollutants, contaminants, wastes, or heat, the Regional Administrator will so indicate on the notice of certification and will approve or disapprove the applicant's suggested method of allocating costs. If the Regional Administrator disapproves the applicant's suggested method, he shall identify the proportion of costs allocable to each such plant, or to the removal, alteration, storage, disposal, or prevention of pollutants, contaminants, wastes, or heat.

(90 Stat. 1905 (Sec. 2112 of Pub. L. 94-455, Oct. 4, 1976), 80 Stat. 379; (26 U.S.C. 169, 5 U.S.C. 301).)

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

Dated: December 28, 1977.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc. 78-324 Filed 1-6-78; 8:45 am]

[6560-01]

[FRL 823-5]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Air Pollution Control, State Regulations, State of Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: It is the purpose of this action to approve, with exceptions, amendments to the Nevada Air Quality Regulations (NAQR) submitted to EPA by the Governor on February 20, June 14, and November 12, 1974; and October 31, 1975 as revisions to the Air Quality Implementation Plan for the State of Nevada. The amendments pertain to motor vehicle inspection and testing, power plants, public availability of emission data, and other miscellaneous items. Action was proposed in the FEDERAL REGISTER on August 15, 1975 and May 20, 1977.

EFFECTIVE DATE: February 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Allyn M. Davis, Director, Air and Hazardous Materials Division, Attn.: Morris I. Goldberg, Air Programs Branch, EPA Region IX, 215 Fremont Street, San Francisco, Calif. 94105, telephone 415-445-7473.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On November 12, 1974 the Governor of Nevada submitted amendments to the NAQR as revisions to the State implementation plan (SIP). On August 15, 1975 (40 FR 34408) EPA proposed approval of four regulations of this submittal. Final action has been taken on all other items except as noted in this rulemaking.

Also on February 20 and June 14, 1974; and October 31, 1975 the Governor of Nevada submitted amendments to the NAQR as revisions to the SIP. On May 20, 1977 (42 FR 25878) EPA proposed approval, with exceptions, of the items submitted in these revisions.

Both of the proposed rulemaking notices provided for a 30-day public comment period. Copies of the regulations proposed for approval and disapproval, the EPA evaluation reports and the proposed rulemaking notices were made available during the public comment periods at Carson City, Nev. and at the EPA offices in San Francisco, Calif. and Washington, D.C. In addition, the information for the May 20, 1977 notice was also made available in Reno and Las Vegas, Nev.

DISCUSSION OF ACTION

Pursuant to Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove revisions to the SIP.

Differences from the proposed actions. Final rulemaking differs from that proposed on August 15, 1975 and May 20, 1977 because of public comment. Two comments were received on the State regulations, each attributing to a change from the actions proposed. The comments addressed particulate emission limitations applicable to Basic, Inc. and the State's odor regulation. As a result of the comments no final action is being taken on the three regulations.

PUBLIC COMMENTS

1. *Particulate Matter Emission Limitations Applicable to Basic, Inc.* In response to the August 15, 1975 proposed approval of NAQR, Articles 7.2.5 and 7.2.6, the commentor recommended that the proposed approval of the subject regulations be rescinded. The proposed approval was based on air quality diffusion modeling performed by the State which intended to show that the National Ambient Air Quality Standards (NAAQS) for particulate matter would be attained and maintained as a result of compliance with the new emission limitations. The commentor providied data showing that violations of the applicable NAAQS have continued even after control equipment was installed for the purpose of meeting the new emission limitations. The commentor also pointed out that the emission limitations are not sufficiently stringent to require the installation of reasonably available control technology (RACT).

2. *Odor Regulations.* In response to the May 20, 1977 proposed approval of the revision to NAQR, Article 10.1, one commentor recommended that no action be taken on the revision and that the previous approval be rescinded. The regulations do not relate to the control of pollutants for which NAAQS have been promulgated, no demonstration of the effect of this regulation is possible, and the regulation is unenforceable.

As a result of the public comments no action is being taken on NAQR, Articles 7.2.5 and 7.2.6 applicable to Basic, Inc. and NAQR, Article 10.1 regarding odors. EPA will address Articles 7.2.5 and 7.2.6 in a separate FEDERAL REGISTER notice. EPA is also retracting its proposed approval of revisions to Article 10.1 and will propose to rescind the previous approval in a separate FEDERAL REGISTER notice.

Approvals, disapprovals, non-actions and rescissions, as proposed. Final rulemaking on State regulations is identical to that proposed on August 15, 1975 and May 20, 1977 with the exception of those items discussed above. Approval is being promulgated for all items except those discussed in response to public comments and those proposed for disapproval or non-action.

1. *Disapproval Actions*—(a) *State Regulations.* Disapproval is being promulgated for NAQR, Article 2.11.4.2 on public hearings on the renewal of variances.

(b) *Control Strategy Portions of the SIP.* Disapproval is being promulgated for the control strategy for carbon monoxide and hydrocarbons/photochemical oxidants in the Nevada portion of the Clark-Mohave Interstate Air Quality Control Region (Las Vegas area).

2. *Non-Actions*—(a) *Plan Revisions.* No action is being taken through this notice on any portion of the February 20 and June 14, 1974 revisions because they have been superseded by the October 31, 1975 revision.

(b) *State Regulations.* No action is being taken on the following regulations from the November 12, 1974 and October 31, 1975 revisions.

i. NAQR, Articles 1.14 and 13 on complex sources,

ii. NAQR, Articles 7.2.5 and 7.2.6 on particulate emissions applicable to Basic, Inc.,

iii. NAQR, Article 8.1.3 on sulfur emissions from existing copper smelters,

iv. NAQR, Article 10.1 on odors, and

v. NAQR, Article 14 on supplementary control systems.

3. *Rescission Actions.* Action is being taken to rescind previous disapproval actions promulgated by EPA. In each instance the State has revised the disapproved element of the SIP. EPA is approving the applicable regulations. The following are affected:

(a) *State Regulations.* The May 31, 1972 (37 FR 10878) and September 26, 1974 (39 FR 34537) disapproval of NAQR, Article 2.7.1 on the public availability of emission data is being rescinded because the October 31, 1975 revision to this regulation is being approved. EPA is therefore rescinding the disapproval of NAQR, Article 2.7.1 at 40 CFR 52.1473(a), as it affects portions of the State other than Washoe County, and at 40 CFR 52.1473(c).

(b) *State Regulations.* The May 14, 1974 (38 FR 12708) disapproval of the emergency episode portion of the SIP relating to open burning is being rescinded because the November 12, 1974 revision to NAQR, Articles 5.2.3 and 5.2.4 on open burning are being approved. EPA is therefore rescinding the disapproval at 40 CFR 52.1477(a) relating to open burning during emergency episodes.

Miscellaneous clarifying changes to the Code of Federal Regulations (CFR). The Identification of plan section (40 CFR 52.1470) applicable to Nevada is being revised through this notice for the following reasons. Revisions are being made to 40 CFR 52.1470 at (c)(6) through (c)(9) for clarification purposes. These changes correct the name of the State's regulations and the nomenclature of regulations in same, and insert numerical identifications for the various regulations already included in the various subparagraphs. Also, a revision at (c)(8) and an addition at (c)(11) are being made as dictated by this final rulemaking.

(Secs. 110, 301(a), Clean Air Act as amended (42 U.S.C. 1857c-5, 1857g(a)), respectively.)

Dated: December 28, 1977.

DOUGLAS M. COSTLE,
Administrator.

Subpart DD of Part 52 of Chapter 1, Title 40, of the Code of Federal Regulations is amended as follows:

Subpart DD—Nevada

1. In § 52.1470, paragraph (c) is amended by the revision of subparagraphs (6), (7), (8), and (9) and by the addition of subparagraph (11) as follows:

§ 52.1470 Identification of plan.

* * * * *

(c) * * *

(6) Amendments to the Nevada Air Quality Regulations (NAQR), to regulate the construction of complex sources (Article 13), submitted on April 1, 1974, by the Governor.

(7) Amendments to the NAQR to regulate sulfur emissions from nonferrous smelters (Article 8.1); to regulate and monitor visible emissions from stationary sources (Article 4); and to allow supplementary control systems (Article 14), submitted on June 14, 1974, by the Governor.

(8) Amendments to the NAQR to regulate open burning (Article 5.2.3 and 5.2.4), and to regulate the construction of complex sources (Article 13), submitted on November 12, 1974, by the Governor.

(9) Administrative procedures for the review of complex sources submitted on December 11, 1974, by the Governor's representative.

(11) Amendments to the NAQR, as amended through September 18, 1975, submitted on October 31, 1975, by the Governor, as follows:

Article 1—Definitions: 1.6-1.13, 1.15-1.33, 1.35-1.69;

Article 2—General Provisions: 2.4.1-2.4.4, 2.5.1, 2.5.2, 2.5.4, 2.6.1-2.6.4, 2.7.1, 2.8.1, 2.8.4, 2.8.5.1, 2.9.1-2.9.3, 2.9.5-2.9.7, 2.10.1.2, 2.10.2-2.10.4, 2.11.4.2;

Article 3—Registration Certificates and Operating Permits: 3.1.3, 3.1.5, 3.1.6, 3.1.8a & d-i, 3.1.9, 3.2.2-3.2.6, 3.3.2, 3.3.5, 3.4.1, 3.4.6-3.4.14;

Article 4—Visible Emissions From Stationary Sources: 4.1, 4.2, 4.3.5, 4.4-4.4.2;

Article 5—Open Burning: 5.2.3, 5.2.4;

Article 6—Incinerator Burning: 6.3-6.6.2;

Article 7—Particulate Matter: 7.1.3, 7.2.1-7.2.3, 7.3.1-7.3.3;

Article 8—Sulfur Emissions: 8.1.1, 8.1.2, 8.1.4, 8.2.2.1, 8.3-8.4;

Article 9—Organic Solvent, Other Volatile Compounds: 9.1, 9.2-9.2.1.1, 9.2.2, 9.2.3;

Article 10—Odors: 10.2.1.1, 10.2.1.2;

Article 11—Mobile Equipment: 11.3-11.7.1, 11.7.4-11.7.5, 11.10, 11.10.1, 11.11-11.14.17.

2. In § 52.1473, the first sentence of paragraph (a) is revised and paragraph (c) is revoked as follows:

§ 52.1473 General requirements.

(a) The requirements of § 51.10(e) of this chapter are not met in Washoe County, since the plan does not pro-

vide procedures for making emission data, as correlated with allowable emissions, available to the public. * * *

(b) * * *

(c) [Revoked]

3. Section 52.1477 and paragraph (a) of that section are revoked as follows:

§ 52.1477 [Revoked]

(a) [Revoked]

4. Section 52.1484 and paragraph (a) of that section are added as follows:

§ 52.1484 Control strategy: Carbon monoxide.

(a) The requirements of § 51.14 of this chapter are not met since the plan does not provide for the attainment and maintenance of the national standards for carbon monoxide in the Nevada (Las Vegas area), portion of the Clark-Mohave Interstate Region (§ 81.80 of this chapter).

5. Section 52.1486 and paragraph (a) of that section are added as follows:

§ 52.1486 Control strategy: Hydrocarbons and photochemical oxidants.

(a) The requirements of § 51.14 of this chapter are not met since the plan does not provide for the attainment and maintenance of the national standard for photochemical oxidants in the Nevada (Las Vegas area), portion of the Clark-Mohave Interstate Region (§ 81.80 of this chapter).

6. Section 52.1487 and paragraph (a) of that section are added as follows:

§ 52.1487 Public hearings.

(a) The requirements of § 51.4(a)(2) of this chapter are not met since NAQR, Article 2.11.4.2 allows variances (compliance schedules), to be renewed without a public hearing, thus allowing further postponement of the final compliance date for sources whose emissions contribute to violations of the national standards. Therefore, NAQR, Article 2.11.4.2 is disapproved.

[FR Doc. 78-326 Filed 1-6-78; 8:45 am]

[6560-01]

SUBCHAPTER N—EFFLUENT LIMITATIONS, GUIDELINES, AND STANDARDS

[FRL 839-4]

PART 458—CARBON BLACK MANUFACTURING POINT SOURCE CATEGORY

Effluent Limitations Guidelines, New Source Performance Standards, and Pretreatment Standards

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On May 18, 1976, the Environmental Protection Agency promulgated, in interim final form, effluent limitations guidelines for the Carbon Black Manufacturing Point Source Category, 40 CFR Part 458. In addition, on that date it proposed other effluent limitations guidelines, new source performance standards, and pretreatment standards for new sources.

With the exception of effluent limitations guidelines for the furnace black process subcategory (subpart A), the interim final regulations and proposed regulations are today promulgated in the identical form as they were proposed or promulgated on May 18, 1976. The effluent limitations guidelines based upon the use of the best practicable control technology currently available for the furnace process subcategory (subpart A), have been withdrawn.

The effluent limitations guidelines and new source performance standards issued today, when applicable, will be incorporated in National Pollutant Discharge Elimination System permits issued by Federal EPA or by States with approved programs.

DATE: January 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Harold B. Coughlin, Effluent Guidelines Division, (WH-552), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202-426-2560.

SUPPLEMENTARY INFORMATION: The Environmental Protection Agency today promulgates regulations pursuant to sections 301, 304, 306, and 307 of the Federal Water Pollution Control Act, as amended, Pub. L. 92-500, for four subcategories of the 40 CFR Part 458, Carbon Black Manufacturing Point Source Category. These subcategories are the carbon black furnace process (subpart A), the carbon black thermal process (subpart B), the carbon black channel process (subpart C), and the carbon black lamp black process (subpart D). With respect to subparts B-D (thermal process, channel process, and lamp process), the regulations are being promulgated in forms unchanged from the regulations proposed or published in interim final form for these subparts on May 18, 1976 (41 FR 20496 et seq. and 41 FR 20502 et seq.). The Agency received only one comment with respect to subpart B and no comments with respect to subparts C or D.

The focus of criticism of the effluent limitations guidelines, announced in interim final form on May 18, was with respect to the carbon black furnace process (subpart A). The major change announced today is with respect to those regulations. The effluent limitations guidelines based upon the application of best practicable control technology currently available for the carbon black furnace process, subpart A, is being withdrawn. Furthermore, the effluent limitations guidelines based upon the use of best available technology economically achievable for the carbon black furnace process is being promulgated in final form as no discharge of process waste water, as defined below. The new source performance standards and pretreatment standards for new sources are unchanged from the forms proposed on May 18.

Summary and Basis of Regulations

Following the May 18 promulgations of interim final effluent limitations guidelines based on the use of best practicable technology currently available (BPT), petitions for review were filed in the United States Court of Appeals for the Fifth Circuit (No. 76-3051), by Ashland Oil, Inc., Cabot Corp., Cities Service Co., Continental Carbon Co., and Phillips Petroleum Co. After the filing of this action on July 28, 1976, the petitioners submitted a substantial amount of new information to the Agency, and both parties to the action conducted several meetings to discuss factual contentions with respect to the BPT regulations. The Agency also reviewed all outstanding National Pollutant Discharge Elimination System (NPDES), permits to determine the present extent of discharges from the facilities which fall within subpart A of part 458. This review indicated that there was only one manufacturing facility with a point source discharge which did not possess an NPDES permit. It was determined that for all other point sources covered by subpart A, the NPDES permits would expire at the earliest in 1978, and that the BPT regulations would, in effect, apply to only one facility.

After carefully reviewing recent monitoring information submitted by the companies and by EPA Region VI (Dallas, Tex.), the Agency determined that little environmental degradation would occur if the BPT regulations were withdrawn and the effluent limitations guidelines based on the use of best available technology economically achievable (1983 level technology), were promulgated, as proposed, to require zero discharge by the date set forth in section 301(b)(2)(A) of the act. Today's announcement executes an agreement which resolves the litigation in the Fifth Circuit and which, in effect, means that when dischargers apply for renewal of NPDES permits they will be placed on a schedule which will result in zero discharge of process waste waters by the date set forth in section 301(b)(2)(A) of the act. Of course, dischargers which are presently achieving zero discharge or which discharge small amounts of pro-

cess waste water pollutants will not be allowed to initiate a discharge or to increase the quantities or concentration of pollutants discharged without appropriate issuance of NPDES permits. The one facility which does not have a final NPDES permit will be considered by EPA Region VI on an ad hoc basis in the absence of national regulations, and be issued a section 402 permit.

The comments submitted by manufacturers of furnace black indicated that there was some confusion over the meaning of "process waste water" as that phrase is used in the regulations.

To clarify that definition with respect to the furnace black subcategory, section 458.11 has been modified to indicate that the BAT effluent limitations guidelines, standards of performance for new sources, and pretreatment standards for new sources for the furnace black subcategory are intended to apply to waters that come from baghouse operations and all integral parts of the product collection system. Waters included in this definition are washout waters, reaction quench waters or condensate, and storm waters falling directly on the production process and collection units. Uncontaminated storm water runoff, as such, is not intended to be covered by these regulations and will be addressed, if at all, by the appropriate EPA Regional Office in an NPDES permit. However, where process waste water and storm water intermingle, the regulations do apply to any resultant discharge into the navigable waters of the United States, except that these regulations do not address discharges from containment facilities that result from unusually large rainfall events. This definition applies equally well to § 458.21 for the carbon black thermal process (subpart B).

SUMMARY OF PUBLIC PARTICIPATION

Upon publication of interim final regulations, public comments were solicited. Comments with respect to the carbon black furnace process were submitted only by the parties to the litigation in the petition to review 40 CFR Part 458. The summary of public comments with respect to carbon black furnace process (subpart A), appears above in the summary and basis for the regulations.

On November 5, 1976, the Agency received comments from the International Minerals and Chemical Corp., Thermatomic Carbon Operations, suggesting that its facility in Sterlington, La., producing carbon black by the thermal process (subpart B), is different from the facilities relied upon by the Agency to establish thermal black effluent limitations guidelines (subpart B). Those comments indicate that the Thermatomic facility is a net water discharger and that it uses a process which is different from other processes employed by thermal carbon black manufacturers. The information submitted by this commenter is insufficient to provide the basis for the creation of a separate subcategory in the regulations. However, it may be appropriate for this discharger to submit this information, perhaps in more detailed form, to the EPA Regional Office with jurisdiction over the discharge. The discharger has the opportunity to seek a variance from the nationally applicable BPT effluent limitations guidelines pursuant to § 458.22 of title 40. The evaluation of the variance request, which is conducted by the EPA Region, is not a proper subject of this final rulemaking.

No comments were submitted on either the channel process (subpart C), or the lamp process (subpart D), carbon black subcategories.

A copy of all public comments are on file in the EPA Public Information Reference Unit, Room 2922 (EPA Library), Waterside Mall, 401 M Street SW., Washington, D.C. 20460. The EPA information regulations, 40 CFR Part 2, provide that a reasonable fee may be charged for copying.

In consideration of the foregoing, 40 CFR Part 458 is revised to read as follows:

Dated: December 29, 1977.

DOUGLAS M. COSTLE,
Administrator.

Subpart A—Carbon Black Furnace Process Subcategory

Sec.

458.10 Applicability; description of the carbon black furnace process subcategory.
458.11 Specialized definitions.
458.12 [Reserved]
458.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
458.14 [Reserved]
458.15 Standards of performance for new sources.
458.16 Pretreatment standards for new sources.

Subpart B—Carbon Black Thermal Process Subcategory

458.20 Applicability; description of the carbon black thermal process subcategory.
458.21 Specialized definitions.
458.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
458.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
458.24 [Reserved]
458.25 Standards of performance for new sources.
458.26 Pretreatment standards for new sources.

Subpart C—Carbon Black Channel Process Subcategory

458.30 Applicability; description of the carbon black channel process subcategory.
458.31 Specialized definitions.
458.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
458.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
458.34 [Reserved]
458.35 Standards of performance for new sources.
458.36 Pretreatment standards for new sources.

Subpart D—Carbon Black Lamp Process Subcategory

458.40 Applicability; description of the carbon black lamp process subcategory.
458.41 Specialized definitions.
458.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
458.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
458.44 [Reserved]
458.45 Standards of performance for new sources.
458.46 Pretreatment standards for new sources.

AUTHORITY: Secs. 301, 304 (b) and (c), 306(b), 307 (b) and (c), Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, 1311, 1314 (b) and (c), 1316(b) and 1317 (b) and (c), 86 Stat. 816 et seq.; Pub. L. 92-500) (the Act).

Subpart A—Carbon Black Furnace Process Subcategory

§ 458.10 Applicability; description of the carbon black furnace process subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of carbon black by the furnace process.

§ 458.11 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean carbon black manufactured by the furnace process.

(c) The term "process waste water" shall mean waters which result from baghouse operations or thermal quench operations.

§ 458.12 [Reserved]

§ 458.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the carbon black furnace process by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters.

§ 458.14 [Reserved]

§ 458.15 Standards of performance for new sources

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the carbon black furnace process by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

§ 458.16 Pretreatment standards for new sources

The pretreatment standard under section 307(c) of the Act for a new source within the carbon black furnace process subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR Part 128, for existing sources, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132, and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

Pollutant or pollutant property.—Oil and grease.
Pretreatment standard.—100 mg/l.

Subpart B—Carbon Black Thermal Process Subcategory

§ 458.20 Applicability: description of the carbon black thermal process subcategory

The provisions of this subpart are applicable to discharges resulting from the production of carbon black by the thermal process.

§ 458.21 Specialized definitions

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean carbon black manufactured by the thermal process.

(c) The term "process waste water" shall mean waters which result from baghouse operations or thermal quench operations.

§ 458.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the manufacture of carbon black by the thermal process from a point source subject to the provisions of this paragraph after application of the best practicable control technology currently available: There shall be no discharge of process waste water pollutants into navigable waters.

§ 458.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph which may be discharged from the carbon black thermal process by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters.

§ 458.24 [Reserved]

§ 458.25 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the carbon black thermal process by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

§ 458.26 Pretreatment standards for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the carbon black thermal process subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR Part 128, for existing sources, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132, and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

Pollutant or pollutant property.—Oil and grease.
Pretreatment standard.—100 mg/l.

Subpart C—Carbon Black Channel Process Subcategory

§ 458.30 Applicability; description of the carbon black channel process subcategory.

The provisions of this subpart are applicable to discharges resulting from

the production of carbon black by the channel process.

§ 458.31 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean carbon black manufactured by the channel process.

§ 458.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop, and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available, and as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the manufacture of carbon black by the channel process from a point source subject to the provisions of this paragraph after application of the best practicable control technology currently available: There shall be no discharge of process waste water pollutants into navigable waters.

§ 458.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the carbon black channel process by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters.

§ 458.34 [Reserved]

§ 458.35 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the carbon black channel process by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

§ 458.36 Pretreatment standards for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the carbon black channel process subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR Part 128, for existing sources, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

Pollutant or pollutant property.—Oil and grease.

Pretreatment standard.—100 mg/l.

Subpart D—Carbon Black Lamp Process Subcategory

§ 458.40 Applicability; description of the carbon black lamp process subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of carbon black by the lamp process.

§ 458.41 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean carbon black manufactured by the lamp process.

§ 458.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the manufacture of carbon black by the lamp process from a point source

subject to the provisions of this paragraph after application of the best practicable control technology currently available: There shall be no discharge of process waste water pollutants into navigable waters.

§ 458.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the carbon black lamp process by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters.

§ 458.44 [Reserved]

§ 458.45 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the carbon black lamp process by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

§ 458.46 Pretreatment standards for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the carbon black lamp process subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR Part 128, for existing sources, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

Pollutant or pollutant property.—Oil and grease.
Pretreatment standard.—100 mg/l.

[FR Doc. 78-325 Filed 1-6-78; 8:45 am]

[6820-24]

Title 41—Public Contracts and Property Management

CHAPTER 5A—FEDERAL SUPPLY SERVICE, GENERAL SERVICES ADMINISTRATION

[FSS P 2800.8B CHGES 15-18]

MISCELLANEOUS AMENDMENTS

AGENCY: Federal Supply Service, General Services Administration.

ACTION: Final Rule.

SUMMARY: This amendment of the General Services Administration Procurement Regulations (GSPR 5A) adds or revises contract clauses to clarify Government requirements and contract administration procedures, revises or adds instructions to contracting officers to standardize operational practices, and updates procurement forms containing contract clauses. The purpose of this regulation is to improve Federal Supply Service contract clauses and procurement procedures.

EFFECTIVE DATE: January 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Einar Windingland, Director, Policy and Procedures Division, Office of Procurement, Federal Supply Service, General Services Administration, Washington, D.C. 20406, 703-557-8344.

SUPPLEMENTARY INFORMATION: 1. The following changes were made to clauses applicable to Federal Supply Schedule contracts. The Urgent Requirements clause was revised to require contractors to confirm in writing telephonic agreements to accelerate deliveries. The Blanket Purchase Arrangements clause was revised to indicate that the total amount of a blanket purchase arrangement (BPA) may exceed the maximum order limitation (MOL) of the contract, provided no single order placed under the BPA exceeds the MOL. The Preference for Small Business Concerns and Labor Surplus Area Concerns clause was revised to reference both the FPR and the ASPR provisions concerning the processing of equal low bids. The Procurement of Foreign Products clause was revised to include a reference to the balance of Payments evaluation procedures in both the FPR and the ASPR. A new Payments clause provides more flexibility in making payments under the Federal Supply Schedule Program. 2. A new subpart sets forth revised procedures which limit the application of priority ratings to contracts for stock items.

PART 5A-1—GENERAL

Subpart 5A-1.3—General Policies

1. Section 5A-1.305-50(c) is revised as follows:

§ 5A-1.305-50 Use and availability of specifications and standards.

* * * * *

(c) When formal specifications or standards are referenced in the solicitation for offers, the following clause (included in GSA Form 1424) shall be included in the solicitation:

COPIES OF GOVERNMENT SPECIFICATIONS AND STANDARDS

The Government specification(s) or standard(s), if any, applicable to each article is stated in the Solicitation for Offers in connection with the general description of the article. A single copy of the referenced Federal or Interim Federal Specification or Standard is available without charge from the General Services Administration Business Service Centers in Boston; New York; Atlanta; Chicago; Kansas City, Mo.; Ft. Worth; Houston; Denver; San Francisco; Los Angeles; and Seattle; or from Specification Sales, GSA, Bldg. 197, Washington Navy Yard, Washington, D.C. 20407. Additional copies may be purchased from the Specification Sales Office, Washington, D.C. Military Specifications, Standards, and Qualified Products Lists may be obtained from Commanding Officer, Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, Pa. 19120. If other specifications or standards are applicable, the Solicitation for Offers will state where copies of such specifications may be obtained.

* * * * *

2. Section 5A-1.311 is revised as follows:

§ 5A-1.311 Priorities, allocations, and allotments.

See Subpart 5A-72.7 for instructions regarding application of priority ratings to contracts for stock items.

PART 5A-2—PROCUREMENT BY FORMAL ADVERTISING

Subpart 5A-2.2—Solicitation of Bids

Section 5A-2.201-70(e)(1) is revised as follows:

§ 5A-2.201-70 Forms to be used.

* * * * *

(e) GSA forms containing standardized supplemental provisions.

(1) GSA Form 1424, GSA Supplemental Provisions, June 1977, shall be incorporated by reference in each solicitation for offers, except solicitations for offers under the AID buying program, by using the following provision:

GSA Form 1424, GSA Supplemental Provisions, June 1977, receipt of which is acknowledged by the bidder, is hereby incorporated by reference. A copy of GSA Form 1424, if not enclosed, is available upon request.

* * * * *

PART 5A-16—PROCUREMENT FORMS

The table of contents for Part 5A-16 is amended to revise the following entries:

Sec.
5A-16.950-2891 GSA Form 2891, Instructions to Users of Federal Supply Schedules.
5A-16.950-2984, GSA Form 2984, Value Incentive Clause (Fixed Price Supply Contract).

Subpart 5A-16.9—Illustrations of Forms

§§ 5A-16.950-1424 and 5A-16.950-2891 [Revised]

Sections 5A-16.950-1424 and 5A-16.950-2891 are revised to illustrate new editions of GSA Form 1424 and GSA Form 2891, respectively.

PART 5A-72—PROCUREMENT OF STOCK ITEMS

The table of contents for Part 5A-72 is amended to add the following new entries:

Subpart 5A-72.7—Priority Ratings

Sec.
5A-72.701 Authority.
5A-72.702 Federal supply classes excluded from priority rating.
5A-72.703 Priority eligibility.
5A-72.704 Quantity limitations.
5A-72.705 Procedures.
5A-72.706 Reports.

Part 5A-72 is amended to add the following new subpart:

Subpart 5A—72.7—Priority Ratings

§ 5A-72.701 Authority.

The U.S. Department of Commerce (BDC), Domestic and International Business Administration, issued a revised delegation of authority effective March 26, 1976, to the Administrator of General Services. This delegation of authority, "BDC Del. 3", authorizes GSA to place DO rated orders bearing the program identificaion K-1 to meet certain GSA supply distribution program needs for DOD, CIA, FAA, NASA, and ERDA. This authority is limited to those FSC's and the dollar volume in each of such classes approved by the Bureau of Domestic Commerce as specified in the Statement of Conditions to BDC Del. 3 (see § 5A-76.312).

§ 5A-72.702 Federal supply classes excluded from priority rating.

DO K-1 priority ratings shall not be used for procurement of the groups and classes listed in § 5A-76.312.

§ 5A-72.703 Priority eligibility.

BDC has established priority eligibility criteria. Before an FSC class or national stock number(s) is eligible for priority rating it must meet both a "use" and "availability" criteria as follows:

(a) The item(s) is stocked for predominant use by DOD, CIA, FAA, NASA, and ERDA. "Predominant use" is defined as at least 97 percent of total demand for stock item; and

(b) In connection with the availability of item(s), DO K-1 rating shall not be used for procurement of FSC classes or items when the following three conditions exist:

(1) The items are the types commonly available in commercial markets for general consumption;

(2) The items do not require major modifications when purchased for military or other ratable Government use; and

(3) The items are in sufficient supply as to cause no hindrance to the accomplishment of military or other national defense objectives.

§ 5A-72.704 Quantity limitations.

The use of this delegation of authority shall be limited to the quantities of current procurement of each class or item based upon and not exceeding the ratio of rated purchases to the total purchases for that class or item that was consumed during the same period of the previous year.

§ 5A-72.705 Procedures.

(a) When the contract or any delivery order thereunder is to be priority rated, the rating symbol DO K-1 or notation "see delivery order" shall be entered in block 3 of SF 33, Solicitation, Offer, and Award, and the following clause shall be included in the solicitation:

PRIORITIES, ALLOCATIONS, AND CONTROLLED MATERIALS

If this contract or any delivery order thereunder is rated and certified for national defense use (see block 3 on the face of Standard Form 33), the Contractor shall follow the provisions of DPS Regulation 1 and/or DMS Regulation 1 in obtaining controlled materials and other products and materials needed to fulfill the requirements of this contract.

NOTE.—The Contractor shall fill unrated delivery orders in the same sequence in which they are received or as otherwise directed by the Contracting Officer.

(b) Criteria and procedures for requesting assistance from the U.S. Department of Commerce, Bureau of Domestic Commerce (BDC), under the Defense Materials System, are set forth in GSA Order, Assistance under the Defense Priorities System and the Defense Materials System (FSS 2800.21B), dated September 7, 1977.

§ 5A-72.706 Reports.

A report shall be submitted to Bureau of Domestic Commerce by the Office of Procurement (FPX) twice a year showing (a) the value of shipments made to the Department of Defense and its associated agencies and the Energy Research and Development Administration, and (b) the value of stores replenishments rated by General Services Administration for the preceding 6-month period. The report is due within 60 days after the close of each 6-month period.

PART 5A-73—FEDERAL SUPPLY SCHEDULE PROGRAM

The table of contents for Part 5A-73 is amended to revise or add the following entries:

Sec.
5A-73.205-7 Procurement of similar articles or services.
5A-73.218 Payments clause.

Subpart 5A-73.2—Preparation and Issuance of Solicitations

1. Section 5A-73.205-3 is revised as follows:

§ 5A-73.205-3 Urgent Requirements clause.

The following Urgent Requirements clause shall be included in each schedule solicitation and resulting schedule (included in GSA Form 2891).

URGENT REQUIREMENTS

When the Federal Supply Schedule contract delivery period does not meet the bona fide urgent delivery requirements of an ordering agency, use of the Federal Supply Schedule is not mandatory. However, agencies shall, if time permits, contact the Contractor for the purpose of obtaining accelerated delivery in the case of urgent requirements. The Contractor shall reply to the inquiry within 3 workdays after receipt. (Telephonic replies shall be confirmed by the Contractor in writing.) If the Contractor offers an accelerated delivery time acceptable to the ordering agency, any order(s) placed pursuant to this offer shall be delivered within this shorter delivery time and in accordance with all other terms and conditions of the contract.

2. Section 5A-73.205-5(e) is amended as follows:

§ 5A-73.205-5 Maximum order limitation.

* * * * *

(e) Whenever a maximum order limitation is used, the applicable clauses prescribed in paragraphs (1) through (4), below, with the monetary limitations inserted, shall be included in the solicitation. These clauses may be revised to express the maximum order limitation as a quantity rather than as a dollar value. Other situations require approval of the procuring director. In addition, the provision below shall be included in the solicitation immediately following the Maximum Order Limitation clause:

CONSOLIDATION OF REQUIREMENTS

For the information of offerors, agencies will, in accordance with FPMR 101-26.106, consolidate their requirements whenever feasible so as to take advantage of price sav-

ings available through separate procurement of quantities which exceed the maximum order limitation.

(1) When the maximum order limitations, both as to total value of orders and single items, will apply uniformly to all items in the schedule, the following clause shall be used:

MAXIMUM ORDER LIMITATION

(All dollar amounts are exclusive of any discount for prompt payment.) The total dollar value of any order placed under this contract shall not exceed $——: *Provided*, That the dollar value for any single item ordered, whether ordered separately or in combination with other items, shall not exceed $——. The Contfactor agrees not to accept or fulfill any order in violation of this clause. Violation may result in termination of the contract pursuant to the clause of the General Provisions entitled "Default."

* * * * *

3. Section 5A-73.205-6 is revised as follows:

§ 5A-73.205-6 Requirements in Excess of Maximum Order Limitations clause.

Except as noted below, schedules resulting from solicitations containing a Maximum Order Limitation clause shall include the clause shown below (included in GSA Form 2891). See § 5A-73.508 for procedures for processing requisitions for requirements in excess, or below, a schedule's maximum order limitation.

REQUIREMENTS IN EXCESS OF MAXIMUM ORDER LIMITATIONS

Agencies required to use Federal Supply Schedules as a mandatory source shall forward purchase requests for items included therein which exceed the applicable maximum order limitation to the GSA regional office serving the consignee. Non-mandatory users may, at their option, forward such purchase requests to the above office for purchase action in accordance with appropriate FEDSTRIP/MILSTRIP procedures.

NOTE.—The above clause shall be modified when included in schedules covering FSC Group 58, Part V, Section C; FSC Group 70, Part XI; or FSC Group 75, Part VIII, to require submission of excess MOL requirements to the "office issuing the schedule" in lieu of the "GSA regional office servicing the consignee." (See FPMR 101-26.508-2 and 101-26.509-2(a).)

4. Section 5A-73.205-7 is revised as follows:

§ 5A-73.205-7 Procurement of similar articles or services.

The following clause shall be included in each solicitation and resulting schedule (included in GSA Form 2891).

PROCUREMENT OF SIMILAR ARTICLES OR SERVICES

When an agency required to use this Federal Supply Schedule as a mandatory source determines that an article or service contained in the schedule will not serve the functional end-use purpose required by the agency, procurement of a similar article or service having the same general characteristics of the schedule article or service is authorized: *Provided*, That a prior written waiver of the requirement for using the schedule is obtained from the Commissioner, Federal Supply Service, General Services Administration, Washington, D.C. 20406, in accordance with FPMR 101-26.401-3 and any implementing regulations of the requesting agency.

5. Section 5A-73.213 is revised as follows:

§ 5A-73.213 Blanket purchase arrangements.

The following clause shall be included in each schedule solicitation and resulting schedule (included in GSA Form 2891).

BLANKET PURCHASE ARRANGEMENTS

The Contractor agrees to enter into blanket purchase arrangements with ordering activities: *Provided*, That:

(a) Only items covered by the contract are ordered under such arrangements;

(b) The period of time covered by such arrangements shall not exceed the period of the contract; and

(c) Orders placed under such arrangements shall be issued in accordance with all applicable regulations and the terms and conditions of the contract.

NOTE.—The maximum order limitation of the contract applies solely to individual orders placed against the blanket purchase arrangement and has no bearing on the cumulative or total value of these orders.

6. Section 5A-73.217-5(b) is revised as follows:

§ 5A-73.217-5 Price Reductions clause.

* * * * *

(b) Whenever the above Price Reductions clause is contained in a solicitation, the resulting schedule shall include the following notice (included in GSA Form 2891).

NOTICE OF PURCHASE AT REDUCED PRICE

If any article or service available from multiple award Federal Supply Schedule contracts has been ordered from the schedule Contractor at a price lower than the schedule contract price, the agency shall, within 10 calendar days, notify the GSA Contracting Officer of this purchase.

7. Section 5A-73.217-7 is revised as follows:

§ 5A-73.217-7 Preference for Small Business Concerns and Labor Surplus Area Concerns clause.

The following clause shall be included in each multiple award schedule solicitation and resulting schedule (included in GSA Form 2891).

PREFERENCE FOR SMALL BUSINESS CONCERNS AND LABOR SURPLUS AREA CONCERNS

Offerors are advised that the following statement will be included in the resulting Federal Supply Schedule:

Where two or more items at the same delivered price will meet the ordering agency's needs equally well, selection should be based on preference for the item of a labor surplus area concern or a small business concern. In making a selection on that basis, the same order of priority shall be used as that established for processing equal low bids in FPR 1-2.407-6 or ASPR 2-407.6. In making such a selection, the information in the Federal Supply Schedule as to the business size status or points of production of Contractors may be used for preliminary, but not conclusive, determination as to whether small business or labor surplus area policies might be furthered through preferential award of the order. The extent to which additional and current information is obtained by an ordering agency is left to the discretion of the agency which should take into account the size of the order and other factors which the agency considers pertinent.

8. Section 5A-73.217-8 is revised as follows:

§ 5A-73.217-8 Foreign Products clause.

The following clause shall be included in each multiple award schedule solicitation and resulting schedule (included in GSA Form 2891).

PROCUREMENT OF FOREIGN PRODUCTS

If awards are made to concerns offering foreign items, ordering agencies will be subject to the following instructions:

When two or more items listed in the Federal Supply Schedule will meet the requirements of an agency for a particular job and both foreign and domestic items are involved, the ordering agency must apply the Buy American Act or the Balance of Payments evaluation procedures in FPR 1-6.1 or 1-6.8 and ASPR 6-1 or 6-8, as appropriate.

9. Section 5A-73.218 is added as follows:

§ 5A-73.218 Payments clause.

The following provision shall be included in all Federal Supply Schedule solicitations and resultant schedules (included in GSA Form 2891).

PAYMENTS

Offerors are advised that the following provision will be included in any resultant schedule:

(a) Timely payment by the Government is essential to avoid loss of prompt payment discounts and the imposition of a financing burden on the Contractor. Article 7, Payments, of Standard Form 32 provides that the Government has an obligation to pay Contractors promptly. Accordingly, nothing shall limit or restrict agencies placing orders under this Federal Supply Schedule from paying Contractors promptly in accordance with their own internal regulations and applicable laws; e.g., when specifically authorized by agency regulations or procedures, payment may be made upon receipt of evidence of delivery to port of embarkation; upon receipt of evidence of shipment in accordance with Comptroller General Deci-

sion B-158487 dated April 4, 1966; on the basis of an invoice and a certificate of conformance; or, in accordance with a fast-pay procedure such as that provided in ASPR 3-606. In the absence of applicable internal regulations covering payment by an ordering agency, payment shall be made in accordance with the contract terms.

(b) When prices cover delivery to destination, the Government assumes title upon delivery and acceptance at destination, and payment should be made upon the Contractor's submission of proper invoices or vouchers. When the delivery order specifies delivery to a port within the U.S.A. and the contract provides only for the delivery to destination within the conterminous United States, payment should be made promptly upon receipt of evidence of delivery to port notwithstanding the fact that the ultimate destination of the supplies may be abroad, provided earlier payment is not otherwise authorized in accordance with (a), above.

(c) When supplies are purchased f.o.b. shipping point/origin, the Government assumes title upon acceptance by the common carrier, and payment should be made upon the Contractor's submission of proper invoices and proof of shipment without regard as to whether supplies have reached their ultimate destination. If the Contractor is prepaying for the freight to destination, payment for the material, excluding freight charges, should not be delayed pending receipt of proof of the exact amount for the freight charges. Payment for the actual freight charges should be made upon receipt of acceptable proof of the amount; e.g., carrier's freight bill. Such payment may be made at the time of shipment if proof of freight charges has been received by that time; or it may be made subsequently, notwithstanding the fact that payment for the materials (less freight charges) may have been made earlier.

Subpart 5A-73.4—Composition of Federal Supply Schedules

Section 5A-73.404-1 is revised as follows:

§ 5A-73.404-1 General provisions.

Specify in the general provisions (a) prescribed use of the schedule; e.g., geographic coverage, mandatory users, etc., and (b) the forms applicable to the schedule; e.g., SF 32, General Provisions (Supply Contract), GSA Form 1424, GSA Supplemental Provisions, and GSA Form 2891, Instructions to Users of Federal Supply Schedules. GSA Form 2891 is exhibited in § 5A-16.950-2891, and contains provisions applicable to all advertised and multiple award schedules.

PART 5A-76—EXHIBITS

The table of contents for Part 5A-76 is amended to add the following new entry:

Sec.
5A-76.312 BDC Del. 3—Delegation of DO Priority Rating to the Administrator of General Services.

Subpart 5A-76.3—Miscellaneous Exhibits

Section 5A-76.312 is added to set forth Bureau of Domestic Commerce (BDC) Delegation 3 as revised March 26, 1976.

Subpart 5A-76.4—Procurement Assignments

Subpart 5A-76.4 is revised to reflect current procurement assignments.

NOTE.—Copies of the forms illustrated in Part 5A-16 and copies of the exhibits shown in Part 5A-76 are filed with the original document.

(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 Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: November 30, 1977.

ROBERT P. GRAHAM,
Commissioner,
Federal Supply Service.

[FR Doc. 78-270 Filed 1-6-78; 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.

[3410-05]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[7 CFR Part 1464]

TOBACCO

Tobacco Loan Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Commodity Credit Corporation (USDA) is considering changes in the tobacco price support regulations which will modify the limitation on the acreage which as a condition of price support eligibility may be planted to flue-cured tobacco. This document invites all interested parties to submit views and recommendations with respect to the proposed changes.

DATE: Written comments must be received by February 8, 1978, in order to be sure of consideration.

ADDRESS: Send comments to Director, Price Support and Loan Division, ASCS, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Robert P. Hieronymus, 202-447-7601.

SUPPLEMENTARY INFORMATION: Under present regulations set forth in § 1464.7 of this part, a flue-cured tobacco producer to be eligible for price support must, among other things, have not planted flue-cured tobacco on acreage in excess of 110 percent of the acreage allotment established for his farm. Price support is available to eligible producers on 110 percent of the farm marketing quota which is expressed in pounds.

Flue-cured tobacco, which grows on the lower stalk positions, is generally lacking in certain characteristics desired by buyers, particularly export buyers. There is a substantial surplus of the lower stalk grades which constitute about 30 percent of a normal flue-cured tobacco crop. Large portions of the lower stalk marketings of recent years are under price support loans.

Consideration is being given to changing the conditions of price support eligibility to (1) increase the limitation of the acreage, which as a condition of price support eligibility may be planted to flue-cured tobacco, from 110 to 120 percent of the farm acreage allotments of producers who agree not to harvest and do not harvest the 4 lower leaves produced on each stalk of flue-cured tobacco grown on the farm, and (2) decrease such acreage limitation to 100% of the farm acreage allotment of producers who do not enter into or do not comply with such agreements. The larger acreage will enable the producer who does not harvest the 4 lower leaves to increase his production and marketings of upper stalk grades in substitution for lower stalk grades for which demand and prices are expected to be lower.

To the extent producers agree not to harvest the 4 lower leaves, the anticipated grade percentages of the crop will change. There will be larger percentages of the upper stalk grades and correspondingly smaller percentages of the lower stalk grades. The level of support is provided by grade loan rates which, weighted by the respective grade percentages, average the level of support. Because the grade loan rates are higher for the upper stalk grades than for the lower stalk grades, any increase in the anticipated percentage of the upper stalk grades will lower the grade loan rates required to average the level of support. This is demonstrated in the table below, which shows examples of the average grade loan rates which may be applied to provide a level of support of $1.22 a pound, if the anticipated percentage distributions of the upper and lower stalk grades are as shown.

	Anticipated percent	Average Grade Loan Rates	Anticipated percent	Average Grade Loan Rates
		(cents per lb.)		(cents per lb.)
Lower Stalk Grades	30	101	24	99.53
Upper Stalk Grades	70	131	76	129.10
All Grades	100	122.00	100	122.00

Proposed Rule: Accordingly, it is proposed that 7 CFR 1464.7(a) be amended to read as follows:

§ 1464.7 Eligible producers.

(a) All producers of Puerto Rican tobacco are eligible producers, since Puerto Rican tobacco is not under U.S. marketing quotas. All producers of any kind of tobacco for which marketing quotas have been terminated are eligible producers during the periods for which the terminations are effective. Any producer of another kind of tobacco is an eligible producer if:

(1) An acreage allotment or marketing quota has been established for his farm under the applicable regulations issued by the Secretary of Agriculture with respect to marketing quota and acreage allotments (Parts 724, 725, and 726 of this title) for the applicable marketing year;

(2) All the tobacco produced on his farm is produced on acreage which does not exceed the acreage allotment, or if flue-cured tobacco, does not exceed:

(i) The acreage allotment established for his farm, or

(ii) 120 percent of the acreage allotment established for his farm in instances where the producer has left unharvested the 4 lower leaves on each stalk of tobacco produced on his farm and has entered into an agreement to do so with the local ASC county committee in accordance with procedures to be established by the Deputy Administrator, State and County Operations, ASCS; and

(3) If acreage allotments and marketing quotas are in effect for a kind of tobacco, the producer has reported the acreage planted to tobacco on his farm to the local ASC county committee in accordance with regulations issued by the Secretary of Agriculture with respect to determinations of acreage and compliance (Part 718 of this title) for the applicable year, and has complied with any agreement which he may have entered into with the local ASC county committee with respect to not harvesting certain lower stalk leaves of flue-cured tobacco; and

(4) Pesticides containing DDT, TDE, toxaphene and endrin have not been used on the tobacco in the field or after being harvested and the absence of such use of the pesticides has been reported to the local ASC county committee in accordance with applicable

regulations issued under Parts 724, 725, and 726 of this title.

* * * * *

Prior to making any determination, the Department will give consideration to comments, views, and recommendations submitted in writing to the Director, Price Support and Loan Division.

All written submission will be made available for public inspection from 8:15 a.m. to 4:45 p.m. Monday through Friday in Room 3741-South Building, USDA, 14th and Independence Avenue SW., Washington, D.C. 20013.

Signed at Washington, D.C., on December 30, 1977.

STEWART N. SMITH,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 78-322 Filed 1-6-78; 8:45 am]

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 77-NW-31-AD]

AIRWORTHINESS DIRECTIVE

Boeing 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed amendment would supersede an existing Airworthiness Directive, to require repetitive inspections and eventual modification of the two gates of each pressurization system outflow valve assembly on Boeing B-747 airplanes by adding mechanical fasteners to secure the gates to the outflow valve gate hinge. The modification will prevent the loss of the gate due to delamination of the gate-to-hinge bond and prevent the resulting rapid decompression of the airplane in flight.

DATES: Comments must be received on or before February 21, 1978.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket, Docket No. 77-NW-31-AD, 9010 East Marginal Way South, Seattle, Wash. 98108.

FOR FURTHER INFORMATION, CONTACT:

Weston B. Slifer, Systems and Equipment Section, ANW-213, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108 (206-767-2500).

SUPPLEMENTARY INFORMATION: On November 3, 1977, a B-747 airplane, while cruising at 31,000 feet, suffered a rapid depressurization that resulted in a cabin pressure altitude of 19,000 feet. The incident was caused by delamination of a gate-to-hinge bond on one pressurization system outflow valve assembly. On December 8, 1977, Airworthiness Directive, 77-25-06, Amendment 39-3098, (42 FR 63637) was issued to require visual inspection of the gate-to-hinge bond. At that time, it was indicated that an amendment would be issued to require modification by adding mechanical fasteners to secure the gate to the gate hinge, because of the inherent difficulty in performing adequate visual inspections. This Notice proposes such an amendment.

DRAFTING INFORMATION

The principal authors of this document are Weston B. Slifer, Engineering and Manufacturing Branch, Northwest Region, and Jonathan Howe, Regional Counsel, Northwest Region.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend Section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) superseding 77-25-06, Amendment 39-3098 (42 FR 63637) as follows:

BOEING: Applies to Model 747 Series airplanes certificated in all categories and equipped with pressurization system outflow valve assemblies, Boeing P/N 60B00025-3, -11, -12, and -17 (Hamilton Standard P/N 719201-2, -3, -4, -5, -6, -7, -8, and -9). Compliance required as indicated.

To prevent rapid loss of pressurization in flight accomplish the following:

A. Within 350 hours time in service after the effective date of this Airworthiness Directive, unless already accomplished, and thereafter at intervals not to exceed 350 hours time in service until modified in accordance with part B or C of this AD, as applicable, inspect forward and aft gates of each outflow valve assembly in accordance with the instructions contained in Boeing Service Bulletin No. 747-21-2139 dated November 23, 1977, or later revision approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. Gates found with delamination or cracks in the hinge-to-gate bonds must be removed and replaced with a part free of delamination or cracks. Removed gates may be forwarded to Hamilton Standard for further evaluation or modified in accordance with part B or C of this AD, as applicable, prior to being returned to service.

B. Within 1800 hours time in service after the effective date of this Airworthiness Directive modify the outflow valve assemblies, Hamilton Standard P/N 719201-2, -3, -4, and -5, as applicable, in accordance with the instructions contained in Hamilton Standard Service Bulletin H.S. Code 747 AC-16, AC-83, and AC-114 or by an equivalent method approved by the Chief, Engineering and Manufacturing Branch, FAA NW Region.

C. Within 2500 hours time in service after the effective date of this Airworthiness Directive, modify the outflow valve assemblies, Hamilton Standard P/N 719201-6, -7, -8, and -9, as applicable, in accordance with the instructions contained in Hamilton Standard Service Bulletins H.S. Code 747 AC-114 or by an equivalent method approved by the Chief, Engineering and Manufacturing Branch, FAA, Northwest Region.

D. Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, may adjust the inspection compliance time and/or modification compliance time specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

Amendment 39-3098 (42 FR 63637) is hereby superseded.

(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 11.85)

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 Seattle, Wash., on December 28, 1977.

J. H. TANNER,
Acting Director, Northwest Region.

[FR Doc. 78-226 Filed 1-6-78; 8:45 am]

[4910-13]

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 17531]

AIRWORTHINESS DIRECTIVES

British Aircraft Corp. BAC 1-11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require inspection for cracks and repair as necessary of the windshield glazing frame on British Aircraft Corp. Model BAC 1-11 200 and 400 Series airplanes. The proposed AD is needed to detect cracks in the frame which if left undetected and not repaired could result in failure of the adjacent fuselage frame and loss of cabin pressurization.

DATE: Comments must be received on or before February 24, 1978.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Docket No. 17531, 800 Independence Avenue SW., Washington, D.C. 20591.

The applicable service bulletins may be obtained from: British Aircraft Corp., Inc., 13850 McLearen Road, Herndon, Va. 22070, telephone 703, 435-9100.

A copy of the service bulletins is contained in the Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, telephone 513.38.30

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. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. 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. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

There have been reports of cracks in the windshield glazing frame on British Aircraft Corporation Model BAC 1-11 200 and 400 Series airplanes. Concern in this area was originally raised by the manufacturer as a result of the continuing fatigue test program on the aircraft which had established the susceptibility of cracking in this area on high time aircraft. Since this condition is likely to exist or develop on other airplanes of the same type design, the proposed AD would require inspection for cracks and repair as necessary of the windshield glazing frame on British Aircraft Corp. BAC 1-11 200 and 400 series airplanes.

DRAFTING INFORMATION

The principal authors of this document are Mr. F. J. Karnowski, Europe, Africa, and Middle East Region, F. H. Kelley, Flight Standards Service, J. Jeffrey, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

BRITISH AIRCRAFT CORPORATION (BAC). APPLIES TO MODEL BAC 1-11 200 AND 400 SERIES AIRPLANES, CERTIFICATED IN ALL CATEGORIES EXCEPT THOSE AIRPLANES INCORPORATING EITHER BAC MODIFICATION PM 2857, PART (a), OR BAC MODIFICATION PM 3346.

Compliance is required as indicated.

To detect cracking of the windshield glazing frame and prevent possible failure of the adjacent fuselage frame, accomplish the following:

(a) For airplanes that have accumulated less than 25,000 total landings on the effective date of this AD, comply with the following:

(1) Prior to the accumulation of 15,000 landings or within the next 500 landings after the effective date of this AD, whichever occurs later, unless accomplished within the previous 2,000 landings, visually inspect the windshield glazing frame for cracks internally and externally in accordance with the instructions contained in Section 4, entitled "Guidance to Operators" of British Aircraft Corp. Alert Service Bulletin 53-A-PM5425, issue 2, dated December 1, 1976 (hereinafter ASB 53-A-PM5425) or an FAA-approved equivalent.

(2) Repeat the inspection specified in paragraph (a)(1) of this AD at intervals not to exceed 2,500 landings from the last inspection until 25,000 landings are accumulated, and thereafter comply with the inspection interval specified in paragraph (b) of this AD.

(b) For airplanes that have accumulated 25,000 landings or more on the effective date of this AD, inspect the area in accordance with paragraph (a)(1) of this AD within the next 250 landings after the effective date of this AD, unless accomplished within the last 750 landings, and thereafter continue to inspect the area at intervals not to exceed 1,000 landings from the last inspection.

(c) If cracks are found, that do not extend forward of the cutouts for the windshield wiper shafts, during any inspection required by this AD, accomplish the repair modification specified in BAC Modification PM2857, Part (a), or an FAA-approved equivalent:

(1) Within the next 750 landings after discovery of the cracks on airplanes with less than 25,000 landings at the time of the inspection.

(2) Within the next 250 landings after discovery of the cracks on airplanes with 25,000 or more landings at the time of the inspection.

(d) If cracks are found, during any inspection required by this AD, that extend forward of the cutouts for the windshield wiper shafts (refer to Figure 1) of ASB 53-A-PM5425), before further flight, except that the aircraft may be flown in accordance with FAR 21.197 and FAR 21.199 to a base where the work can be accomplished, accomplish the repair modification specified in BAC Modification PM 2857, Part (a) of an FAA-approved equivalent.

(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)); 14 CFR 11.85.)

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 December 29, 1977.

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

[FR Doc. 78-328 Filed 1-6-78; 8:45 am]

[4910-13]

[14 CFR Part 39]

[Docket No. 17533]

AIRWORTHINESS DIRECTIVES

British Aircraft Corp., BAC 1-11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt an airworthiness directive (AD), that would require inspection for cracks and repair as necessary of the rear passenger door leading to the ventral exit on certain British Aircraft Corp. BAC 1-11 200 and 400 Series airplanes. The AD is prompted by reports of cracks, which could result in cabin depressurization.

DATE: Comments must be received on or before February 24, 1978.

ADDRESS: Send comments on the proposal to: Federal Aviation Administration, Office of the Chief Counsel, Attn.: Rules Docket (AGC-24) Docket No. 17533, 800 Independence Avenue SW., Washington, D.C. 20591.

The applicable service bulletin may be obtained from: British Aircraft Corp., Inc., 399 Jefferson Davis Highway, Arlington, Va. 22202, telephone 703-979-1400.

A copy of the Service Bulletin is contained in the Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, telephone 513.38.30.

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. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

There have been reports of cracking of the skin and structure of the rear passenger door in the pressure bulkhead of high time BAC 1-11 200 Series airplanes which if left undetected and unrepaired could result in lowering the structural integrity of the pressure vessel to a hazardous level. Since this condition is likely to exist or develop on other airplanes of the same type design, the proposed AD would establish a threshold based on landings (pressure cycles), for initial and recurrent inspections of the door skin and structure and specify repairs as necessary.

DRAFTING INFORMATION

The principal authors of this document are F. J. Karnowski, Europe, Africa, and Middle East Region, F. H. Kelley, Flight Standards Service and P. Lynch, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13), by adding the following new Airworthiness Directive:

BRITISH AIRCRAFT CORPORATION. Applies to Model BAC 1-11 200 and 400 Series airplanes certificated in all categories, which have a rear passenger door installed in the aft pressure bulkhead.

Compliance is required as indicated.

To detect cracking and prevent possible failure of the door structure under pressure loads, accomplish the following:

(a) Prior to accumulating 30,000 landings or within 800 flight hours time in service after the effective date of this AD, whichever occurs later unless accomplished within the last 800 flight hours, and thereafter at intervals not to exceed 800 flight hours from the last crackfree inspection, inspect the passenger door in the aft pressure bulkhead for cracks in accordance with paragraph 2.2 of the section entitled "Accomplishment Instructions" of British Aircraft Corp. Alert Service Bulletin 52-A-PM5448, issue 2, dated July 4, 1977, or an FAA-approved equivalent.

(b) If horizontal cracks are found during the inspection required by paragraph (a) of this AD which do not exceed the combined limitations of (b)(1) and (b)(2) noted below, the doors may remain in service provided the cracks are stop drilled and inspected for crack propagation at intervals not to exceed 50 flight hours from initial crack detection.

(1) Cracks in the skin panel must not exceed 3 inches in length and must be limited to one crack per bay or one crack adjacent to and on either side of a horizontal member of the primary backup structure of the door.

(2) Cracks in the horizontal members of the primary backup structure which are parallel to and between the heel line and lightening holes must not exceed 2 inches in length, must be limited to one crack per horizontal member and adjacent horizontal members must be crackfree.

(c) If horizontal cracks are found during the inspection required by paragraph (a) of this AD which do not exceed the combined limitations noted in (c)(1) and (c)(2) below, the doors may remain in service provided the cracks are stop drilled and inspected for crack propagation at intervals not to exceed 50 flight hours from initial crack detection and the cabin pressure differential is limited to a maximum of 5.5 pounds per square inch for flight operations with cracks unrepaired.

(1) Cracks in the skin panel must not exceed 6 inches in length and must be limited to one crack per bay or one crack adjacent to and on either side of a horizontal member of the primary backup structure of the door.

(2) Cracks in the horizontal members of the primary backup structure are of the type and do not exceed the limitations of paragraph (b)(2) of this AD.

(d) Within 300 flight hours from the initial detection of a skin crack in excess of 3 inches in length, repair cracks in doors which are allowed to remain in service subject to the conditions in paragraphs (b) and (c) of this AD in accordance with sections 51-20-0 and 52-02-5 of the Structural Repair Manual for the Model, and thereafter continue to inspect the door in accordance with paragraph (a) of this AD at intervals not to exceed 800 flight hours time in service.

(e) If cracks are found during any of the inspections required by this AD that exceed the limitations specified in subparagraphs (b)(2) or (c)(1) of this AD, or are of a type which extend across the door frame, vertically across horizontal members from a lightening hole to the heel line of the horizontal member, or between lightening holes, before further pressurized flight, repair the cracks in accordance with sections 51-20-0 and 52-02-5 of the Structural Repair Manual for the Model and theraftter continue to inspect the door in accordance with paragraph (a) of this AD at intervals not to exceed 800 flight hours from the time of the repair.

(f) Upon incorporation of British Aircraft Corp. Modificatin 52-PM 5448, compliance with this AD is no longer required.

(g) For the purpose of complying with this AD where number of landings has not been recorded, subject to acceptance by the assigned FAA maintenance inspector, the number of landings may be determined by dividing the total airplane flight hours by the operator fleet average time from takeoff to landing for the airplane type.

NOTE.—For additonal clarification of types of cracking to be expected and crack limitations, refer to British Aircraft Corp. Alert Service Bulletin 52-A-PM5448, issue 2 (pages 1 and 2), dated July 4, 1977, and issue 1 (pages 3-5), dated March 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); 14 CFR 11.85).)

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 December 29, 1977.

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

[FR Doc. 78-330 Filed 1-6-78; 8:45 am]

[4910-13]

[14 CFR Part 39]

[Docket No. 77-CE-25-AD]

AIRWORTHINESS DIRECTIVE

Cessna 402B, 421B, and 421C Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This notice proposes to add an Airworthiness Directive (AD), that would require structural reinforcement of Enviroform type passenger seats in certain Cessna Model 402B, 421B, and 421C airplanes to preclude failure which could result in injury in those situations where the seats and seat belts are relied on to restrain the passengers.

DATE: Comments must be received on or before February 16, 1978.

ADDRESSES: Send comments on the proposal to: FAA Central Region, Office of the Regional Counsel, ACE-7, Attn: Rules Docket Clerk, Docket No. 77-CE-25-AD, 601 East 12th Street, Kansas City, Mo. 64106.

Cessna multiengine Service Letter No. ME77-30 dated October 31, 1977, applicable to this proposal may be obtained from Cessna Aircraft Co., Marketing Division, Attn: Customer Service Department, Wichita, Kans. 67201, telephone 316-685-9111. A copy of the service instructions cited above is contained in the Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591, and at the Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Mo. 64106.

FOR FURTHER INFORMATION CONTACT:

William L. Schroeder, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3446.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons are invited to participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the AD Docket Number, and be submitted in duplicate to the address specified above. All comments received on or before the closing date for comments will be considered by the Administrator before action is taken on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments received 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 NPRM by submitting a request to the FAA, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA has received reports on Cessna Models 402B and 421B airplanes in which structural failure of Enviroform type passenger seats occurred when occupants were entering or exiting the seats under normal conditions. Inspection of the failed seats shows that separation of the seat and back assembly (upper part), from the pedestal (bottom part), was due to improper bonding during manufacture. Seat belts on Enviroform type seats are anchored to the seat and back assembly (upper part). Failure of the bond between this portion of the seat and the pedestal (bottom part), at a time when seat belts are relied on to restrain occupants could result in injuries. In view of the lack of an acceptable inspection technique for the bonded area in question the manufacturer has issued Cessna Service Letter ME77-30 making available a structural reinforcement, consisting of an aluminum ring, seventeen screws, washers and nuts for in-service Enviroform type seats suspected of having improper bonds. The manufacturer is now applying a proof load to each Enviroform type seat manufactured for current production airplanes to assure the integrity of the bond. The FAA has concluded that improper bonding on in-service Enviroform seats is an unsafe condition that is likely to exist on other airplanes of the same type design. Accordingly, an AD is being proposed that would require installatio of the structural reinforcement of all Enviroform type passenger seats in the cabins of certain Cessna Model 402B, 421B, and 421C airplanes manufactured prior to the time when the manufacturer began proof loading each seat produced. Accomplishment of the structural reinforcement proposed herein will correct the existing unsafe condition noted herein.

DRAFTING INFORMATION

The principal authors of this document are: William L. Schroeder, Flight Standards Division, Central Region, and John L. Fitzgerald, Jr., Office of the Regional Counsel, Central Region.

THE PROPOSED AMENDMENT

Accordingly, the FAA proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13), by adding the following new airworthiness directive:

Cessna. Applies to the following models and serial numbered airplanes certified in all categories:

Model and Serial Numbers

402B—402B0802, 402B0806, 402B0810 thru 402B0812, 402B0814, 402B0817, 402B0818, 402B0820, 402B0822 thru 402B0824, 402B0826, 402B0829, 402B0834, 402B0837, 402B0840, 402B0841, 402B0844 thru 402B0849, 402B0851 thru 402B0853, 402B0855, 402B0860, 402B0861, 402B0865 thru 402B0867, 402B0869, 402B0871 thru 402B0873, 402B0875, 402B0877, 402B0881, 402B0882, 402B0886, 402B0888, 402B0889, 402B0891 thru 402B0893, 402B0895, 402B0897, 402B0899, 402B0903, 402B0906, 402B0910, 402B0914 thru 402B0919, 402B0921, 402B0922, 402B0928 thru 402B0930, 402B0932, 402B0933, 402B1002, 402B1006, 402B1011, 402B1014, 402B1016, 402B1018, 402B1020, 402B1023, 402B1025, 402B1026, 402B1028, 402B1034, 402B1045, 402B1046.

421B—421B0833, 421B0878, 421B0880, 421B0913, 421B0942, 421B0943.

421C—421C0026, 421C0054.

Compliance: Required as indicated unless already accomplished.

To assure structural integrity of the bond between seat and seat back assemblies (upper part), to seat pedestal (bottom part), assemblies of Enviroform type passenger seats, within the next 100 hours time-in-service after the effective date of this AD, accomplish the following in accordance with Cessna Service Letter No. ME77-30 dated October 31, 1977 or later approved revisions and Cessna Service Kit No. SK 421-78 or later approved revisions:

(A) Install the structural reinforcement provided with Cessna Service Kit SK 421-78 on each Enviroform type passenger seat in the cabin of airplanes affected by this AD.

(B) The 100 hour compliance time for paragraph "A" may be extended up to a maximum of 110 hours time-in-service to allow compliance at previously scheduled maintenance periods.

(C) Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

(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 Sec. 11.89 of the Federal Aviation Regulations (14 CFR 11.85).)

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, Mo., on December 29, 1977.

JOHN E. SHAW,
Acting Director, Central Region.

[FR Doc. 78-333 Filed 1-6-78; 8:45 am]

[4910-13]

[14 CFR Part 39]

[Docket No. 77-NE-27]

AIRWORTHINESS DIRECTIVES

Pratt & Whitney R985 Aircraft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice (NPRM) proposes to adopt an Airworthiness Directive that would require inspection of cylinder heads on Pratt & Whitney R985 model engines. The proposed AD is needed to provide a more positive means of detecting cracked cylinder heads than is currently required by AD 76-20-01, which will be canceled upon publication of the proposed AD.

DATE: Comments must be received on or before February 9, 1978.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, New England Region, Attention: Rules Docket No., 12 New England Executive Park, Burlington, Mass. 01803.

The applicable service bulletin may be obtained from: Pratt & Whitney Aircraft Group, Division of United Technologies Corp., 400 Main Street, East Hartford, Conn. 06108.

A copy of the service bulletin is contained in the Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591, or Rules Docket, Office of the Regional Counsel, New England Region, 12 New England Executive Park, Burlington, Mass. 01803.

FOR FURTHER INFORMATION CONTACT:

Lewis Smith, 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: Amendment 39-2728 (41 FR 41685) AD 76-20-01 currently requires a visual inspection and water pressure test of R985 cylinder assemblies. After issuing Amendment 39-2728 the FAA has determined that cracks continue to occur even shortly after these inspections have been made. Therefore, the FAA is proposing to cancel AD 76-20-01 and issue a new one to provide a more detailed visual inspection, and to replace the water pressure test with an ultrasonic test. Interested persons are invited to participate in the making of the proposed amendment by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed amendment. 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. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

DRAFTING INFORMATION

The principal authors of this document are Lewis Smith, Propulsion Section, Engineering and Manufacturing Branch, and George L. Thompson, Office of the Regional Counsel, New England Region.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

PRATT & WHITNEY AIRCRAFT: Applies to Pratt & Whitney Aircraft Wasp, Jr. and R985 model engines.

Compliance required as indicated, unless already accomplished.

To prevent cylinder head separation from the barrel, perform the following in accordance with Pratt & Whitney Aircraft Service Bulletin Number 1785 or later FAA approved revision:

1. Visually inspect cylinder heads in accordance with Part B of the bulletin as follows:

A. Cylinders not ultrasonically inspected—inspect within 50 hours time in service after effective date of this AD, and thereafter at intervals not to exceed 100 hours times in service.

B. Cylinders ultrasonically inspected—inspect within 150 hours time in service after effective date of this AD, and thereafter at intervals not to exceed 150 hours time in service.

2. Remove visibly cracked cylinders and cylinders with black combustion leakage from service before further flight.

3. After the effective date of this AD, inspect all cylinder assemblies, prior to installation on an engine, by the ultrasonic test procedure in Part A of Service Bulletin 1785 or equivalent method approved by the Chief, Engineering and Manufactureing Branch, FAA, New England Region.

4. Remove from service cylinders which show cracks in excess of the limits of Part A, Section IV, of the bulletin.

NOTE.—Cylinders which have been ultrasonically tested are stamped "UT" over the intake port.

The manufacturer's service bulletin identified and described in this directive is incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

(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); 14 CFR 11.85.)

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 107.

Issued in Burlington, Mass., on December 29, 1977.

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

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

[FR Doc. 78-342 Filed 1-6-78; 8:45 am]

[4810-22]

DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Part 153]

ANTIDUMPING

Proposed Amendments Pertaining to Merchandise From State-Controlled-Economy Countries

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Proposed rulemaking.

SUMMARY: These proposed amendments would modify procedures as they relate to investigations under the Antidumping Act, 1921, as amended, covering merchandise imported from state-controlled-economy countries. The amendments would provide that when merchandise from a state-controlled-economy country is being compared with the constructed value of merchandise in a non-state-controlled-economy country or countries, adjustments may be made to reflect differences in economic factors between the state-controlled-economy country and a non-state-controlled-economy country. Such a procedure would tend to recognize and preseve any relative efficiencies or natural advantages in the state-controlled-economy country. In addition, the requirements for a petition covering merchandise from a state-controlled-economy country to be in satisfactory form are proposed to be modified.

EFFECTIVE DATE: Comments must be received on or before: February 8, 1978.

ADDRESS: Comments must be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229

FOR FURTHER INFORMATION CONTACT:

Theodore Hume, Office of the General Counsel, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, D.C., 20220 202-566-2941.

SUPPLEMENTARY INFORMATION: The Trade Act of 1974 amended the Antidumpting Act, 1921, as amended (19 U.S.C. 160 et. seq.) (hereafter referred to as "the Act") by providing that where information indicates that:

"The economy of the country from which the merchandise is exported is state-controlled to an extent that sales or offers of sales of such or similar merchandise in that country or to countries other than the United States do not permit a determination of foreign market value under subsection (a), the Secretary shall determine the foreign market value of the merchandise on the basis of the normal costs, expenses, and profits as reflected by either—

(1) The prices, determined in accordance with subsection (a) and section 202, at which such or similar merchandise of a non-state- controlled-economy country or countries is sold either (A) for consumpton in the home market of that country or countries, or (B) to other countries, including the United States; or

(2) the constructed value of such or similar merchandise in a non-state-controlled-economy country or countries as determined under section 206." (19 U.S.C. 164(c))

Section 153.7 of the Customs Regulations (19 CFR 153.7) reflects the statutory language in Section 205(c) (19 U.S.C. 164(c)).

Based upon experience since enactment of the Trade Act of 1974 and in an effort to make comparisons on more equivalent and realistic bases, consistent with the Act, it has been concluded that § 153.7 of the Customs Regulations (19 CFR 153.7) should be amended. It is proposed that if such or similar merchandise is sold in a non-state-controlled-economy country or countries which is (are) concluded to be comparable in terms of economic

development to the state-controlled-economy country under investigation, then, for comparison purposes, prices will be used at which such or similar merchandise is sold either (1) for consumption in the home market of that country or countries, or (2) to other countries, including the United States. If such or similar merchandise is not sold in a non-state-controlled-economy country having a level of economic development comparable to that in the state-controlled-economy country under investigation, then generally the constructed value of such or similar merchandise in a non-state-controlled-economy country or countries will be employed, with adjustments to that constructed value for differences in economic factors as reflected by the normal costs in a non-state-controlled-economy country or countries determined to be comparable in terms of economic development to the state-controlled-economy country under investigation.

Alternatively, in the situation where constructed value is being employed, adjustments may be made for difference in cost of production as reflected by the costs of specific factors of production in a non-state-controlled-economy country or countries determined to be comparable in economic development to the state-controlled-economy country under investigation. Such specific objective factors, as hours of labor required, quantity of materials employed, and amount of energy consumed, in the state-controlled-economy country would have to be verified to the satisfaction of the Secretary and then could be valued in the more comparable non-state-controlled-economy country or countries where production of such or similar merchandise is not actually occurring.

In the case of § 153.27(a)(3)(ii) of the Customs Regulations (19 CFR 153.27(a)(3)(ii)), it is proposed that if the class or kind of merchandise in question is exported from a state-controlled-economy country, the information specified in the regulations should include not only the information presently set forth in § 153.27(a)(3)(ii), but also constructed value information of such or similar merchandise produced in a non-state-controlled-economy country, including the United States, if constructed value information for such or similar merchandise in another non-state-controlled-economy country is not available. It is also proposed that § 153.27(a)(3)(iii) (19 CFR 153.27(a)(3)(iii)) be amended to reflect the changes in § 153.27(a)(3)(ii).

Accordingly, it is proposed that section 153.7 and § 153.27(a)(3) (ii), (iii) of the Customs Regulations (19 CFR 153.7, 153.27(a)(3) (ii), (iii)) be revised to read as follows:

§ 153.7 Merchandise from state-controlled-economy country

If the information available indicates to the Secretary that the economy of the country from which the merchandise is exported is state-controlled to an extent that sales or offers of sales of such or similar merchandise in that country or to countries other than the United States do not permit a determination of fair value under §§ 153.2, 153.3, 153.4, the Secretary shall determine fair value in the basis of the normal costs, expenses, and profits as reflected by either:

(a) The prices, determined in accordance with section 205(a) and section 202 of the Act (19 U.S.C. 164(a), 161) at which such or similar merchandise of a non-state-controlled-economy country or countries, including the United States, is sold either (1) for consumption in the home market of that country or countries, or (2) to other countries, including the United States; or

(b) In cases where such or similar merchandise is not produced in a non-state-controlled-economy country or countries which is (are) concluded to be comparable in terms of economic development to the state-controlled-economy country from which the merchandise is exported, the constructed value of such or similar merchandise in a non-state-controlled-economy country or countries, including the United States, as determined under section 206 of the Act (19 U.S.C. 165), will be used for comparison purposes.

(1) When constructed value is used, the constructed value of such or similar merchandise in a non-state-controlled-economy country may be adjusted for differences in economic factors between the non-state-controlled-economy country or countries actually producing such or similar merchandise and a non-state-controlled-economy country or countries determined to be comparable in terms of economic development to the state-controlled-economy country under investigation. Such adjustments to the constructed value will be based upon differences in normal costs of producing the subject merchandise between the non-state-controlled-economy countries being compared.

(2) Alternatively, when constructed value is used, the constructed value of such or similar merchandise in a non-state-controlled-economy country may be adjusted for differences in cost of production as reflected by differences in the costs of specific objective components or factors of production. Such specific components or factors of production, including but not limited to, hours of labor required, quantities of raw materials employed, and amount of energy consumed, will be obtained from the state-controlled-economy country under investigation. If verification of such figures in the state-controlled-economy country is concluded to the satisfaction of the Secretary, such components or factors may be valued in a non-state-controlled-economy country determined to be comparable in economic development to the state-controlled-economy country under investigation. In addition to the values thus obtained an amount for general expenses and profits, as required by section 206(a)(2) of the Act (19 U.S.C. 165(a)(2)), will be made.

(c) The prices or the constructed value of the United States produced merchandise generally will be utilized where sales of such or similar merchandise in any other non-state-controlled-economy country are not available or do not provide an adequate basis for comparison.

§ 153.27 Suspected dumping; nature of information to be made available

(a) *General.* * * *

(3) *Price Information; fair value.* * * *

(ii) If the merchandise is being exported from a state-controlled-economy country,

(*a*) The price or prices at which such or similar merchandise of a non-state-controlled-economy country or countries is sold for consumption in the home market of that country or countries or to other countries (including the United States if such or similar merchandise is not sold or offered for sale in any other non-state-controlled-economy country), and

(*b*) The constructed value of such or similar merchandise in a non-state-controlled-economy country (including the United States if constructed value information from any other non-state-controlled-economy country is not available), such constructed value to be determined in accordance with § 153.7(b).

(iii) If the information required under paragraph (a)(3)(i) is not available, the constructed value (as defined in section 206 of the Act (19 U.S.C. 165)) of such merchandise in the country of exportation.

* * * * *

The Customs Service invites comments from all interested persons on the proposed amendments to the Customs Regulations. Comments submitted will be available for public inspection in accordance with § 103.8(b) of the Customs Regulations (19 CFR 103.8(b)) during regular business hours at the Regulations and Legal Publications Division, Headquarters, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

R. E. CHASEN,
Commissioner of Customs.

Approved: December 30, 1977.

HENRY STOCKELL,
Acting General Counsel of the Treasury.

[FR Doc. 78-417 Filed 1-6-78; 8:45 am]

[4810-22]

Customs Service

[19 CFR Part 153]

ANTIDUMPING PETITIONS

Proposed Amendments Pertaining to Requirements

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Proposed Rulemaking.

SUMMARY: This proposed amendment would modify the requirements for petitions being filed under the Antidumping Act, 1921, as amended. For a petition to be considered to have been received in acceptable form, additional information should be included indicating a loss of sales, actual or anticipated, or price depression or suppression by reason of the alleged sales or offers for sale of less than fair value imports. The purpose of this proposed amendment is to allow the Department to consider adequately whether, and to what extent, a causal link exists between the alledged less than fair value imports and any resulting injury as specified in the act.

EFFECTIVE DATE: Comments must be received on or before February 8, 1978.

ADDRESS: Comments must be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Theodore Hume, Office of the General Counsel, U.S. Treasury Department, 1500 Pennsylvania Avenue NW., Washington, D.C. 20220, 202-566-2941.

SUPPLEMENTARY INFORMATION: The Antidumping Act of 1921, as amended by the Trade Act of 1974, provides that if the Secretary, in making a determination as to whether to initiate an antidumping investigation concludes that:

> There is substantial doubt whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States, he shall forward to the Commission the reasons for such substantial doubt (19 U.S.C. 160(d)(2)).

In order to assist the Treasury Department in concluding whether there is "substantial doubt," present regulations provide that certain injury information should be supplied for a communication (hereinafter referred to as a "petition"), to have been received in acceptable form and to make sufficient allegations to warrant a formal full-scale investigation (19 CFR 153.27(a)). Based upon experience since the Trade Act of 1974, it has been decided that it would further assist the Treasury Department in fulfilling its responsibilities under the law, to seek information which more specifically relates to the causal link, the "by reason of," between the alleged less than fair value imports and any injury being suffered by the United States industries concerned.

In order to allow the Department to consider adequately whether, and to what extent, such a causal link exists, it is proposed that § 153.27(a)(4)(vi) of the Customs Regulations (19 CFR 153.27(a)(4)(vi)), be amended to indicate as information which should be included in a petition, information showing whether there have been, or are anticipated to be, either a loss of sales as a direct result of sales or offers for sale of the specific less than fair value imports alleged, or a depression or suppression of prices directly occasioned by sales or offers for sale of such imports.

Accordingly, it is proposed to revise § 153.27(a)(4)(vi) of the Customs Regulations (19 CFR 153.27(a)(4)(vi)), to read as follows:

§ 153.27 Suspected dumping; nature of information to be made available.

(a) * * *

(4) * * *

(vi) Information which indicates specifically either that sales have been, or are likely to be, lost as a direct result of the sales alleged to be at less than fair value, or that sales or offers for sale of such merchanise alleged to be sold at less than fair value have directly caused price depression or suppression. Additionally, information concerning any margin of underselling of the less than fair value imports, i.e., the extent to which the price discrimination permits the foreign exporter to undersell or offer to undersell the domestic merchandise. Such information, with details, should be supplied for the petitioner and for the industry.

* * * * *

The Customs Service invites comments from all interested persons on the proposed amendments to the Customs Regulations. Comments submitted will be available for public inspection in accordance with § 103.8(b) of the Customs Regulations (19 CFR 103.8(b)), during regular business hours at the Regulations and Legal Publications Division, Headquarters, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

R. E. CHASEN,
Commissioner of Customs.

Approved: December 30, 1977.

HENRY STOCKELL,
Acting General Counsel of the Treasury.

[FR Doc. 78-481 Filed 1-6-78; 8:45 am]

[7708-01]

PENSION BENEFIT GUARANTY CORPORATION

[29 CFR Parts 2605 and 2608]

MANDATORY EMPLOYEE CONTRIBUTIONS

Proposed Rulemaking

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Proposed Rule.

SUMMARY: This is a proposed amendment to the Guaranteed Benefits regulation and the Interim Regulation on Allocation of Assets. If adopted, the amendment to the Guaranteed Benefits regulation would allow the Pension Benefit Guaranty Corporation to guarantee a plan benefit that returns a participant's mandatory employee contributions upon the participant's death or to pay to a participant in a terminating pension plan the value of the benefit derived from his or her own mandatory contributions in a single installment, if the participant so elects. The effect of the amendment is to better conform the PBGC's guarantee to the intent of the Employee Retirement Income Security Act of 1974 and to permit distributions of mandatory employee contributions in a single installment consistent with plan provisions.

The amendment is necessary because the Guaranteed Benefits regulation (1) does not permit the Pension Benefit Guaranty Corporation to pay in a single installment guaranteed benefits with a value greater than $1,750; and (2) does not explicitly provide for the PBGC to guarantee the return of an employee's mandatory employee contributions upon his or her death. The effect of the amendment will be to: (1) Assure participants of the return of their mandatory contributions upon death even if their plan terminates without sufficient funds to cover the death benefit; and (2) allow participants in terminating pension plans to elect to receive all of their mandatory contributions to the plan in a single lump-sum payment, in lieu of the pension attributable to those contributions.

The amendment to the Allocation of Assets regulation is necessary to implement the Pension Benefit Guaranty Corporation's proposal to guarantee

the benefit in a pension plan that returns, upon an employee's death, all or a portion of his or her mandatory contributions that remain in the plan. The effect of the amendment is to make the return of the employee's contributions a guaranteeable type of benefit for purposes of allocating plan assets.

The proposal contains other technical changes in the Allocation of Assets regulation that are designed to clarify the treatment of mandatory employee contributions and to assure that the portion of a participant's benefits attributable to his or her mandatory employee contributions does not change upon termination of the plan.

DATES: Comments must be received on or before February 23, 1978.

ADDRESSES: Send comments to the Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, D.C. 20006. Written comments will be available for public inspection in the PBGC's Office of Communications, at the same address, on weekdays between 9 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT:

Gerald E. Cole, Jr., Special Counsel, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, D.C. 20006; telephone 202-254-4895.

SUPPLEMENTARY INFORMATION:

GUARANTEED BENEFITS

The return of a participant's mandatory employee contributions upon his or her death is not guaranteed in all cases under the existing Guaranteed Benefits regulation. The Pension Benefit Guaranty Corporation ("PBGC") has reexamined this issue in light of the provisions in Titles I and II of the Employee Retirement Income Security Act of 1974 ("Act") that address mandatory employee contributions and the Internal Revenue Service minimum vesting regulations, and the PBGC has determined that return of an employee's mandatory contributions upon the employee's death is an integral part of the employee's accrued benefit derived from his or her mandatory contributions to the plan. Accordingly, the PBGC proposes to amend §§ 2605.4(c), 2605.5(a), 2605.6(a), and 2605.8(c) of the Guaranteed Benefits regulation in order to guarantee a benefit under a pension plan that provides for the return of mandatory employee contributions upon an employee's death. The guarantee applies both to pre-retirement and post-retirement returns.

Benefits that qualify for the guarantee are only guaranteed to the extent they do not exceed the limitations on PBGC's guarantee contained in § 4022(b) of the Act, which are implemented by the Limitations on Guaranteed Benefits regulation (Part 2610 of this chapter). The existing Limitations on Guaranteed Benefits regulation includes a method of determining the guarantee limits for a form of annuity that includes a death benefit (e.g., a joint and survivor annuity or a cash refund annuity). PBGC will amend the regulation to provide other limits for cases in which a participant is entitled both to an annuity and to a return of employee contributions upon death that is not included in the form of the annuity payable at retirement. The new limits may result in less than a full guarantee of the annuity, the death benefit, or both, in cases in which an employee's accumulated contributions are very large.

The proposal also addresses return of mandatory employee contributions at the request of the employee. Many participants in terminating pension plans have asked for return of their accumulated mandatory employee contributions. In many cases, the PBGC has been unable to return the guaranteed portion of an employee's accumulated mandatory contributions because the existing regulation does not permit lump-sum payments from an insufficient plan if the value of a participant's guaranteed benefits under the plan exceeds $1,750. Therefore, the PBGC also proposes to amend 29 CFR 2605.8(b) by adding a new subparagraph (2), which would allow payment in one or more installments of the portion of an employee's guaranteed benefit attributable to his or her own contributions, if the employee so elects, and if such payment is consistent with the plan's provisions.

Payment in the installment(s) would be in lieu of the guaranteed benefits derived from manadatory employee contributions. To receive the value of the basic-type benefit in one or more installments, instead of as an annuity or death benefit, the individual must so elect before the sixty-first (61st) day after the date the individual receives notice that he or she may elect payment in one or more installments.

ALLOCATION OF ASSETS

Benefits derived from an employee's mandatory contributions, including the return of those contributions upon the employee's death, are in the second priority category in the allocation of assets. (29 CFR 2608.7, 42 FR 48480, Nov. 3, 1976). Under the existing Allocation of Assets regulation, a benefit that returns an employee's mandatory contributions if he or she dies before retirement is treated as a non-basic, i.e., non-guaranteable, type benefit. Since PBGC proposes to guarantee the return of employee contributions upon death, it is necessary to change priority category 2 to treat the return of contributions as a basic type benefit instead of a non-basic type benefit.

As explained in PBGC's original proposal on allocation of assets (40 FR 51368, Nov. 4, 1975), the priority category 2 non-basic type benefit consisits of two components. The first component is the value of returning an employee's contributions in the event he or she dies before retiring. The second component is a valuation surplus that arises, in part, because the factors used by PBGC to determine the value of the basic type priority category 2 benefit may reflect less conservative assumptions than those used to value the benefit in on-going plans. A valuation surplus may also arise because a particular participant's accrued benefit derived from mandatory employee contributions is subject to the limitation contained in § 204(c)(2)(E) of the Act. Under this proposal the component attributable to the return of an employee's contributions upon death will be changed from a non-basic type to a basic type benefit.

For example, a participant in a terminated plan has accumulated mandatory employee contributions of $9,000 ($6,000 of contributions plus $3,000 of interest). The participant's accrued benefit under the plan is $300 per month, of which $200 per month is derived from the employee's mandatory contributions. The value of the $200 per month employee-provided benefit is $5,000. The plan also provides for return of the employee's accumulated contributions upon death before retirement. The value of this death benefit is $1,500. The value of the participant's basic type priority category 2 benefit under this proposal would be $6,500, which is the sum of the value of the employee-provided annuity ($5,000) and the value of the death benefit ($1,500). The value of the non-basic type priority category 2 benefit under this proposal would be $2,500, which is the excess of the participant's accumulated contributions over the value of the basic type priority category 2 benefit ($9,000 minus $6,500). If plan assets are sufficient to cover all priority category 2 benefits, the participant or beneficiary will receive $2,500, the value of the non-basic type benefit, in addition to the basic type benefit. Under the existing Allocation of Assets regulation, the value of the non-basic type category 2 benefit is $4,000, instead of $2,500. The difference of $1,500 is the value of the pre-retirement death benefit.

Assets allocated to a participant's non-basic type priority category 2 benefits may either be paid to the participant (or beneficiary) or used to provide additional benefits which the participant (or beneficiary) would not receive otherwise. In no event may

those assets be used to reduce the amount of plan assets allocated to the participant's employer-provided benefits or to increase the benefits payable to other participants. When PBGC is trustee of a plan, it will distribute to participants (or beneficiaries) in a single installment the assets allocated to their non-basic type priority category 2 benefits. Administrators of other plans may also distribute in a lump-sum assets allocated to such benefits.

In addition to changing the death benefit from a non-basic type to a basic type benefit, the proposal contains two other substantive changes in the existing allocation rules. The first change is a change in the amount of interest on mandatory employee contributions that is included in priority category 2. The purpose of the change is to make the priority category 2 rules consistent with Internal Revenue Service rules implementing § 204(c) of the Act and § 411(c) of the Internal Revenue Code, which deal with the allocation between employer and employee-provided benefits. The proposal would change the rules in § 2608.7(b) of the existing regulation so that the amount of interest in priority catgory 2 would be the amount of interest, if any, credited on mandatory contributions under the plan, or, if greater, the amount of interest that is required under §§ 204(c) or 411(c). This change is necessary because the existing regulation credits every participant's contributions with interest of 5 percent after the plan becomes subject to § 204(c) of the Act or § 411(c) of the Code, even though a particular terminating plan might credit interest either (1) at a rate geater than 5 percent or (2) at a rate less than 5 percent if the paticipant's accrued benefit derived from mandatory employee contributions is subject to the limitation contained in § 204(c)(2)(E) of the Act (limitation on accrued benefit derived from mandatory employee contributions).

For example, a participant's mandatory employee contributions in a terminated plan total $5,400. Interest is not credited to the participant's contributions under the plan. The participant's accrued benefit under the plan and the benefit derived from mandatory employee contributions (without interest) each equal $45 per month ($5,400 in contributions converted to a monthly benefit using the Internal Revenue Service rules). The value of this benefit is $920. The plan also provides a benefit of $5,400 payable upon death before retirement which has a value of $620. The value of the basic type priority category 2 benefit under this proposal would be $1,540 ($920 plus $620). The value of the non-basic type benefit would be $3,860 ($5,400—total mandatory employee contributions, minus $1,540—the value of the basic type priority category 2 benefits). Interest is not credited on the participant's mandatory contributions because (1) the plan does not credit interest and (2) interest is not required under the minimum vesting standards. Under the existing regulation, the non-basic type benefit would be more than $3,860 because the employee contributions of $5,400 would be credited with 5 percent interest for all years that the plan was subject to section 204(c) of the Act.

The second change would revise the rules in existing § 2608.7(d), which concern reductions in accumulated mandatory employee contributions for the cost of life insurance, health insurance, or other ancillary type benefits that are provided by those contributions. Internal Revenue Service rules implementing the minimum vesting standards do not deduct from accumulated mandatory employee contributions the cost of ancillary type benefits that are provided by those contributions. Therefore, the proposal would change the allocation of assets regulation by substituting for existing § 2608.7(d) two new sections, 2608.7(b)(3) and 2608.7(d)(3), which provide that employee contributions used to purchase ancillary type benefits are treated as distributions only in plans that are not subject to the minimum vesting standards. This change would assure that a participant's accrued benefit derived from his or her mandatory employee contributions will be the same before and after the date of plan termination.

Certain minor technical amendments have also been made to simplify the regulation. Under the existing regulation, the accrued benefit derived from a participant's mandatory employee contributions is computed using detailed steps provided in the regulation. Under the proposal the accrued benefit derived from mandatory employee contributions is determined under the plan (or under the minimum vesting standards, if the benefit computed under the plan does not satisfy those standards). To implement this change, accumulated mandatory employee contributions are computed under § 2608.7(b), employee-provided benefits in plans subject to the minimum vesting standards are computed under § 2608.7(c), and employee-provided benefits in plans not subject to those standards are computed under § 2608.7(d).

Implementation of the proposal to guarantee the return of employee contributions upon death also requires changes in the PBGC's limitations on guaranteed benefits and valuation of plan benefits regulations. PBGC is drafting proposed amendments to these regulations which will be published later for public comment.

Because the changes contained in this proposal are necessary to better conform treatment of mandatory employee contributions with the rules and policy of the Act, the PBGC proposes to make the changes effective retroactive to the dates of original applicability of the existing regulations.

Interested persons may submit comments on this proposal. Each person submitting comments should include his or her name and address, identify this notice and give reasons for any recommendations. The proposal may be changed in light of the comments received.

In consideration of the foregoing, the PBGC proposes to amend Chapter XXVI of Title 29, Code of Federal Regulations as follows:

1. Section 2605.2 is amended by adding the following definitions:

§ 2605.2 Definitions.

* * * * *

"Accumulated mandatory employee contributions" means mandatory employee contributions plus interest credited on those contributions under the plan, or, if greater, interest required by section 204(c) of the Act.

* * * * *

"Mandatory employee contributions" means amounts contributed to the plan by a participant which are required as a condition of employment, as a condition of participation in such plan, or as a condition of obtaining benefits under the plan attributable to employer contributions.

* * * * *

2. Section 2605.4 is amended by revising paragraph (c) as follows:

§ 2605.4 Limitations.

* * * * *

(c)(1) Except as provided in paragraph (c)(2) of this section, the PBGC does not guarantee a benefit payable in a single installment (or substantially so) upon the death of a participant or his surviving beneficiary unless that benefit is substantially derived from a reduction in the pension benefit payable to the participant or surviving beneficiary.

(2) Paragraphs (a) and (c)(1) of this section do not apply to that portion of accumulated mandatory employee contributions payable under a plan upon the death of a participant, and such a benefit is a pension benefit for purposes of this part.

* * * * *

3. Section 2605.5 is amended by adding a new paragraph (a)(5) as follows:

§ 2605.5 Entitlement to a benefit.

(a) * * *

(5) In the case of a benefit that returns all or a portion of a participant's accumulated mandatory employee contributions upon death, the participant (or beneficiary) had satisfied the conditions of the plan necessary to establish the right to the benefit other than death or designation of a beneficiary.

* * * * *

4. Section 2605.6 is amended by revising paragraph (a) as follows:

§ 2605.6 Determination of nonforfeitable benefits.

(a) For purposes of this part, a benefit payable with respect to a participant is considered to be nonforfeitable, if on the date of termination of the plan the participant (or beneficiary) has satisfied all of the conditions required of him or her under the provisions of the plan to establish entitlement to the benefit, except the submission of a formal application, retirement, completion of a required waiting period, or death in the case of a benefit that returns all or a portion of a participant's accumulated mandatory employee contributions upon his or her death.

* * * * *

5. Section 2605.8 is amended by revising paragraphs (b) and (c) as follows:

§ 2605.8 Benefits payable in a single installment.

* * * * *

(b)(1) *Payment in single installments.* Notwithstanding paragraph (a) of this section, in any case in which the value of a guaranteed benefit is $1,750 or less, or in any case in which a benefit is payable under a plan for which the PBGC has issued a notice of sufficiency pursuant to section 4041 of the Act, the total value of the guaranteed benefit may be paid in a single installment. For purposes of determining the value of the guaranteed benefit, subtract from the value of the guaranteed benefit, any amounts that are returned under paragraph (b)(2) of this section, but only to the extent such amounts do not exceed the value of the portion of an individual's benefit derived from mandatory employee contributions that is guaranteed.

(2) *Return of employee contributions.*—(i) *General.* Notwithstanding any other provision of this part, the PBGC may pay in a single installment (or a series of installments) instead of as an annuity, the value of the portion of an individual's basic type benefit derived from mandatory employee contributions, if:

(A) The individual elects payment in a single installment (or a series of installments) before the sixty-first (61st) day after the date he or she receives notice that such an election is available; and

(B) Payment in a single installment (or a series of installments) is consistent with the plan's provisions.

For purposes of this part, the portion of an individual's basic type benefit derived from mandatory employee contributions is determined under § 2608.7 (priority category 2 benefits) of this chapter, and the value of that portion is computed under the applicable rules contained in Part 2610 (Valuation of Benefits) of this chapter.

(ii) *Set-off for distributions after termination.* The amount to be returned under paragraph (b)(2)(i) of this section is reduced by the set-off amount. The set-off amount is the amount by which distributions made to the individual after the date of plan termination exceed the amount that would have been distributed, exclusive of mandatory employee contributions, if the individual had withdrawn the mandatory employee contributions on the date of termination.

Example: Participant A is receiving a benefit of $600 per month when the plan terminates, $200 of which is derived from mandatory employee contributions. If the participant had withdrawn his contributions on the date of termination, his benefit would have been reduced to $400 per month. The participant receives two monthy payments after the date of plan termination. The set-off amount is $400. (The $600 actual payment minus the $400 the participant would have received if he had withdrawn his contributions multiplied by the two months for which he received the extra payment.)

(c) *Death benefits.*—(1) *General.* Notwithstanding paragraph (a) of this section, a benefit which would otherwise be guaranteed under the provisions of this part, except for the fact that it is payable solely in a single installment (or substantially so) upon the death of a participant, shall be paid by the PBGC as an annuity which has the same value as the single installment. The PBGC will in each case determine the amount and duration of the annuity based on all the facts and circumstances..

(2) *Exception.* Upon the death of a participant the PBGC may pay in a single installment (or a series of installments) that portion of the participant's accumulated mandatory employee contributions that is payable under the plan in a single installment (or a series of installments) upon the participant's death.

* * * * *

6. Section 2608.7 is revised as follows:

§ 2608.7 Priority category 2 benefits.

(a) *General.* The benefit in priority category 2 of each participant (or beneficiary) is the sum of the basic type and non-basic type benefits derived from the participant's accumulated mandatory employee contributions as of the date of plan termination. The accumulated mandatory employee contributions are determined under paragraph (b) of this section. The basic type and non-basic type benefits derived from accumulated mandatory employee contributions and the values of those benefits are determined under paragraph (c) of this section for plans subject to the minimum vesting standards contained in section 203 or in section 1012 of the Act, and under paragraph (d) of this section for plans that are not subject to the minimum vesting standards.

(b) *Accumulated mandatory employee contributions.*—(1) *Definition.* The accumulated mandatory employee contributions of a participant as of the date of plan termination are equal to the sum of the participant's mandatory employee contributions plus applicable interest, if any, on those contributions, reduced (but not below zero) by distributions from the plan to the participant (or beneficiary) that were made before the date of plan termination.

(2) *Computation.* The amount of a participant's accumulated mandatory employee contributions as of the date of plan termination is computed by:

(i) Adding:

(A) The participant's total mandatory employee contributions to the plan;

(B) Interest, if any, credited on mandatory employee contributions under plan provisions to the beginning of the first plan year to which the minimum vesting standards contained in section 203 or in section 1012 of the Act apply; and

(C) Interest, if any, under the plan on the sum of the amounts determined under paragraph (b)(2)(i)(A) and (b)(2)(i)(B) of this section from the beginning of the first plan year to which the minimum vesting standards contained in section 203 or in section 1012 of the Act apply until the earliest of the date of the participant's retirement, the date of the participant's death, or the date of plan termination.

For purposes of this paragraph, the interest credited on mandatory employee contributions is equal to the greater of the amount of interest computed under paragraphs (b)(2)(i)(B) and (b)(2)(i)(C) of this section or the minimum amount of interest, if any, required to be credited on mandatory employee contributions under section 204(c) of the Act; and

(ii) Subtracting from the amounts determined under paragraph (b)(2)(i) of this section:

(A) Any payments or distributions from the plan to the participant or to his or her beneficiary before the date of plan termination, other than:

(*1*) Payments or distributions of benefits derived from voluntary employee contributions; or

(*2*) Payments or distributions on account of disability, to the extent such payments or distributions exceeded the participant's accumulated mandatory contributions at the time the payments or distributions were made; and

(B) Interest under paragraphs (b)(2)(i)(B) and (b)(2)(i)(C) of this section on any amounts described in paragraph (b)(2)(ii)(A) of this section, calculated from the date of such payments or distributions until the earliest of the date of the participant's retirement, the date of the participant's death or the date of plan termination.

(3) *Employee contributions used to provide current benefits.* Except as provided in paragraph (d) of this section (plans not subject to the minimum vesting rules), that portion of a participant's accumulated mandatory employee contributions used to provide ancillary benefits, such as life insurance or health insurance, may not be subtracted in determining accumulated employee contributions.

(c) *Plans subject to minimum vesting standards.* The amounts and values of the basic type and non-basic type priority category 2 benefits payable to a participant or beneficiary in a plan that is subject to the minimum vesting standards contained in section 203 or in section 1012 of the Act are determined under this paragraph.

(1) *Definition.* For purposes of this paragraph: "Net mandatory employee contributions" means the total mandatory contributions made by a participant exclusive of interest, less any payments or distributions that are substracted under paragraph (b)(2)(ii)(A) of this section.

(2) *Basic-type benefit.* A participant's (or beneficiary's) basic type priority category 2 benefits are:

(i) The portion of the accrued benefit that is derived from the participant's net mandatory employee contributions, computed using plan provisions, except that the accrued benefit derived from net mandatory employee contributions may not be less than the accrued benefit derived from net mandatory employee contributions as computed under rules contained in section 204(c) of the Act or section 411(c) of the Internal Revenue Code, as amended by the Act. For purposes of this Section, the accrued benefit is the benefit to which the participant (or beneficiary) is entitled as of the date of plan temination under § 2605.5 (Entitlement to a benefit) of this chapter; and

(ii) The benefit, if any, under the plan that returns upon the death of the participant all or a portion of the participant's accumulated mandatory employee contributions, except: (A) A benefit that became payable in a single installment (or substantially so) because the participant died before the date of plan termination; and (B) benefits payable upon the participant's death that are included in the annuity form of the accrued benefit derived from net mandatory employee contributions described under paragraph (c)(2)(i) of this section (e.g., the survivor's portion of a joint and survivor annuity or the cash refund portion of a cash refund annuity).

(3) *Value of basic type benefit.* The value of the basic type priority category 2 benefit is the sum of the values of the benefits described in paragraphs (c)(2)(i) and (c)(2)(ii) of this section. The values are computed using the valuation factors contained in Part 2610 of this chapter that are applicable as of the date of plan termination.

(4) *Non-basic type benefit.* The value of the non-basic type priority category 2 benefit is the excess, if any, of the accumulated mandatory contributions determined under paragraph (b) of this section over the value of the basic type priority category 2 benefit determined under paragraph (c)(3) of this section.

(d) *Plans not subject to minimum vesting standards.* The amounts and values of the basic type and non-basic type priority category 2 benefits payable to a participant or beneficiary in a plan that is not subject to the minimum vesting standards contained in section 203 or in section 1012 of the Act are determined under this paragraph.

(1) *Value of basic type benefit.* The value of the basic type priority category 2 benefit is the sum of the value of the death benefit computed under paragraph (d)(4) of this section and the value of the accrued benefit computed under paragraph (d)(5) of this section;

(2) *Value of non-basic type benefit.* (i) If the participant's accumulated mandatory employee contributions computed under paragraph (d)(3) of this section exceed the value of the basic type benefit computed under paragraph (d)(1) of this section, the value of the non-basic type priority category 2 benefit is the excess of the value of the participant's accumulated mandatory employee contributions computed under paragraph (d)(3) of this section over the value of the basic type benefit computed under paragraph (d)(1) of this section.

(ii) If the accumulated mandatory employee contributions computed under paragraph (d)(3) of this section do not exceed the value of the participant's basic type benefit computed under paragraph (d)(1) of this section, the value of the non-basic type benefit is zero.

(3) *Accumulated mandatory employee contributions.* For purposes of this paragraph "accumulated mandatory employee contributions" are mandatory employee contributions as defined in paragraph (b) of this section, except that the cost of ancillary benefits, such as life insurance or health insurance, that were provided by mandatory employee contributions is treated as a distribution for purposes of § 2608.7(b)(2)(ii)(A) (subtractions from mandatory employee contributions). The cost of such ancillary benefits for any given year is computed under the rules of the Internal Revenue Service used to compute such costs, and the portion of the participant's accumulated mandatory employee contributions used to provide such benefits is determined by multiplying the cost of the benefits by the percentage of the cost that was paid with mandatory employee contributions.

(4) *Death benefit.* For purposes of this paragraph, the value of the death benefit is the value of that portion of any benefit under the plan that would refund all or a portion of the participant's accumulated mandatory employee contributions upon his or her death, except: (i) A benefit that became payable in a single installment (or substantially so) because the participant died before the date of plan termination; and (ii) benefits payable upon the participant's death that are included in the participant's accrued benefit described under paragraph (d)(5) of this section (e.g., the survivor's portion of a joint and survivor benefit or the cash refund portion of a cash refund annuity). The value of the death benefit is computed under the valuation factors contained in Part 2610 of this chapter that are applicable as of the date of plan termination.

(5) *Accrued benefit.* For purposes of this paragraph, the value of the accrued benefit is the value of the accrued benefit under the plan, which value is computed under the valuation factors contained in Part 2610 of this chapter that are applicable as of the date of plan termination.

(Secs. 4002(b)(3), 4022, 4044, Pub. L. 93-406, 88 Stat. 1004, 1016-19, 1025-27 (29 U.S.C. 1302(b)(3), 1322, 1344 (Supp. V, 1975)).)

Issued on this 27th day of December 1977.

RAY MARSHALL,
Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued on the date set forth above pursuant to a resolution of the Board of Directors authorizing its Chairman to issue this notice of proposed rulemaking.

HENRY ROSE,
Secretary, Board of Directors, Pension Benefit Guaranty Corporation.

[FR Doc. 78-407 Filed 1-6-78; 8:45 am]

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGD 77-214]

POCOMOKE, RIVER, MD.

Proposed Drawbridge Operation Regulations

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Maryland Department of Transportation the Coast Guard is considering revising the regulation for its drawbridge across the Pocomoke River, mile 15.6, Pocomoke City, Md., to permit the draw to remain closed from 10 p.m. to 6 a.m. This is being considered because of infrequent openings during this period. The proposed change would reduce the bridge operating cost since it would no longer be necessary to have a draw tender available to open the bridge between 10 p.m. and 6 a.m.

DATE: Comments must be received on or before February 8, 1978.

ADDRESS: Comments should be submitted to and are available for examination at the office of the Commander (oan), Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, Va. 23705.

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.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rule making by submitting written views, comments, data, or arguments. Each person submitting comments should include his name and address, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

The Commander, Fifth Coast Guard District, will forward any comments received with his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., who will evaluate all communications received and recommend a course of final action to the Commandant on this proposal. The proposed regulations may be changed in the light of comments received.

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Lieutenant Edward J. Gill, Jr., Project Attorney, Office of the Chief Counsel.

DISCUSSION OF THE PROPOSED REGULATIONS

Data submitted by the applicant appears to justify their request. Openings from 10 p.m. to 6 a.m. for the five-year period beginning in 1972 follow:

1972—21
1973—19
1974—13
1975— 5
1976— 6

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by adding a new §117.245(f)(18) to read as follows:

§117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * *

(f) * * *

(18) Pocomoke River, Md.; Maryland Department of Transportation drawbridge at Pocomoke, Md. The draw need not open from 10 p.m. to 6 a.m. At all other times the draw shall open on signal.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; (33 U.S.C. 499, 49 U.S.C. 1655(g)(2)); 49 CFR 1.46(c)(5).)

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

Dated: December 20, 1977.

E. L. PERRY,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[FR Doc. 78-464 Filed 1-6-78; 8:45 am]

[4110-12]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development

[45 CFR Part 1351]

RUNAWAY YOUTH PROGRAM

Decision to Develop Regulations

AGENCY: Office of Human Development Services, HEW.

ACTION: Notice of Decision to Develop Regulations.

SUMMARY: The Runaway Youth Program awards grants primarily to local private nonprofit agencies and some State umbrella agencies to provide temporary shelter, counseling, aftercare and other services to runaway and other homeless youth and their families. The Act mandates that services must be provided outside the law enforcement structure and juvenile justice system.

The December 13, 1976, regulations (45 CFR Part 1351) will be revised and the additional mandates of the new statute will be incorporated: Services to homeless youth, short-term training to runaway service providers, grants for the development of coordinated networks of runaway shelter and service facilities (groups of runaway houses, State and other umbrella agencies, etc.).

The proposed regulations will clarify Department policy regarding the Runaway Youth Act, implement the legislative requirements and provide the administrative requirements. They will respond to public comment regarding unclear provisions or necessity for simplication and will enable the Department to achieve the goal of the Act to expand community based services to runaway and other youth in crisis.

FOR FURTHER INFORMATION CONTACT:

Mrs. Patricia Jefferson, Youth Development Bureau, CYF, HDS, HEW Room 3260N, 330 Independence Avenue SW., Washington, D.C. 20201, 202-245-2862.

Dated: December 20, 1977.

ARABELLA MARTINEZ,
Assistant Secretary for
Human Development Services.

[FR Doc. 78-319 Filed 1-6-78; 8:45 am]

[3510-03]

DEPARTMENT OF COMMERCE

Maritime Administration

[46 CFR 283]

CONSERVATIVE DIVIDEND POLICY

Amendment of Standards for Dividend Declarations

AGENCY: Maritime Administration, Department of Commerce.

ACTION: Proposed rulemaking.

SUMMARY: This action by the Maritime Subsidy Board (Board), Maritime Administration, proposes to amend 46 CFR Part 283, Conservative Dividend Policy, to make more appropriate for the marine industry the financial requirements which an operator of vessels receiving operating-differential subsidy (ODS) must satisfy before declaring a dividend. Pursuant to the policy embodied in Part 283, operators receiving ODS are required to adopt a dividend policy which will enable them to maintain the financial ability to re-

invest adequately and timely in the U.S. Merchant Marine. Briefly, the amendments to Part 283 would (1) reduce the present working capital requirement, (2) establish a new reporting requirement for the operator regarding its Capital Construction Fund (CCF), and (3) substitute revised financial requirements. These amendments are being proposed because it has been determined that the present financial requirements in Part 283 are more restrictive than necessary to achieve the purposes of the conservative dividend policy.

DATE: Comments must be received, in triplicate, on or before February 15, 1978.

ADDRESS: Secretary, Maritime Subsidy Board, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT:

Murray A. Bloom, 202-377-4631.

SUPPLEMENTARY INFORMATION: The amendments proposed by this action would adjust the conservative dividend requirements of 46 CFR 283 to reflect more appropriately the financial nature of the maritime industry and certain financial standards utilized by the Maritime Administration (Marad) in other Marad programs. It has been determined that the requirements of Part 283 are more restrictive than necessary to achieve the conservative dividend policy of the Maritime Subsidy Board (the Board).

Since Part 283 was promulgated in 1973, various members of the maritime community have taken issue with the prescribed working capital requirements.

By letter dated April 29, 1977, the American Institute of Merchant Shipping (AIMS), following preliminary discussions with members of the staff, proposed an amendment to Part 283. Basically, the new criteria under the AIMS proposal are as follows:

(1) The operator must demonstrate that it has sufficient funds to meet a funds required test under which equity funds for replacement vessels are accumulated annually, pro-rated from the determination date to the contract signing date with the requirements adjusted annually for inflation;

(2) The operator must have a minimum working capital ratio of 1:1;

(3) The operator must demonstrate that it is meeting the deposit requirements as set forth in its CCF Agreement; and

(4) The long-term debt shall be no more than 2.25 times the operator's equity.

A copy of the AIMS letters is available in the Office of the Secretary, Maritime Subsidy Board.

An analysis of the effects of the AIMS proposal No. 1 regarding funds required on the ability of subsidized operators to pay dividends indicates that for those operators not having to meet replacement obligations in the near future, the proposed funds required criterion would allow operators greater leeway to pay dividends when the construction is a significant number of years in the future but such leeway would lessen each year as the year of construction draws nearer and the amount of funds required progressively increases each year. In the years prior to the replacement date, the operators must meet drastic funding requirements. The analysis assumed that under the present funds available and funds required computation, the operator included in funds available the depreciated book value of his vessel and included in funds required the outstanding indebtedness for the vessel (75 percent of vessel costs) and his equity requirements for replacement at current prices. The analysis assumed a one-for-one in-kind replacement of existing vessels, although an ODS operator is not necessarily required to replace existing vessels on this basis, provided that the annual carrying capacity of the new vessels equals or exceeds the annual carrying capacity of the existing vessel.

Under the present funds required criterion, an operator with a new vessel in his first year of operation would have no excess of funds from which to pay dividends unless income was generated from vessel operations. The agency believes that this is as it should be—the operator should be able to pay dividends only out of earnings, current or past, and not from any dissipation of invested capital.

The agency believes that the present funds required criterion allows for a more stable level of required funding than the AIMS proposal and should be retained. It is noted that funds available would be enhanced by the reducton of the working capital requirements from one-half of average voyage expenses in that the entire amount of working capital would be included in funds available rather than only that portion of working capital in excess of the one-half average voyage expenses standard.

AIMS proposals Nos. 2 and 4 are similar to the standard Title XI Reserve Fund and Financial Agreement, dated December 1, 1974. Under section 13 of that standard agreement the following criteria, among others, are established for eligibility to declare dividends:

(a) $1 of working capital plus one-half of all annual charter hire and other lease obligations (having a term of 6 months or more) due and payable within the next succeeding fiscal year,

(b) Long-term debt not to exceed two times net worth, and

(c) A floor net worth.

The requirements of (a) are essentially the same as proposed by AIMS in the minimum working capital ratio of 1:1. The requirements of (b) are similar to AIMS proposal that the long-term debt shall be no more than 2.25 times the operator's equity. The agency is not persuaded that the minor changes proposed by AIMS to (a) and (b) are appropriate, particularly in view of the additional problems that would result from administering slightly different criteria under Title XI and the conservative dividend policy. The agency believes that the requirements of (c) are necessary under the conservative dividend policy in order to assure that an operator will not dissipate its net worth as its debts are retired.

AIMS proposal No. 3 is that the operator must demonstrate that it is meeting the deposit requirement as set forth in its CCF Agreement. The CCF minimum deposit requirement is considered appropriate since every ODS operator has or will have a CCF agreement, and the purposes of a conservative dividend policy would not be met if dividends were allowed when an operator is in arrears in meeting its CCF minimum deposit schedule.

Aside from these changes to Part 283, a § 283.2(b) has been added which includes a revised definition of financial terms. Section 283.3 has been changed to reflect the new criteria discussed above. A new paragraph (b) has been added to incorporate the section 13 requirements of the Title XI Reserve Fund and Financial Agreement requirement. The former paragraph (b) is redesignated paragraph (c). In addition, the specific procedures for determining the present value of capitalized leases have been replaced by a reference to the Financial Accounting Standards Board Statement of Financial Accounting Standards No. 13—Accounting for Leases. The previous paragraph (c) is deleted as unnecessary in light of the new paragraph (b) criteria. Paragraph (c)(2)(ii), which provides that the Assistant Secretary may determine an alternate standard for working capital when an operator can demonstrate to the satisfaction of the Assistant Secretary that the prescribed standard for working capital is not an appropriate measure of working capital, is considered unnecessary in view of the revised working capital standard and the Assistant Secretary's authority to approve requests to pay dividends under § 283.5. Accordingly, paragraph (c)(2)(ii) has been deleted.

The amendments to § 283.6 are conforming amendments which change the reporting requirements to meet the financial standards. Paragraph (b)(1), which required that operators show on Schedule A surplus available for distribution to stockholders, is considered unnecessary and is replaced by

a new paragraph (1), which sets forth the requirement that operators show their ratio of debt to net worth. Schedule A has been changed accordingly. Paragraph (2) has been amended so that funds available and funds required, which were formerly required to be shown on Schedule B, must now be shown on Schedule B2 and the extent of the operator's compliance with its CCF agreement minimum deposit schedule must be shown on a new Schedule B1. To facilitate the administering of the conservative dividend policy, operators will now be required to send notices and requests directly to the Secretary, Maritime Administration, with a copy to the appropriate Region Director.

It is deemed that the proposed amendments to Part 283 will have no material inflationary impact.

Accordingly, 46 CFR Part 283 is proposed to be amended as follows:

1. In § 283.2 by adding a new paragraph (b); by redesignating the existing paragraph as (a); and by changing the section heading all to read as follows:

§ 283.2 In general and definitions.

(a) *In general.* * * *

(b) *Definitions.* (1) The term *"Working Capital"* shall mean the excess of current assets over current liabilities, both determined in accordance with generally accepted accounting principles and adjusted as follows:

(i) In determining current assets there shall be deducted: (A) Amounts in and/or required to be set aside in any Reserve Fund required to be maintained pursuant to any agreement covering a vessel owned or leased by the operator and insured or guaranteed by the Secretary or in any other similar fund under any other mortgage indenture or agreement of the operator;

(B) Any securities, obligations or evidences of indebtedness of an Affiliate of the operator or of any stockholder, director, officer or employee (or any member of his family) of the operator or of such Affiliate, except advances to agents required for the normal current operation of the operator's vessels and current receivables arising out of the ordinary course of business and not outstanding for more than 60 days;

(2) The term *"Net Worth"* shall mean, as of any date, the total of paid-in capital stock, paid-in surplus, earned surplus and appropriated surplus, and all other amounts that would be included in net worth in accordance with generally accepted accounting principles, but exclusive of (i) any receivables from any stockholder, director, officer, or employee of the operator or from any Affiliate of the operator (other than current receivables arising out of the ordinary course of business and not outstanding for more than 60 days) and (ii) any increment resulting from the reappraisal of assets, but Net Worth shall include subordinated long term debt which is subordinated in form and substance satisfactory to the Board on which payment of principal and interest can be made only if dividends are permitted under the Conservative Dividend Policy.

(3) The term *"Deferred Lease Hire"* shall mean, as of any date, the long term portion of obligations (Title XI and otherwise) relating to vessels, equipment or facilities leased or chartered by the operator on a long term basis as determined by the Board other than charter hire and other lease obligations already included in Long-Term Debt.

(4) The term *"Long-Term Debt"* shall mean, as of any date, the total of notes, bonds, debentures, equipment obligations and other evidences of indebtedness that would be included in long-term debt in accordance with generally accepted accounting principles and any guarantees, Deferred Lease Hire or other liability for the obligations of any other corporation, person or entity, except in respect of any undertaking of the operator as to the fees and expenses of an indenture trustee, and except endorsements for deposit of checks and other negotiable instruments acquired in the ordinary course of business, but exclusive of deferred income taxes, but Long-Term Debt shall exclude subordinated long term debt which is subordinated in form and substance satisfactory to the Board on which payment of principal and interest can be made only if dividends are permitted under the Conservative Dividend Policy.

(5) The term *"Affiliate"* shall mean any individual, corporation, partnership, joint venture, etc. directly or indirectly controlled by or under common control with another individual, corporation, partnership, joint venture, etc.

2. In § 283.3, by adding an entirely new paragraph (b); by redesignating existing paragraph (b) as (c); by amending redesignated paragraph (c) by revising the introductory text (c)(1)(vi) and (vii), and (c)(2)(iii); and by eliminating the previous paragraph (c), all to read as follows:

§ 283.3 Conservative dividend policy criteria.

* * * * *

(b) *Operator's obligations with respect to financial condition.* An operator will be deemed to have met the requirements of this paragraph if (1) the operator's Working Capital is equal to at least one dollar plus one-half of all annual charter hire and other lease obligations (having a term of more than 6 months) due and payable within the succeeding fiscal year, other than charter hire and such other lease obligations already included and reported as a current liability on the operator's balance sheet, (2) the operator's Long-Term Debt does not exceed two times the operators Net Worth, and (3) the operator's Net Worth is not less than an amount equal to the greater of 50 percent of the operator's Long-Term Debt or 90 percent of the operator's Net Worth, as evidenced by a financial statement of the operator showing its financial condition as of the end of the regular intermediate accounting period immediately prior to the date of the adoption in final form of this proposed amendment or in the case of a new ODS operator, the date of award of such ODS agreement.

(c) *Operator's obligation with regard to funding for replacement vessels.* An operator will be deemed to have given due regard to its contractual obligations to construct and acquire vessels and related barges and containers and to retire indebtedness on, or secured by, subsidized vessels and related barges and containers, or incurred in connection with the acquisition, construction or reconstruction of such vessels and related barges and containers if the operator can demonstrate that it is meeting the minimum deposit requirement as set forth in its Capital Construction Fund agreement and that it has an excess of "funds available" over "funds required" as both terms are defined in this paragraph.

(1) * * *

(vi) The present value of leases capitalized in accordance with the Financial Accounting Standards Board Statement of Financial Accounting Standards No. 13—Accounting for Leases; and

(vii) Working capital as defined in subparagraph 283.2(b).

(2) * * *

(iii) The present value of leases capitalized under (c)(1)(vi) of this section, excluding that portion of any such amount payable within one year; and

* * * * *

(3) In § 283.6, by revising paragraphs (b)(1) and (2) and (c) to read as follows:

§ 283.6 Notification and reporting requirements.

* * * * *

(b) * * *

(1) The ratio of debt to equity in the format set forth in Schedule A;

(2) The extent of compliance with its Capital Construction Fund agreement minimum deposit schedule in the format as set forth in schedule B1, and excess of "funds available" over "funds required" in the format as set forth in Schedule B2;

(c) *Officials to whom notices and reports are to be directed.* All notices, reports and requests prescribed in this part are to be submitted to the Secretary, Maritime Administration, Washington, D.C. 20230, in triplicate, with a copy of such notice or request to the appropriate Maritime Administration Region director.

* * * * *

(3) By revising the suggested format for schedules attached to § 283.6 to read as follows:

SCHEDULE A.—*Ratio of Debt to Net Worth*

....19 .....
....
(Company)

Long-term debt ..... $ .....
Net worth ....
Ratio of debt to net worth ....
(Signature of Chief Financial Officer)

SCHEDULE B1.—*Capital Construction Fund Minimum Deposits*

....19 .....
....
(Company)

(a) Actual cumulative deposits as of completion of last 3-year period ..... $ .....
(b) Cumulative required deposits as of completion of last 3-year period ....
(c) Cumulative actual deposits over/under cumulative required deposits (a-b) ....
(d) Actual deposits during current 3-year period ....
(e) Required deposits for current 3-year period, pro-rated for amount of elapsed time ....
(f) Current deposits over/under current pro-rated required deposits (d-e) ....
(g) Total deposits over/under required deposits (c+f) ....
(Signature of Chief Financial Officer)

SCHEDULE B2.—*Funds Available and Funds Required*

...., 19— .....
....
(Company)

I. Funds available

A. On deposit in statutory funds:
Capital reserve fund ..... $ .....
Capital construction fund ....
Construction reserve fund ....
Construction and Escrow funds ....
Plus accrued deposits to funds (or less accrued withdrawals from funds) ... .$ .....
B. Gross book value of vessels and related barges and containers employed in subsidized services:
Subsidized vessels ....
Related barges ....
Related containers ....
Less accumulated depreciation ....
C. Progress payments made on subsidized vessels and related barges and containers undergoing construction, reconstruction or reconditioning ....
D. Progress payments made on additional vessels and related barges and containers agreed to be constructed or acquired ....
E. Balance of trade-in allowances (§ 510 of the Act) ....
F. Capitalized Financing Leases ....
G. Net Working Capital (from Schedule C) ....
Total funds available ....

II. FUNDS REQUIRED

A. Cost of current commitments:

1. ODSA vessels under construction or reconstruction:

Number of Vessels	Total Cost	Less Government Contributions	Cost to Operator
_____	$_____	($_____)	$_____

25% of Cost to Operator $_____

2. Additional vessels under construction, reconstruction or reconditioning pursuant to a contract with the Assistant Secretary or the Board:

Number of Vessels	Total Cost	Less Government Contributions	Cost to Operator
_____	$_____	($_____)	$_____

25% of Cost to Operator $_____

3. Barges and containers under construction or contract to purchase:

Number of	Cost to Operator	
Barges:_____	$_____	
Containers:_____	$_____	$_____

25% of Cost to Operator $_____

B. Estimated cost of additional vessels:

1. Subsidized vessels to be replaced under ODSA:

Number of Vessels	Total Cost	Less Government Contributions	Cost to Operator
_____	$_____	($_____)	$_____

25% of Cost to Operator $_____

2. Additional vessels agreed to be constructed or acquired:

Number of Vessels	Total Cost	Less Government Contributions	Cost to Operator
_____	$_____	($_____)	$_____

25% of Cost to Operator $_____

3. Additional barges and containers required as the complement of vessels agreed to be constructed or acquired in items B1 and B2 above.

Number of	Cost to Operator	
Barges:_____	$_____	
Containers:_____	$_____	$_____

25% of Cost to Operator $_____

C. Outstanding indebtedness on, or secured by, subsidized vessels and related barges and containers, or incurred in connection with the acquisition, construction, or reconstruction of such vessels and related barges and containers:

$_____

D. The present value of leases capitalized under 283.3(c)(1)(vi), excluding that portion of any such amount payable within one year:

$_____

TOTAL FUNDS REQUIRED: $_____

III. EXCESS FUNDS (DEFICIENCY OF FUNDS) $_____

_____
(Signature of Chief Financial Officer)

SCHEDULE C.—*Operator's Working Capital*

....19—.....
....
(Company)

A. Current assets:		
Cash and marketable securities	$	.....
Other current assets (as defined in subparagraph 283.2(b)(1))		.....
Total current assets		.....
B. Less accrued deposits:		
Capital construction fund		.....
Other Funds (specify)		.....
Total accrued deposits		.....
Net current assets		.....
C. Current liabilities:		
(As defined in subparagraph 283.2(b)(1))		.....
Other current liabilities		.....
Total current liabilities		.....
D. Working capital (B–C) (deficiency of working capital)		.....
.....		.....

(Signature of Chief Financial Officer)

(Section 204(b) Merchant Marine Act, 1936, as amended (46 U.S.C. 1114), Reorganization Plans No. 21 of 1950 (64 Stat. 1273) and No. 7 of 1961 (75 Stat. 840), as amended by Pub. L. 91-469 (84 Stat. 1026); Department of Commerce Organization Order 10-8 (38 FR 19707), July 23, 1973.)

By Order of the Maritime Subsidy Board.

(Catalog of Federal Domestic Assistance Program No. 11.504, Operating-Differential Subsidy (ODS).)

Dated: December 29, 1977.

ROBERT J. PATTON, Jr.,
Assistant Secretary.

ATTACHMENT

This study shows how the proposed changes to G.O. 114 by AIMS would affect the ability of a hypothetical operator to pay dividends over a 22-year period.

Assumptions: the operator is awarded an ODSA in year 1 and has a vessel built in year 1. The operator must contract for replacement of the vessel by year 22.

Funds available arise from the book value of the vessel, which cost $25M in year 1, depreciated on a straight-line basis for 25 years.

Under the existing G.O. 114 funds are required to retire existing indebtedness, here 75 percent of the cost of the vessel, and fund the equity cost (25 percent) of the replacement vessel. The cost of the new vessel escalates by 5 percent of the base cost of the vessel or $312,500 yearly.

Under the proposed G.O. 114, funds for the replacement vessel are prorated in proportion to the amount of elapsed time from the determination date to the replacement contract date.

PRESENT G.O. 114

		Funds available book value of vessel	Equity cost of new vessel	Existing indebtedness	Total funds required	Excess of funds (deficiency)
Replacement determination date	1	$25,000	$6,250	$18,750	$25,000	$0
Do	2	24,000	6,562	18,000	24,562	(562)
Do	3	23,000	6,875	17,250	24,125	(1,125)
Do	4	22,000	7,187	16,500	23,687	(1,687)
Do	5	21,000	7,500	15,750	23,250	(2,250)
Do	6	20,000	7,812	15,000	22,812	(2,812)
Do	7	19,000	8,125	14,250	22,375	(3,375)
Do	8	18,000	8,437	13,500	21,937	(3,937)
Do	9	17,000	8,750	12,750	21,500	(4,500)
Do	10	16,000	9,062	12,000	21,062	(5,062)
Do	11	15,000	9,375	11,250	20,625	(5,625)
Do	12	14,000	9,687	10,500	20,187	(6,187)
Do	13	13,000	10,000	9,750	19,750	(6,750)
Do	14	12,000	10,312	9,000	19,312	(7,312)
Do	15	11,000	10,625	8,250	18,875	(7,875)
Do	16	10,000	10,937	7,500	18,437	(8,437)
Do	17	9,000	11,250	6,750	18,000	(9,000)
Do	18	8,000	11,562	6,000	17,562	(9,562)
Do	19	7,000	11,875	5,250	17,125	(10,125)
Do	20	6,000	12,187	4,500	16,687	(10,687)
Do	21	5,000	12,500	3,750	16,250	(11,250)
Contract date	22	4,000	12,812	3,000	15,812	(11,812)
Do	23	3,000	.....	2,250	.....	.....
Do	24	2,000	.....	1,500	.....	.....
Do	25	1,000	.....	750	.....	.....

PROPOSED G.O. 114

		Funds available book value of vessel	Proration	Prorated equity cost of new vessel	Existing indebtedness	Total funds required	Excess of (deficiency)
Replacement determination date	1	$25,000	.045	$281	$18,750	$19,031	$5,969
Do	2	24,000	.091	597	18,000	18.597	5,403
Do	3	23,000	.136	935	17,250	18,185	4,815
Do	4	22,000	.181	1,300	16,500	17,800	4,200

PROPOSED G.O. 114

		Funds available book value of vessel	Pro-ration	Prorated equity cost of new vessel	Existing indebtedness	Total funds required	Excess of (deficiency)
Do	5	21,000	.227	1,702	15,750	17,452	3,548
Do	6	20,000	.272	2,124	15,000	17,124	2,876
Do	7	19,000	.318	2,583	14,250	16,833	2,176
Do	8	18,000	.363	3,062	13,500	16,562	1,438
Do	9	17,000	.409	3,578	12,750	16,328	672
Do	10	16,000	.454	4,114	12,000	16,114	(51)
Do	11	15,000	.500	4,687	11,250	15,937	(937)
Do	12	14,000	.545	5,279	10,500	15,779	(1,779)
Do	13	13,000	.590	5,900	9,570	15,650	(2,650)
Do	14	12,000	.636	6,558	9,000	15,558	(3,558)
Do	15	11,000	.681	7,235	8,250	15,485	(4,485)
Do	16	10,000	.727	7,951	7,500	15,451	(4,549)
Do	17	9,000	.772	8,685	6,750	15,435	(6,425)
Do	18	8,000	.818	9,45-7	6,000	15,457	(7,457)
Do	19	7,000	.863	10,248	5,250	15,498	(8,498)
Do	20	6,000	.909	11,077	4,500	15,577	(9,577)
Do	21	5,000	.954	11,925	3,750	15,675	(10,675)
Contract date	22	4,000	1.000	12,812	3,000	15,812	(11,812)
Do	23	3,000			2,250		
Do	24	2,000			1,500		
Do	25	1,000			750		

[FR Doc. 78-316 Filed 1-6-78; 8:45 a.m.]

[4910-60]

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

[49 CFR Parts 171, 173]

[Docket No. HM-22; Notice No. 78-1]

MATTER INCORPORATED BY REFERENCE

Proposed Rulemaking

AGENCY: Materials Transportation Bureau (MTB), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The MTB proposes to amend §§171.7(d)(3)(ii) and 173.34(e)(10) of the Hazardous Materials Regulations to permit the use of the updated edition of Compressed Gas Association's (CGA) Pamphlet C-6 for visual inspection of compressed gas cylinders. In addition, the proposed amendments would clarify an inconsistency existing between §§173.34(e)(5) and 173.34(e)(10). It is the intended effect of these amendments to improve procedures in the visual inspection of compressed gas cylinders and to clarify the time requirements for retention of cylinder reinspection and retest records.

DATE: Comments must be received on or before February 10, 1978.

ADDRESS: Dockets Section, Office of Hazardous Materials Operations, Department of Transportation, 2100 Second Street SW., Washington, D.C. 20590. It is requested that five copies be submitted.

FOR FURTHER INFORMATION CONTACT:

Alan I. Roberts, Director, Office of Hazardous Materials Operations, 2100 Second Street SW., Washington, D.C. 20590, 202-426-0656.

SUPPLEMENTARY INFORMATION:

The CGA has petitioned the MTB to update §171.7(d)(ii), which incorporates by reference CGA Pamphlet C-6 setting out the standards for visual inspection of compressed gas cylinders, from the referenced 1968 edition to the 1975 edition. The CGA periodically reviews its standards and publishes revisions when clarification, improvement, or addition are necessary. The revisions in the 1975 pamphlet were coordinated with the MTB and it was agreed by the MTB that each of the changes made were necessary. In order for the Hazardous Materials Regulations to contain these necessary revisions, this amendment is being proposed.

The CGA also petitioned to amend §173.34(e)(10) to eliminate inconsistency between that paragraph and paragraph (e)(5) with respect to the length of time cylinder reinspection and retest records are to be retained. Currently, §173.34(e)(10) requires inspection results to be kept as a permanent record, while paragraph (e)(5) does not. This proposed amendment would correct the inconsistency and require the owner or his authorized agent to keep the records until expiration of the retest period or until the cylinder is reinspected or retested.

The primary drafters of this document are Joseph T. Horning, Regulations Development Branch, Office of Hazardous Materials Operations, and George W. Tenley Jr., Office of the Chief Counsel, Research and Special Programs Directorate.

In consideration of the foregoing, it is proposed to amend Parts 171 and 173 of Title 49, Code of Federal Regulations, as follows:

§171.7 [Amended]

1. In §171.7 paragraph (d)(3)(ii) would be amended by changing "1968" to read "1975."

2. In §173.34 paragraph (e)(10) would be amended by revising the fourth sentence to read as follows:

§173.34 Qualification, maintenance and use of cylinders.

* * * * *

(e) * * *

(10) * * * Inspections shall be made only by competent persons and the results shall be recorded on a suitable data sheet, the completed copies of which shall be kept in accordance with the requirements of paragraph (e)(5) of this section. * * *

* * * * *

(49 U.S.C. 1803, 1804, 1806, 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.

Issued in Washington, D.C., on January 3, 1978.

ALAN I. ROBERTS,
Director, Office of Hazardous Materials Operations.

[FR Doc. 78-403 Filed 1-6-78; 8:45 am]

[4910-59]

National Highway Traffic Safety Administration

[49 CFR Parts 523 and 533]

[Docket No. FE-77-05; Notice 2]

NONPASSENGER AUTOMOBILE AVERAGE FUEL ECONOMY STANDARDS

Change of Location of Public Hearing

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Change of location of public hearing.

SUMMARY: On Thursday, December 15, 1977, a notice of proposed rulemaking and public hearing was published (42 FR 63184) by this agency, proposing the establishment of fuel economy standards for pickup trucks, vans, and other "nonpassenger automobiles" manufactured in model years 1980-81. That notice also announced a public hearing to commence January 16, 1978. Subsequently, it has become necessary to change the location of that hearing to the Department of Commerce Auditorium in Washington, D.C.

DATE: The hearing will commence at 8:30 a.m. on Monday, January 16, 1978.

ADDRESS: The hearing will be held at the Department of Commerce Auditorium, on 14th Street between Constitution Avenue and E Street NW., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT:

Mr. George L. Parker, Office of Automotive Fuel Economy, Room 4102, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590, 202-472-6902.

(Sec. 9, Pub. L. 89-670, 80 Stat. 931 (49 U.S.C. 1657); sec. 502, Pub. L. 94-163, 89 Stat. 902 (15 U.S.C. 2002); delegation of authority at 41 FR 25015, June 22, 1976.)

Issued on January 3, 1978.

JOAN CLAYBROOK,
Administrator, National Highway Traffic Safety Administration.

[FR Doc. 78-402 Filed 1-6-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1200]

[Docket No. 36483]

MAINTAINING COMMISSION'S ACCOUNTING REGULATIONS IN CONFORMANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES (GAAP), BY PROCEDURES TO EXPEDITE ADOPTION OF NEWLY ISSUED ACCOUNTING PRONOUNCEMENTS

Proposed Rulemaking

AGENCY: Interstate Commerce Commission.

ACTION: Proposed rule.

SUMMARY: The Interstate Commerce Commission proposes to establish abridged rulemaking procedures for expeditiously adopting certain new accounting standards issued by the Financial Accounting Standards Board (FASB).[1] These procedures are intended to enable carriers to use the latest accounting and reporting standards in reports to the Commission, almost immediately after they are issued.

DATES: Written comments (an original and, if possible, 15 copies), must be received on or before February 15, 1978.

ADDRESS: The Secretary, Interstate Commerce Commission, Washington, D.C., 20423.

FOR FURTHER INFORMATION CONTACT:

Mr. Ronald Young, Chief, Section of Accounting, Interstate Commerce Commission, Washington, D.C. 20423, 202-275-7448.

SUPPLEMENTARY INFORMATION: Pursuant to sections 12, 20, 304, 913, and 1012 of the Interstate Commerce Act and Sections 553 and 559 of the Administrative Procedure Act, we are instituting this proceeding on our own motion to consider establishing abridged rulemaking procedures when adopting newly issued pronouncements by the FASB.

Our objective now and in the past has been to conform our accounting systems to generally accepted accounting principles (GAAP). In recent years, we have adopted many changes which have aligned our accounting systems with GAAP and, as a result, the systems are in virtual agreement with GAAP. We believe that these changes have resulted in improved presentation of financial condition and operating results. The revisions have also alleviated the burden of duplicate recordkeeping by those carriers that follow ICC accounting in reports submitted to the Commission, and follow GAAP in reports to stockholders and others.

Under our present procedures, the problem has been the significant time lag between the promulgation of new accounting standards by the FASB, and the subsequent adoption of these rules by the Commission. The delay is caused by the many administrative requirements of our formal rulemaking proceedings. Because of this time lag, the regulated carriers must follow our existing rules in preparing reports submitted the Commission, while using the new rules in preparing financial statements for stockholders and others. This practice often confuses users of the financial statements because statements prepared for the Commission differ from those perpared for others.

We propose to reduce this significant time lag by initiating the following procedures:

(1) First, we will immediately review all new FASB standards to determine if their provisions are appropriate for the Commission's use;

(2) If determined appropriate, we will issue an Accounting Series Circular (ASC), to carriers, which will explain the new rule and outline the accounting procedures that the carriers must follow. We will allow the carriers a 45-day response period to comment on the ASC;

(3) Subsequently, we will issue a Report and Order to include the detailed changes to the Uniform System of Accounts (USOA), and

(4) If the FASB pronouncement is not appropriate for Commission's use or if we disagree with it, we will issue an ASC to explain our position. In this case, no revisions to the USOA would be necessary.

We have recently used these procedures, and they have proven to be effective. Last year, we issued ASC's following each of the FASB Statements Nos. 5, 6, and 12.[2] These circulars required the carriers to adopt accounting standards specified in the FASB Statements. We later amended our accounting systems to adopt formally these FASB Statements. By issuing the circulars first, we eliminated the delay that would have been caused by formal rulemaking procedures. Therefore, we believe that similar results can be obtained if these abridged procedures are used on a regular basis.

[1] The Financial Accounting Standards Board was designated by the American Institute of Certified Public Accountants as the authoritative body to establish accounting principles. The FASB assumes the responsibilities of its predecessor, the Accounting Principles Board.

[2] FASB No. 5—Accounting for Contingencies.
FASB No.6—Classification of Short-Term Obligations Expected to be Refinanced.
FASB No. 12—Accounting for Certain Marketable Equity Securities.

Issued at Washington, D.C., November 29, 1977.

H. G. HOMME, Jr.,
Acting Secretary.

Part 1200 of Subchapter C of Chapter X of Title 49 of the Code of Federal Regulations is amended as follows:

§ 1200.2 Adoption of generally accepted accounting principles issued by the Financial Accounting Standards Board (FASB).

(a) *Accounting Series Circulars.* Following the release of a Statement of Financial Accounting Standards by the FASB, and provided that the Bureau of Accounts of the Commission considers such standards appropriate for the Commission's accounting regulation, the Bureau of Accounts shall issue an Accounting Series Circular (ASC), requiring carriers under the Commission's jurisdiction to follow the new standards in their accounts and reports filed with the Commission. The Bureau shall also specify in the ASC the proper accounting procedures that the carriers shall follow.

(b) *Carrier's Comments on the ASC.* The ASC issued by the Bureau of Accounts will remain effective until revoked by the Bureau of Accounts. After an ASC is issued, the Bureau of Accounts shall allow carriers 45 days following the service date of the ASC during which the carriers may submit to the Bureau their comments and reasons either supporting or opposing the ASC.

(c) *Formal Adoption of the New Accounting Standards.* After considering the carriers' comments submitted in response to the ASC, and based on the proposal of the Bureau of Accounts, the Commission shall issue a Report and Order to adopt the new accounting standards specified in the ASC by revising the Uniform Systems of Accounts (49 CFR Parts 1201-1210).

(d) *Accounting Standards Not Appropriate for Commission's Use.* The Bureau of Accounts may determine that a new FASB Statement of Financial Accounting Standards is not appropriate for use by carriers under the Commission's jurisdiction. In such instances, the Bureau shall issue an ASC to advise the carriers that the new standards shall not be used in their reports filed with the Commission. The carriers shall be allowed 45 days following the ASC's service date to submit comments on the Commission's position.

[FR Doc. 78-483 Filed 1-6-78; 8:45 am]

RAILROADS AND MOTOR CARRIERS OF PASSENGERS

[49 CFR Parts 1201 and 1206]

[Docket No. 36767]

Accounting for Certain Government Transfers

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The proposed rule would provide accounting and reporting regulations for certain transfers of cash and other assets to railroads and bus companies from Federal, state, or local governments. In recent years, government transfers have become an important souce of income for some railroads and bus companies. This proposed rule is intended to assure that these transfers are disclosed in a manner which does not distort the reicpients' financial statements.

DATE: Written comments must be received on or before January 31, 1978.

ADDRESS: Send comments (with 15 copies, if possible) to the Secretary, Interstate Comerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

James B. Thomas, Jr., Director, Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7565.

SUPPLEMENTARY INFORMATION: In recent years, Federal, state and local authorities have provided several of the nation's railroads and bus companies with large amounts of cash and other assets. These transfers have been for a variety of purposes, and take the form of (1) subsidies given to improve either working capital or productive capacity, or (2) payments of a continuing nature designed to reimburse the carrier for losses sustained on specific lines, in certain regions, etc.

With large sums often involved, proper accounting and reporting of these transfers is necessary to prevent misinterpretation of the recipients' financial statements. Improper treatment may understate the level of losses a firm suffers, distort operating and other ratios, and preclude meaningful comparisons with prior years financial statements.

APPLICABILITY

This notice applies to the following types of government transfers:

(1) Payments of a continuing nature designed to reimburse a carrier for operating losses sustained on a specific line, in a certain region, etc. Examples are commuter operations run by railroads or bus companies, and paid for in part by regional transit authorities. These may be characterized by their contractual nature; the carrier's services are dependent upon continued reimbursement.

(2) Periodic subsidies to alleviate cash shortages.

(3) Periodic subsidies designated for acquisition, addition to, or improvement of plant and equipment.

(4) Periodic subsidies to be applied to operations or capital expenditures at the discretion of the recipient.

This notice does *not* apply to government contributions in connection with routine construction projects in which government agencies and railroads participate. Instruction 2-16 of the Uniform System of Accounts for Railroads prescribes appropriate accounting for these projects, and specifies which projects are covered.

ACCOUNTING TREATMENT

We believe that, with certain exceptions, government transfers within the scope of this notice should be accounted for as operating revenue by the recipient. These transfers are essentially payment for current or future services of the recipient, which it earns in connection with profit-oriented activities. Some payments, such as those of a contractual nature, are associated with specific services. Others, such as subsidies given to alleviate cash shortages, or donations of equipment, are not directly related to particular services. However, we consider these to be copensation for the recipient's services in general.

We further believe that recognition of a government transfer as operating revenue should correspond to the duration of benefits provided by that transfer. Accordingly, subsidies or other payments which only offer benefits to the current period should be accounted for as operating revenue when received and transfers which provide future benefits should be deferred when received, and recognized over several periods.

Government transfers benefiting only the current period include those given to replenish working capital, and include payments specifically designated for continuation of a particular service, subsidies provided to cover operating expenses, and subsidies provided for use at the discretion of management. Government transfers providing future benefits include those in the form of depreciable fixed assets and funds designated by the transferor for the purchase of specific depreciable assets. Transfers of this type should be recognized as operating revenue over the depreciable lives of the assets to which they apply, because their benefit corresponds to the usefulness of the related assets.

In certain circumstances, government transfers should be regarded as contributed capital. Such treatment is appropriate for (1) transfers in the form of, or designated for the purchase of nondepreciable assets, and (2) transfers from the Federal government to Amtrak and ConRail relating to capital expenditures.

Nondepreciable assets provide benefits to the recipient indefinitely and cannot be related to specific account-

ing periods. For these reasons, their transfer represents a contribution to the permanent capital structure of the recipient and they are appropriately accounted for as contributed capital. The acts of Congress which established Amtrak and ConRail required the Federal government to occupy certain positions of authority in these firms. We believe that these positions give the Federal government a special economic interest in the continued financial viability of both Amtrak and ConRail, and that the transfers are provided to protect this interest. Therefore, transfers relating to capital expenditures more closely resemble stockholder donations than payments for services.

This conclusion was reached after consideration of the general economic relationships which prevail between the Federal Government, Amtrak and ConRail. These findings should not be construed as evidence concerning any corresponding legal relationships which may exist.

RECOMMENDED DISCLOSURE

Proper reporting of government transfers is also necessary to prevent misinterpretation of the recipient's financial statements. These transfers should be reported in a manner which highlights their effect on the financial statements. In the income statement, they should be shown as a separate classification of operating revenues. In the balance sheet, transfers representing deferred revenue should be shown separately from other deferred credits, and those regarded as contributed capital should be separated from other paid-in capital. Reporting government transfers in this manner will facilitate analysis of the recipients' financial statements both with and without the effect of government transfers.

Appendices A and B detail the proposed revisions to the Uniform System of Accounts for Railroads and Motor Carriers of Passengers, respectively. Appendix C provides a sample schedule to be included in the annual reports submitted to the Commission by Railroads and Motor Carriers of Passengers.

This decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

This rulemaking is instituted under the authority of Sections 20 and 220, as amended, of the Interstate Commerce Act and pursuant to Sections 553 and 559 of the Administrative Procedure Act.

Issued at Washington, D.C., November 30, 1977, by the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

AMEND PART 1201—UNIFORM SYSTEM OF ACCOUNTS FOR RAILROAD COMPANIES

LIST OF INSTRUCTIONS AND ACCOUNTS

Under "General Balance Sheet Accounts," the following revision is made:

The following item is added after line item 782, "Other Liabilities."

783 **Deferred Revenues—Transfers from Government Authorities**

* * * * *

Under "Income Accounts" the following revisions are made:

Line item 501 is revised as follows:

501 Railway Operating Revenues (Exclusive of Transfers from Government Authorities).

The following items are added after item 501:

502 Railway Operating Revenues—Transfers from Government Authorities for Current Operations.
503 Railway Operating Revenues—Amortization of Deferred Transfers from Government Authorities.

* * * * *

INCOME STATEMENT ACCOUNTS

The title and text of account 501 is revised as follows:

501 **Railway Operating Revenues (Exclusive of Transfers from Government Authorities)**

This account shall include the total revenues derived from operations, as shown in the primary revenue accounts provided elsewhere in the regulations.

NOTE.—Transfers from government authorities shall be accounted for in accordance with the provisions of Instruction 1-15.

* * * * *

The following account and texts are added:

502 **Railway Operating Revenues—Transfers from Government Authorities for Current Operations**

This account shall include amounts received or receivable from Federal, State or municipal authorities which are specifically designated to offset operating expenses, or which may be applied at the discretion of the railroad to operating expenses and/or railroad property.

This account shall also include amounts received from government authorities to offset operating costs sustained on specific lines or in certain regions. Examples are: (1) Local Rail Service Assistance Subsidies granted to the carrier under authority of the Railroad Revitalization and Regulatory Reform Act of 1976, and (2) payments by regional transit authorities in connection with specified operations performed by the carrier.

This account shall also include indirect receipts which reduce operating expenses, such as assumption of station maintenance costs, abatement of taxes, or other indirect contributions by government agencies, if clearly identifiable and measurable.

NOTE.—This account shall not include receipts from government authorities designated for the acquisition, addition to, or improvement of railway operating property (See Instruction 1-15).

503 **Railway Operating Revenues—Amortization of Deferred Transfers from Government Authorities**

This account shall include the amortization applicable to amounts representing the cost of acquisition, addition to, or improvement of depreciable operating property received from Federal, State or municipal authorities (see Instruction 1-15, and Account 783, "Deferred Revenues—Transfers from Government Authorities").

* * * * *

The "Form of Income Statement" is revised as follows:

599 **Form of Income Statement**

* * * * *

501 Railway Operating Revenues (Exclusive of Transfers from Government Authorities)
502 Railway Operating Revenues—Transfers from Government Authorities for Current Operations
503 Railway Operating Revenues—Amortization of Deferred Transfers from Government Authorities

* * * * *

GENERAL BALANCE SHEET ACCOUNTS

The following account and text is added:

783 **Deferred Revenues—Transfers from Government Authorities**

This account shall include amounts representing the cost of acquisition, addition to, or improvement of depreciable operating property received, or receivable from Federal, State or local authorities. Items to be included in this account shall be determined in accordance with Instruction 1-15.

An appropriate record shall be maintained of each asset associated with these transfers showing: (1) Original cost to carrier (or fair value if not purchased); (2) accumulated depreciation; and (3) estimated salvage value, if any.

This account shall be charged periodically, and Account 503, "Railway Operating Revenues—Amortization of Deferred Transfers from Government Authorities," shall be credited with amounts equal to the depreciation costs of the assets to which they apply. When such assets are retired or otherwise disposed of, this account shall be charged, and Account 503 concurrently credited with any remaining associated amounts (See Instruction 1-15).

NOTE A.—This account shall not include government transfers in the form of, or designated for the purchase of land or other non-depreciable property. Transfers of this type are includible in Account 796, "Other Capital Surplus."

NOTE B.—This account shall not include transfers from the Federal Government to either Amtrak or ConRail representing the cost of depreciable and non-depreciable operating property.

* * * * *

The text of account 795, "Other Capital" is revised to read;

795 Other Capital

* * * * *

(d) This account shall be subdivided to show the cumulative amounts representing the cost of non-depreciable operating property received from government authorities, in accordance with the provisions of Instruction 1-15.

(e) This account shall also be subdivided to show the cumulative amounts representing the cost of depreciable and non-depreciable operating property received by Amtrak or Conrail from the Federal Government (see Instruction 1-15).

* * * * *

The "Form of General Balance Sheet Statement" is amended as follows:

799 Form of General Balance Sheet Statement

* * * * *

782 * * *
Deferred Credits:
783 Deferred Revenues—Transfers from Government Authorities

* * * * *

GENERAL INSTRUCTIONS

The following general instruction is added:

1-14 * * *

1-15 Transfers from Government Authorities

When a Federal, State, or municipal government transfers cash or other assets to a railroad, the transaction shall be accounted for in accordance with the provisions set forth hereunder.

(a) The following forms of government transfers shall be included in Account 502, "Railway Operating Revenues—Transfers from Government Authorities for Current Operations" when received:

(1) Payments as reimbursement for operating losses sustained on a specific line, or in a certain region. Examples include support of commuter operations of a railroad, and local rail service assistance subsidies granted to a railroad under authority of the Railroad Revitalization and Regulatory Reform Act of 1976;

(2) Subsidies designated by the donor to offset operating expenses of the railroad, and

(3) Subsidies which may be applied at the discretion of the recipient to operating expenses and/or operating property.

(b) Government transfers relating to the acquisition, addition to, or improvement of depreciable operating property shall be included in Account 783, "Deferred Revenues—Transfers from Government Authorities" when received. Account 783 shall be periodically charged, and Account 503, "Railway Operating Revenues—Amortization of Deferred Transfers from Government Authorities" shall be credited with amounts equal to the depreciation costs of the assets to which they apply.

(c) Government transfers in the form of, or designated for the purchase of non-depreciable operating property shall be included in Account 796, "Other Capital Surplus" in the manner described in the text of that account.

(d) (1) Transfers from the Federal Government to Amtrak and Conrail relating to the acquisition, addition to, or improvement of depreciable or non-depreciable operating property shall be included in Account 796 in the manner described in the text of that account.

(2) Transfers from the Federal Government to Amtrak and ConRail other than those described in paragraph (d)(1) shall be accounted for in accordance with paragraph (a) of this section.

(e) The provisions of this section do not apply to the following forms of government transfers:

(1) Government contributions in connection with construction projects in which government agencies and railroads participate. Transfers of this type shall be accounted for in accordance with the provisions of Instruction 2-17. Paragraph (b) of that instruction lists applicable construction projects.

(2) Government payment for specific services rendered by the carrier in transporting property or persons by rail line other than services described in paragraph (a)(1) of this section. Such payments shall be included in Account 501, "Railway Operating Revenues (Exclusive of Transfers from Government Authorities)."

(3) Government transfers relating to other than carrier operations.

(f) Government transfers shall generally be recorded when made available to the railroad. However, transfers relating to specific operations shall be recorded as earned.

(g) Government transfers in the form of assets other than cash shall be recorded at fair value when received.

* * * * *

AMEND PART 1206—UNIFORM SYSTEM OF ACCOUNTS FOR COMMON AND CONTRACT MOTOR CARRIERS OF PASSENGERS

LIST OF DEFINITIONS, INSTRUCTIONS, AND ACCOUNTS

Under "Balance Sheet Accounts," the following revision is made:

The following line item is added after line item 2360, "Other Long-term Obligations":

2410 Deferred Revenues—Transfer from Government Authorities.

* * * * *

Under "Income Accounts" the following revisions are made:

Line item 3000 is revised as follows:

3000 Operating Revenues (Exclusive of Transfers from Government Authorities).

The following line items are added after item 3600, "Miscellaneous Station Revenue":

3700 Operating Revenues—Transfers from Government Authorities for Current Operations.
3800 Operating Revenues—Amortization of Deferred Transfers from Government Authorities.

* * * * *

INCOME STATEMENT ACCOUNTS

The title text of account 3000 is revised as follows:

3000 Operating revenues (exclusive of transfers from government authorities).

This account shall include the total operating revenues as provided in the primary operating revenue accounts, derived by the carrier from its motor carrier operations during the period covered by the income account.

NOTE.—Transfers from Government authorities shall be accounted for in accordance with the provisions of Instruction 2-35.

* * * * *

The following accounts and texts are added:

3700 Operating revenues—transfers from government authorities for current operations.

This account shall include amounts received or receivable from Federal, State, or municipal authorities which are specifically designated to offset operating expenses, or which may be applied at the discretion of the carrier to operating expenses and/or carrier operating property.

This account shall include amounts received from government authorities to offset operating costs sustained on specific routes, such as payments by regional transit authorities in connection with specified commuter operations performed by the carrier.

This account shall also include indirect receipts which reduce operating expenses such as assumption of station maintenance costs, abatement of taxes, or other indirect contributions by government agencies, if clearly identifiable and measurable.

NOTE.—This account shall not include receipts from government agencies in the form of, or designated for the acquisition, in addition to, or improvement of carrier operating property (See Instruction 2-35).

3800 Operating revenues—amortization of deferred transfers from government authorities.

This account shall include the amortization applicable to amounts representing the cost of acquisition, addition to, or improvement of depreciable operating property received from Federal, State, or municipal authorities. (See Instruction 2-35, and account 2410, "Deferred Revenues—Transfers from Government Authorities.")

* * * * *

The text of account 9999, "Form of Income Statement" is revised as follows:

9999 Form of income statement.
3000 Operating revenues (exclusive of transfers from government authorities)
3700 Operating revenues—transfers from government authorities for current operations
3800 Operating revenues—amortization of deferred transfers from government authorities

* * * * *

BALANCE SHEET ACCOUNTS

The following account and text is added:

2410 Deferred revenues—transfers from government authorities.

This account shall include amounts representing the cost of acquisition, addition to, or improvement of depreciable operating property received or receivable from Federal, State or local authorities. Items to be included in this account shall be determined in accordance with Instruction ——.

An appropriate record shall be maintained of each asset associated with these transfers showing: (1) original cost to carrier (or fair value if not purchased), (2) accumulated depreciation, and (3) estimated salvage value, if any.

This account shall be charged periodically, and Account 3800, "Operating Revenues—Amortization of Deferred Transfers from Government Authorities," shall be credited with amounts equal to the depreciation costs of the assets to which they apply. When such assets are retired or otherwise disposed of, this account shall be charged, and Account 3800 concurrently credited with any remaining associated amounts (See Instruction 2-35).

NOTE.—This account shall not include government transfers in the form of, or designated for the purchase of land or other nondepreciable property. Transfers of this type are includible in Account 2900, "Unearned Surplus."

* * * * *

The text of account 2900, "Unearned Surplus" is revised to read:

2900 Unearned surplus.

(a) This account shall include all surplus not classified in this part as earned surplus. It shall include such items as surplus arising from the donations by stockholders of the carrier's capital stock; surplus recorded at reorganization or in connection with recapitalization; net credits resulting from reacquisition or resales of carrier's capital stock (see instruction 14); amortization of discount and expenses on capital stock (see instruction 12); and from a reduction of the par or stated value of the carrier's capital stock where allowed by statute.

(b) This account shall be subdivided into accounts to show each source of unearned surplus (including the cumulative amounts representing the cost of nondepreciable property received from government authorities, in accordance with the provisions of Instruction 2-35).

(c) No entry shall be made in this account to create unearned surplus arising out of the revaluation of carrier operating property except upon written order of the Commission.

* * * * *

The text of account 2999, "Form for Balance Sheet Statement" is revised to read:

2999 Form of balance sheet statement.

* * * * *

2360 * * *

2410 Deferred Revenues—Transfers from Government Authorities

* * * * *

INSTRUCTIONS

The following instruction is added:

2-34 * * *

2-35 Transfers from government authorities.

When a Federal, State, or municipal government transfers cash or other assets to a motor carrier of passengers, the transaction shall be accounted for in accordance with the provisions set forth hereunder.

(a) The following forms of government transfers shall be included in account 3700, "Operating Revenues—Transfers from Government Authorities for Current Operations" when received:

(1) payments as reimbursement for operating losses sustained on a specific route or in a certain region, such as support of bus line commuter operations;

(2) subsidies designated by the donor to offset operating expenses of the recipient, and

(3) subsidies which may be applied at the discretion of the recipient to operating expenses and/or operating property.

(b) Government transfers relating to the acquisition, addition to, or improvement of depreciable operating property shall be included in account 2410, "Deferred Revenues—Transfers from Government Authorities" when received. Account 2410 shall be periodically charged, and Account 3800, "Operating Revenues—Amortization of Deferred Transfers from Government Authorities" shall be credited with amounts equal to the depreciation costs of the assets to which they apply.

(c) Government transfers in the form of, or designated for the purchase of nondepreciable operating property shall be included in account 2900, "Unearned Surplus" in the manner described in the text of that account.

(d) The provisions of this section do not apply to government payments for specific services rendered by the carrier in transporting passengers by bus line (other than services described in paragraph (a)(1) of this section). Such payments shall be included in account 3000, "Operating Revenues (Exclusive of Government Transfers)."

(e) The provisions of this section do not apply to government transfers relating to other than carrier operations.

(f) Government transfers shall generally be recorded when made available to the carrier. However, transfer relating to specific operations shall be recorded as earned.

(g) Government transfers in the form of assets other than cash shall be recorded at fair value when received.

* * * * *

APPENDIX C

SCHEDULE _____
TRANSFERS FROM GOVERNMENT AUTHORITIES

A. Source and Description of Subsidies Received During Year	Amount	Applied to Current Operations	Deferred to Future Periods	Applied to Contributed Capital
Total Received During Year				

B.	Balance Beginning of Year	Net Increase (Decrease) During Year	Balance End of Year
Deferred Revenue - Govt. Transfers			
Contributed Capital - Govt. Transfers			
Cum. Total Applied to Current Operations			
Cum. Total of Govt. Transfers			

EXAMPLES OF PROPOSED ACCOUNTING FOR SUBSIDIES

I. On 1/1/77, Municipal Authority transfers passenger car to railroad company providing commuter service.

Depreciable Life (years)			5
Appraised Value			$10,000
		Accounting:	
Jan. 1, 1977	Dr. 731	Road and equipment property	$10,000
Do	Cr. 783	Deferred revenues—transfers from government authorities	10,000
Dec. 31, 1977	Dr. 783		2,000
Do	Dr. 531	Railway operating expenses (Depreciation)	2,000
Do	Cr. 735	Accumulated depreciation—road and equipment property	2,000
Do	Cr. 503	Railway operating revenues—amortization of deferred transfers from government authorities	2,000

II. On 1/1/77, Federal Government provides railroad with $5,000,000 emergency funds to meet payroll expenses.

		Accounting:	
Jan. 1, 1977	Dr. 701	Cash	$5,000,000
Do	Cr. 502	Railway operating revenues—transfers from government authorities for current operations	5,000,000

III. On 1/1/77, Federal Government provides ConRail $1,000,000 to purchase operating equipment.

Average Depreciable Life of Purchased Equipment (years)			10
		Accounting:	
Jan. 1, 1977	Dr. 731	Road and equipment property	1,000,000
Do	Cr. 796	Other capital surplus	1,000,000
Dec. 31, 1977	Dr. 531	Railway operating expenses (Depreciation)	100,000
Do	Cr. 735	Accumulated depreciation—road and equipment property	100,000

IV. On 6/30/77, state authority donates building and land to bus company for commuter bus terminal.

Appraised value of land			$50,000
Appraised value of building			200,000
Depreciable life of building (years)			20
		Accounting:	
June 30, 1976	Dr. 1201	Land and land rights	$50,000
Do	Dr. 1211	Structures	200,000
Do	Cr. 2410	Deferred revenues—transfers from government authorities	200,000
Do	Cr. 2900	Unearned surplus	50,000
Dec. 31, 1976	Dr. 5000	Depreciation expense	5,000
Do	Dr. 2410		5,000
Do	Cr. 3800	Operating revenues—amortization of transfers from government authorities	5,000
Do	Cr. 2500	Reserve for depreciation—carrier operating property	5,000

Accounting:—Continued

V. On 6/30/77, bus company sells buses to municipal authority at $1,000,000 fair value (book value—$500,000), and simultaneously leases them back at a nominal charge. There are no stipulations concerning how the funds from the sale are to be spent.

Accounting:

June 30, 1977	Dr. 1000	Cash	$1,000,000
Do	Cr. 3700	Operating revenues—transfers from government authorities for current operations	1,000,000

NOTE.—This transfer is in substance a subsidy of $1,000,000 to the bus company.

[FR Doc. 78-311 Filed 1-6-78; 8:45 am]

[7035-01]

[49 CFR Part 1241]

[Docket No. 36725]

RAILROAD ANNUAL REPORT FORMS R-1 AND R-2

Proposed Revision

AGENCY: Interstate Commerce Commission.

ACTION: Proposed rule.

SUMMARY: The Interstate Commerce Commission proposed to make revisions to Railroad Annual Report Forms R-1 and R-2 for the 1978 reporting year. The proposed revision to the annual reports for railroads includes (1) requiring consolidated reporting, (2) introducing materiality reporting standards, (3) eliminating certain schedules, (4) requiring corporate disclosure information, and (5) aligning reporting requirements with generally accepted accounting principles. The modifications are intended to reduce the carriers' reporting burden and to make the annual reports easier to use and complete. A copy of the proposed revision to Railroad Annual Report Forms R-1 and R-2 is filed with the Office of the Federal Register and may be obtained by writing to the Commission.

DATES: Written comments (and original and if possible, 15 copies) must be received on or before February 17, 1978. Proposed effective date: January 1, 1978.

ADDRESS: The Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR THE FURTHER INFORMATION CONTACT:

Mr. Andrew J. Lee, Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, phone 202-275-7206.

SUPPLEMENTARY INFORMATION:

Pursuant to section 20 of the Interstate Commerce Act and sections 553 and 559 of the Administrative Procedure Act, we are instituting this proceeding on our own motion to consider revising the Railroad Annual Report Forms R-1 (R-1) and R-2 (R-2). These reports pertain to Class I and Class II railroads.

The major revisions to the proposed reports are detailed below:

1. *Consolidated Reporting.* Certain schedules require that disclosures must be submitted for the consolidated entities in which the railroads are members. Specific details as to which affiliates and subsidiaries must be included in the consolidated group are presented in the instructions for preparing the proposed reports.

2. *Materiality Standards.* The proposed reports incorporate materiality standards in many schedules, which will permit certain data to be omitted. In the past, most schedules were required to be completed, regardless of the amount or significance of the financial disclosures. The materiality feature will serve as an instrument for eliminating disclosures of little importance or impact, thereby alleviating the carriers' reporting burden.

3. *Elimination of Certain Schedules.* In order to reduce the carriers' reporting burden, we eliminated schedules found to be of minor importance, and consolidated other schedules that were closely related. In the R-1, for example, a total of 20 schedules were eliminated, representing a 19 percent reduction in reporting requirements.

4. *Corporate Disclosures.* The proposed reports contain nine schedules entitled "Annual Report on Corporate Ownership and Structure." This section requires that carriers disclose information on the corporate foundation, the affiliated group of companies of which the railroad is a member, debtholdings, and business transactions between related parties.

5. *Other Modifications.* The proposed reports contain several other new features which will improve the annual reporting for railroads. Foremost is the fact that the reporting requirements for many items have been made comparable to those mandated by generally accepted accounting principles. Second, the schedule instructions have, in many cases, been clarified and refined.

We believe these revisions will prove to effect more informative and comprehensible annual reports for railroads. We invite respondents to comment on these revisions. All responses will be reviewed, and changes will be made if determined appropriate.

§§ 1241.11 and 1241.12 [Reports revised]

Accordingly, Part 1241, Chapter X, Title 49 of the Code of Federal Regulations is amended by revising, adding and eliminating certain schedules included in the annual reports that are referenced in § 1241.11 and § 1241.12.

H. G. HOMME, Jr.
Acting Secretary.

DECEMBER 13, 1977.

[FR Doc. 78-491 Filed 1-6-78; 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.

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket No. 30277]

CHICAGO-MIDWAY LOW-FARE ROUTE PROCEEDING

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on January 31, 1978, at 9:30 a.m. (local time), in Room 1003, Hearing Room D, North Universal Building, 1875 Connecticut Avenue, NW., Washington, D.C., before the undersigned administrative law judge.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served September 26, 1977, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., January 3, 1978.

GREER M. MURPHY
Administrative Law Judge.

[FR Doc. 78-449 Filed 1-6-78; 8:45 am]

[6320-01]

[Docket No. 28981]

HUGHES AIRWEST, INC.

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled matter is assigned to be held on February 7, 1978, at 9:30 a.m. (local time), in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue, NW., Washington, D.C., before the undersigned.

Dated at Washington, D.C., January 3, 1978.

JANET D. SAXON,
Administrative Law Judge.

[FR Doc. 78-450 Filed 1-6-78; 8:45 am]

[6320-01]

[Docket No. 31786; Order 77-12-148]

PHILIPPINE AIRLINES, INC.

Order Dismissing Complaint Regarding Transpacific Budget Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of December 1977.

By tariffs filed November 30, 1977, for effect December 30, 1977, Philippine Airlines, Inc. (PAL) proposes new one-way economy class "Budget" fares of $275 in the Honolulu-Manila market and $345 in the west coast-Manila market; round-trip travel would be at twice the applicable one-way fare.[1] The fares would be available throughout the year except during December and would exclude weekend travel;[2] would permit no stopovers, and would be sold subject to a capacity limitation of 300 seats per week in each direction. For the outbound portion of travel, full payment would be required and tickets issued between seven and 21 days before departure; for the return portion, reservations could be made only in the Philippines and would not be confirmed before seven days of the requested departure date. Cancellation of confirmed space by the passenger would be subject to a penalty of 50 percent of the fare paid. PAL states that its filing is being made to match Pan American's Budget plan, albeit with some modification in period of application, ticketing and reservations procedures, and fare level.

Pan American World Airways, Inc. (Pan American) has complained against the fares, requesting their suspensions pending investigation. Pan American considers its own Budget fares economic because passengers are assigned a date and flight at the carrier's option. On the other hand, it contends that PAL's proposed fares are predatory and uneconomic since they lack capacity controls and sufficient restrictions to prevent diversion and undercut its own U.S.-Philippine Budget fares by $4; PAL's new fares are not true "fill-up" fares because passengers, rather than the carrier, can choose the date and flight of travel; without these uncertainties of choice, PAL's fares are really diversionary seven-day advance-purchase excursion fares; traffic generated by the fares will have a direct impact upon capacity; and in the past the Board has stated that, for low "fill-up" fares to be viable, capacity must be limited for the flight or the overall operation will not be profitable.

In reply to Pan American, PAL contends that its proposed fares are neither predatory nor diversionary, but rather are both stimulative and generative;[3] all arguments advanced in support of Pan American's own transpacific Budget fares apply equally to PAL's new fare proposal; the proposed fares are capacity controlled, although in a manner different from that used by Pan American; Pan American's method is not the only proper or intelligent means of controlling capacity; even were there no capacity control, that absence alone would be an insufficient ground for suspension since no allegations have been made that existing capacity in the U.S.-Philippine market, which PAL believes quite adequate, is insufficient to handle the additional traffic; Pan American's apparent belief that any Budget fare plan which deviates from its own is flawed and should be suspended flies in the face of recent public statements by the Board and the President on the desirability of diverse, innovative and pro-competitive filings by all carriers; and inasmuch as PAL believes its proposed fare plan is more suited to the U.S.-Philippine market than is Pan American's, the Board should permit it to be tested in the marketplace

Upon consideration, the Board has determined to dismiss the complaint and permit PAL's new fares to become effective.

While the Board has found the capacity and reservations procedures which apply to Pan American's Budget fares reasonable,[4] this does not mean that other procedures would not be acceptable. Although less precise in certain aspects PAL's method also seems

[1] Air Tariffs Corporation, Agent, Tariff C.A.B. No. 67, 4th Revised Page 134-D and Rule 189.

[2] The fares would be blacked out for Friday and Saturday departures from the west coast and for Saturday and Sunday departures from Honolulu.

[3] PAL also points out that, on a round-trip basis, its proposed west coast-Manila Budget fare is $140 higher than the retail price for Advance Booking Charters already on file for summer 1978..

[4] See Order 77-9-55, September 16, 1977.

reasonable. Its proposed fares would not be available for travel on weekends or for travel during December when, PAL states, its flights are heavily booked. Thus, availability would be limited to those periods in which experienced demand has shown them to be off-peak.

PAL's capacity restrictions are also similar to restrictions on capacity either approved by the Board or otherwise in effect in connection with the 14/45-day advance-purchase excursion (APEX) and super-APEX fares offered in North Atlantic markets. Under its proposed rules, sale of the proposed fares would be restricted to a maximum of 300 seats in each direction—about 25 percent of the total economy-class seating available, after excluding the blacked-out periods.[5] Sales of both North Atlantic APEX fares are similarly restricted to 25 percent of each carrier's total weekly economy-class capacity in each direction.

In addition, the relationship between PAL's proposed fares and the applicable normal-economy fares in the U.S.-Philippine market suggests that reservation and capacity procedures as strict as those applied by Pan American may not be necessary. The proposed fare offers a discount of about 43 percent from the normal-economy fares, a relationship similar to that of many promotional fares approved by the Board over the years. By contrast, Pan American's Budget-fare procedures were initially established for a "fill-up" fare in the New York-London market, where more stringent capacity control was needed in the face of its discount approaching 60 percent of the normal-economy fare. With such a deep discount, unusually precise procedures were clearly needed if the carrier was to be able to identify this traffic and, once identified, to accommodate it on a "fill-up" basis. It has apparently decided to maintain the same system in its Pacific markets.

As indicated, the proposed PAL fares do not appear to be offered primarily as "fill-up" fares which, by virtue of their deep discounts, require strict controls. Instead, they appear to be offered as a developmental promotional fare and as such provide discounts not out of line with those provided by many other approved and appropriately restricted promotional fares. For example, the former New York-London 14/45-day APEX fare was discounted 44 percent and the existing super-APEX fare in that market is discounted 54 percent. In addition, while not bearing minimum/maximum stay restrictions and while not requiring as long an advance-purchase period as do either of those APEX fares, the proposed fares carry a very heavy cancellation penalty—50 percent of the fare paid. In contrast, both APEX fares are subject to cancellation penalties of 10 percent of the fare paid or $50, whichever is higher.

In summary, we conclude that suspension and investigation of PAL's proposed fares is not warranted. The capacity controls, other conditions of use, and discount relationship to normal-economy fares are not out of line with what the Board has approved for other promotional fares. Neither does the proposal appear to be directed against charters, nor does Pan American so allege, nor does it appear to be a strictly "fill-up" fare where more stringent limitations on its use might be necessary. Rather, it appears to be a promotional fare aimed at the ethnic U.S.-Philippine market. To the extent that it generates new traffic and fills otherwise empty seats, it will improve the carrier's financial position. Furthermore, we are not convinced that it would significantly inconvenience normal-fare or higher-rated fare passengers. The proposal appears to be responsive to the Board's desires for innovative and pro-competitive filings in international aviation. In the last analysis, the marketplace will determine whether PAL's proposed fares or Pan American's Budget fares are best suited to the U.S.-Philippine market.

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly sections 102, 204(a), 403 and 1002(j) thereof:

It is ordered, That:

1. The complaint of Pan American World Airways, Inc. in Docket 31786 be dismissed; and

2. Copies of this order be served upon Pan American World Airways, Inc. and Philippine Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[6]
Secretary.

[FR Doc. 78-452 Filed 1-6-78; 8:45 am]

[5] PAL operates daily DC-10 flights between San Francisco and Manila via Honolulu. Of the 260 seats on each flight, 238 are in the economy section. Since weekends are blacked out, a total of 1,190 one-way seats are available during the week.

[6] All Members concurred.

[3510-12]

DEPARTMENT OF COMMERCE

National Oceanic and Atomspheric Administration

DEEP OCEAN MINING

Extension of Comment Period on Preliminary Environmental Guidelines

On Tuesday, December 13, 1977, at 42 FR 62521, NOAA published Deep Ocean Mining Preliminary Environmental Guidelines and requested comments by December 31, 1977. In response to requests for additional time for comments, NOAA has determined that the comment period should be extended to January 31, 1978. Comments should be forwarded to the following address not later than January 31, 1978: Marine Minerals Division, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Md 20852, 301-443-8323.

Dated: December 29, 1977.

RICHARD A. FRANK,
Administrator.

[FR Doc. 78-396 Filed 1-6-78; 8:45 am]

[3810-70]

DEPARTMENT OF DEFENSE

Armed Forces Epidemiological Board

AD HOC SUBCOMMITTEE ON INFLUENZA OF SUBCOMMITTEE ON DISEASE CONTROL

Open Meeting

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following advisory committee meeting:

AD HOC SUBCOMMITTEE ON INFLUENZA OF THE ARMED FORCES, EPIDEMIOLOGICAL BOARD SUBCOMMITTEE ON DISEASE CONTROL

Date of Meeting: January 13, 1978.
Place: Conference Room 3092, Walter Reed Army Institute of Research, Walter Reed Army Medical Center, Washington, D.C.
Time: 0900-1630.
Purpose: This notice is being published giving less than 15 days notice of the meeting because of the emergency nature of the problem to be considered. The currently administered influenza vaccine will not protect against the A/H_1N_1 influenza strain which is expected to cause serious outbreaks of disease in the United States in 1978. An AFEB recommendation is needed to enable to DOD to procure an appropriate vaccine for protection of military personnel. The proposed agenda includes discussion of the data on the epidemiology and virology of the A/H_1N_1 influenza strain and preparation of a recommendation on an appropriate vaccine formulation, dosage, and administration schedule for protection of military personnel.

2. This meeting will be open to the public, but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, DASG-AFEB, Room 1B472 Pentagon, Washington, D.C. 20310.

Dated: January 5, 1978.

DUANE G. ERICKSON,
Executive Secretary.

[FR Doc. 78-542 Filed 1-6-78; 8:45 am]

[3810-71]

Department of the Navy

CHIEF OF NAVAL OPERATIONS EXECUTIVE PANEL ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Technology Sub-Panel of the Chief of Naval Operations (CNO), Executive Panel Advisory Committee will meet on January 24-25, 1978, at the Pentagon, Washington, D.C. Sessions of the meeting will commence at 8:30 a.m. and terminate at 5:30 p.m. on both days. All sessions will be closed to the public.

The agenda will consist of matters required by Executive order to be kept secret in the interest of national defense and are in fact properly classified pursuant to such Executive order, including discussions on anti-submarine warfare, ocean surveillance plans, Navy command, control and communications, and related intelligence. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in Section 552b(c)(1) of Title 5, United States Code.

For further information concerning this meeting, contact Commander William A. Armbruster, USN, Executive Secretary of the CNO Executive Panel Advisory Committee, 1401 Wilson Boulevard, Room 405, Arlington, Va. 22209, phone 202-OX4-3191.

Dated: January 4, 1978.

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

[FR Doc. 78-418 Filed 1-6-78; 8:45 am]

[3810-70]

Office of the Secretary

DEFENSE SCIENCE BOARD TASK FORCE ON COMMAND AND CONTROL SYSTEMS MANAGEMENT

Advisory Committee Meeting

The Defense Science Board Task Force on Command and Control Systems Management will meet in closed session on February 6-7, 1978, in the Pentagon, room 1E801 No. 5.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

The Task Force is examining possible improvements in the process by which the Department of Defense plans for, develops and acquires Defense command and control systems.

In accordance with section 10(d) of Appendix I, Title 5, United States Codes, it has been determined that this Task Force meeting concerns matters listed in section 552b(c) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

Dated: January 4, 1978.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Office of the Assistant Secretary of Defense (Comptroller).

[FR Doc. 78-375 Filed 1-6-78; 8:45 am]

[3810-70]

Office of the Secretary

JOINT STRATEGIC TARGET PLANNING STAFF SCIENTIFIC ADVISORY GROUP

Closed Meeting

Pursuant to the provisions of Section 10 of Pub. L. 92-463, effective January 5, 1973, as amended by Pub. L. 94-409, notice is hereby given that a closed meeting of the Joint Strategic Planning Staff Scientific Advisory Group will be held at Offutt Air Force Base, Nebr., during the period: Tuesday, March 7, 1978 through Wednesday, March 8, 1978.

The entire meeting is devoted to the discussion of classified information within the meaning of Section 552b(c)(1), Title 5 of the U.S. Code, and therefore will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

JANUARY 4, 1978.

[FR Doc. 78-448 Filed 1-6-78; 8:45 am]

[6740-02]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CI70-129, et al.]

CITIES SERVICE CO. ET AL.

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates[1]

DECEMBER 21, 1977.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before January 11, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 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. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions 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 Energy Regulatory 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 all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No. and date filed	Applicant	Purchaser and Location	Price Per 1,000 ft.[3]	Pressure Base
CI70-129 D 12/1/77	Cities Service Co., P.O. Box 300, Tulsa, Okla. 74102.	Consolidated Gas Supply Corp., Coopers Creek Area, Kanawha County, W. Va.	Leases expired.	
CI78-52 A 10/19/77	Ladd Petroleum Corp., 830 Denver Club Building, Denver, Colo. 80202.	Southwest Gas Corp., Certain acreage in the Blanco Pictured Cliffs Field, San Juan County, N. Mex.	(1)	14.73
CI78-53 A 10/19/77	Phillips Petroleum Co., 5 C4 Phillips Building, Bartlesville, Okla. 74004.	Mountain Fuel Supply Co., Bridger Lake Field, Summit County, Utah.	(1)	15.025
CI78-54 A 10/19/77	Ladd Petroleum Corp.....	Certain acreage in the Blanco Pictured Cliffs Field, San Juan County, N. Mex.	(1)	14.73
CI78-55 A 10/21/77	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	El Paso Natural Gas Co., White City Field, Eddy County, N. Mex.	(1)	14.73
CI78-56 A 10/21/77	Getty Oil Co., P.O. Box 1404, Houston, Tex. 77001.	El Paso Natural Gas Co., Certain acreage in the Coates Field, Pecos County, Tex.	(1)	14.65
CI78-59; CI68-1382 B 10/25/77	American Petrofina Co. of Texas (Operator), et al., P.O. Box 2159, Dallas, Tex. 75221.	Grice East Field, Loving County, Tex.	Depleted, plugged and abandoned.	
CI78-60 B 10/25/77	Sotexco, Inc., 256 Denver Club Bldg., Denver, Colo. 80202.	Kansas-Nebraska Natural Gas Co., Inc., Twin Mills Field, Logan County, Colo.	Nonproductive, plugged and abandoned. Lease will expire Oct. 16, 1978.	
CI78-61 B 10/25/77	Paul E. Sapaugh, 662 Fair Foundation Building, Tyler, Tex. 75701.	Texas Gas Transmission-Texas Eastern Hico Knowles, Lincoln, La.	Non-commercial well. Depleted, plugged and abandoned.	
CI78-62 A 10/21/77	Northwest Exploration Co., 315 East Second South, Salt Lake City, Utah 84110.	Northwest Pipeline Corp., Ten Mile Prospect (Undesignated Field, Sweetwater County, Wyo.)	(1)	15.025
CI78-64 A 10/25/77	McCulloch Oil Corp. of Texas, 10880 Wilshire Boulevard—Suite 1500, Los Angeles, Calif. 90024.	Northern Natural Gas Co., Young Estate Well No. 10-34, Section 34, Block A-2, H&GN Survey, Hemphill County, Tex.	(1)	14.65
CI78-65 A 10/25/77	Mesa Petroleum Co., P.O. Box 2009, Amarillo, Tex. 79105.	Tennessee Gas Pipeline Co., a Division of Tenneco. Platform "A" located in Block A-330, High Island, Offshore, Tex.	(1)	15.025
CI78-66 A 10/25/77	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	Natural Gas Pipeline Co. of America, High Island Area, Offshore, Tex.	(1)	14.73
CI78-67 A 10/25/77	Exxon Corp.....	Columbia Gas Transmission Corp., High Island Area, Offshore, Tex.	(1)	14.73
CI78-68 A 10/25/77	Exxon Corp.....	Trunkline Gas Co., High Island Area, Offshore, Tex.	(1)	14.73
CI78-69 A 10/25/77	Mobil Oil Corp., Three Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Northern Natural Gas Co., Vacuum North Field, Lea County, N. Mex.	(1)	14.73
CI78-70, G-7902, G-13005, B 10/25/77	American Petrofina Co. of Texas, P.O. Box 2159, Dallas, Tex. 75221.	Texas Illinois Natural Gas Pipeline Co., Knolle Field, Nueces County, Tex.	Per Order of Federal Power Commission issued in subject Docket under date of February 11, 1960.	
CI78-71, G-6252, B 10/25/77	Bass Enterprises Production Co., 3100 Fort Worth National Bank Bldg., Fort Worth, Tex. 76102.	Southern Natural Gas Co., Gwinville Field, Jefferson Davis County, Miss.	Production has ceased and all leases expired.	
CI78-72, CI72-144, B 10/25/77	McCulloch Oil Corp., 10880 Wilshire Boulevard—Suite 1500, Los Angeles, Calif. 90024.	Northern Natural Gas Co., Vici Field, Section 11, Township 19 North, Range 20 West, Dewey County, Okla.	Depleted.	
CI78-73 B 10/21/77	Arkansas Western Production Co., P.O. Box 1288, Fayetteville, Ark. 72701.	Panhandle Eastern Pipeline Co., State No. 1 Well in Section 16, Township 25 North, Range 13 West, Woods County, Okla.	Depleted, plugged and abandoned and leases terminated.	
CI78-74 A 10/25/77	Tenneco Oil Co., P.O. Box 2511, Houston, Tex. 77001.	Northwest Pipeline Corp., Erin No. 1 Well, Basin Dakota Field, San Juan County, N. Mex.	(1)	15.025
CI78-75 A 10/26/77	Napeco Inc., 122 South Michigan Avenue, Chicago, Ill. 60603.	Natural Gas Pipeline Co. of America, Hickey No. 1-32 Well, Section 32-T15N-R26W, Roger Mills County, Okla.	(1)	14.65
CI78-76 A 10/25/77	Petroleum, Inc. (operator) (Succ. in Interest to Phillips Petroleum Co.), R. H. Garvey Building, 300 West Douglas, Wichita, Kans. 67202.	Michigan Wisconsin Pipe Line Co., certain acreage in Harper County, Okla.	(1)	14.73
CI78-77 A 10/26/77	Belco Petroleum Corp., Agent for the Belco 1972, Oil & Gas Fund, Ltd., One Dag Hammarskjold Plaza, New York, N.Y. 10017	Transwestern Pipeline Co., E/2 Section 18-22S-27E, Eddy County, N. Mex.	(1)	14.73
CI78-78, CI70-581, B 10/26/77	Coastal States Gas Producing (Operator), et al., Five Greenway Plaza East, Houston, Tex. 77046.	Transcontinental Gas Pipe Line Corp. South Delcambre Field, Vermilion Parish, La.	Nonproduction, depleted, plugged and abandoned and leases expired.	
CI78-79 A 11/1/77	CNG Producing Co., 445 West Main Street, Clarksburg, W. Va. 26301.	Consolidated Gas Supply Corp. Block A-350, High Island Area, East Addition, South Extension, Offshore, Tex.	(1)(2)	14.73
CI78-97, G-15822, B 10/31/77	Elm Grove Gathering System, Inc., P.O. Box 910, Shreveport, La. 71101.	Texas Gas Transmission Corp., West Elm Grove, Bossier Parish, La.	Depleted.	
CI78-98 A 10/31/77	Ashland Exploration, Inc. (Succ. in Interest to Ashland Oil, Inc.), P.O. Box 1503, Houston, Tex. 77001.	Mid-Louisiana Gas Co., Schuchardt "CC" Wells No. 1,3, and 4, located in Lot 1, Linwood Plantation, Adams County, Miss.	(1)	15.025
CI78-100 A 10/31/77	Odessa Natural Corp. (Operator), P.O. Box 3908, Odessa, Tex. 79760.	El Paso Natural Gas Co., O.N.C. Arco Little, Federal Well, Chacon Dakota Pool, Rio Arriba County, N. Mex.	(1)	14.65
CI78-103 A 11/2/77	Texas Eastern Exploration Co., P.O. Box 2521, Houston, Tex. 77001.	Texas Eastern Transmission Corp., Block 64 Field, Vermilion Area, Offshore, La.	(1)	15.025

[1] Applicant is willing to accept the applicable national rate pursuant to Opinion No. 770, as amended.
[2] Applicant and Purchaser are affiliated.

Filing code:
A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

[FR Doc. 78-234 Filed 1-6-78; 8:45 am]

[6740-02]

[Docket Nos. ER78-19, ER78-81]

FLORIDA POWER & LIGHT CO.

Order Accepting for Filing and Suspending Proposed Increased Rates, Suspending Notice of Cancellation, Denying Motion To Reject, Denying Motion To Consoldiate, Granting Interventions, Consolidating Proceedings and Establishing Procedures

DECEMBER 30, 1977.

On October 14, 1977, Florida Power & Light Co. (FP&L) submitted for filing a proposed rate increase[1] for electric service to nine wholesale customers[2] under its FPC Electric Tariff, First Revised Volume No. 1. The proposed charges would result in additional revenue of $6,725,163 (13.07 percent) for the twelve month period succeeding the proposed effective date of January 1, 1978. The proposed increase results in a $6,487,749 increase to the cooperative customers and a $237,414 increase to municipal customers.

The proposed rates for the total requirements customers (SR-2) have a demand ratchet that is 70 percent of the highest demand established during the preceding eleven months. They contain a minimum bill provision consisting of the customer charge plus a charge for the higher of (1) 250 kW, or (2) the billing demand. All new delivery points established subsequent to January 1, 1978, shall have a minimum monthly billing demand of 500 kW.

Proposed rate schedules SR-2 and PR contain limitations on the availability of total and partial requirements service. SR-2 limits the availability of total requirements service to those electric utility systems presently being furnished such service. It further provides that it is not applicable as replacement power to a generating utility system for which interchange power agreements are available or to which partial requirements Rate Schedule PR is applicable. Proposed rate PR is only available to those electric utility systems for partial power requirements if the systems have insufficent generating capacity and/or firm power purchases to meet their own loads. It also provides that it shall not apply as a substitute or replacement power to a generating utility system for which full service interchange power agreements are applicable. In addition, standby and emergency service is not permitted.

In an implementation of the limiting provisions of proposed rate PR, FP&L submitted for filing on December 1, 1977, in Docket No. ER78-81, a notice of cancellation for firm partial requirements service to the City of Homestead. Homestead has an Interchange Power Agreement with FP&L on file with the Commission (Rate Schedule FPC No. 22), and therefore no longer qualifies for firm power under the SR-2 rate pursuant to the terms of the proposed tariff.

The Partial Requirement Rate PR is available to Florida Keys Electric Cooperative, New Smyrna Beach and Starke. The billing demand under the PR rate schedule is the maximum recorded 60 minute demand during the billing month, but never less than 90 percent of the contract demand plus 75 percent of peak demand, both subject to a 12-month ratchet. Peak demand is defined as that demand which exceeds 110 percent of contract demand. In effect, the first month that demand exceeds 110 percent of contract demand, the customers pay for all kW at the applicable demand charge plus $6/kW for kW exceeding 110 percent of contract demand. Thereafter, peak demand is subject to a 12 month 75 percent ratchet.

Notice of FP&L's filing in Docket No. ER78-19 was issued on October 20, 1977, with responses due on or before November 7, 1977. On November 7, 1977, the City of Homestead, the Fort Pierce Utilities Authority, the City of Starke, and the Utilities Commission of New Smyrna Beach, Fla. (Florida Cities) filed their Petition To Intervene, Protest, Motion To Reject, or in the Alternative, Request for Five Months Suspension, Expedited Hearing and Investigation, and Documents Request and Consolidation. Also on that date, the Seminole Electric Cooperative, Inc. (Seminole), Clay Electric Cooperative, Inc. (Clay), Glades Electric Cooperative, Inc. (Glades), Okefenokee Rural Electric Membership Corp. (Okefenokee), Suwannee Valley Electric Cooperative, Inc. (Suwannee), Lee County Electric Cooperative, Inc. (Lee), and Peace River Electric Cooperative, Inc. (Peace River),[3] filed their Protest and Petition To Intervene. On November 14, 1977, the Florida Keys Electric Cooperative Association filed a protest to FP&L's rate increase.

Notice of the filing of the Notice of Cancellation in Docket No. ER78-81 was issued on December 9, 1977, with responses due on or before December 19, 1977.

FLORIDA CITIES' ALLEGATIONS

In summary form, Florida Cities protest:

(1) FP&L's tariff that would (a) force abandonment of service to Homestead, (b) limit wholesale service to a limited class of customers and (c) exclude service availability to municipalities in Florida who have adequate generation, but desire to purchase firm power services for their economic benefit;

(2) The tariff's bar on service to new customers and possible limitations on service to new delivery points;

(3) The denial of full interchange service to any system purchasing wholesale power and the denial of wholesale power availability to systems having "full service interchange power agreements";

(4) The refusal to sell firm power to customers at 69 Kv or below that do not isolate sections of their systems;

(5) The refusal of FP&L to sell wholesale power to Fort Pierce;

(6) FP&L's rate design for partial requirements' service because of its arbitrariness and lack of cost justification and its discriminatory and anticompetitive effect;

(7) FP&L's failure to serve the filing on the City of Homestead;

(8) The use of a single annual peak allocator;

(9) Changes in FP&L's depreciation rates without cost justification;

(10) The use of CWIP in the rate base through the devise of including costs associated with a transmission line under construction under materials and supplies;

(11) Proposed payment of expenditures associated with the proposed acquisition and operation of the Vero Beach system;

(12) The use of a 90 percent contract demand plus a 75 percent ratchet on peaking demand as arbitrary and unjustified; and

(13) FP&L's systematic anticompetitive conduct.

Florida Cities contend that FP&L's action in limiting the availability of wholesale power to existing purchasers and to supplemental power "is so plainly unlawful on its face that rejection of the proposed tariff is demanded, lest FP&L make the Commission the agent of its anticompetitive design." Florida Cities state that FP&L's actions are designed to discriminate against those systems that can potentially compete with FP&L at wholesale and retail; thus the restrictions apply (1) to new sales, and (2) to generating systems having load sufficiency. Additionally they posit that FP&L's filing should be rejected because of the denial of full interchange to systems purchasing wholesale

[1] See Attachment A for List of Designations and Descriptions.

[2] Lee County Electric Cooperative, Inc. (Lee County), Clay Electric Cooperative, Inc. (Clay), Peace River Electric Cooperative, Inc. (Peace River), Glades Electric Cooperative, Inc. (Glades), Okefenokee Rural Electric Membership Corp. (Okefenokee), Florida Keys Electric Cooperative, Inc. (Florida Keys), City of New Smyrna Beach (Smyrna Beach), City of Starke (Starke) and Suwannee Valley Electric Cooperative, Inc. (Suwannee Valley). In addition to the above, the City of Homestead also currently receives firm service but would not qualify for such service under the proposed changes of the tariff.

[3] Hereinafter collectively referred to as Cooperatives.

power, and because the costs for Homestead are excluded, casting in doubt the accuracy of the costs of partial requirements service. Alternatively, if the Commission accepts FP&L's proposed rates for filing, Florida Cities maintain that a full five month suspension is warranted during which time an expedited hearing should be convened to determine the lawfulness of FP&L's proposed tariff.

Florida Cities argue that FP&L's refusals to deal and discriminatory and unjustified terms and conditions for wholesale service consititute an unlawful price squeeze (citing *FPC* v. *Conway Corp.*, 426 U.S. 271 (1976)). They state that the most pernicious form of price squeeze is a total refusal to deal or a limitation on service.

Florida Cities state that since FP&L's proposed rates in Docket No. ER78-19 include costs associated with providing transmission service, it should be consolidated with docket No. ER77-175, a proceeding in which the reasonableness of FP&L's transmission rates to New Smyrna Beach is being tried. The Cities opine that since transmission service is a component of wholesale service, there should be a number of issues in common. Florida Cities request that they be allowed to intervene in this proceeding.

Cooperatives' Protest

Cooperatives protest the availability restrictions contained in the first paragraphs of Rate Schedules SR-2 and PR. They state that these provisions are inconsistent with the antitrust laws in that the purpose of the offending provisions is to prevent Seminole from engaging in the power supply business. In addition, the Cooperatives object to:

(1) FP&L's requested overall return of 10.65 percent based upon a 15 percent return on common equity;

(2) FP&L's purported improper inclusion in its capital structure of unamortized investment tax credits;

(3) FP&L's change in depreciation rates which did not have the prior approval of the Commission;

(4) FP&L's use of a single annual peak allocator; and

(5) FP&L's utilization of the standard 45-days formula for the calculation of the cash working capital allowance.

The Cooperatives request that they be allowed to intervene in this proceeding and that FP&L's proposed rate schedules be suspended for the full five month statutory period.

FP&L's Answer to Florida Cities' Filing

On December 1, 1977, FP&L filed an answer to Florida Cities' petition to intervene and protest. FP&L states that it is cognizant of Homestead's, New Smyrna Beach, and Starke's interests in Docket No. ER78-19 and does not oppose their intervention. However, with respect to Fort Pierce, it states that the City has never been a wholesale customer of FP&L's and therefore has not shown that it has an interest in the proceeding. Consequently, FP&L opposes Fort Pierce's intervention herein.

FP&L contends that there is no reason for the Commission to reject its filing. It states that its filing complies with all applicable sections of the Commission's Regulations, especially section 35.13 dealing with changes in rates. It maintains that while Florida Cities may argue that its filing should be suspended, there is no basis for their arguing for rejection.

FP&L states that Florida Cities' request for an expedited hearing to determine the lawfulness of FP&L's proposed tariff should be denied. It avers that there is no reason for the Commission to order a separate hearing of the tariff issues since none of the Florida Cities has shown that it has been injured by FP&L's filing.

FP&L asserts that contrary to the allegations made by Florida Cities, it has not engaged in any unlawful, anticompetitive or discriminatory conduct as to the Cities or to any other party.

FP&L maintains that Florida Cities' contention that its tariff's terms and rate design constitute an unlawful price squeeze is without merit. It additionally belittles Florida Cities' assertion that the Federal Power Act explicitly requires approval of new depreciation rates before they are placed into effect. Finally, FP&L states that the Cities' motion to consolidate Docket No. ER78-19 with Docket No. ER77-175 should be denied: The two proceedings do not share common questions of law or fact.

FP&L's Answer to the Cooperatives Filing

FP&L, on December 1, 1977, also filed an answer to the Cooperatives' protest and petition to intervene. It does not object to the intervention of any of the Cooperatives. It states that the assertions made by Cooperatives are without merit and that it has not engaged in any unlawful, anticompetitive, or discriminatory conduct as to Cooperatives or any other party.

Discussion

Florida Cities' discrimination and anticompetitive allegations are serious and warrant close Commission scrutiny. However, the Commission cannot summarily reject FP&L's filing on the basis that it is unlawful on its face. Its filing is in compliance with all applicable sections of the Commission's Regulations. The Commission, after considering Florida Cities' arguments to the contrary, does not find that FP&L's proposed tariff is a nullity as a matter of law. Whether its proposed rates are in fact unduly discriminatory and anticompetitive should be resolved in an evidentiary hearing. Accordingly, Florida Cities' motion to reject should be denied.

However, due to the potential anticompetitive impact of FP&L's purportedly restrictive availability provisions, an expedited hearing should be convened to determine the lawfulness thereof. Therefore, Florida Cities' motion for an expedited hearing and investigation on the limitation provisions of SR-2 and PR should be granted.

In its answer, FP&L stated that it is willing to furnish Florida Cities with documents responsive to the document request attached to their motion to request documents. Since the Company has indicated that it will voluntarily comply with the Cities' request, there is no need at this time to compel the production of documents. Florida Cities' motion for documents request should therefore be denied without prejudice. If it eventuates that FP&L fails to fully respond to the Cities' requests, a motion for the documents can be filed with the Presiding Administrative Law Judge assigned to this case.

The Commission perceives no benefits to be derived from consolidating this proceeding with Docket No. ER77-175. There is a general lack of commonality of issues and the filings are based on different test years (Docket No. ER77-175—1976, Docket No. ER78-19—1978). Instead of saving time and expense, consolidation would more likely lead to unnecessary delay in both proceedings. Florida Cities' motion to consolidate should accordingly be denied.

The Commission does find that good cause exists to consolidate Docket Nos. ER78-19 and ER78-81. As was stated above, the notice of cancellation filed in Docket No. ER78-81 applicable to Homestead is consistent with the availability limitations of proposed Rate Schedule PR. Due to common issues of law and fact, the consolidation of these dockets will save time and expense for all parties.

Good cause exists to permit Florida Cities and the Cooperatives to intervene in this proceeding. Though FP&L objects to the intervention of Fort Pierce on the grounds that it is not now, nor has ever been an FP&L wholesale customer, the Commission finds that Fort Pierce has sufficient interest in the outcome of this proceeding to warrant its participation. Fort Pierce asserts that its repeated requests for the opportunity to purchase wholesale power from FP&L have been denied. FP&L's proposed filing would preclude Fort Pierce from becoming one of its wholesale customers.

Commission review of the filings and pleadings in Docket No. ER78-19 indicates that the proposed rate schedules filed by FP&L have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. The Commission shall therefore suspend the proposed rate schedules and establish hearing procedures. Consideration of all relevant factors indicates that the proposed rates should be suspended for two months. The availability provisions for SR-2 and PR should be suspended for five months pending the outcome of an expedited hearing thereon. Accordingly, Florida Cities' motion for a five month suspension should be granted in part and denied in part.

Commission review of FP&L's notice of cancellation in Docket No. ER78-81 indicates that the proposed cancellation has not been shown to be consistent with the public interest and therefore, may not be lawful. The Commission will therefore suspend FP&L's notice of cancellation for five months and order an expedited hearing thereon to determine whether the proposed cancellation is consistent with the public interest. The expedited hearing to adjudicate the alleged restrictive language in proposed rates SR-2 and PR and the notice of cancellation to Homestead contain similar questions of law and fact and, therefore, should be consolidated for purposes of hearing and decision as ordered below.

In view of Flordia Cities' price squeeze allegations, the Commission will direct the Presiding Administrative Law Judge to convene a prehearing conference within 15 days from the date of this order for the purpose of hearing their requests for data necessary to present their prima facie showing on the price squeeze issue.

The Commission finds: (1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the proposed increased rates and charges tendered by FP&L on October 14, 1977, and that the proposed increased rates and charges be accepted for filing, suspended, and the use thereof deferred, all as hereinafter ordered.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of FP&L's proposed notice of cancellation to Homestead filed on December 1, 1977, and suspended the proposed notice of cancellation for five months.

(3) Participation by Florida Cities and Cooperatives in Docket No. ER78-19 may be in the public interest.

(4) Good cause exists to deny Florida Cities' motions to reject, for documents request, and for consolidation of Docket Nos. ER78-19 and ER77-175.

(5) Good cause exists to grant Florida Cities' motion for expedited hearing and investigation and to deny in part and grant in part their motion for five months' suspension.

(6) Good cause exists to consolidate Docket Nos. ER78-19 and ER78-81.

(7) Good cause exists to establish price-squeeze procedures to effectuate the Commission's policy announced in Order No. 563.

The Commission orders (A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the DOE Act and by the Federal Power Act, particularly Sections 205 and 206 thereof, and pursuant to the Commission's rules of practice and procedure and the Regulations under the Federal Power Act (18 CFR Chapter I), a hearing shall be held concerning the justness and reasonableness of the rates proposed by FP&L in this proceeding.

(B) Pending such hearing and decision thereon, the proposed increased rates and charges filed by FP&L on October 14, 1977, and identified in Attachment A are hereby accepted for filing, suspended and the use thereof deferred until March 1, 1978, when they shall become effective, subject to refund. The availability clauses in SR-2 and PR are hereby suspended and deferred for five months until June 1, 1978.

(C) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before April 20, 1978. (See Administrative Order 157.)

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (see, Delegation of Authority, 18 CFR § 33.5(d)), shall convene a conference in this proceeding to be held within ten days after the service of top sheets in a hearing room of the Federal Energy Regulatory 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 Commission's Rules of Practice and Procedure.

(E) Florida Cities and the Cooperatives are hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission: *Provided, however,* That participation of such intervenors shall be limited to the matters specifically set forth in the petitions to intervene; And *provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any orders entered in this proceeding.

(F) The Administrative Law Judge shall convene a prehearing conference within 15 days from the date of this order for the purpose of hearing Florida Cities' request for data required to present their case, including a prima facie showing on the price squeeze issue. FP&L shall be required to respond to the discovery requests authorized by the Administrative Law Judge within 30 days, and Florida Cities shall file its case-in-chief on the price squeeze issue within 30 days of FP&L's response.

(G) Florida Cities' motions to reject, for documents request and for consolidation of the Docket Nos. ER78-19 and ER77-175 proceedings are hereby denied.

(H) Florida Cities' motion for an expedited hearing and investigation is hereby granted.

(I) Florida Cities' motion for five months' suspension of FP&L's rate is hereby granted in part and denied in part.

(J) Pursuant to the authority of Section 402(a) of the DOE Act and by the Federal Power Act, particularly Sections 205, 206, 307, and 308 thereof, a hearing shall be held concerning the lawfulness of FP&L's notice of cancellation to Homestead in Docket No. ER78-81.

(K) FP&L's notice of cancellation filed on December 1, 1977, in Docket No. ER78-81 is hereby suspended for five months.

(L) Docket Nos. ER78-19 and ER78-81 are hereby consolidated for an expedited hearing on the lawfulness of the availability limitations of SR-2 and PR and the notice of cancellation for the City of Homestead. The Presiding Administrative Judge shall convene a prehearing conference within 15 days of this order to establish procedural dates for the expedited hearing ordered herein. A decision on these issues should be rendered prior to the expiration of the suspensions of the applicability of the availability provisions of SR-2 and PR and the expiration of the suspension of the notice of cancellation.

(M) Nothing contained herein shall be construed as limiting the rights of parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to § 1.18 of the Commission's rules of practice and procedure.

(N) The Secretary shall cause prompt publication of this order to be published in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

ATTACHMENT A.—FLORIDA POWER & LIGHT CO.

[Docket No. ER78-19]

Dated: Undated.

Filed: October 14, 1977.

First Revised Volume No. 1, FPC Electric Tariff

DESIGNATION	SUPERSEDES
1st Revised Sheet No. 5	Original Sheet No. 5
1st Revised Sheet No. 6	Original Sheet No. 6
1st Revised Sheet No. 7	Original Sheet No. 7
1st Revised Sheet No. 8	Original Sheet No. 8
1st Revised Sheet No. 9	Original Sheet No. 9
1st Revised Sheet No. 10	Original Sheet No. 10

DESCRIPTION
Rate Schecule SR-2
Rate Schecule SR-2
Rate Schedule PR
Rate Schedule PR
Appendix A
Appendix B

Filed: December 1, 1977, Docket No. ER78-81.

DESIGNATION	DESCRIPTION
Supplement to Service Agreement under FPC Electric Tariff, First Revised Volume No. 1	Notice of Cancellation

[FR Doc. 78-378 Filed 1-6-78; 8:45 am]

[6740-02]

[Docket Nos. ER78-78, ER78-79]

NEW ENGLAND POWER CO.

Order Accepting for Filing and Suspending Proposed Increased Rates, Providing for Hearing, Denying Motions To Reject and Motion for Partial Summary Judgment, Granting Interventions and Consolidating Proceedings

DECEMBER 30, 1977.

On December 1, 1977, New England Power Co. (NEP or Company) tendered for filing in Docket No. ER78-78 a new Rate R-12[1] to replace R-11 which NEP states would result in an annual increase in revenues from 19 wholesale contract demand (CD) customers of $854,166 and from 11 wholesale primary customers of $13,409,660 based on a calendar year 1978 test period. The total proposed increase in revenues would be $14,265,000 or 2.5%. NEP states that it is filing the CD rate coincidentally with the rate for primary service and based on the same cost of service in accordance with the settlement agreement approved by the Commission in Docket No. ER76-158. A requested effective date of January 1, 1978 is strongly urged for both rates by NEP, which emphasizes that the percentage increase is very small. The filing also provides for a revision in the determination of firm capacity as applicable to the transmission of outside entitlements for partial requirements customers.

On December 1, 1977, NEP also tendered for filing in Docket No. ER78-79 an amendment to the Service Agreement between NEP and its affiliate, the Narragansett Electric Co. (Narragansett).[2] NEP states that the amendment is the result of the annual review of the agreement for an integrated facilities arrangement under which Narragansett's generation and transmission facilities are made available to NEP and are paid for by means of monthly credits (designated "G" and "T" credits) on the purchased power bill which NEP renders Narragansett. The proposed changes would increase the fixed credits by $454,500 annually, based on the costs associated with the facilities NEP will use during calendar year 1978. NEP states that the increase is due primarily to an increased rate of return requirement caused by the maturity of Narragansett's 3% Series B Bonds. The Company requests an effective date of January 1, 1978, for the agreement, emphasizing that the filing affects only inter-affiliate payments between NEP and Narragansett. Since the costs incurred by NEP as a result of this filing are included in its R-12 rate increase filing in Docket No. ER78-78, the Company suggests that consolidation of the two filings would seem appropriate.

Public notice of both filings was issued on December 9, 1977, with protests and petitions to intervene due on or before December 19, 1977.

On December 12, 1977, Julius C. Michaelson, Attorney General of the State of Rhode Island, Rhode Island Division of Public Utilities and Carriers and the Rhode Island Consumers' Council filed a petition to intervene in Docket No. ER78-78, and a request that the Commission either reject the filing as unjustified under established regulatory principles and law or to suspend it for the full five-month statutory period, citing NEP's pending cases in R-10 and R-11. On December 19, 1977, petitions to intervene in Docket No. ER78-78 were filed by Green Mountain Power Corp. (Green Mountain); Francis X. Bellotti, Attorney General of the Commonwealth of Massachusetts and the Massachusetts Consumers' Council (Massachusetts); and by the NEPCO Customer Rate Committee (Committee)[3] and the Unaffiliated Resale Customers (Customers).[4] Committee and Customers also filed in Docket No. ER78-79 a protest, petition to intervene, motion to reject and a motion to consolidate with Docket No. ER78-78.

The Massachusetts petition also requests rejection of NEP's filing or a full five-month suspension, citing the pendency of NEP's R-10 and R-11 rate proceedings as reasons for delaying an additional rate increase.

Committee's filing in Docket No. ER78-78 includes a motion to reject or alternatively, to suspend the R-12 rate for five months, and a motion for summary disposition of certain issues if the filing is not rejected. In support of the motion to reject, Committee states that NEP has failed to explain as required by § 35.13(b)(4)(iii) the bases of the estimated figures included for additions to rate base; increases in maintenance, administrative and general and load dispatching expenses; assumptions about boiler fuel and fuel procurement plans; and its forecasts of little, if any, growth. Committee contends that NEP, in Docket No. ER78-79, has failed to justify the additional revenues requested.

The Commission's regulations require rejection of material which "patently fails to substantially comply with the applicable requirements" (§ 35.5). The courts have held that the Commission need not reject a filing which substantially complies with the filing requirements even though it does not comply rigorously with the letter of the regulations. *Municipal Light Boards, etc. Mass.* v. *Federal Power Commission*, 450 F. 2d 1341 (CADC 1971) at 1348. We find that NEP's filings have substantially complied with our regulations and should not be rejected.

If the filing is not rejected, Committee requests summary disposition of three portions of NEP's filing in Docket N. ER78-78. First, Committee contends that Opinion No. 809-A[5] indicates that NEP could not justify a rate of return higher than the 12.75% return on common equity that the Commission allowed to Boston Edison in that proceeding. As we said in Opinion No. 809-A, the rate of return in Opinion No. 809 was based upon the

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[1] See Appendix for designations.

[2] See Appendix for designations.

[3] Electrical Departments and Plants of the Massachusetts Towns and Cities of Ashburnham, Boylston, Danvers, Georgetown, Groton, Hingham, Holden, Hudson, Hull, Ipswich, Littleton, Mansfield, Marblehead, Merrimac, Middleton, North Attleboro, Paxton, Peabody, Princeton, Shrewsbury, Sterling, Templeton, Wakefield, and West Boylston, together with Littleton, N.H.

[4] The Manchester Electric Co. and the New Hampshire Electric Cooperative, Inc.

[5] *Boston Edison Co.*, Docket Nos. E-7738 and E-7784, Opinion No. 809-A, issued December 9, 1977.

record before us.[6] Rate of return is determined by this Commission upon the "particularized presentations for the record" of each case,[7] and Committee's motion for summary disposition of this issue on the basis of a return supported by the record in another proceeding is unfounded and inappropriate.

Next, Committee argues that the question of whether NEP may include its joint venture investments in the Yankee Atomic companies in the common equity component of its capitalization for rate purposes has been decided by Opinions Nos. 803 and 803-A[8] and should not be relitigated herein. While we did find in those Opinions that the investment in the atomic plants should not be included in the capitalization used in rate proceedings for NEP itself, the question of what capital is used to finance these investments and from which portion of the capital structure the amounts should be removed was an issue decided on the evidence of that record.[9] The question is therefore one of fact which may be developed in an evidentiary hearing and cannot be disposed of summarily.

Finally, Committee contends that the inclusion of Wyman No. 4 in rate base, a plant addition which will purportedly be available for service for only two months of Period II, must be accompanied by normalization of rate base or the use of a 13-month average rate base, under Opinions 803 and 803-A and that NEP has failed to show that it has done either. The question of what inclusions in rate base are proper is a question of fact[10] and one that must be decided on the basis of a full evidentiary hearing and not on the basis of NEP's filing. We shall, therefore, deny Committee's motion for partial summary judgment of the above issues. Committee states in support of its alternative request for a five month suspension of the R-12 rate that the return earned under both the R-11 and R-12 rates is excessive, and that the R-12 cost of service is premised upon prohibited ratemaking theories.

On December 22, 1977, NEP filed an answer to the petitions to intervene in which it vigorously protests the motions to reject, for partial summary judgment and for a five month suspension citing, inter alia, alleged hyperbole and misstatements in the Committee's pleading. A limited response to NEP's Answer was filed by the Committee and the Customers on December 23, 1977.

Our review of the filing and pleadings indicates that the proposed rates filed by NEP have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. We shall therefore suspend the proposed rates and established hearing procedures. Because of the common issues of law and fact in the two proceedings, Docket No. ER78-79 should be consolidated with Docket No. ER78-78 for hearing and all other purposes.

The Company strongly urges that the rates be suspended one day and the intervenors argue just as strongly for the full statutory suspension period. Our review of the pleadings of the parties, as well as of the filing, indicates that the rates should be suspended for the maximum five months period to become effective subject to refund on June 1, 1978.

The Commission finds: (1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the proposed increased rates and charges tendered by NEP on December 1, 1977, and that the proposed increased rates and charges be accepted for filing, suspended, and the use thereof deferred, all as hereinafter ordered.

(2) Participation by petitioners in this proceeding may be in the public interest.

(3) Good cause exists to consolidate Docket Nos. ER78-78 and ER78-79.

(4) Good cause does not exist to reject NEP's filing in Docket No. ER78-78.

(5) Good cause does not exist to grant Committee's motion for partial summary judgment.

The Commission orders: (A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the DOE Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's rules of practice and procedure and the regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates proposed by NEP in these proceedings.

(B) Pending such hearing and decision thereon, the proposed increased rates and charges filed by NEP on December 1, 1977 and identified in the Appendix attached below are hereby accepted for filing, suspended and the use thereof deferred until June 1, 1978, when they shall become effective, subject to refund.

(C) Docket Nos. ER78-78 and ER78-79 are hereby consolidated for the purposes of investigation, hearing and decision.

(D) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before April 1, 1978 (see, Administrative Order No. 157).

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (see, Delegation of Authority, 18 CFR 33.5(d)), shall convene a conference in this proceeding to be held within ten days after the serving of top sheets in a hearing room of the Federal Energy Regulatory 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 Commission's Rules of Practice and Procedure.

(F) Nothing contained herein shall be construed as limiting the rights of parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to § 1.18 of the Commission's Rules of Practice and Procedure.

(G) Petitioners are hereby permitted to intervene in this consolidated proceeding subject to the rules and regulations of the Commission: *Provided, however,* That participation of such 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 intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any orders entered in this proceeding.

(H) The motions to reject NEP's filings in Docket No. ER78-78 and ER78-79 are hereby denied.

(I) Committee's motion for partial summary judgment in Docket No. ER78-78 is hereby denied.

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

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX.—NEW ENGLAND POWER CO.
[Docket No. ER78-78]

DESIGNATIONS UNDER FPC ELECTRIC TARIFF ORIGINAL VOLUME NO. 1

Filed: December 1, 1977 (Tariff Rate R-12).

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[6] Id. at 7.

[7] *Public Service Commission of Indiana,* Docket Nos. E-8586 and E-8587, Opinion No. 783, issued November 10, 1976 at 51.

[8] *New England Power Co.,* Docket Nos. E-8641, E-8476, E-8251 and E-8169, Opinion Nos. 803 and 803-A, issued June 6, 1977 and August 1, 1977, respectively.

[9] Opinion No. 803-A, supra, at 2.

[10] Opinion No. 783, supra, mimeo at 26.

Schedule II A

Ninth Revised Page No. 1 (Supersedes Eighth Revised Page No. 1).
Ninth Revised Page No. 2 (Supersedes Eighth Revised Page No. 2).

Schedule II CD

Third Revised Page No. 1 (Supersedes Second Revised Page No. 1).
Third Revised Page No. 2 (Supersedes Second Revised Page No. 2).

Schedule III-T

Second Revised Page No. 2 (Supersedes First Revised Page No. 2).

The above designations apply to the following customers:

Massachusetts Electric
Narragansett Electric
Granite State Electric
Ashburnham
Danvers
Georgetown
Groton
Groveland
Hingham
Holden
Hull
Ipswich
Littleton, Mass.
Littleton, N.H.
USA—Fort Devens
Wakefield
West Boylston
Manchester Electric Co.
Mansfield
Marblehead
Merrimack
N.H. Electric Co-op
North Attleboro
Paxton
Peabody
Princeton
Shrewsbury
Stamford—GMP
Sterling
Templeton

[Docket No. ER78-79]

Designated as:

(A) New England Power Co., Fourth Revised Sheet No. 4 Superseding Second Revised Sheet No. 4, Narragansett Service Agreement Under FPC Electric Tariff, Volume No. 1, Schedule No. IV.

(B) Narragansett Electric Co., Supplement No. 4 to Rate Schedule FPC No. 38 (Concurs in A).

[FR Doc. 78-377 Filed 1-6-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Docket No. ER78-63]

CENTRAL TELEPHONE & UTILITIES CORP.

Order Conditionally Accepting for Filing and Suspending Proposed Rate Schedule, Providing for Hearing, and Establishing Procedures

DECEMBER 30, 1977.

On November 22, 1977, Central Telephone & Utilities Co. (Central), tendered for filing a proposed rate increase of $2,471,469 for the 12-month period succeeding the proposed effective date of January 1, 1978. The proposed increase would apply to REA cooperative customers, municipal wholesale customers, Central Kansas Electric Cooperative, and the Cities of Anthony, Attica, Beloit, Hoisington, Kingman, Pratt, Russell, Osborn, and Washington, Kans. These customers consist of 23 full requirements customers, 10 of which are REA cooperatives, and 13 of which are municipals; and 10 partial requirements customers, of which nine are municipals and one is a cooperative. Only two partial requirements customers (the Cities of Attica and Osborn), are taking power under the operative firm power service schedule A-1. The proposed rate schedule would increase revenues by $1,368,920 for the full requirements REA cooperatives, $274,305 for the full requirements municipals, $775,400 for the partial requirements Cooperative, and $52,844 for the partial requirements municipal customers, based on the 12-month period ending December 31, 1978. Central states that the rates under which it presently provides service to its REA and municipal wholesale customers are prohibitively low and confiscatory. Central states that the rates proposed for these customers will provide an adequate rate of return on the company's investment.

Notice of the filing was given on November 29, 1977, with all protests or petitions to intervene due on or before December 19, 1977. On December 19, 1977, the Kansas Municipal Defense Group, composed of Municipal wholesale customers, filed a Motion to Reject, Protest, and Petition to Intervene. On that day, a group of Cooperative wholesale customers filed a Protest and Petition to Intervene. The Commission will respond to the substantive contentions of those filings in a subsequent order. We will, however, conditionally accept for filing Central's proposed rate increases pending determination of the issues involved in the pleadings filed by Central's customers.

The proposed increased rates and charges tendered by Central Telephone & Utilities Corp., on November 22, 1977, have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Our review of the pleadings and the filings indicates that the proposed rates should be suspended for 5 months.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcemrnt of the provision of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the proposed increased rates and charges tendered by Central Telephone & Utilities Corp., on November 22, 1977, establishing procedures for that hearing, and that the proposed increased rates and charges be conditionally accepted for filing suspended, and the use thereof deferred, all as hereinafter ordered.

The Commission orders: (A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205, 206, 207, 301, 308, and 309 thereof, and pursuant to the Commission's rules of practice and procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates proposed by Central Telephone & Utilities Corp., in this proceeding.

(B) Pending such hearing and decision thereon, the proposed increased rates and charges filed by Central on November 22, 1977, and identified in the appendix attached below are hereby conditionally accepted for filing, suspended and the use thereof deferred until June 1, 1978, when they shall become effective, subject to refund.

(C) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before May 1, 1978 (see Administrative Order No. 157).

(D) A presiding administrative law judge to be designated by the chief administrative law judge for that purpose (see, Delegation of Authority, 18 CFR 3.5(d)) shall preside at an initial conference in this proceeding to be held on May 15, 1978, at 10 a.m. (ET), in a hearing room of the Federal Energy Regulatory 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 Commission's rules of practice and procedure.

(E) 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.

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

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX

Substitute Rate Schedule 78-CWh-2 for Rate Schedule 77-CWh-2.
Substitute Rate Schedule 78-MWh-2 for Rate Schedule 77-MWh-2.
Substitute revised Schedule A for firm power service for present Schedule 78-A.

Substitute revised Schedule 78-A1 for firm power service for present Schedule A1.

[FR Doc. 78-358 Filed 1-6-78; 8:45 am]

[6740-02]

[Project No. 2806]

CITY OF CARLYLE, ILL.

Application for Preliminary Permit

DECEMBER 29, 1977.

Public notice is hereby given that an application was filed on July 22, 1977, under the Federal Power Act, 16 U.S.C. 791a-825r, by the City of Carlyle, Ill. (Correspondence to: Charles F. Wheatley, Jr., Esq., Suite 1112, Watergate Office Building, 2600 Virginia Avenue NW., Washington, D.C. 20037) for Commission approval of an application for a preliminary permit for the Carlyle Project, FERC No. 2806, to be located on the Kaskaskia River in the City of Carlyle, Clinton County, Ill.

Applicant seeks a preliminary permit for the purpose of conducting studies concerned primarily with financing plans, further hydrologic analysis, and design of a powerplant, and studies of the economic feasibility of constructing a potential hydroelectric project. The proposed project would consist of a powerhouse, to be constructed adjacent to the spillway channel immediately downstream of the U.S. Corps of Engineers' existing Carlyle dam, containing either one or two generating units with a total nameplate rating of 8,000 kW, and all other facilities and interests appurtenant to operation of the project. The project would be operated on a "run of the river" basis.

As proposed, the power produced at the project would serve existing and future customers of the Applicant.

A preliminary permit does not authorize construction. A permit, if issued, gives the permittee a right of priority of application for a license while the permittee undertakes the necessary studies and examinations to determine the engineering and economic feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an applicaton for a license.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the Federal Power Commission on the date the DOE Act takes effect shall not be affected, and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued, and further actions shall be taken by the appropriate component of DOE now responsible for the functions under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary of Energy and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR , provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

Any person desiring to be heard or to make any protest with reference to said application should, on or before March 17, 1978, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., 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. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-348 Filed 1-6-78; 8:45 am]

[6740-02]

[Docket No. CP75-231]

COLORADO INTERSTATE GAS, CO.

Petition To Amend

DECEMBER 30, 1977.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provided that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)(1) or 402(a)(2) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR : *Provided*, That this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

Take notice that on December 13, 1977, Colorado Interstate Gas Co. (Petitioner), P.O. Box 1087, Colorado Springs, Colo. 80944, filed in Docket No. CP75-231 a petition to amend the order of October 1, 1975 (54 FPC), as amended August 3, 1977 (57 FPC——), issued by the Federal Power Commission (FPC) in the instant docket pursuant to section 7(c) of the Natural Gas Act so as to authorize the sale and exchange of natural gas from the entire Shell Creek Federal Unit in Moffat County, Colo., with Mountain Fuel Supply Co. (Mountain Fuel), all as more fully set forth in the petition to amend on file with the FERC—— and open to public inspection.

It is indicated that pursuant to the FPC order of October 1, 1975, Petitioner was granted authorization to sell and/or transport and exchange natural gas it controls in the North Hiawatha Field area in Sweetwater County, Wyo., with Mountain Fuel. It is stated that requisite authority was granted to Mountain Fuel in Docket No. CP75-242, and that pursuant to the authority granted in the instant docket and Docket No. CP75-242, Petitioner delivers certain volumes from the North Hiawatha Field area to Mountain Fuel at a point on Mountain Fuel's 20-inch pipeline in Moffat County, Colo. Mountain Fuel purchases up to 25 percent of the volume received and delivers the balance to Petitioner from Mountain Fuel's Spearhead Ranch and Antelope area supplies, it is said.

It is indicated that pursuant to the FPC order of August 3, 1977, in the instant docket, the October 1 order was amended under the North Hiawatha exchange arrangement to include the

sale and exchange of gas from the acreage attributable to the Shell Creek Unit Well No. 2. Requisite authority to transport and exchange the Shell Creek gas was granted to Mountain Fuel in Docket No. CP77-422, including the addition of a new delivery point on Mountain Fuel's existing 20-inch line in Moffat County, Colo., it is indicated.

The petition states that a development and well drilling program is continuing in the Shell Creek Federal Unit area, and that it is anticipated that gas from a recently completed well, currently undergoing testing, would be available soon. Petitioner states that by an amendment dated August 1, 1977, Mountain Fuel has agreed to include the entire Shell Creek Federal Unit area under the January 2, 1975, gas purchase and exchange agreement between Petitioner and Mountain Fuel. It is asserted that the existing benefits of the exchange to both Petitioner and Mountain Fuel would be enhanced with the approval of the expanded Shell Creek Unit area as requested herein since it is fully anticipated that added quantities of natural gas would be produced in the expanded area.

Therefore, Petitioner requests that the FERC—— amend the order of October 1, 1975, as amended August 3, 1977, to include the entire Shell Creek Federal Unit. Petitioner indicates that the delivery point on Mountain Fuel's 20-inch line in Moffat County, Colo., which was established pursuant to authority granted in Docket No. CP77-422, would be used to accomodate gas from the expanded Shell Creek area.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 23, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-359 Filed 1-6-78; 8:45 am]

[6740-02]

[Docket Nos. RP78-19; RP78-20]

COLUMBIA GULF TRANSMISSION CO., COLUMBIA GAS TRANSMISSION CORP.

Order Accepting for Filing and Suspending Proposed Rate Increases, Consolidating Proceedings, Initiating Hearings, Denying Request To Amend Tariff, and Granting Interventions

DECEMBER 30, 1977.

On November 30, 1977, Columbia Gulf Transmission Co. (Columbia Gulf) tendered for filing in Docket No. RP78-19 proposed changes to its FERC Gas Tariff[1] which would increase its jurisdictional revenues by approximately $3 million annually based on costs and volumes for the 12 months ended July 31, 1977, as adjusted for known and measurable changes through April 30, 1978. Columbia Gulf requests that the proposed increase become effective on January 1, 1978.

Also on November 30, 1977, Columbia Gas Transmission Corp. (Columbia) tendered for filing in Docket No. RP78-20 proposed changes to its FERC Gas Tariff[2] which would increase its jurisdictional revenues by approximately $67,100,000 annually based on costs and volumes for the 12 months ended July 31, 1977, as adjusted for known and measurable changes through April 30, 1978. Columbia requests that the proposed increase become effective on January 1, 1978.

For the reasons stated below, and subject to the conditions set forth below, the Commission shall accept for filing the proposed rate increases of both Columbia and Columbia Gulf, suspend them as discussed herein, and set the matters for joint hearing.

Public notice of the filings of Columbia and Columbia Gulf was issued on December 14, 1977, providing for protest or petitions to intervene to be filed on or before December 23, 1977. Timely petitions to intervene in both of the captioned dockets were filed by the City of Charlottesville, Va., UGI Corp., and West Ohio Gas Co. Timely petitions to intervene in Docket No. RP78-19 were filed by Baltimore Gas and Electric Co. and New York State Electric & Gas Corp. A timely notice of intervention was filed in Docket No. RP78-19 by the New York Public Service Commission. Timely petitions to intervene in Docket No. RP79-20 were filed by Washington Gas Light Co., Virginia Pipe Line Co., Virginia Electric and Power Co., Peoples Natural Gas Co., National Fuel Gas Supply Corp., Columbia Gas of West Virginia, Columbia Gas of Virginia, Columbia Gas of Pennsylvania, Columbia Gas of Ohio, Columbia Gas of New York, Columbia Gas of Maryland, Columbia Gas of Kentucky, CNG Transmission Co., and Elizabethtown Gas Co. Untimely petitions to intervene in Docket No. RP78-20 were filed by Central Hudson Gas & Electric Corp., Dayton Power and Light Co., and Roanoke Gas Co. A timely notice of intervention was filed in Docket No. RP78-20 by the Maryland Public Service Commission. A timely protest was filed in Docket No. RP78-20 by Washington Gas Light Co. The Commission finds the petitioners have demonstrated an interest in these proceedings warranting their participation, and the petitions to intervene shall accordingly be granted.

Columbia states that its proposed higher rates are required because of increased operating expenses, increased federal and state income taxes, increased costs attributable to Columbia's production operations in the Appalachian Area, increased depreciation expense; and increased gas purchase costs due to the initiation of LNG purchases from Columbia LNG Corp. Of these cost factors, the one that predominates is the onset of the LNG purchases, which Columbia states may commence as early as February 1978. Columbia claims an overall rate of return of 10.69 percent on net investment rate base, including a 14.50 percent return on common equity.

Columbia Gulf states that its proposed higher rates reflect an increase to 10.69 percent in its overall rate of return, including an allowance of 14.50 percent on common equity. The change proposed by Columbia Gulf to volume No. 1 of its Gas Tariff would result in the automatic allowance to Columbia Gulf of the same rate of return allowed to Columbia by the Commission in Columbia's future rate proceedings. Columbia Gulf states that its proposal to assume the rate of return allowed to Columbia is intended to simplify its rate case fillings without restricting the Commission

[1] Twenty-fourth Revised Sheet No. 7 to Columbia Gulf's FERC Gas Tariff, Original Volume No. 1; and the following sheets to Columbia Gulf's FERC Gas Tariff, Original Volume No. 2,

Fifth Revised Sheet No. 72
Fifth Revised Sheet No. 73
Second Revised Sheet No. 92
Second Revised Sheet No. 93
Second Revised Sheet No. 126
Third Revised Sheet No. 145
Third Revised Sheet No. 146
Second Revised Sheet No. 256
Second Revised Sheet No. 263
First Revised Sheet No. 278
First Revised Sheet No. 320
First Revised Sheet No. 337
First Revised Sheet No. 338
First Revised Sheet No. 386
First Revised Sheet No. 387
First Revised Sheet No. 417
First Revised Sheet No. 440
First Revised Sheet No. 493

[2] Thirty-ninth Revised Sheet No. 16 to Columbia's FERC Gas Tariff, Original Volume No. 1.

from investigating its costs. The changes proposed by Columbia Gulf to Volume 2 of its Gas Tariff reflect the effect of the proposed increased rate of return and other cost changes upon transportation service rates.

Because of the proposed provision for identical rates of return, matters in the subject Columbia proceeding bear upon interests in the Columbia Gulf docket. Conversely, since transportation services rendered by Columbia Gulf for Columbia are on a cost of service basis, Columbia Gulf's annualized costs are essential factors in Docket No. RP78-20. There being such common questions in the subject proceedings, we shall order their consolidation and joint resolution.

Based on a review of the filings of Columbia and Columbia Gulf the Commission finds that the proposed rate increases have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or otherwise unlawful. Accordingly, the Commission shall accept for filing the proposed tariff sheets of Columbia Gulf, and, except as indicated below, shall suspend their use for five months or until June 1, 1978, when they shall be permitted to become effective, subject to refund. We shall further set the consolidated matters for hearing.

Columbia's filing states that the purchases of revaporized LNG from Columbia LNG Corp. are expected to commence prior to the end of the five month suspension period which we have determined to impose on its tariff filing. Since its current rates do not reflect the purchase of LNG volumes, Columbia projects that revenue deficiencies will result from those purchases. Given a 10.69 percent rate of return allowance to Columbia LNG Corp., and assuming the resale of the revaporized LNG at Columbia's currently effective rate levels, Columbia forecasts an annual net revenue deficiency of $42,000,000. Columbia states that such a deficiency renders it imperative that the net increase in costs associated with the revaporized LNG purchases be recovered simultaneously with the commencement of those purchases.

Columbia's concerns in this regard are meritorious. Accordingly, we will limit the suspension period on that portion of Columbia's proposed rate increase resulting from the purchase of revaporized LNG to the date of commencement of such purchase, subject to two conditions. In the first instance, we will condition such limitation of the suspension period upon the filing by Columbia, at least thirty days prior to the commencement date of the purchase, of interim tariff sheets which will be effective from the commencement date of the purchase until June 1, 1978, and which shall reflect only that portion of Columbia's proposed rate increase attributable to the revaporized LNG purchase. Secondly, Columbia states in its filing that the initial unit costs for the revaporized LNG volumes will be higher than the average cost for the first twelve months of purchases, and that if a shortened suspension period is imposed Columbia would agree to file revised tariff sheets to be effective June 1, 1978, which would eliminate the impact of those higher initial unit costs. consequently, as a second condition to our limitation of the suspension period, Columbia shall be required to refile the rates set forth on its November 30, 1977 filing in order to reflect the elimination of the impact of the initial higher unit costs recovered during the interim period. These revised tariff sheets shall be filed at least thirty days prior to June 1, 1978, and will be permitted to become effective June 1, 1978, subject to refund. Subject to the above conditions, we shall permit that portion of Columbia's proposed rate increase relating to the purchase of revaporized LNG to become effective on the date of commencement of that purchase, subject to refund.

Finally, Columbia's filling requests approval to amend Columbia's gas tariff to allow the application of its PGA provisions to the purchased gas costs associated with revaporized LNG, in order that Columbia may recover through PGA filings any future changes in the cost of revaporized LNG. Because there exists no record regarding factual considerations essential to disposition of Columbia's request (such as the magnitude of the costs of this gas supply and the impact of the new supply upon the total costs and operations of Columbia's system), we decline to grant that request at this time. Accordingly, we will deny Columbia's request as premature and direct the parties to address the issue in the course of the proceedings established herein.

The Commission finds. It is necessary and proper in the public interest and in carrying out the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates proposed by Columbia and Columbia Gulf and that the same be accepted for filing and suspended as hereinafter ordered.

The Commission orders. (A) Proceedings in the subject dockets relating to the tariff filings of Columbia and Columbia Gulf are consolidated.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8, and 15 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the increased rates proposed by Columbia and Columbia Gulf.

(C) Pending hearing and decision, and exept as stated in Ordering Paragraph (D) below, the proposed rate increases of Columbia and Columbia Gulf are accepted for filing and suspended until June 1, 1978, when they shall be permitted to become effective, subject to refund, upon motions filed in accordance with the provisions of the Natural Gas Act.

(D) Pending hearing and decision, that portion of Columbia's proposed rate increase relating to the purchase of revaporized LNG is suspended until the date of commencement of those purchases, when it shall be permitted to become effective, subject to refund, upon motion filed by Columbia in accordance with the provisions of the Natural Gas Act: *Provided, however,* That Columbia shall file interim tariff sheets, at least thirty days prior to the commencement date of the LNG purchases, which sheets shall be effective from that commencement date until June 1, 1978, and which shall reflect only that portion of Columbia's proposed rate increase attributable to the revaporized LNG purchases; *And provided, further,* That Columbia shall, at least thirty days prior to June 1, 1978, refile the rates set forth on its Novem ber 30, 1977 filing in order to reflect the elimination of the impact of the higher initial unit LNG costs recovered during the interim period.

(E) Columbia's request for authorization to amend its PGA tariff provision is denied without prejudice.

(F) The Commission staff shall prepare and serve top sheets on all parties on or before May 1, 1978.

(G) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5 (d)), shall convene a settlement conference in this proceeding to be held within 10 days after the service of top sheets by the staff, in a hearing or conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C., 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the rules of practice and procedure.

(H) The above-named petitioners are permitted to intervene in these proceedings, subject to the Commission's rules and regulations.

(I) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-360 Filed 1-6-78; 8:45 am]

[6740-02]

[Docket No. CP78-116]

EL PASO NATURAL GAS CO.

Application

DECEMBER 30, 1977.

Take notice that on December 13, 1977, El Paso Natural Gas Co. (Applicant), P.O. Box 1492, El Paso, Tex. 79978, filed in Docket No. CP78-116 an application pursuant to section 7(c) of the Natural Gas Act authorizing the transportation and delivery of natural gas to Northwest Pipeline Corp. (Northwest), pursuant to the authorized San Juan Gathering Agreement (Gathering Agreement) dated January 31, 1974, as amended, between Applicant and Northwest, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to transport and deliver to Northwest 13,413 Mcf of natural gas through October 31, 1977, pursuant to the Gathering Agreement. Applicant states that such deliveries are necessary to return to Northwest volumes of natural gas delivered by Northwest at certain field taps to Northern Natural Gas Co., operating as Peoples Natural Gas Co. (Peoples), and to Southern Union Gas Co. (Southern Union) for Applicant's account since January 31, 1974, the date of divestiture by Applicant to Northwest of facilities and service comprising Applicant's then Northwest Division System.

The application states that on June 16, 1972, the United States District Court for the District of Colorado, in Civil Action C-2626 ordered that certain assets, properties and services of Applicant, consisting primarily of Applicant's Northwest Division pipeline system, be divested by Applicant, and that the United States Supreme Court affirmed this order on March 5, 1973. It is indicated that pursuant to the Federal Power Commission (FPC) order of September 21, 1973, in Docket No. CP73-331, et al., Applicant was authorized to abandon and Northwest to acquire and operate the assets and properties to be divested, recognizing Northwest as successor to Applicant's interests in such assets and properties and the services rendered thereby. It is stated that in accordance with the court order and FPC authority, a conveyance of assets, properties and services was executed and delivered by Applicant to Northwest effective as of January 31, 1974, which conveyed Applicant's interest ordered divested, and that thereafter, on January 22, 1974, the FPC authorized the arrangements between Applicant and Northwest respecting the operations of gathering system facilities in the San Juan Basin area in accordance with the provision of the Gathering Agreement.

The application states that included as part of the facilities required to be divested to Northwest were five tap delivery point locations to Peoples and three delivery point locations to Southern Union, all situated on divested gathering system pipelines in the San Juan Basin area. The application further states that at the same time of such conveyance, however, the arrangements necessary for Northwest to continue service to Peoples and to Southern Union at such delivery points had not been finalized. Consequently, since February 1, 1974, Applicant has continued the sale of gas to Peoples at the five taps and to Southern Union at the three taps, it is said. Applicant states that it has received payment for such sales and deliveries from Peoples in accordance with the provisions of the Service Agreement dated December 31, 1971, between Applicant and Peoples and from Southern Union in accordance with the provisions of the Service Agreement dated November 1, 1971, between Applicant and Southern Union.

It is indicated that since divestiture, the deliveries at the subject taps have been made for Applicant's account from Northwest's acquired gathering facilities, and from Northwest's gas supply. It is further indicated that for the period commencing February 1, 1974, and extending through October 31, 1977, Applicant has received from Peoples and Southern Union total payments of approximately $3,647.46 and $4,365.98 respectively, for deliveries by Northwest at said taps during said period of approximately 6,200 Mcf and 7,214 Mcf to Southern Union and Peoples, respectively, and that until the authorizations sought herein by Applicant and the related authorizations sought by Northwest are issued by the Commission, the existing arrangements would be continued by Applicant to preserve continuity of service to those customers. Applicant indicates that Peoples and Northwest have entered into a service agreement dated February 16, 1977, providing for, inter alia, the sale and delivery of natural gas at the five tap facilities served by Applicant under the service agreement dated December 31, 1971, and that by letter agreement dated July 19, 1977, Applicant and Peoples have agreed to terminate the service agreement dated December 31, 1971, between them, effective as of the date on which the service agreement dated February 16, 1977, between Peoples and Northwest, is accepted and made effective by the Commission.

It is indicated that Southern Union Gathering Co. and Northwest have entered into a gas gathering and exchange agreement dated December 1, 1976, (exchange agreement), which, inter alia, converts the three tap facilities into exchange delivery points, and that on and on and after the effective date designated by the Commission for the exchange agreement, natural gas under the service agreement dated November 1, 1971, would no longer be necessary. By letter agreement dated July 19, 1971, Applicant and Gas Company of New Mexico have agreed to terminate the sale by Applicant and the purchase by Southern Union of natural gas at the three tap facilities herein described, effective as of the date on which the exchange agreement between Southern Union Gathering Co. and Northwest is accepted and made effective by the Commission, it is said.

It is indicated that pursuant to a letter agreement dated November 17, 1977, between Applicant and Northwest, the total deliveries made by Northwest to Peoples and Southern Union, respectively, at the subject tap facilities during the period commencing February 1, 1974, and extending to the effective date of the authorizations required by both parties to implement the arrangements described therein, would be repaid in kind by Applicant to Northwest by means of the balancing of deliveries as hereinafter described. Applicant and Northwest have agreed that the delivery of the small quantities of natural gas by Applicant to Northwest as payback balancing deliveries would be made at certain existing points of interconnection between Applicant's and Northwest's pipeline facilities and as part of the existing balancing arrangements established pursuant to the gathering agreement.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 20, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petitin 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 CRF 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 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 Energy Regulatory 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. 78-361 Filed 1-6-78; 8:45 am]

[6740-02]

[Docket No. RP78-18]

EL PASO NATURAL GAS CO.

Order Rejecting Proposed Rate Increase, Accepting for Filing and Suspending Proposed Alternative Rate Increase, Initiating Hearing, Establishing Procedures, and Granting Interventions

DECEMBER 30, 1977.

On November 29, 1977, El Paso Natural Gas Co. (El Paso) filed in Docket No. RP78-18 revised tariff sheets[1] which would increase jurisdictional revenues by $234,519,465 annually based on costs and sales volumes for the twelve months ended August 31, 1977, as adjusted. El Paso requests that the proposed increase become effective January 1, 1978.

El Paso states that the principal reasons for its proposed rate increase are declining gas supplies and increases in virtually all cost items including special overriding royalties, labor, capital, materials and supplies, regular royalties and taxes. The claimed overall rate of return is 11.17 percent which includes a return of 17 percent on common equity.

El Paso's revised tariff sheets reflect an increase of $172 million in gas well royalty costs and production tax expenses. About $44 million of this total increase is attributable to periodic increases in the national rate through June 1, 1978, under Opinion Nos. 770 and 770-A. The remainder, about $128 million, represents El Paso's estimate of the increase in royalty costs and production taxes which may result from current Federal legislative proposals to increase the wellhead price of natural gas. El Paso's estimate assumes that the wellhead price of natural gas will become $2.87 per Mcf by June 1, 1978, i.e., the price which would be established if the Pearson-Bentsen II deregulation proposal, as passed by the Senate, is enacted into law.

El Paso also filed alternative revised tariff sheets[2] which include only the effect of natural gas price increases pursuant to Opinion Nos. 770 and 770-A. The alternative sheets, therefore, set out rates about $128 million lower than the revised tariff sheets.

Upon review of El Paso's filing, the Commission finds that the revised tariff sheets incorporating royalty cost increases resulting from possible deregulation of natural gas prices must be rejected. Deregulation and possible resulting price increases are entirely speculative at this time. El Paso's claims based thereon are premature and unsupported. El Paso's request to track increases in production taxes and royalty costs subsequent to June 1, 1978, in the event the lower alternative rate increase is accepted by the Commission, shall likewise be denied as premature. In the event El Paso becomes liable for increased production taxes or royalty costs subsequent to June 1, 1978, due to deregulation, it may make appropriate filings with this Commission. The Commission's decision with respect to any such filing will be based on the facts and circumstances existing at that time.

The Commission further finds that El Paso's alternative rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or otherwise unlawful. The Commission shall therefore accept the alternative rates for filing, suspend their use for five months, and set the matter for hearing.

El Paso requests waiver of 18 CFR 154.63(e)(2)(i) and 154.63(e)(2)(ii). Waiver of the former section is requested to permit El Paso to include in its proposed rates the effect of royalty cost increases not associated with deregulation and which will actually become effective pursuant to contracts with overriding royalty owners on June 1, 1978, one day beyond the test period. Waiver of the latter section is requested so that facilities not yet placed in service but expected to be placed in service by June 1, 1978, can be reflected in rates. Waiver of both sections shall be granted, provided, however, that if the subject facilities are not in service by June 1, 1978, El Paso shall file substitute rates reflecting elimination of the costs associated with such facilities.

El Paso's filing also includes pro forma tariff sheets which, if approved, would allow the periodic tracking of royalty costs and production tax expenses in rates. El Paso requests that an investigation into the justness and reasonableness of the proposed tracking provision be conducted as part of the proceeding upon the general rate increase application. El Paso requests that any decision on the pro forma sheets have prospective effect only. El Paso's request shall be granted.

The Commission notes that on June 3, 1977, a show cause proceeding was instituted in Docket Nos. CP74-314, et al., to determine the question of whether the Commission has jurisdiction over certain owners of overriding royalty interests. Since the outcome of the show cause proceeding may affect the level of payments El Paso is required to make to overriding royalty interest owners, the rates associated with such payments, including the rates accepted for filing and suspended by this order, shall be collected subject to the Commission's final disposition in Docket Nos. CP74-314, et al., and subject to any refund order entered in that proceeding.

Public notice of El Paso's filing was issued on December 14, 1977, providing for protests or petitions to intervene to be filed on or before December 23, 1977. Timely petitions to intervene have been filed by Juarez Gas Co., S.A., Arizona Public Service Co., Tucsan Gas & Electric Co., Arizona Electric Power Cooperative and the City of Willcox, Ariz., California Gas Producers Association, Navajo Tribal Utility Authority, Energy Resources Board of New Mexico, Salt River Project Agricultural Improvement and Power District, and Southern Union Co. Late petitions to intervene were filed by Southwest Gas Corp. and Pacific Gas and Electric Co. A timely notice of intervention was filed by the People of the State of California and the Public Utilities Commission of California. The Commission finds the petitioners have demonstrated an interest in this proceeding warranting their participation and the petitions shall accordingly be granted.

The Commission finds: It is necessary and proper in carrying out the provisions of the Natural Gas Act that the Commission enter upon a hearing

[1] Twenty-second Revised Sheet No. 3-B and Sixth Revised Sheet No. 63-C.6 of Original Volume No. 1; Twelfth Revised Sheet No. 1-D, Fifth Revised Sheet No. 1-D.2, and Sixth Revised Sheet No. 1-M.6 of Third Revised Volume No. 2; and, Fourteenth Revised Sheet No. 1-C and Sixth Revised Sheet No. 7-MM.6 of Original Volume No. 2A.

[2] Twenty-second Revised Sheet No. 3-B of Original Volume No. 1; Twelfth Revised Sheet No. 1-D of Third Revised Volume No. 2; and Fourteenth Revised Sheet No. 1-C of Original Volume No. 2A.I11El Paso asserts that the alternative tariff sheets reflect a rate increase which is known and measurable and which represent the absolute minimum increase necessary under existing circumstances. If the alternative sheets are accepted for filing, El Paso requests that it be authorized to track increases in production taxes and royalty costs subsequent to June 1, 1978. The revised tariff sheets have been filed, El Paso indicates, to insure the opportunity of full cost recovery of royalty and production tax expenses should current legislative proposals be enacted into law.

concerning the lawfulness of the increased rates and charges proposed by El Paso, and that the same be accepted for filing and suspended as hereinafter ordered.

The Commission orders: (A) El Paso's proposed rate increase, predicated in part on estimated costs associated with the possible deregulation of natural gas prices, is rejected.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8, and 15 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the alternative rates proposed by El Paso.

(C) Pending hearing and decision, El Paso's proposed alternative rate increase is accepted for filing and suspended for five months, or until June 1, 1978, when it shall be permitted to become effective subject to refund, upon motion filed by El Paso in accordance with the provisions of the Natural Gas Act.

(D) Waiver of §§ 154.63(e)(2)(i) and 154.63(e)(2)(ii) of the Commission's regulations is granted: *Provided, however,* That El Paso shall file revised rates before June 1, 1978, reflecting the elimination of all costs associated with facilities not placed in service on or before June 1, 1978. El Paso shall also file supporting cost of service data which shows the elimination of such facilities from the cost of service.

(E) El Paso's request to track increases in production tax and royalty costs subsequent to June 1, 1978, is denied.

(F) The pro forma tariff sheets filed by El Paso will be a subject for review in this proceeding and any determination by this Commission with respect to the pro forma sheets will have prospective effect only.

(G) Any increased rates associated with payments by El Paso to overriding royalty interest owners shall be collected subject to final disposition in Docket Nos. CP74-314, et al. and subject to possible refund.

(H) The above-named petitioners are permitted to intervene in this proceeding subject to the Commission's rules and regulations.

(I) The Commission staff shall prepart and serve top sheets on all parties on or before April 3, 1978.

(J) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall convene a settlement conference in this proceeding to be held within 10 days after the service of top sheets by the staff, in a hearing or conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the rules of practice and procedure.

(K) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-362 Filed 1-6-78; 8:45 am]

[6740-02]

[Docket Nos. CS77—299; RI78-19]

ENERCO, INC., AND SOUTHERN NATURAL GAS CO.

Informal Conference

DECEMBER 30, 1977.

Take notice that an informal conference will be held on January 19, 1978, beginning at 10 a.m. in Room 8402, at the office of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

All interested persons will be permitted to attend, but attendance will not be deemed to authorize intervention as a party in these proceedings.

This conference will be for discussion purposes only without commitments.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-363 Filed 1-6-78; 8:45 am]

[6740-02]

[Project No. 1494]

GRAND RIVER DAM AUTHORITY

Application for Approval of Change in Land Rights

DECEMBER 29, 1977.

Public notice is hereby given that an application was filed on May 16, 1977, under the Federal Power Act, 16 U.S.C. 791a-825r, by Grand River Dam Authority (applicant) (correspondence to: Mr. Robert W. Sullivan, Jr., General Counsel, Grand River Dam Authority, Administrative Headquarters, Drawer G, Vinita, Okla. 74301) for Commission approval of a change in land rights at Project No. 1494, located on the Grand River in Mayes, Craig, Del., and Ottawa Counties, Okla., and McDonald County, Mo.

Applicant seeks Commission approval of the sale of a 0.4677-acre triangular tract of land located in the SW¼SE¼, section 9, T. 24 N., R. 23 E., Delaware County, Okla. The land would be sold to a development company for possible housing construction.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

Any person desiring to be heard or to make any protest with reference to said application should, on or before February 20, 1978, file with the Federal Power Commission, 825 North Capital Street NE., 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 (1977). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-349 Filed 1-6-78; 8:45 am]

[6740-02]

[Project No. 2551]

INDIANA & MICHIGAN ELECTRIC CO.

Notice of Application for Amendment of License

DECEMBER 29, 1977.

Public notice is hereby given that an application was filed on September 19, 1977, under the Federal Power Act, 16 U.S.C. 791a-825r, by Indiana & Michigan Electric Co. (correspondence to: Mr. H. B. Cohn, vice president, Indiana & Michigan Electric Co., P.O. Box 18, Bowling Green Station, New York, N.Y. 10004) for Federal Energy Regulatory Commission approval of an amendment to the license for the Buchanan project No. 2551. The Buchanan project is located on the St. Joseph River, in Berrien County, Mich., and affects navigable waters of the United States.

Article 32 of the license for project No. 2551 issued on December 15, 1975, required the Licensee to consult and cooperate with the Michigan Department of Natural Resources (DNR) and the U.S. Fish and Wildlife Service (FWS) in studies to determine the minimum flow releases necessary to maintain and develop fish habitat below the project dam. Applicant was

given on year in which to carry out the studies and submit a report and schedule of the flow releases found to be necessary and feasible. Based on this study, Applicant has recommended a minimum flow release of 1,500 cfs except in emergency situations. DNR and FWS concur with the recommended flow release. The project license would be amended to reflect establishment of the minimum flow release.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the Federal Power Commission on the date of the DOE Act takes effect shall not be affected, and that orders shall be issued in such proceedings as if the DOE Act has not been enacted. All such proceedings shall be continued, and further actions shall be taken by the appropriate component of DOE now responsible for the functions under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a) (1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary of Energy and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ——; *Provided*, That this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above-mentioned authorities.

Any person desiring to be heard or to make any protest with reference to the above-mentioned application should, on or before March 6, 1978, filed with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., 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 (1977). 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 participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-350 Filed 1-6-78; 8:45 am]

[6740-02]

[Docket No. E-9130]

IOWA PUBLIC SERVICE CO.

Application

DECEMBER 30, 1977.

Take notice that on December 19, 1977, Iowa Public Service Co. (applicant) filed an application pursuant to section 204 of the Federal Power Act seeking authority to issue $50 million of short-term unsecured promissory notes to commercial banks and commercial paper dealers. All proposed notes are to be issued on or before March 31, 1979, and will bear final maturity dates not later than March 31, 1980.

The application states that the bank notes will bear interest at the prime rate in effect at the lending bank at the date of each borrowing. The commercial paper, having maturities not to exceed nine months, will be sold directly to commercial paper dealers and will bear interest rates determined by the market conditions at the time of each borrowing. The aggregate amount of commercial paper outstanding at any one time will not exceed 25 percent of the applicant's gross operating revenues for the twelve months ending December 31, 1977.

Applicant proposes to use the funds for construction or acquisition of permanent improvements, extensions, and additions to applicant's property and/or to pay off maturing short-term loans. Its estimated construction expenditures for the year 1978 are $99,670,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 13, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8, 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. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-351 Filed 1-6-78; 8:45 am]

[6740-02]

[Project No. 2765]

JEAN LARA AND MICHAEL HANAGAN

Application of Minor License

DECEMBER 29, 1977.

Public notice is hereby given that an application was filed under the Federal Power Act, 16 U.S.C. 791a-825r, on June 7, 1976, and revised on July 1, 1977, by Jean Lara and Michael Hanagan (correspondence to: Mr. Harvey A. Katz, 294 New London Turnpike, Glastonbury, Conn. 06033) for a minor license for project No. 2765 known as the Shafer Holdings project. Project No. 2765 is located on the Scantic River in the Town of Somersville, Tolland County, Conn.

The Shafer Holdings project, originally constructed in 1820, consists of: (1) a stone and concrete dam 15-feet high and 92-feet long which forms a pond with a storage capacity of 125 acre-feet; (2) a 7-foot deep by 12-foot wide canal 270-feet long from an intake at the dam to the turbine; (3) one 140 kW generator located in the basement of a small industrial building adjacent to the dam; and (4) an outlet canal from the turbine to the Scantic River. The project is operated as run-of-the-river. The project supplies electricity during the winter months for heating and industrial building where motorcycle parts are manufactured.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 13, 1978, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., 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 (1977). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

DOE Act takes effect shall not be af-

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-352 Filed 1-6-78; 8:45 am]

[6740-02]

[Docket No. RP78-23]

MIDWESTERN GAS TRANSMISSION CO.

Order Accepting for Filing and Suspending Proposed Increase in Rates, Initiating Hearing and Establishing Procedures, and Granting Interventions

DECEMBER 30, 1977.

On December 1, 1977, Midwestern Gas Transmission Co. (Midwestern) tendered for filing in the above-captioned docket proposed changes to its FERC Gas Tariff[1] which would increase its rates for jurisdictional natural gas sales and services by $1,962,806 for the northern system and $504,339 for the southern system or a total of $2,467,145 annually. The increased rates are predicated on a test period of 12 months ended August 31, 1977, adjusted for known and measurable changes through May 31, 1978. Midwestern requests the proposed increased rates be permitted to become effective on January 1, 1978. For the reasons set forth below, the Commission shall accept the proposed rate increase for filing, suspend it for five months, and set the matter for hearing.

Public notice of Midwestern's filing was issued on December 14, 1977, providing for protests or petitions to intervene to be filed on or before December 23, 1977. [Timely petitions to intervene have been filed by Northern Illinois Gas Co., jointly by Northern States Power Co. (Minnesota) and Northern States Power Co. (Wisconsin), Central Illinois Light Co., Central Illinois Public Service Co., Great Plains Natural Gas Co., Michigan Wisconsin Pipe Line Co., and Wisconsin Gas Co. Late petitions to intervene were filed by North Central Public Servie Co. and Northern Indiana Public Service Co. The Commission finds that the petitioners have demonstrated an interest in this proceeding warranting their participation and the petitions shall accordingly be granted.]

Based upon a review of Midwestern's filing, the Commission finds that the proposed higher rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept the proposed increase for filing, suspend its use for five months or until June 1, 1978, when it shall be permitted to become effective, subject to refund, and shall set the matter for hearing.

Midwestern states the principal reasons for its proposed rate increase are: (1) increases in the cost of materials, supplies, wages and services, taxes and other costs of pipeline operation, and (2) a claimed increase in Midwestern's overall rate of return to 11.70 percent including a return on common equity of 14.25 percent.

Based upon a review of Midwestern's filing, the Commission finds that the proposed higher rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept the proposed increase for filing, suspend its use for five months or until June 1, 1978, when it shall be permitted to become effective, subject to refund, and shall set the matter for hearing.

For purposes of its filing, Midwestern has used the *Atlantic Seaboard*[2] method of cost classification in determining rates for the northern system. The Commission believes that the use of the *Atlantic Seaboard* method may be inadequate and contrary to the public interest under the present conditions of gas supply shortages and resulting curtailments of service. The Commission also notes that because of successive pipeline rate filings which create locked-in periods, the Commission's efforts to adopt a just and reasonable cost classification, allocation and rate design differing from *Atlantic Seaboard* may be frustrated. To the extent that the rate structure found just and reasonable for Midwestern after hearing and decision departs from the *Atlantic Seaboard* methodology by assigning additional fixed costs to the commodity component of its rates, undercollections may occur. Midwestern is hereby placed on notice that it may be subject to undercollections if, after hearing and decision, the Commission finds its proposed use of the *Atlantic Seaboard* method to be improper.

The Commission finds: It is necessary and proper in the public interest and in carrying out the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the increased rates and charges proposed by Midwestern, and that the same be accepted for filing and suspended as hereinafter ordered.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8, and 15 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the increased rates proposed herein by Midwestern.

(B) Pending hearing and decision, Midwestern's proposed rate increase is accepted for filing and suspended for five months, or until June 1, 1978, when it shall be permitted to become effective, subject to refund, upon motion filed by Midwestern in accordance with the provisions of the Natural Gas Act.

(C) The Commission staff shall prepare and serve top sheets on all parties on or before April 3, 1978.

(D) The above-named petitioners are permitted to intervene in this proceeding, subject to the Commission's rules and regulations.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall convene a settlement conference in this proceeding to be held within 10 days after the service of top sheets by the staff, in a hearing or conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary and to rule on all motions (except motions to consolidate, sever, or dismiss), as provided for in the rules of practice and procedure.

(F) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-364 Filed 1-6-78; 8:45 am]

[6740-02]

MONTANA-DAKOTA UTILITIES CO.

[Docket No. RP74-97 (PGA No. 78-1)]

Order Accepting for Filing and Suspending PGA Rate Increase, Instituting Investigations, and Prescribing Procedures

DECEMBER 30, 1977.

On December 1, 1977, Montana-Dakota Utilities Company (MDU) tendered for filing proposed rate increases[1] under the purchased gas adjustment (PGA) provision in its tariff to recoup a balance of $160,500 in its unrecovered purchased gas cost account. MDU proposes to increase by 3.88 cents per Mcf, to 9.724 cents per Mcf, the PGA surcharge to two of its three jurisdictional customers and to

[1] Twenty-first Revised Sheet No. 5, Fourth Revised Sheet Nos. 5A and 80, Substitute Second Revised Sheet No. 84, Substitute Third Revised Sheet No. 85, and Substitute Second Revised Sheet No. 86 to Midwestern's FERC Gas Tariff, Third Revised Volume No. 1; Second Revised Sheet No. 37 to Original Volume No. 2.

[2] Atlantic Seaboard Corp., 11 FPC 43 (1952).

[1] Eighth Revised Sheet No. 3A to FPC Gas Tariff, Original Volume No. 4 and Second Revised Sheet No. 10 to FPC Gas Tariff, First Revised Volume No. 2.

impose a single "lump sum" charge of $48,341.08 on its third jurisdictional customer, Northern Gas Company. An effective date of January 1, 1978, is requested. For the reasons stated below, the proposed rate increases will be accepted for filing and suspended for one day until January 2, 1978, when they will be permitted to become effective subject to refund upon completion of an investigation into the lawfulness of the proposed rates. Pursuant to Section 5 of the Natural Gas Act, an investigation will also be instituted into the lawfulness of MDU's current PGA tariff provisions.

The Commission's review of MDU's filing indicates that the balance in MDU's unrecovered purchased gas cost account includes purchases at prices in excess of the national rates established in Opinion Nos. 770 and 770-A, and that MDU has not demonstrated that such gas costs are proper. The Commission finds that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or otherwise unlawful. Therefore, MDU's proposed rate increases will be accepted for filing and suspended for one day until January 2, 1977, when they will be permitted to become effective, subject to refund; and this matter will be set for hearing.

Additionally, MDU has included in its total system gas costs and allocated to all customers the costs of intrastate purchases of approximately 910,000 Mcf to supply MDU's Sheridan System. This is consistent with the terms of MDU's PGA tariff provision which permits MDU to reflect the costs of gas purchased for its entire system in its PGA rate adjustments. The Sheridan System is isolated from MDU's other facilities and previously has been operated separately as a nonjurisdictional, intrastate distribution system. By order issued February 25, 1977, in Docket No. CP75-227, the Commission certificated an exchange agreement with Northern Gas Company (Northern) which permits MDU to provide volumes from its interstate system to Northern which are then exchanged for volumes provided by Northern to the Sheridan System. This certificate was issued upon condition that this exchange arrangement be used only to the extent necessary to make up deficiencies in MDU's intrastate supplies for the Sheridan system.

The Commission has determined that MDU's current PGA tariff, which permits the costs of intrastate supplies for the Sheridan System to be allocated to all of MDU's customers, may not be just, reasonable and non-discriminatory. Therefore, pursuant to Section 5 of the Natural Gas Act, an investigation and hearing on the lawfulness of MDU's current PGA tariff will be instituted. Thus, any change in MDU's PGA tariff which may be ordered will be made effective prospectively from the date on which a new or revised tariff provision is approved. Finally, as a procedural matter this investigation of the lawfulness of MDU's PGA tariff under Section 5 and the investigation of the lawfulness of MDU's proposed PGA rates under Section 4 will be consolidated in one proceeding for hearing and decision.

The Commission finds: It is necessary and proper in the public interest and in carrying out the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the increased rates and charges proposed by MDU, that the same be accepted for filing and suspended as hereafter ordered, and that an investigation and hearing be instituted into the lawfulness of MDU's PGA tariff.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly Sections 4, 5, 8 and 15 therof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the increased rates proposed by MDU.

(B) Pending hearing and decision, MDU's proposed rate increases are accepted for filing and suspended for one day, or until January 2, 1978, when they shall be permitted to become effective, subject to refund.

(C) Pursuant to the authority of the Natural Gas Act, particularly Section 5 thereof, an investigation shall be instituted and a public hearing shall be held concerning the lawfulness of the terms of MDU's PGA tariff provisions.

(D) For purposes of investigation, hearing and decision, the separate proceedings instituted in ordering paragraphs (A) and (C) shall be consolidated into one proceeding.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall convene a pre-hearing conference within 30 days of issuance of this order in a hearing or conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary and to rule upon all motions (except motions to consolidate, sever or dismiss) as provided for in the rules of practice and procedure.

By the Commission

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-365 Filed 1-6-78; 8:45 am]

[6740-02]

[Docket Nos. CP77-71, 118, 125]

NATURAL GAS PIPELINE CO. OF AMERICA, ET AL.

Order Granting Rehearing and Establishing Procedures

DECEMBER 30, 1977.

In the matter of Natural Gas Pipeline Company of America, Columbia Gas Transmission Corporation, Columbia Gulf Transmission Company, and Texas Gas Transmission Corporation.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 F.R. 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provision" of Section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by Section 402(a)(1) or (2) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ——: *Provided*, That this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above-mentioned authorities.

Applications for rehearing of the Federal Power Commission (Commission) order issued March 1, 1977, were filed by General Electric Company (G.E.), Libbey Owens Ford Company (Libby Owens), Lithium Corporation of America (Lithium), Glass Containers Corporation (Glass Containers), PPG Industries Inc. (PPG), Armco Steel Corporation (Armco), and Natu-

ral Gas Pipeline Company of America (Natural). By its order, the Commission authorized the transportation of natural gas by four interstate pipelines for Priority 2 and Priority 3 process end uses in several G.E. plants located in the states of Indiana, Kentucky and Maryland. Although the transportation applications, filed pursuant to Section 7(c) of the Natural Gas Act, requested authorization for a term of ten years, the Commission imposed conditions characteristic of Order No. 533. It limited the transportation certificates to a period of two years, providing an opportunity to file for a six month extension before the end of such period.

In limiting the term of the transportation authorization, the Commission stated the following:

> However, upon reflection and in light of the severe winter weather which has occurred since that order the Commission has determined that future applications for the transportation of industry-owned gas will be reviewed within the purview of §2.79. The proposed term in the instant applications of ten years is inconsistent with the policy set forth in §2.79 and the authorization granted herein shall be conditioned to an initial term of two years.

In seeking rehearing, petitioners are requesting that the Commission reconsider its rejection of the proposed ten year term. Petitioners argue that the Commission violated the policy it established in Order No. 533-A whereby the merits of each proposal for the transportation of gas owned by an industrial consumer were to be separately evaluated.[1] Based on the standard set forth therein, petitioners argue that the Commission should have provided a clear explanation of the factors considered by the Commission in making its decision.

Moreover, petitioners argue that the order is legally deficient because it does not include a statement of "findings and conclusions, and the reasons or bases therefore, on all the material issues of fact, law, or discretion presented on the record * * *".[2] The parties further assert that the Commission's power to impose conditions with respect to granting a certificate of public convenience and necessity must be exercised in a manner consistent with the requirements of due process. Petitioners contend that they should be able to rely upon the principles and criteria enumerated in "FPC v. Transcontinental Gas Pipeline Corporation," 365 U.S. 1 (1961) as providing the basis for Commission review of applications which do not conform with the provisions of Order No. 533. Consistent therewith, they maintain that the Commission is compelled to develop an evidentiary record in these proceedings prior to imposing such limitations. As a corollary to this argument, the parties argue that the Commission should not seek to restrict its general authority under Section 7(c) of the Act to a lesser level such as that circumscribed by Order No. 533.

Petitioners state that the adoption of a general two year limitation of transportation authority for consumer owned gas would effectively preclude high priority industrials from engaging in exploration and development of programs or other long-range gas acquisition activities. The industrial consumer would have no assurance that it would have the opportunity to recover the substantial investment of funds necessary to acquire such supplies. They suggest that this condition would preclude long-range planning of business operations and would hinder industrial development, capital investment, and energy conservation plans.

Petitioners view the Commission's initial imposition of the two year limitation on transaction falling within the purview of §2.79 of the Commission's regulations as an attempt to protect Priority 1 customers. They argue that there are now other existing measures which adequately protect against the possibility that industrial users would receive a disproportionate share of the gas. Therefore, the petitioners suggest that the Commission can take into account the estimated life of the reserves, capital investment, and other relevant factors in determining the appropriate term of a transportation certificate.

Apart from Order Nos. 533 and 533-A, They view the Commission order of March 1, 1977, as an aberration to a well-established policy, i.e., the owner of gas in place may obtain transportation authorization for the use of that gas for a period commensurate with the life of the reserves, provided the use of this sufficiently high priority. In prior cases where transportation was authorized, the Commission did not impose a time limitation.[3]

We find that the parties should be afforded a hearing in order to determine whether the proposed transportation arrangements should be authorized and under what conditions.

In its notice issued June 21, 1977, the Commission stated its intent to review Order Nos. 533 and 533-A and in particular, the transportation of consumer-owned gas and reserves-in-place. Most of the parties who filed comments supported authorization of long term transportation arrangements arguing that high priority customers would be encouraged to compete with the intrastate market for gas not otherwise available to the interstate pipeline systems. The Commission is of the opinion that such arrangements did not fall within the purview of the policy statement, but should be considered in the context of Section 7(c) of the Natural Gas Act.

Commission stated that such applications would be considered on an ad hoc basis whereby the parties would be afforded an opportunity for a hearing in order to determine whether the proposed transportation arrangements should be authorized and under what conditions.

There are some "process" end uses for which there is no commercially practicable alternate fuel technology and in such cases, long term transportation authorizations may be appropriate. For high priority consumers with critical end uses, such authorizations would provide certainty of supply which would enhance operational and economic stability.

In reviewing this application and future applications, we will be extremely concerned with whether there is a potential for the applicant to utilize more abundant fuels. The applicant will have the burden of proving that the end uses require the use of natural gas both presently and during the term of the authorization requested.

Petitions to intervene in these proceedings have been filed by Libbey Owens, Lithium and PPG. Due to the nature of these proceedings, other interested parties are invited to intervene and participate in these hearings. Petitions to intervene should be filed prior to December 20, 1977.

The Commission finds: (1) The applications for rehearing of the FPC Order issued March 1, 1977, in Docket Nos. CP77-71, et al., should be granted for good cause.

(2) Participation by the above-mentioned petitioners may be in the public interest.

The Commission orders: (A) The applications for rehearing of Order issued March 1, 1977, in Docket No. CP77-71, *et al.*, is hereby granted in order to allow all parties an opportunity to develop a record in this proceeding.

(B) Pursuant to the authority of the Natural Gas Act, particularly Sections 7 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Chapter I), a prehearing conference will be held in a hearing room of the Federal Energy Regula-

[1] The Commission will further evaluate the application of the policy of Order No. 533 as it may relate to industrial consumer participation, exploration and development activities, if and when a specific proposal of the nature is presented to the Commission for the certification purposes of Order No. 533. We specifically encourage and invite such proposals. (Mimeo at 9.)

[2] 5 U.S.C. Section 577(c).

[3] "Public Service Commission of New York v. FPC," Opinion No. 560-A, 463, F. 2d 824 (D.C. Cir. 1972), "Consolidated Gas Supply Corporation," Docket No. CP76-260, Order issued October 4, 1976.

tory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, at 10 a.m. on January 31, 1978, to discuss procedural issues and the clarification of issues.

(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 a hearing in this proceeding, with authority to establish and change all procedural dates, and to rule on all motions (with the sole exception of petitions to intervene, and motions to consolidate and sever, and motions to dismiss, as provided for in the rules of practice and procedure).

(D) The petitions to intervene filed by Libbey Owens Ford Company, Lithium Corporation of America and PPG Industries Inc., are hereby granted. The above-named petitions are hereby permitted to intervene in these proceedings subject to the rules and regulations of the Commission; *Provided, however,* That participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *Provided, however,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-353 Filed 1-6-78; 8:45 am]

[6740-02]

[Docket No. OR78-5 (formerly ICC Docket No. NOR35794) etc.]

NORTHVILLE DOCK PIPE LINE CORP. AND CONSOLIDATED PETROLEUM TERMINAL, INC. ET AL.

Further Extension of Time

DECEMBER 29, 1977.

On December 22, 1977, Northville Dock Pipe Line Corp., Consolidated Petroleum Terminal, Inc., and Total Resources, Inc., filed with the Federal Energy Regulatory Commission (FERC) a motion to further extend the time to file an administrative appeal from two orders issued by the Interstate Commerce Commission (ICC) on September 30, 1977. On December 29, 1977, Long Island Fuel Oil Association joined in the motion for extension of time.

Pursuant to the ICC Rules of Practice, 49 CFR 1100.97 (d), (e), respondents may petition for administrative review of orders within 30 days of the date of service of the orders, and any such petition automatically stays on the effective date of the orders until 30 days following the service of the decision on appeal. An extension of time within which to file an administrative appeal from the ICC's September 30, 1977, orders in this docket was previously granted by the Commission Notice issued October 28, 1977. The instant motion states that Staff Counsel concurs in the request for a further extension of time.

On October 1, 1977, pursuant to section 402(a)(2)(b) of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), the regulatory functions and authority of the ICC for establishment of rates or charges for transportation of oil by pipeline and for establishment of the valuation of any such pipeline were transferred to the FERC, an independent commission within the Department of Energy which also assumed the functions and regulatory responsibilities of the Federal Power Commission. The joint regulation adopted on October 1, 1977, by the Secretary of Energy and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR : *Provided,* That this proceeding would be transferred from the ICC to the FERC. Additionally, the Savings Provisions in section 705(a) of the DOE Act provide, among other things, that rules and regulations relating to functions transferred to the FERC shall continue in effect until modified by the FERC. The FERC Secretary takes action on the instant motion in accordance with the above mentioned authorities and pursuant to Order No. 1 issued by the FERC on October 6, 1977, and published October 17, 1977 (42 FR 55450) which continues the delegation of authority contained in 18 CFR 3.5 with the officials succeeding Federal Power Commission officials in the FERC.

Upon consideration, notice is hereby given that a further extension of time is granted to and including March 1, 1978, within which to file an administrative appeal from the orders issued in the captioned proceeding by the ICC on September 30, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-354 Filed 1-6-78; 8:45 am]

[6740-02]

[Docket No. CP78-119]

NORTHWEST PIPELINE CORP.

Notice of Application

DECEMBER 30, 1977.

Take notice that on December 14, 1977, Northwest Pipeline Crop. (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP78-119 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the gathering and transportation of natural gas for Michigan Wisconsin Pipe Line Co. (Mich-Wis); the gathering and transportation for, sale to and exchange of natural gas with Colorado Interstate Gas Co. (CIG); and the construction and operation of certain facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes the following:

1. The transportation for CIG of up to 2,000 Mcf of natural gas per day to be delivered by CIG to Applicant in Carbon County, Wyo., and to be redelivered by Applicant to CIG at an existing point of interconnection between the facilities of Applicant and Western Transmission Corp. (Western) in Carbon County, Wyo.

2. The gathering of up to 25,000 Mcf of natural gas per day for Mich-Wis and Applicant in the Creston Nose area and the concomitant delivery of such volumes to the facilities of Western for transportation by Western to CIG, with equivalent volumes, less up to 25 percent of such volumes which CIG has the option to purchase from Mich-Wis and Applicant, to be redelivered by CIG to Applicant at the existing point of interconnection between the mainline facilities of Applicant and CIG in Sweetwater County, Wyo.

3. The sale to, and transportation for, CIG of up to 25 percent of the Mich-Wis and Applicant volumes, respectively, which are delivered to CIG, via Western, by Applicant for the account of Mich-Wis and Applicant.

4. The transportation of up to 15,000 Mcf of natural gas per day, for the account of Mich-Wis, from the point of delivery by CIG in Sweetwater County, Wyo. to a point of interconnection between the facilities of Applicant and El Paso Natural Gas Co. (El Paso) located in La Plata County, Colo.

5. The construction and operation of the necessary gathering and appurtenant facilities that are necessary to implement the above services.

Applicant indicates that Mich-Wis has under contract or otherwise owns or controls certain natural gas reserves in the Rocky Mountain area which are a considerable distance from Mich-Wis' existing transmission system, and that in order to make such gas reserves available to Mich-Wis, Mich-Wis and Applicant have entered into a gas transportation agreement dated September 23, 1977, which provides that Applicant would transport up to 175,000 Mcf per day of natural gas for the account of Mich-Wis, after delivery of such volumes of natural gas into Applicant's mainline transmission system. Further, it is indicated that Applicant and Mich-Wis have entered into a gas gathering and transportation agreement (Gathering Agreement) dated September 23, 1977, which provides that Applicant would, as necessary, gather such volumes of natural gas as Mich-Wis may control in the Creston Nose area of Carbon County, Wyo., and that Applicant would arrange for the delivery of such

volumes to Applicant's main transmission system, by displacement or otherwise, for further transportation by Applicant pursuant to the transportation agreement.

It is stated that Applicant and CIG have, by a letter agreement dated November 28, 1977, amended a certain gas purchase, transportation and exchange agreement, which exchange agreement is presently on file with the Commission as special rate schedule No. X-26 to Applicant's presently effective FERC Gas Tariff Original Volume No. 2, and that this exchange agreement provides in part that CIG would provide an exchange service for Applicant for volumes of natural gas in Carbon County, Wyo. The November 28, 1977, amendment expands the acreage covered by the exchange agreement to include the acreage dedicated to Applicant pursuant to a gas purchase contract dated October 12, 1977, between Applicant and Kemmerer Coal, and certain acreage dedicated to CIG, it is said. It is stated that the agreement of November 28, 1977, also provides two additional delivery points for the delivery of exchange gas by Applicant to CIG, one located on CIG's main transmission line in Sweetwater County, Wyo. and the other on Western's line in Carbon County, Wyo.

Applicant proposes herein, to gather all of the gas presently available to Applicant, Mich-Wis and CIG from the acreage designated in the November 28, 1977, amendment and to tender the gas gathered for Mich-Wis' and Applicant's account to Western in Carbon County, Wyo. The volumes gathered for CIG's account would be connected to Applicant's existing Barrel Springs gathering system and would be transported and delivered to Western for CIG's account in Carbon County, Wyo. It is indicated that Western would transport all volumes received for Applicant's and CIG's account to a point of interconnection with the main transmission line of CIG in Sweetwater County, Wyo. It is further indicated that CIG, pursuant to the exchange agreement, would redeliver the volumes received from Western for Applicant's account at an existing point of interconnection with the facilities of Applicant in Sweetwater County, Wyo. The redelivery by CIG is subject to CIG's right to purchase up to 25 percent of the volumes delivered by Applicant pursuant to the exchange agreement.

Applicant indicates that the volumes of natural gas which are presently available to it, Mich-Wis and CIG (exclusive of CIG's right to purchase 25 percent of the Applicant and Mich-Wis volumes) are 1750 Mcf per day, 1750 Mcf per day and 300 Mcf per day, respectively.

Applicant states that the volumes of natural gas gathered for Mich-Wis in the Creston Nose area would upon redelivery by CIG be further transported by Applicant from the point of interconnection between the facilities of CIG and Applicant in Sweetwater County, Wyo., to a point of interconnection between the facilities of Applicant and El Paso in La Plata County, Colo., where the volumes of gas so transported would be delivered to El Paso for Mich-Wis' account. Applicant further states that the gas so delivered to El Paso would, by displacement or otherwise, be further transported by El Paso and Natural Gas Pipe Line Co. of America (Natural) for ultimate delivery to Mich-Wis.

The application states that the proposal herein, so far as gathering and transporting natural gas from the Creston Nose area is concerned, depends upon the construction by Western of a new point of interconnection between the facilities of Applicant and Western in Carbon County. Applicant proposes to construct and operate the following necessary gathering and transmission facilities:

(A) The Creston Nose Gathering System

Applicant proposes to construct and operate approximately 6.2 miles of 8⅝ inch O.D. pipeline (trunk A), approximately 1.9 miles of 4½ inch O.D. pipeline, seven well-head meters and appurtenant facilities to connect seven wells to the aforementioned trunk A and metering facilities at the point of interconnection between Applicant and Western.

(B) Barrel Springs Gathering System Extension

Applicant proposes to construct and operate approximately 1.5 miles of 8⅝ inch O.D. pipeline, a well head meter and appurtenant facilities necessary to connect the William Moss-Federal 26-17-93 well (which is dedicated to CIG) to Applicant's existing Barrel Springs gathering facilities.

Applicant indicates that the estimated cost of constructing the proposed facilities is $924,900 which cost would be financed from funds on hand or from short-term borrowing which would be repaid from funds generated under a permanent form of financing.

The application states that the proposal herein also depends upon the execution of a transportation agreement between Western and Applicant whereby Western would transport the subject volumes of natural gas for Applicant's account from the proposed new delivery point to the existing point of interconnection between Western and CIG. The application further states that there exists a dispute between Western and Applicant all as more fully set forth in the proceedings at Docket No. CP 77-611 and that Western has not yet agreed to the transportation as set forth in this application. Applicant indicates that by virtue of the position which Western took in successfully contesting the application which Applicant filed in Docket No. CP75-294, Western has obligated itself to render the transportation service contemplated in the instant application under reasonable terms. It is stated that Applicant's reasoning in this regard is set forth in the answer which it filed on October 11, 1977, in Docket No. CP77-611. It is further stated that Western, on September 6, 1977, filed in Docket No. CP77-611 a complaint against Applicant alleging that Applicant had undertaken construction of certain facilities in violation of the Natural Gas Act and the Federal Power Commission's regulation thereunder. Applicant's answer to Western's complaint was filed October 11, 1977; on November 9, 1977, Applicant filed a motion for expedited resolution of the matter; and on November 15, 1977, Western filed its answer to such motion. The Commission has taken no action on Western's complaint or on Applicant's motion in Docket No. CP77-611, to date, it is indicated. Applicant states that certain alternatives are available to it and that Applicant would consider such alternatives subject to the outcome of the instant application.

Applicant proposes to charge CIG for the gathering and transportation of CIG's gas from the Barrel Springs area, its cost-of-service as set forth in its FERC Gas Rate Schedule No. X-26, which current rate is 6.9 cents per Mcf. Applicant states that pursuant to the April 7, 1976, agreement, as amended November 28, 1977, it would sell to CIG up to 25 percent of the gas delivered to CIG for exchange and CIG would pay Applicant an initial transportation charge of 6.9 cents per Mcf for the gas purchased from Applicant. In light of the terms of the April 7, 1976, agreement, as amended, between Applicant and CIG, Mich-Wis has agreed to sell to CIG up to 25 percent of its volumes delivered or caused to be delivered to CIG at a price which reflects its cost including adjustments, taxes or other charges permitted under applicable laws.

Applicant states that it estimates that initially 3,500 Mcf of natural gas per day would be transported through the facilities of Western and CIG to Applicant's mainline from the Creston Nose area for both Applicant and Mich-Wis, and that it would charge Mich-Wis a gathering rate based on Applicant's gathering cost-of-service, which rate is 19.83 cents per Mcf. In addition to the gathering charge of 19.83 cents per Mcf, Applicant proposes to charge Mich-Wis an initial transportation rate of 1 cent per Mcf for all gas handled through its mainline system and redelivered to El Paso under the transportation agreement, it is said. Applicant indicates that the 1 cent rate is predicated on its continuing ability to displace the gas to be redelivered to Mich-Wis, and that in the

event that delivery by displacement is diminished due to Applicant's prior commitments on its transmission system or due to physical or legal limitations imposed on Applicant's displacement capability so that actual transportation of all or any portion of Mich-Wis' gas is required, then the 1 cent per Mcf charge would be increased to Applicant's then rolled-in transmission cost or such other appropriate rate as may be established and approved by the Commission.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 20, 1978, file with the Federal Energy Regulatory 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 Energy Regulatory 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. 78-355 Filed 1-6-78; 8:45 am]

[6740-02]

[Project No. 2370]

PENNSYLVANIA ELECTRIC CO.

Application for Approval of Change in Land Rights

DECEMBER 29, 1977.

Public notice is hereby given that an application was filed on July 7, 1977, and supplemented on July 13, 1977, under the Federal Power Act, 16 U.S.C. 791a-825r, by the Pennsylvania Electric Co. (Correspondence to: Mr. W. R. Thomas, Secretary and Treasurer, Pennsylvania Electric Co., 1001 Broad Street, Johnstown, Pa. 15907), for approval of a change in land rights for Project No. 2370, known as the Deep Creek Project, located on Deep Creek, a tributary of the Youghiogheny River, in Garrett County, Md.

Applicant requests Commission approval of the grant of an easement to Midwest Corp. for installation of a three-quarter-inch-diameter submarine television cable across Deep Creek Lake in the vicinity of the Glendale Road Bridge. At the same location, the Chesapeake and Potomac Telephone Co. of Maryland and the Potomac Edison Co. have a submarine cable crossing and an aerial distribution line crossing, respectively, which are part of their systems serving the general public in this area. Applicant states that the recreational use plan for this project, which is currently pending before the Commission, would not be adversely affected by the crossing. The cable would extend for approximately 875 feet on the lake bottom, where the maximum depth is approximately 52 feet.

Any person desiring to be heard or to make any protest with reference to said application should, on or before March 1, 1978, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., 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 (1977). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-356 Filed 1-6-78; 8:45 am]

[6740-02]

[Project No. 2157]

PUBLIC UTILITY DISTRICT NO. 1 OF SNOHOMISH COUNTY, WASH., AND CITY OF EVERETT, WASH.

Application for Amendment of License

DECEMBER 30, 1977.

Public notice is hereby given that an application was filed on August 10, 1977, under the Federal Power Act, 16 U.S.C. §§ 791a-825r, by Public Utility District No. 1 of Snohomish County, Wash., and the City of Everett, Wash. (Correspondence to: Mr. W. G. Hulbert, Jr., Manager, Public Utility District No. 1 of Snohomish County, P.O. Box 1107, Everett, Wash., 98206), for Federal Power Commission approval of an amendment to the license for the Sultan Project No. 2157. The Sultan Project is located on the Sultan River, and affects navigable waters and lands of the United States within the Snoqualmie National Forest, in Snohomish County, Wash.

Applicants request that article 28 of the major license for Project No. 2157, issued June 16, 1961, be amended to allow the licensees an extension of time until January 1, 1979, to evaluate alternative development plans and prepare an application for amendment of the license to authorize the construction of Stage II of the project. Current requirements called for a report to the Federal Power Commission on such plans for development by June 16, 1976.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC), which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of Section 705(b) of the DOE Act provide that proceedings pending before the Federal Power Commission on the date that DOE Act takes effect shall not be affected, and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued, and further actions shall be taken by the appropriate component of DOE now responsible for the functions under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by Section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary of Energy and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ——: *Provided*, That this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

Any person desiring to be heard or to make any protest with reference to the above mentioned application should, on or before February 27,

1978, file with the Federal Energy Regulatory Commission, 825 North Capitol St. NE., 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 (1977). 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 participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-366 Filed 1-6-78; 8:45 am]

[6740-02]

[Project No. 2101]

SACRAMENTO MUNICIPAL UTILITY DISTRICT

Application for Amendment of License

DECEMBER 30, 1977.

Public notice is hereby given that an application was filed on July 15, 1977, under the Federal Power Act, 16 U.S.C. 791a-825r, by the Sacramento Municipal Utility District (correspondence to: Mr. W. C. Walbridge, General Manager, Sacramento Municipal Utility District, 6201 S Street, Box 15830, Sacramento, Calif. 95813), for Commission approval of an amendment to the license for the Upper American River Project, FERC No. 2101, which would delete article 55 from the license. The Upper American River Project is located on the Rubicon River and tributaries, Silver Creek and tributaries, and South Fork of the American River, and affects lands of the United States within the Eldorado National Forest, in El Dorado County, Calif.

Applicant requests that article 55 be deleted from the license for Project No. 2101. Article 55 provides for the dumping of waste material from the Camino powerhouse excavation in such manner as to provide for a parking area and boat landing ramp immediately downstream from the Camino powerhouse access bridge. According to Applicant, the waste material from the Camino powerhouse excavation was dumped in the prescribed manner and in the location intended. A few years later, however, high water washed out the area and made it unsuitable for use in developing a boat launching ramp. Applicant, with the approval of the Forest Service, chose and developed an alternate boat launching site on the south side of Slab Creek reservoir near the dam. According to Applicant and the Forest Service, the requirements of article 55 have thus been fulfilled.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC), which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the Federal Power Commission on the date of the DOE Act takes effect shall not be affected, and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued, and further actions shall be taken by the appropriate component of DOE now responsible for the functions under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary of Energy and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ——: *Pprovided*, That this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above-mentioned authorities.

Any person desiring to be heard or to make any protest with reference to said filing should, on or before February 20, 1978 file a petition to intervene or protest with the Federal Energy Regulatory 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) (1977). All such petitions or protests should be filed on or before December 5, 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 the subject filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-367 Filed 1-6-78; 8:45 am]

[6740-02]

[Docket No. CP78-129]

TEXAS EASTERN TRANSMISSION CORP.

Application

DECEMBER 30, 1977.

Take notice that on December 20, 1977, Texas Eastern Transmission Corp. (Applicant), P.O. Box 2521, Houston, Tex. 77001, filed in Docket No. CP78—129 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of certain quantities of vaporized ethane commingled with natural gas for Allied Chemical Corp. (Allied), and the construction and operation of certain facilities needed to transport the gas, all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that Allied presently owns a quantity of ethane located at its Choctaw Dome storage facility in Iberville Parish, La., near Applicant's 36-inch line which it desires to have transported to its Hopewell, Va., and Moundsville, W. Va., plants.

Applicant requests authorization to construct and operate tap and valve facilities at a point located on its 36-inch transmission pipeline in Iberville Parish, La., and to provide the transportation service for Allied pursuant to Applicant's Rate Schedule TS-2 and an agreement dated December 19, 1977, between Allied and Applicant. Applicant states that Allied would deliver up to 19,400 dekatherms (dth), per day of vaporized ethane to Applicant's 36-inch pipeline and Applicant would then transport and deliver thermally equivalent quantities of natural gas (1) to Columbia Gas Transmission Corp. (Columbia), at the existing interconnection between Applicant and Columbia near Delmont in Westmoreland County, Pa., the maximum daily delivery obligation of 16,318 dth for ultimate redelivery to Allied's plant located in Hopewell, Va., and (2) to Consolidated Gas Supply Corp. (Consolidated), at the existing interconnection between Applicant and Consolidated, near Moundsville, Marshall County, W. Va., the maximum daily delivery obligation of 2,500 dth for ultimate redelivery to Allied's plant located in Moundsville.

Any person desiring to be heard or to make any protest with reference to said application should, on or before January 23, 1978, file with the Federal Energy Regulatory 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 Energy Regulatory 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. 78-368 Filed 1-6-78; 8:45 am]

[6740-02]

[Docket No. CP78-117]

TEXAS EASTERN TRANSMISSION CORP.

Application

DECEMBER 30, 1977.

Take notice that on December 13, 1977, Texas Eastern Transmission Corp. (Applicant), P.O. Box 2521, Houston, Tex. 77001, filed in Docket No. CP78-117 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Delmarva Energy Co. (DEC), Tar Heel Energy Corp. (Tar Heel), and Rockingham Exploration Co. (Rockingham) (Buyers), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to transport up to 67 dekatherms of natural gas per day to Transcontinental Gas Pipe Line Corp. (Transco) for Buyers pursuant to Rate Schedule TS-2, and pursuant to service agreements between Applicant and DEC, Tar Heel, and Rockingham dated November 21, 1977, November 17, 1977, and December 5, 1977, respectively.

The application states that Delmarva Power & Light Co. (Delmarva) has acquired from its producing subsidiary DEC gas supplies of approximately 15 dths per day, and that Public Service Co. of N.C., Inc. (Public Service) has acquired from its producing subsidiary Tar Heel 50 dths per day, and North Carolina Gas Co. (North Carolina) has acquired from its producing subsidiary Rockingham 2 dth per day for a total of 67 dth per day produced from the No. 1 champion Well, South Gist Field, Newton County, Tex., which would be delivered to Applicant at its existing interconnection located in Newton County, Tex., for redelivery to Transco at the existing points of interconnection in Beauregard Parish, La., for delivery to Delmarva, Public Service, and North Carolina.

It is indicated that sellers have received prior authorization to sell the gas proposed herein to be transported to Delmarva, North Carolina, and Public Service.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 20, 1978, file with the Federal Energy Regulatory 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 Energy Regulatory 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. 78-369 Filed 1-6-78; 8:45 am]

[6740-02]

[Docket No. ES78-16]

UNION LIGHT, HEAT AND POWER CO.

Application

DECEMBER 30, 1977.

Take notice that on December 19, 1977, the Union Light, Heat and Power Co. (Applicant) of Covington, Ky., filed an application pursuant to section 204 of the Federal Power Act seeking an order authorizing the issuance of unsecured Promissory Notes to commercial banks, and to a commercial paper dealer in amounts not exceeding in the aggregate $10,000,000 outstanding at any one time.

The Promissory Notes to be issued by the Applicant to commercial banks will be issued on various days during the year ending December 31, 1978, for ninety day periods, but no Note will mature more than nine months from the date of issue or renewal or later than December 31, 1978. The interest rate of such Notes will be at the prime loan or best available interest rate of the banks in effect at the time of issuance or renewal.

The Promissory Notes issued to a commercial paper dealer will be issued on various days during the year ending December 31, 1978, but no Note will mature more than nine months after date of issue nor will any note be extended or renewed. The interest rate on such Notes will be dependent upon the term of the Notes and the money market conditions at the time of issuance.

According to the application, the aggregate amount of commercial paper to be outstanding at any one time will not exceed 25 percent of Applicant's gross revenues during the then proceeding 12 full months of operation.

The proceeds from the issuance of the Notes will be added to the general funds of the Applicant which general funds will be used, to finance in part the Applicant's 1978 construction program. Applicant estimates that construction expenditures for the year 1978 will total about $6,692,000.

Any person desiring to be heard or to make any protest with reference to said application should, on or before January 13, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). The application is on file and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-370 Filed 1-6-78; 8:45 am]

[6740-02]

[Docket No. RP72-133 (PGA78-1)]

UNITED GAS PIPE LINE CO.

Order Accepting for Filing and Suspending Proposed PGA Rate Increase and Directing the Submission of Additional Information

DECEMBER 30, 1977.

On November 16, 1977, United Gas Pipe Line Co. (United) filed a proposed semi-annual PGA rate increase[1] consisting of (1) an increase of 7.32 cents per Mcf or approximately $61 million annually in the current cost of purchased gas and (2) a PGA surcharge of 10.28 cents per Mcf to recover deferred purchased gas costs of $35.6 million. United requests that the proposed increased PGA rates become effective on January 1, 1978. For the reasons set forth below, United's increase shall be accepted for filing, suspended for one day, and shall be permitted to become effective thereafter on January 2, 1978, subject to refund and the terms of this order.

United's PGA filing includes 60-day emergency purchases at rates in excess of those established in Opinion No. 770-A and certain alleged non-jurisdictional purchases which are also at rates in excess of applicable national rates. The Secretary by letter of December 6, 1977, requested United to file supplemental information on emergency purchases. Since United's reply was received only shortly before the deadline for Commission action on the filing,[2] the Commission shall defer decision on the reasonableness and prudence of these purchases until United's supplemental information is analyzed. The prudence and reasonableness of United's alleged non-jurisdictional purchases also cannot be established from the Commission's review of the information contained in United's PGA filing. United, therefore, shall be required to supply the Commission additional information supporting the reasonableness of its alleged non-jurisdictional purchases. Because of the Commission's need for further information and review and, because the issue of the jurisdictionality of certain uncertificated sales to United is the subject of a pending show cause proceeding in Docket No. CP76-238, United's filing shall be suspended for one day. Moreover, United shall be required to eliminate from its rates any claimed cost increases in non-jurisdictional purchases which do not become effective on or before January 1, 1978.

It is further evident from United's filing that its PGA rates include increases which track the purchased gas costs of Sea Robin Pipeline Co. (Sea Robin) in Docket No. RP73-89 (PGA78-1). A review of Sea Robin's filing indicates that a portion of its proposed PGA rate increase will be disallowed. Therefore, United's rates accepted by this order shall be reduced to track the adjustments which the Commission requires in Docket No. RP73-89 (PGA78-1).

Finally, the Commission notes that the PGA rates proposed by United are calculated to adjust base rates conditionally accepted in Docket No. RP77-107 by order issued July 20, 1977. To the extent base rates are adjusted by United[3], the PGA rates filed in the instant docket must also be adjusted before they are allowed to become effective.

In view of the foregoing, the Commission finds that United's rates shall be conditionally accepted for filing, suspended for one day, and permitted to become effective on January 2, 1978, subject to refund and the terms of this order.

The Commission orders. (A) United's proposed PGA rates are accepted for filing, subject to the conditions set forth in Paragraphs (B), (C), and (D), below, and suspended for one day, until January 2, 1978, when they shall be permitted to become effective subject to refund.

(B) United shall reduce its filed rates to eliminate any claimed increases in the cost of alleged "non-jurisdictional" purchases which do not become effective on or before January 1, 1978.

(C) United shall reduce its filed rates to track any decrease in rates required by Commission order in Docket No. RP73-89 (PGA78-1).

(D) United's rates shall be adjusted with respect to the base rates established by order issued on July 20, 1977, in Docket No. RP77-107.

(E) Further action on United's filing is deferred until the Commission analyzes United's response to the information request of December 6, 1977, and the response to the information requested in Paragraph (G) of this order.

(F) Amounts included in United's PGA rates associated with alleged non-jurisdictional purchases shall be collected subject to refund pending resolution of Docket No. CP76-238.

(G) Within 30 days of the date of this order, United shall file with the Commission the following information for each alleged non-jurisdictional purchase: (1) Producer name, (2) contract date, (3) location, (4) total rate per Mcf, (5) a statement of individual rate components including base rate, Btu adjustment, gathering or other charges, and taxes, (6) total cost claimed (volume x total rate), (7) any change in any of the above since United's filing pursuant to Ordering Paragraph (E) of the order issued June 30, 1977 in Docket No. RP72-133 (PGA77-2) and (8) a copy of the gas purchase contract United has with each producer, or, at United's option, a copy of each type of contract which is typical of an identifiable group of producer-contracts (e.g. rollover, favored nation, selected area or time period) together with an indication of the type of contract under which each producer supplies gas to United.

(H) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-371 Filed 1-6-78; 8:45 am]

[1] Thirty-ninth Revised Sheet No. 4 to First Revised Volume No. 1.

[2] United filed its response to the Secretary's request for additional information on December 22, 1977.

[3] United on December 1, 1977 filed revised tariff sheets in Docket No. RP77-107 reducing base tariff rates to comply with the suspension order issued July 20, 1977 in that Docket. The December 1, 1977, filing is the subject of a letter order transmitted simultaneously with the issuance of this order.

[6740-02]

[Docket No. IT-5501]

UTAH POWER AND LIGHT CO.

Petition for Declaratory Order

DECEMBER 30, 1977.

Public notice is hereby given that a petition was filed on March 9, 1977, and supplemented on August 15, 1977, under the Federal Power Act, 16 U.S.C. 791a-825r, for a declaratory order respecting the status of three hydroelectric projects owned and operated by Utah Power and Light Co. (Petitioner) (Correspondence to: Sidney G. Baucom Esq., Sam F. Chamberlain, Esq., P.O. Box 899, Salt Lake City, Utah 84110). Petitioner requests that the Commission determine the jurisdictional status of its Snake Creek, Granite, and Fountain Green Projects. The three projects are connected to Petitioner's distribution system for transmission of power to its customers.

The Snake Project is located on Snake Creek near the Town of Midway in Wasatch County, Utah. The project, which was intitially constructed in 1910, consists of two small dams, canals and penstocks, and powerhouse containing two generators with a total installed capacity of 1,180 kW.

The Granite Project is located on Big Cottonwood Creek near the Town of Murray in Salt Lake County, Utah. The project was intially constructed in 1896, and consists of a dam, water conduits, and a powerhouse with two generators and a total installed capacity of approximately 2,000 kW.

The Fountain Green Project utilizes water from the Big Springs near the Town of Fountain Green in Sanpete County, Utah. The project was initially constructed in 1923, and consists of a dam, a small reservoir to contain the overflow of the springs, penstocks, and a powerhouse with a total installed capacity of 320 kW.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

Any person desiring to be heard or to make any protest with reference to said application should, on or before February 20, 1978, file with the Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., 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 (1977). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-372 Filed 1-6-78; 8:45 am]

[6740-02]

[Docket No. ER78-134]

WISCONSIN PUBLIC SERVICE CORP.

Filing

DECEMBER 28, 1977.

Take notice that Wisconsin Public Service Corporation (WPSC) on December 16, 1977, tendered for filing letter agreements to the "Partial Requirements Service Agreement" with Consolidated Water Power Co. WPSC states that this agreement will revise the contract demand quantities for peak load, intermediate load, and base load in accordance with Exhibit 1 of the agreement, Paragraph 6, Requirements, Section 6.01, "Customer's requirements for partial requirements service under Service Schedule A."

WPSC proposes an effective date of December 1, 1977, and therefore requests waiver of the Commission's notice requirements.

According to WPSC copies of this filing were mailed to Consolidated Water Power Company and the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory 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 CRF 1.8, 1.10). All such petitions or protests should be filed on or before January 5, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-357 Filed 1-6-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 839-5]

ENVIRONMENTAL IMPACT STATEMENTS

Receipt

Pursuant to the President's Reorganization Plan No. 1, the Environmental Protection Agency is the official recipient for environmental impact statements (EIS's) and is required to publish the availability of each EIS received weekly. The following is a list of environmental impact statements received by the Environmental Protection Agency from December 27 through December 30, 1977. The date of receipt for each statement is noted in the statement summary. Under the Guidelines of the Council on Environmental Quality the minimum period for public review and comment on draft environmental statements is forty-five (45) days from this FEDERAL REGISTER notice of availability (February 20, 1978). The thirty (30) day period for each final statement begins on the day the statement is made available to the Environmental Protection Agency and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

Dated: January 3, 1978.

PETER L. COOK,
Acting Director,
Office of Federal Activities.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Errett Deck, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 307A, Washington, D.C. 20250, 202-447-6827.

FARMERS HOME ADMINISTRATION

Final

Megan Heights, Proposed Plat, Kitsap County, Wash., December 28: The proposed action is a request to subdivide 46 acres of wooded, undeveloped land into 148 lots for single-family detached dwelling units. The property involved in the proposed plat is approximately one mile from the unincorporated community of Manchester and fronts on the west side of California Avenue north of Polk Street. Adverse effects include the clearing of trees for roadway and residence construction, and the destruction of wildlife habitat caused by vegetation removal. Comments made by: EPA, HUD, DOC, USDA, State and local agencies, concerned groups and individuals. (ELR Order No. 71552.)

FOREST SERVICE

Draft

National Forest Spruce Budworm Suppression Project, Maine, December 30: Proposed is the 1978 Cooperative Spruce Budworm Suppression Project in Maine, Vermont, and New Hampshire. The proposed plan concerns a maximum of 2,400,000 acres of State and private woodlands in Maine, 18,000 acres in New Hampshire, and the status of Vermont infestation. Registered use of chemical insecticides, silvicultural practices to reduce infestation potential, accelerated logging to reduce losses, normal forest management practices, and an integrated pest management system are the alternatives being considered to accomplish the objective. (ELR Order No. 71558.)

Island Park Planning Unit, Fremont County, Idaho, December 30: Proposed is the Island Park Planning Unit in Targhee National Forest, Fremont County, Idaho. The land management plan for the 501,000 unit sets forth the allocation of land to various resource uses and activities; recreation, commodity outputs, environmental considerations, and wilderness studies. Adverse impacts include some road construction, some adverse effects on water quality, and contruction-related pollution. (ELR Order No. 71560.)

Hebo Planning Unit, Lincoln and Tillamook Counties, Oreg., December 29: Proposed is a plan for the future management of National Forest lands within the Hebo Planning unit, Siuslaw National Forest, Oregon. Specifically, the objective of this statement is to identify the natural resources their value to society, and the various proposals for using each resource. Five alternative plans are offered. Adverse impacts common to all five alternatives include alteration of wildlife habitat; construction-related pollution; and increased levels of air and noise pollution. (ELR Order No. 71555.)

RURAL ELECTRIFICATION ADMINISTRATION

Draft

161 kV Transmission Line, Genoa, Wis. to Lansing, Iowa, December 27: Proposed is the

release of loan funds by the Rural Electrification Administration to Dairyland Power Cooperative, to finance approximately 19 miles of a 161 kV transmission line from Genoa, Wisconsin to Lansing, Iowa. Adverse effects include the introduction of negative visual impacts into rural areas; the crossing of approximately 3.7 miles of the Upper Mississippi River Wild Life and Fish Refuge; an effect upon the existing migratory and feeding patterns of waterfowl which use the Refuge area; soil erosion; and construction-related impacts. (ELR Order No. 71546.)

The following EIS's were filed by REA and adopt existing statements prepared by another Federal agency. Therefore, due to unique circumstances the EIS's will be final statements with a review period of 45 days beginning on December 30, 1977.

Final

Clinton Power Station, Units 1 & 2 (S-1), DeWitt County, Ill., December 30: This statment supplements a final EIS originally filed by the Atomic Energy Commission in September of 1975. The Rural Electrification Administration has subsequently adopted the project. The proposed action concerns the use of REA guaranteed loan funds to finance a 20 percent undivided ownership interest in Unit No. 1 of the Clinton Power Station, DeWitt County, Ill. Adverse impacts include the disturbance of agricultural land; alteration of the existing aquatic regime and associated biotic structure in Clinton Lake; and construction-related pollution. (ELR Order No. 71562.)

Marble Hill Nuclear Generating Station Units 1 & 2, Jefferson County, Ind., December 30: This statement supplements a final EIS originally filed by the Nuclear Regulatory Commission in September of 1976. The Rural Electrification Administration has subsequently adopted the project. The proposed federal action is a loan guarantee commitment to the Wabash Valley Power Association, Inc., to finance a 17 percent undivided ownership interest in the 2260 MWe Marble Hill Nuclear Generating Station, Units 1 & 2 in Saluda Township, Jefferson County, Ind. Adverse impacts include possible adverse effects upon aquatic biota; construction-related pollution; and the disturbance of approximately 250 acres of forest and cropland. (ELR Order No. 71563.)

SOIL CONSERVATION SERVICE

Draft

South Fork, Zumbro River Watershed, Dodge and Olmstead Counties, Minn., December 27: The proposed plan calls for flood control measures to be installed by the Soil Conservation Service (SCS) and the Army Corps of Engineers (COE), in Olmstead and Dodge Counties in southeastern Minnesota. The SCS's responsibility includes the installation of six single purpose flood prevention structures, one multiple-purpose flood prevention-recreation structure, recreation facilities, and accelerated land treatment measures. The COE will administer the installation of channel work, levee construction, bridges, sewers, and utilities. Adverse impacts include the loss of wildlife habitat on 990 acres of land and construction-related pollution. (ELR order No. 71548.)

Upper Mud River Watershed, Lincoln and Boone Counties, W. Va., December 29: Proposed is a watershed plan for the Upper Mud River, Lincoln and Boone Counties, West Virginia. Plan implementation calls for the installation of land treatment measures, floodwater retarding structures, recreation facilities, and the preparation of flood-plain maps to assist in adopting zoning ordinances prohibiting development within the 100-year with-project flood plain. Adverse impacts include the relocation of 42 homes, 1 store, and 1 church; inundation of 332 acres of agricultural land and wildlife habitat; construction-related pollution; and the additional utilization of 32 acres for dams, emergency spillways, and borrow areas. (FLR Order No. 71557.)

DEPARTMENT OF DEFENSE

ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Department, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-6795.

Draft

Raystown Hydropower Plan, Huntingdon County, Pa., December 30: Proposed is the Raystown Hydropower Plan, Huntingdon County, Pa. Plan implementation calls for the construction of an earthfill dam approximately 115 feet high and 5,000 feet long across Little Trough Creek; filling a 3½ mile segment of the creek valley by an impoundment with a maximum pool at 1,300 feet msl; and, construction of an underground powerhouse, access tunnels, transmission lines and access roads. Adverse impacts include the loss of 3.5 miles of a free-flowing stream; loss of riparian and valley habitats; and construction-related pollution. (Baltimore district.) (ELR Order No. 71559.)

Final

Pine Brook Flood Control project, Manalapan, Monmouth County, N.J., December 28: The recommended plan of flood protection is channel modification consisting of widening and deepening of approximately 6,000 feet of the Pine Brook, Manalapan Township, New Jersey. The newly straightened channel would extend from the vicinity of the Pension Road Bridge to 700 feet upstream of Winthrop Drive Bridge. Adverse impacts include removal of vegetation, some loss of wildlife and wildlife habitat and the change of aesthetics to a modified appearance of the stream and land. (New York district.) Comments made by: EPA, DOT, FPC, USDA, DOT, HEW, AHP, State and local agencies, concerned groups, and individuals. (ELR Order No. 71553.)

GENERAL SERVICES ADMINISTRATION

Contact: Andrew E. Kauders, Environmental Affairs Division, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405.

Draft

U.S. Federal Courthouse Annex, Detroit, Wayne County, Mich., December 30: Proposed is the construction of a detention facility by the Federal Bureau of Prisons (BOP) near the U.S. Courthouse in downtown Detroit. Designed as a short-term detention/correctional facility, the Federal Courthouse Annex (FCA) will be occupied primarily by detainees awaiting trail or sentencing. Adverse impacts include the displacement of three commercial concerns. (ELR Order No. 71566.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, 202-755-6308.

Draft

Northdale and Ranchester Subdivisions, Hillsborough County, Fla., December 30: Proposed is the granting of a HUD/FHA subdivision feasibility analysis and early start to the Criterion Corp. for the development of the Northdale and Ranchester subdivisions in Hillsborough County, Fla.; the Northdale subdivision encompasses 1,259 acres; the Ranchester subdivision entails 780 acres. Adverse impacts include construction-related pollution; disruption of ecological systems; commitment of community resources; and increases in air, noise, and water pollution. (ELR Order No. 71564.)

Final

Colony Park Subdivision, Travis County, Tex., December 29: The proposed action is the acceptance for HUD home mortgage insurance purposes of the 599-acre Colony Park Subdivision in Austin, Tex. The project will provide 1,452 single-family residential homes and 1,593 multi-family units to those families in the middle or lower income bracket. Plans call for traffic circulation systems, open space areas, and recreational facilities. The primary adverse impact is the increased use of fossil fuel due to heavy traffic between the project and the city of Austin. Comments made by: DOC, DOT, VA, DOD, USDA, DOI, FPA, AHP, State and local agencies. (ELR Order No. 71551.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Bldg., Department of the Interior, Washington, D.C. 20240, 202-343-3891.

BUREAU OF OUTDOOR RECREATION

Final

Seneca State Park, Montgomery County, Md., December 27: Proposed is the acquisition of 46 inholdings, and the development of picnic, interpretive and recreational facilities within Seneca State Park, a 12-mile recreation corridor along the Great Seneca Creek. Approximately 2,701 acres of land will be acquired and a major day-use recreation area established. The park has been under active acquisition and development since 1955. Acquisition will result in the dedication of 6,609 acres for park and open space use and the relocation of 6 families. Comments made by: FEA, DOT, HUD, USDA, EPA, COE, State agencies. (ELR Order No. 71550.)

STATE DEPARTMENT

Contact: Mr. Cameron Sanders, Office of Environmental Affairs, Department of State, Washington, D.C. 20520, 202-632-9169.

Final

New Panama Canal Treaty, December 27: Proposed is the conclusion of a new Panama Canal Treaty with the Republic of Panama concerning the operation and defense of the Panama Canal. The statement examines the alternatives of taking no action on the proposed Treaty, postponing further action on the Treaty, implementing the Treaty's provisions, and the possibility of a new treaty with stronger environmental safeguards. Other elements discussed in the EIS are a proposed Treaty Concerning the Permanent Neutrality and Operation of the Panama

Canal and an AID loan for watershed management, which has been proposed in connection with the Canal Treaty. Comments made by: CZG, DOC, DOD, USDA, EPA, FPC, HEW, DOI, STAT, DLAB, NRC, and concerned groups and individuals. (ELR Order No. 71549.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590, 202-426-4357.

FEDERAL HIGHWAY ADMINISTRATION

Draft

US-2, Devils Lake to North Dakota Highway 18, Ramsey, Nelson, and Grand Forks Counties, N. Dak., December 29: The proposed project consists of acquiring right-of-way and constructing a roadway parallel to the existing roadway to provide a four lane divided highway from Devils Lake, N. Dak., easterly to the junction of U.S.-2 and N.D.-18. This project is approximately 60 miles long. Also proposed is the improvement of N.D.-1 from its intersection with U.S. 2 southerly approximately one mile. Adverse impacts include the relocation of several families; the filling in of approximately 120 to 130 acres of wetlands for roadway embankment; and construction-related polution. (Region 8.) (ELR Order No. 71556.)

Shakwak Highway Improvement, Alaska, December 30: This draft EIS was produced in conjunction with the Canadian Department of Public Works. Proposed is the paving and upgrading of the Haines Road from the Alaska/British Columbia border to Haines Junction, and the Alaska Highway from Haines Junction to the Yukon/Alaska border, a distance of approximately 520 kilometers. The plan is known as the Shakwak Project and four alternative routes are offered; the United States would pay for the project and Canada's Department of Public Works would direct construction and maintenance operations. (Region 10.) (ELR Order No. 71565.)

Final

Texas State Highway 35, Proposed Relocation, Harris and Brazoria Counties, Tex., December 28: Proposed is the relocation of Texas State Highway 35 from Almeda-Genoa Road near proposed South Beltway 8 in Harris County to existing State Highway 35 (Alvin Loop) at Spur 409 in Brazoria County and is a continuation of the development of the proposed facility from Interstate Highway 45 at Calhoun Road to the City of Alvin. The proposed route is a 13.0 mile long controlled access facility. Adverse impacts include the displacement of homes and businesses; increased levels of air and noise pollution; the relocation of a portion of the American Canal; and construction-related pollution. (Region 6.) Comments made by: EPA, DOT, HEW, HUD, DOI, COF, USDA, State and local agencies. (ELR Order No. 71554.)

URBAN MASS TRANSPORTATION ADMINISTRATION

Draft

Dade County Metro Rail Transit, Dade County, Fla., December 30: Proposed is the granting of UMTA Federal grant assistance for a fixed rail rapid transit project in Metropolitan Dade County, Fla., beginning in the vicinity of Dadeland and extending 20.5 miles northeasterly to the central business district of Miami. Adverse impacts include the demolition of 160-270 commercial buildings and 625-750 residential units; loss of some vegetation; and construction-related impacts. (ELR Order No. 71561.)

Final

Buffalo Light Rail Rapid Transit, Erie and Niagara Counties, N.Y., December 27: The Niagara Frontier Transportation Authority of New York has filed an application with UMTA for Federal capital grant assistance to construct and equip a 6.4-mile Light Rail Rapid Transit (LRRT) System along Main Street in the Buffalo-Amherst Corridor, N.Y. The project would run in subway for 5.2 miles between the South Campus of the State University, and at grade for 1.2 miles from Tupper Street to Buffalo's Memorial Auditorium. The action will result in displacement of 5 parcels and the razing of three structures. Comments made by: COF, DOT, HEW, DOI, EPA, AHP, and one State agency. (ELR Order No. 71547.)

[FR Doc. 78-473 Filed 1-6-78; 8:45 am]

[6560-01]

[FRL 839-7]

EXTERNAL REVIEW DRAFT OF HEALTH EFFECTS CRITERIA DOCUMENT FOR SHORT-TERM EXPOSURES TO NITROGEN OXIDES

Amendment of Date for Comments

The notice of availability of an external review draft entitled "Air Quality Criteria for Short-Term Exposures to Nitrogen Oxides" appearing in FEDERAL REGISTER, December 16, 1977, page 63460 is hereby amended to permit comments on the documents until February 8, 1978.

Dated: January 4, 1978.

STEPHEN J. GAGE,
Acting Assistant Administrator for Research and Development.

[FR Doc. 78-477 Filed 1-6-78; 8:45 am]

[6560-01]

[PP561593/T140; FRL 839-8]

PESTICIDE PROGRAMS

Reextension of a Temporary Tolerance for Ethanedial Dioxime

On March 23, 1977, the Environmental Protection Agency (EPA) announced (42 FR 15729) an extension of a temporary tolerance for residues of the plant growth regulator ethanedial dioxime in or on the raw agricultural commodity oranges at 0.1 part per million (ppm). This tolerance was established January 30, 1976 (41 FR 4637), in response to a pesticide petition (PP 5G1593) submitted by Ciba-Geigy Corp., Agricultural Division, P.O. Box 11422, Greensboro, N.C. 27409. This extension expires January 28, 1978.

Ciba-Geigy Corp. requested a one-year reextension of this temporary tolerance both to permit continued testing to obtain additional data and to permit the marketing of the above raw agricultural commodity when treated in accordance with the provisions of the experimental use permit that was reextended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

The scientific data reported and all other relevant material were evaluated, and it was determined that a reextension of the temporary tolerance would protect the public health. Therefore, the temporary tolerance has been reextended on condition that the pesticide be used in accordance with the experimental use permit with the following provisions;

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Ciba-Geigy Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance expires January 31, 1979. Residues not in excess of 0.1 ppm remaining in or on oranges after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerance. This temporary tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to the Special Registrations Branch, Registration Division (WH-567), Office of Pesticide Programs, Room 315, East Tower, 401 M Street SW., Washington, D.C. 20460, 202-755-4851.

(Section 408(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j)).)

Dated: December 29, 1977.

MARTIN H. ROGOFF,
Acting Director, Registration Division.

[FR Doc. 78-476 Filed 1-6-78; 8:45 am]

[6560-01]

[OPP-42020B; FRL 840-1]

TENNESSEE

Approval of State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides

Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7

U.S.C. 136 et seq.) and the implementing regulations of 40 CFR Part 171, require each State desiring to certify applicators to submit a plan for such purpose, subject to approval by the Environmental Protection Agency (EPA). On June 24, 1976, the Tennessee State plan was approved contingent upon the promulgation of regulations by the Tennessee Department of Agriculture necessary for the implementation of the Tennessee State plan. Notice of conditional approval was published in the FEDERAL REGISTER on July 30, 1976 (41 FR 31942). Subsequently on November 7, 1977, final regulations to amend the Tennessee code annotated 62-2101 et seq. became effective. Having reviewed the legislation and the regulations and finding that legal authorities required by FIFRA and 40 CFR Part 171 are now enacted and promulgated, the Regional Administrator, EPA, Region IV, hereby gives notice that the Tennessee State plan is now a fully approved State plan.

Dated: December 23, 1977.

JOHN A. LITTLE,
Deputy Regional Administrator, Region IV.

[FR Doc. 78-475 Filed 1-6-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

Agreement filed

Notice is hereby given that the following agreement, accompanied by a statement of justification, has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement and the statement of justification at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement and the statement of justification at the Field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before January 19, 1978. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

AGREEMENT NO. 10064-2.

FILING PARTY: Lloyd A. Strickland, Vice President, Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, La. 70130.

SUMMARY: Agreement No. 10064-2, between Lykes Bros. Steamship Co., Inc. and Flota Mercante Grancolombiana, S.A., seeks to extend the term of the parties' cooperative working arrangement in the trade between United States Gulf of Mexico ports and ports of Colombia for a period of two years form January 24, 1978 to January 24, 1980.

Dated: January 4, 1978.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-467 Filed 1-6-78; 8:45 am]

[6730-01]

AGREEMENTS FILED

The Federal Maritime Commission hereby gives notice that the following agreements have 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 each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, La.; San Francisco, Calif.; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before January 29, 1978. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

AGREEMENT NO. 57-109.

FILING PARTY:

Edward D. Ransom, Esquire, Lillick McHose & Charles, Two Embarcadero Center, San Francisco, Calif. 94111.

SUMMARY: Agreement No. 57-109 is an application on behalf of the member lines of the Pacific Westbound Conference to extend the presently approved intermodal authority of the Conference for an unlimited period beyond the present expiration date of March 20, 1978.

AGREEMENT NO. 10267-2.

FILING PARTY:

Howard A. Levy, Attorney at Law, Suite 727, 17 Battery Place, New York, N.Y. 10004.

SUMMARY: Agreement No. 10267-2 would extend the term of the Container Carriers Discussion Agreement for an additional year from March 31, 1978 to remain in effect until March 31, 1979.

AGREEMENT NO. 10320.

FILING PARTY:

Fred A. Wendt, Senior Vice President, Traffic and Sales, Delta Steamship Lines, Inc., 1700 International Trade Mart, New Orleans, La. 70150

SUMMARY: Agreement No. 10320 is a revenue pooling agreement among Companhia de Navegacao Lloyd Brasileiro, Companhia Maritima Nacional And Delta Steamship Lines, Inc., in the trade from Brazil to the U.S. Gulf Coast. This agreement will replace Agreement No. 10029 which is due to expire on March 31, 1978.

AGREEMENT NO.: T-3556.

FILING PARTY:

H. H. Wittren, Manager, Waterfront Real Estate, Port of Seattle, P. O. Box 1209, Seattle, Wash. 98111.

SUMMARY: Agreement No. T-3556, between Port of Seattle (Port) and Seattle Crescent Container Service (Crescent), provides for the five-year renewable lease to Crescent of land and building space totalling approximately 38,796 square feet. Crescent will use the premises for the following purposes: office, general storage, stevedore gear room, automotive repair shop for welding and blacksmithing, and servicing of highway containers. As compensation, Port will receive $3,310.06 per month as rent.

Dated: January 4, 1978.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-468 Filed 1-6-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

AMES HOLDING COMPANY, LTD.

Formation of Bank Holding Company

Ames Holding Company, Ltd., Omaha, Nebr., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842 (a) (1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Ames Bank, Omaha, Nebr. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. 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 no later than January 30, 1978.

Board of Governors of the Federal Reserve System, January 3, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-430 Filed 1-6-78; 8:45 am]

[6210-01]

BOURBON BANCSHARES, INC.

Formation of Bank Holding Company

Bourbon Bancshares, Inc., Bourbon, Mo., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Bank of Bourbon, Bourbon, Mo. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Bourbon Bancshares, Inc., has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire the assets of Earl B. Baldwin Insurance Agency, Bourbon, Mo. Notice of the application was published on November 3, 1977, in the *Bourbon Beacon*, a newspaper circulated in Bourbon, Mo.

Applicant states that the proposed subsidiary would engage in the activity of selling credit related life, health, and accident insurance. Such activities have been specified by the Board in section 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 section 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 St. Louis.

Any views or requests for hearing should be submitted in writing and recieved by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than January 19, 1978.

Board of Governors of the Federal Reserve System, January 3, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-431 Filed 1-6-78; 8:45 am]

[6210-01]

CITICORP

Proposed Retention of Advance Mortgage Corporation

Citicorp, New York, N.Y., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to retain voting shares of Advance Mortgage Corp., Southfield, Mich., and its wholly-owned subsidiaries other than Lakeland Assurance, Inc.

Applicant states that the subsidiary engages in the following activities: origination and placement of one-to-four family residential mortgage loans; servicing of mortgage loans for institutional investors; origination and servicing of mobile home installment contract loans and extensions of credit to mobile home dealers to finance their inventories; and extensions of credit secured by second mortgages on one-to-four family residential properties and servicing of these loans. Such activities have been specified by the Board in § 225.4(b) 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). These activities are conducted from offices of the subsidiary located in Alabama, Arizona, California, Colorado, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Michigan, Minnesota, New Jersey, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Utah, Virginia, and Washington, and Applicant has advised the Board that notice of the application has been published in accordance with § 225.4(b)(2) of Regulation Y in newspapers of general circulation in the communities to be served by the subsidiary.

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 New York.

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 January 27, 1978.

Board of Governors of the Federal Reserve System, December 30, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-432 Filed 1-6-78; 8:45 am]

[6210-01]

FIRST NATIONAL BANCSHARES INC.

Acquisition of Bank

First National Bancshares Inc., San Jose, Calif., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent (less directors' qualifying shares) of the voting shares of Valley National Bank, Salinas, Calif. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The applicaton may be inspected at the offices of the Board of Governors

or at the Federal Reserve Bank of San Francisco. 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 January 30, 1978.

Board of Governors of the Federal Reserve System, January 3, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-433 Filed 1-6-78; 8:45 am]

[4110-02]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

NATIONAL ADVISORY COUNCIL ON EQUALITY OF EDUCATIONAL OPPORTUNITY

Public Meeting

AGENCY: National Advisory Council on Equality of Educational Opportunity.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the proposed agenda of the forthcoming meeting of the Evaluation Task Force. It also describes the functions of the National Advisory Council. Notice of this meeting is required under the Federal Advisory Committee Act (5 U.S.C., Appendix 1, 10(a)(21)). This document is intended to notify the general public of their opportunity to attend.

DATE AND PLACE OF MEETING: January 26, 1978; Charlotte, North Carolina.

ADDRESS: The Education Center, Room 411, 701 East 2nd Street, Charlotte, North Carolina.

FOR FURTHER INFORMATION, CONTACT:

Rosemarie Maynez, Administrative Assistant, NACEEO, 1325 G Street, NW., Suite 710, Washington, D.C. 20005. Phone: 202-724-0221.

The National Advisory Council on Equality of Educational Opportunity is established under Section 716 of the Emergency School Aid Act (Pub. L. 92-318, Title VII, as amended by Pub. L. 93-380 and Pub. L. 94-482). The Council is established to: (1) Advise the Assistant Secretary for Education with respect to the operation of the program authorized under the Emergency School Aid Act (ESAA), including the preparation of regulations and the development of criteria for the approval of applications; and (2) review the operation of the program with respect to its effectiveness in achieving its purpose as stated in the Act and with respect to the Assistant Secretary's conduct in the administration of the program.

The meeting, which is open to the public, will convene at 10:00 a.m. until 4:30 p.m. on Thursday, January 26, 1978. The meeting will be held to discuss the evaluations under contract by the U.S. Office of Education on various aspects of the ESAA program, to review prior recommendations of the Evaluation Task Force, and to formulate new recommendations to be submitted to the full Council.

Requests for oral presentations by the public before the Task Force must be submitted in writing to the Executive Director of NACEEO, Mr. Leo A. Lorenzo, and should include the names of all persons seeking an appearance, the party or parties which they represent, and the purposes for which the presentation is requested. Following the presentation, the statement in writing shall be submitted to the Executive Director. In the event that the tentative agenda is completed prior to the projected time, the Task Force will adjourn the meeting.

Records of all meetings are kept at NACEEO headquarters, 1325 G Street, NW., Suite 710 Washington, D.C. 20005, and are available for public inspection.

Signed at Washington, D.C., on January 4, 1978.

LEO A. LORENZO,
Executive Director.

[FR Doc. 78-397 Filed 1-6-78; 8:45 am]

[4110-02]

NATIONAL ADVISORY COUNCIL ON EQUALITY OF EDUCATIONAL OPPORTUNITY

Public Meeting

AGENCY: National Advisory Council on Equality of Educational Opportunity.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the proposed agenda of the forthcoming meeting of the National Advisory Council on Equality of Educational Opportunity. It also describes the functions of the National Advisory Council. Notice of this meeting is required under the Federal Advisory Committee Act (5 U.S.C., Appendix 1, 10(a)(21)). This document is intended to notify the general public of their opportunity to attend.

DATE AND PLACE OF MEETING: January 27th-28th; Charlotte, N.C.

ADDRESS: On Friday, January 27th, the meeting will be held at the Education Center, Board Room, 4th Floor, 701 East 2nd Street, Charlotte, N.C. On Saturday, January 28th, the meeting will be held at the Quality Inn-Downtown, Room Marco Polo A, 201 S. McDowell Street, Charlotte, N.C.

FOR FURTHER INFORMATION, CONTACT:

Rosemarie Maynez, Administrative Assistant, NACEEO, 1325 G Street NW., Suite 710, Washington, D.C. 20005, phone 202-724-0221.

The National Advisory Council on Equality of Educational Opportunity is established under section 716 of the Emergency School Aid Act (Pub. L. 92-318, Title VII, as amended by Pub. L. 93-380 and Pub. L. 94-482). The Council is established to: (1) Advise the Assistant Secretary for Education with respect to the operation of the program authorized under the Emergency School Aid Act (ESAA), including the preparation of regulations and the development of criteria for the approval of applications; and (2) review the operation of the program with respect to its effectiveness in achieving its purpose as stated in the Act and with respect to the Assistant Secretary's conduct in the administration of the program.

The meeting, which is open to the public, will convene at 9:30 a.m. until 4:30 p.m. on Friday, January 27th, and reconvene at 9:30 a.m. until 12 noon on Saturday, January 28th. The meeting will be held to develop recommendations that will be adopted by the full Council for incorporation in its March 1978 report to Congress and the President on the ESAA program, and to begin developing testimony on second generation school desegregation problems. A program delegate from the U.S. Office of Education, Equal Educational Opportunity division, will also be in attendance and will give the Council an update on program activities.

Requests for oral presentations by the public before the Task Force must be submitted in writing to the Executive Director of NACEEO, Mr. Leo A. Lorenzo, and should include the names of all persons seeking an appearance, the party or parties which they represent, and the purpose for which the presentation is requested. Following the presentation, the statement in writing shall be submitted to the Executive Director. In the event that the tentative agenda is completed prior to the projected time, the Task Force will adjourn the meeting.

Records of all meetings are kept at NACEEO headquarters, 1325 G Street NW., Suite 710, Washington, D.C. 20005, and are available for public inspection

Signed at Washington, D.C., on January 4, 1978.

LEO A. LORENZO,
Executive Director.

[FR Doc. 78-398 Filed 1-6-78; 8:45 am]

[4110-12]

Office of the Secretary

SECRETARY'S ADVISORY COMMITTEE ON THE RIGHTS AND RESPONSIBILITIES OF WOMEN

Meeting

The Secretary's Advisory Committee on the Rights and Responsibilities of Women, which is established to provide advice to the Secretary of Health, Education, and Welfare on the impact of the policies, programs, and activities of the Department on the status of women, will hold its swearing-in-ceremony on January 26, 1978, at 2:30 p.m., in Room 800, HEW-Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. The Committee will meet at 10 a.m., January 26th, for an overview of HEW programs and at 10 a.m., January 27th, for a briefing on Title IX. Both meetings will be held in Room 624-D, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. Further information on the Committee may be obtained from: Susan C. Lubick, Executive Secretary, telephone 202-245-8454.

These meetings are open to the public.

Dated: January 3, 1978.

SUSAN C. LUBICK,
Executive Secretary.

[FR Doc. 78-471 Filed 1-6-78; 8:45 am]

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Regional Director, Region 2, W. O. Nelson, Jr., U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, N. Mex. 87103.

The applicant seeks a permit to import up to 2,000 eggs of the Altantic Ridley sea turtle (*Lepidochelys kempii*), taken in Mexico, for hatching and rearing in Texas and release into the Gulf of Mexico and, in addition, to import up to 2,000 nestlings from Mexico to Texas for rearing and release. The permit will also allow capture and tagging of nesting females on Padre Island, Tex. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1770. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before February 8, 1978. Please refer to the file number when submitting comments.

Dated: January 4, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 78-394 Filed 1-6-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Southwick Birds & Animals Inc., Southwick Street, P.O. Box R.F.D., Blackstone, Mass. 01504.

The applicant wishes to apply for a Captive Self-Sustaining Population permit authorizing the purchase and sale for propagation, those species of mammals listed in 50 CFR 17.11 as [T(C/P)]. Humane shipment and care in transit is assured.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1737. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before February 8, 1978. Please refer to the file number when submitting comments.

Dated: January 4, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 78-395 Filed 1-6-78; 8:45 am]

[4310-70]

National Park Service

GOLDEN GATE NATIONAL RECREATION AREA ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Golden Gate National Recreation Area Advisory Commission will be held at 9:30 a.m. (PDT) on Saturday, January 28, 1978 at the Fort Mason Visitor Center, Golden Gate National Recreation Area Headquarters, San Francisco, Calif.

The Advisory Commission was established by Pub. L. 92-589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service system in Marin and San Francisco counties.

Members of the Commission are as follows:

Mr. Frank Boerger, Chairman
Ms. Amy Meyer, Secretary
Mr. Ernest Ayala
Mr. Richard Bartke
Mr. Fred Blumberg
Ms. Daphne Greene
Mr. Peter Haas, Sr.
Mr. John Jacobs
Ms. Gimmy Park Li
Mr. Joseph Mendoza
Mr. John Mitchell
Mr. Merritt Robinson
Mr. Jack Spring
Dr. Edgar Wayburn
Mr. Joseph Williams

The major agenda items will be an update on the Golden Gate National Recreation Area/Point Reyes National Seashore planning process, an update from the Fort Miley Committee, and a report by the Northeast Waterfront Committee.

This meeting is open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing to receive further information on this meeting or who wish to submit written statements may contact Jerry L. Schober, Acting General Manager, Bay Area National Parks, Fort Mason, San Francisco, Calif. 94123, telephone 415-556-2920.

Minutes of the meeting will be available for public inspection by February 28, 1978 in the Office of the General Manager, Bay Area National Parks, Fort Mason, San Francisco, Calif.

Dated: December 28, 1977.

HOWARD H. CHAPMAN,
Regional Director, Western Region.

[FR Doc. 78-405 Filed 1-6-78; 8:45 am]

[4310-70]

BARKER-EWING SCENIC TOURS, INC.

Intention To Negotiate Concession Permit

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that on or before February 8, 1978, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession permit with Barker-Ewing Scenic Tours, Inc., authorizing it to provide concession facilities and services for the public at Grand Teton National Park for a period of five (5) years from January 1, 1977, through December 31, 1981. The permit was

originally awarded to another concessioner on January 1, 1972, and was assigned to Barker Ewing, Inc., on December 27, 1976. Subsequently, Barker Ewing, Inc., has changed its Corporate name to Barker-Ewing Scenic Tours, Inc.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal action having a significant impact on the environment under the National Envrionmental Policy Act of 1969. The environmental assessment may be reviewed in the Office of the Superintendent, Grand Teton National Park, Moose, Wyo. 83012.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing permit which expired by limitation of time on December 31, 1976, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit. This provision, in effect, grants Barker-Ewing Scenic Tours, Inc., as the present satisfactory concessioner, the right to meet the terms of responsive offers for the proposed new permit and a preference in the award of the permit, if the offer of Barker-Ewing Scenic Tours, Inc., is substantially equal to others received. The Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before February 8, 1978.

Interested parties should contact the Assistant Director, Special Services, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed permit.

Dated: December 23, 1977.

DANIEL J. TOBIN, JR.,
Acting Director,
National Park Service.

[FR Doc. 78-406 Filed 1-6-78; 8:45 am]

LAKE MEAD NATIONAL RECREATION AREA

Meeting Intent

Notice is hereby given that the National Park Service will hold a series of three public meetings on the Carrying Capacity Study for the Lake Mohave portion of Lake Mead National Recreation Area during mid-January 1978, in Arizona, California and Nevada.

Each of the meetings will begin at 7:30 p.m., local time, and will be held on the dates and in the facilities and cities as follows:

January 10, 1978, in Room 10214, Federal Building, 11000 Wilshire Boulevard, West Los Angeles, Calif.

January 11, 1978, in the Auditorium, Mohave High School, Intersection of Hancock Road and Arizona Highway 95, Riveria, Ariz.

January 12, 1978, in Room One, Las Vegas Convention Center, 3150 Paradise Road, Las Vegas, Nev.

National Park Service personnel and planners will be available at each of the meeting locations at 6:30 p.m., local time, and will answer questions or explain the details of the study during the hour before the meeting begins.

Concurrent with the public meetings the National Park Service will consult with various Federal, State and local government agencies, individuals and organizations on the Carrying Capacity Study for Lake Mohave.

The purpose of these meetings and consultations is to provide for wide citizen participation through which the Service will receive ideas, suggestions and comments from the public on formulating the long-range use of Lake Mohave portion of Lake Mead National Recreation Area.

The public record will remain open until February 13, 1978, during which time written comments on the study will be welcomed, reviewed and considered.

Anyone wanting copies of the Carrying Capacity Study, additional information on the public meetings or the National Park Service planning process, or those wishing to submit comments on the study may write to the Superintendent, Lake Mead National Recreation Area, 601 Nevada Highway, Boulder City, Nev. 89005.

Dated: December 2, 1977.

JOHN H. DAVIS,
Acting Regional Director, Western Region, National Park Service.

[FR Doc. 78-404 Filed 1-6-78; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

MANUFACTURE OF CONTROLLED SUBSTANCES

Application

Pursuant to 21 U.S.C. 823(a) (1), and § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on November 14, 1977, Knoll Pharmaceutical Co., Production Department, 30 North Jefferson Road, Whippany, N.J. 07981, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the schedule II controlled substance hydromorphone.

Any other such applicant, and any person who is presently registered with DEA to manufacture such substance, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Administrator, Drug Enforcement Administration, U.S. Department of Justice, 1405 I Street NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative, Room 1203, and must be filed no later than February 6, 1978.

Dated: December 28, 1977.

PETER B. BENSINGER,
Administrator,
Drug Enforcement Administration.

[FR Doc. 78-472 Filed 1-6-78; 8:45 am]

[6820-35]

LEGAL SERVICES CORPORATION

GRANTS AND CONTRACTS

JANUARY 4, 1978.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996*l*. Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly, and shall notify the Governor and the State Bar Association of any State where legal assistance will thereby be initiated, of such grant, contract, or project * * *"

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Legal Aid Bureau, Inc., in Baltimore, Md. to serve Washington and Somerset Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Philadelphia Regional Office, 101 North 33rd Street, Suite 115, Philadelphia, Pa. 19104.

THOMAS EHRLICH,
President.

[FR Doc. 78-469 Filed 1-6-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-261]

CAROLINA POWER & LIGHT CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 29 to Facility Operating License No. DPR-23, issued to Carolina Power & Light Co. (the licensee), which revised Technical Specifications for operation of the H. B. Robinson Steam Electric Plant Unit No. 2 (the facility) located in Darlington County, Hartsville, S.C. The amendment becomes effective on December 29, 1977.

This amendment revises the reporting requirements to allow the use of improved Licensee Event Report and Monthly Operating Report formats. This amendment also deletes the requirement for an Annual Operating Report while retaining the requirement that occupational exposure data be reported on an annual basis. Furthermore, this amendment deletes the requirements concerning respiratory protection, as they are now stipulated in 10 CFR 20.103.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated September 9 and November 4, 1977, (2) the Commission's letter to the licensee dated July 28, 1977, (3) Amendment No. 29 to License No. DPR-23, and (4) 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 Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, S.C. A copy of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 21st day of December 1977.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-425 Filed 1-6-78; 8:45 am]

[7590-01]

[Docket No. 50-335]

FLORIDA POWER & LIGHT CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 19 to Facility Operating License No. DPR-67, issued to Florida Power & Light Co. (the Licensee), which revised Enclosure 1 of the license for operation of the St. Lucie Plant Unit No. 1 (the facility) located in St. Lucie County, Fla. The amendment is effective as of its date of issuance.

The amendment extends the surveillance intervals for resistance temperature detectors tests, Class 1E underground cable tests, and for snubber functional testing to allow the testing to be performed during the scheduled reactor fueling shutdown scheduled to start on March 15, 1978.

The application, as amended, 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 22, 1977, as supplemented by letters dated September 2, 1977, and November 1, 1977, (2) Amendment No. 19 to License No. DPR-67, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Fla. 33450. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 30th day of December, 1977.

For the Nuclear Regulatory Commission.

DON K. DAVIS,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 78-426 Filed 1-6-78; 8:45 am]

[7590-01]

[Docket No. 50-331]

IOWA ELECTRIC LIGHT & POWER CO. ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 40 to Facility Operating License No. DPR-49 issued to Iowa Electric Light & Power Co., Central Iowa Power Cooperative, and Corn Belt Power Cooperative, which revised Technical Specifications for operation of the Duane Arnold Energy Center, located in Linn County, Iowa. The amendment is effective as of the date of issuance.

The amendment consists of changes to the Technical Specifications to provide a new, less restrictive, operating limit minimum critical power ratio specification between 1000 and 500 megawatt days/tonne exposure before the end of the present fuel cycle.

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 is 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 con-

nection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 14, 1977, (2) Amendment No. 40 to License No. DPR-49, and (3) the Commisson'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 Cedar Rapids Public Library, 426 Third Avenue SE.,Cedar Rapids, Iowa 52401. 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.

For the Nuclear Regulatory Commission.

RICHARD J. CLARK,
Acting Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-427 Filed 1-6-78; 8:45 am]

[7590-01]

[Docket No. 50-220]

NIAGARA MOHAWK POWER CORP.

Issuance of Facility License Amendment

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 20 to Facility Operating License No. DPR-63 to the Niagara Mohawk Power Corp. (the licensee) which revised Technical Specifications for operation of the Nine Mile Point Nuclear Station, Unit No. 1 (the facility) located in Oswego County, N.Y. The amendment is effective as of its date of issuance.

The amendment will delete the requirement for an Annual Operating Report in order to be consistent with Commission guidance.

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 finding 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 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 November 3, 1977, (2) Amendment No. 20 to License No. DPR-63, 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 Oswego County Office Building, 46 East Bridge Street, Oswego, N.Y. 13126. 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 3d day of January 1978.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-428 Filed 1-6-78; 8:45 am]

[7590-01]

[Docket No. 50-206]

SOUTHERN CALIFORNIA EDISON CO. AND SAN DIEGO GAS AND ELECTRIC CO.

Granting of Relief from ASME Section XI Inservice Inspection (Testing) Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components" to Southern California Edison Co. and San Diego Gas and Electric Co. The relief relates to the inservice inspection (testing) program for the San Onofre Nuclear Generating Station (the facility) located in San Diego County, Calif. 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.

Relief is granted, on an interim basis, pending completion of a more detailed review, from compliance with certain inservice inspection and testing requirements determined to be impractical for the facility because compliance would result in hardships and unusual difficulties without a compensating increase in the level of quality or safety.

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 September 28, 1977, (2) the Commission's letter to the licensee dated December 22, 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 Mission Viejo Branch Library, 27851 Chrisanta Drive, Mission Viego, Calif. 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, Md., this 22nd day of December 1977.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-429 Filed 1-6-78; 8:45 am]

[7590-01]

[Docket Nos. 50-259, 50-260, 50-296]

TENNESSEE VALLEY AUTHORITY

Proposed Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR-33, DPR-52 and DPR-68, issued to Tennessee Valley Authority (the licensee), for operation of the Browns Ferry Nuclear Power Plant, Unit Nos. 1, 2 and 3, located in Limestone County, Ala.

The amendment would increase the spent fuel storage capacity at Browns Ferry.

By February 8, 1978, 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 § 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 § 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, E 11B 33 C, Knoxville, Tenn. 37902, 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 requests dated December 2 and 20, 1977, which is 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.

Dated at Bethesda, Md., this 28th day of December 1977.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-421 Filed 1-6-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 20325; 70-5708]

AMERICAN ELECTRIC POWER CO., INC.

Post-Effective Amendment Regarding Proposal of Holding Company to Act as Surety for Subsidiary Company

DECEMBER 19, 1977.

Notice is hereby given that American Electric Power Co., Inc. ("AEP"), 2 Broadway, New York, N.Y. 10004, a registered holding company, has filed with this Commission a post-effective amendment to the declaration previously filed in this proceeding pursuant to the Public Utility Holding Co. Act of 1935 ("Act"), designating Sections 12(b) and 12(f) of the Act and Rule 45(b)(3) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, as now amended, which is summarized below, for a complete statement of the proposed transaction.

By order dated August 25, 1977 (HCAR No. 19141), the Commission authorized AEP to act as surety for its electric utility subsidiary company, Appalachian Power Co. ("Appalachian"), in connection with certain Appalachian rate proceedings pending before the Public Service Commission of West Virginia ("state commission") in amounts not to exceed $30,600,000 and $14,645,000.

AEP now amends its declaration to request approval of a supersedeas bond that was posted with the state commission on November 28, 1977, in the amount of $46,401,000 by AEP acting as surety and Appalachian acting as principal pursuant to the provisions of Rule 45(b)(3) under the Act. The bond was posted to satisfy an order of the United States Supreme Court ("Court") in the case of "Appalachian Power Company v. The Public Service Commission of West Virginia" staying the order of the state commission that Appalachian make refunds to its customers in West Virginia of certain previously collected increased rates pending action by the Court on the jurisdictional statement filed by Appalachian in respect of its appeal in the case. AEP will make no charge to Appalachian for acting as surety on the supersedeas bond, in which case Appalachian will save the cost of employing a commercial surety estimated to cost approximately $37,000.

Aside from the state proceeding described herein, 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 January 13, 1978, request in writing that a hearing be held with respect to the proposed transaction, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the 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 further amended by said post-effective amendment or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereto.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-387 Filed 1-6-78; 8:45 am]

[8010-01]

[Release No. 34-14286; File No. SR-Amex-77-35]

AMERICAN STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

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, 1976), notice is hereby given that on December 1, 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

Rule 909. (no change)

OTHER RESTRICTIONS ON EXCHANGE OPTIONS TRANSACTIONS AND EXERCISES

Commentary

.01 Whenever the Exchange is advised by or on behalf of an issuer of underlying stock which is the subject of Exchange options trading that such issuer is engaged or proposes to engage

in an underwritten distribution of such stock (or securities exchangeable or convertible into such stock) and is requested in writing to impose, during a period of stabilizing activities in accordance with the Securities and Exchange Act of 1934 with respect to the underlying stock, restrictions upon the effecting of opening sale (writing) transactions on the Exchange in call options at discounts from parity at the time of such transactions, the Exchange shall impose those restrictions which, in the Exchange's judgment, are appropriate to maintain fair and orderly markets in option contracts, or in underlying securities or to protect investors or the public interest. In reviewing such requests, the Exchange shall ordinarily consider, among other things, the number of shares (or principal amount of convertible or exchangeable debentures) involved in the distribution; the proportionate amount of stock which is to be sold in the distribution by existing holders and the issurer; the type and extent of anticipated stabilizing activities; the number of in-the-money call option series subject to Exchange trading; the existence, if any, of put options relating to the underlying stock; and representations by or on behalf of the issuer as to the reason(s) such restrictions are warranted and are in the public interest. Before imposing any restrictions whatever, the issuer or its representative shall agree to notify the Exchange of all aspects of the proposed distribution and stabilizing activities as requested by the Exchange and to furnish to the Exchange, upon request, copies of the offering circular, prospectus and/or underwriting agreement in connection with the distribution.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSES

Since the start of the Exchange's options program, the Amex has been requested by managing underwriters on three occasions to exercise its power pursuant to Rule 909 to impose restrictions on certain options transactions during periods when underwriters are stabilizing the market in connection with underwritings relating to securities underlying Amex options.

Two requests have involved underwritings of common shares and a third request related to an underwriting of convertible debentures. In making the requests, the managing underwriters indicated that their stabilizing activities might be impeded if the restrictions were not imposed. They expressed concern that with no restrictions imposed, certain arbitrage transactions could occur which might result in the underwriting syndicate purchasing substantially more shares than should ordinarily be necessary to stabilize the stock. They also indicate that such prohibitions would facilitate the underwriting process and assist in capital raising efforts.

In each instance, the Exchange imposed restrictions which prohibited uncovered writing transactions in call options at a discount from parity during the stabilizing period. For example, if the underwriters were stabilizing the common stock at a price of $43, any in-the-money call options which were selling at a discount from parity would be subject to the trading restrictions. Thus, a person would be prohibited from writing, on an uncovered basis, a call option with an exercise price of $40 for less than $3 per share ($300) per contract). One effect of this restriction is to limit the supply of discount options and to preclude persons from purchasing them, giving irrevocable exercise instructions and selling the underlying stock into the underwriters' stabilizing bid.

The prohibitions adopted by the Exchange were similar to trading restrictions imposed by other exchanges in similar underwriting situations. Announcements were made to the membership by Information Circular and reminders were made on the trading floor on the day of the offerings. Trading restrictions were placed in effect following receipt of advice from the managing underwriter that stabilizing activities were commencing.

To ensure continuous markets on the Exchange, the Amex prohibitions did not apply to any purchase transactions, closing writing transactions, certain covered writing transactions and transactions by specialists or registered traders which contributed to the maintenance of fair and orderly markets.

On two of the three occasions where trading restrictions were imposed, the prohibitions remained in place for less than 30 minutes and the third for nearly two days. Further, in none of the three occasions were trading problems encountered during the period the restrictions were in place.

In recent correspondence with the Exchange, SEC Staff indicated that the imposition of trading restrictions in situations such as described above should be imposed, if at all, only upon an evaluation of previously articulated criteria which should be proposed by the Amex pursuant to a rule.

In this regard, the Exchange proposes to amend Rule 909 to establish the criteria it will use in reviewing such requests. Among other things, the Exchange will consider the number of shares (or principal amount of convertible debentures) involved in the distribution; the proportionate amount of stock to be sold in the distribution by existing holders and the issuer; the type and exent of anticipated stablilzing activities; the number of in-the-money call option series subject to Exchange trading; the existence, if any, of put options relating to the underlying stock; and representations as to the reason(s) such restrictions are warranted and are in the public interest.

The basis for the proposed rule change is Section 6(b)(5) of the Act, which provides that the rules of an exchange must be designed, among other things, to protect investors and the public interest. As noted above, the proposed rule change is designed to facilitate the orderly distribution of securities by issuers for the purpose of raising capital.

The proposed amendment to Rule 909 was considered and approved by the Options Committee of the Amex which is composed of Amex members and representatives of Amex member organizations.

It could be argued that the proposed restrictions impose a burden upon different types of options writers and sellers by preventing uncovered opening writers from competing with others at the "discount" level. However, the Amex believes that the proposed amendment will not impose any burden on competition inconsistent with the furtherance of the purposes of the Act.

On or before February 13, 1978, 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, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submission 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 February 8, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 19, 1977.

[FR Doc. 78-391 Filed 1-6-78; 8:45 am]

[8010-01]

[Rel. No. 20324; 70-5930]

CENTRAL AND SOUTH WEST CORP. ET AL

Proposed Increase in Short-Term Borrowing Authority

DECEMBER 19, 1977.

In the matter of Central and South West Corporation, P.O. Box 1631, Wilmington, Del. 19899; Central Power and Light Company, P.O. Box 2121, Corpus Christi, Tex. 78403; Southwestern Electric Power Company, P.O. Box 21106, Shreveport, La. 71156; Public Service Company of Oklahoma, P.O. Box 201, Tulsa, Okla. 74102; West Texas Utilities Co., P.O. Box 841, Abilene, Tex. 79604; CSR Services, Inc., One Main Place, Suite 2700, Dallas, Tex. 75250.

Notice is hereby given that Central and South West Corporation ("CSW"), a registered holding company, and five of its subsidiary companies, Central Power and Light Company, CSR Services, Inc., Southwestern Electric Power Company, West Texas Utilities Company, and Public Service Company of Oklahoma (collectively, the "subsidiaries"), have filed a forth post-effective amendment to their application-declaration previously filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6, 7, 9(a), 10, 12(b) and 12(f) of the Act and Rules 43, 45 and 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, as amended by said post-effective amendment, which is summarized below, for a complete statement of the proposed transaction.

By order dated December 30, 1976 (HCAR No. 19829), this Commission, among other things, authorized CSW and the subsidiaries to establish a system money pool to coordinate their short-term borrowings and to make borrowings outside the money pool from banks and through the issuance of commercial paper through July 1, 1978. The borrowing limits established in said order were $115,000,000 with respect to the issuance and sale of commercial paper and $102,020,000 with respect to loans from banks, with total borrowings not to exceed $115,000,000.

By their fourth post-effective amendment filed in this proceeding applicants-declarants propose that the total borrowing authorization (i) be increased from $115,000,000 to $135,000,000 in any event; (ii) be increased by an additional $25,000,000 in the event of a delay beyond January 30, 1978, in the sale of the $70,000,000 intermediate-term Project Bonds of Public Service Company of Oklahoma, which bonds are the subject of a separate proceeding before this Commission (File No. 70-6092), and (iii) be increased by an additional $65,000,000 in the event of a delay beyond mid-March 1978, in the sale of 7,000,000 shares of CSW's common stock contemplated for that time, which sale would be expected to produce approximately $105,000,000 in net proceeds.

It is stated that CSW's bank lines involve no formal compensating balance arrangements and that such arrangements might be necessary if bank lines were increased pursuant to the proposed increased borrowing authorization. CSW therefore requests authority to have compensating balances not in excess of 10% for bank lines of credit. The amount of any compensating balances would be in addition to the amount of borrowings otherwise requested. Assuming a prime rate of 7¾%, a 10% compensating balance requirement would produce an effective borrowing cost of approximately 8.61%.

The fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment. 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 January 12, 1978, 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 post-effective amendment to the 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 applicants-declarants at the above-stated addresses, 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 amended by said post-effective amendment or as it may be further 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 form 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. 78-388 Filed 1-6-78; 8:45 am]

[8010-01]

[Release No. 33-5890]

INTERPRETATION RELATING TO THE WRITING OF EXCHANGE-TRADED CALL OPTIONS

The Securities and Exchange Commission today announced that it had authorized the Division of Corporation Finance to issue a letter modifying its previous position regarding the delivery of underlying securities subject to Rules 144 or 145(d) under the Securities Act of 1933 in connection with the writing of exchange-traded call options. As the Commission has previously announced, it is currently engaged in an extensive study of the regulatory questions associated with trading in standardized options. The results of that study may affect the future position of the Division of Corporation Finance with respect to the matters discussed below.

BACKGROUND

Subject to its provisions, Rule 144 (17 CFR 230.144) under the Securities Act of 1933 (the "Act") (15 U.S.C. 77a et seq.) permits resales of securities owned by affiliates[1] of the issuer and by persons who have acquired restricted securities[2] of the issuer without such persons being deemed to be engaged in a distribution and thus be considered underwriters as defined in Section 2(11) of the Act. Similarly, paragraph (d) of Rule 145 (17 CFR 230.145) under the Act permits resales of securities acquired in business combinations that are subject to that rule to be made by certain persons,[3] who

[1] Rule 144(a)(1) defines "affiliate" of an issuer as a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such issuer.

[2] Rule 144(a)(3) defines "restricted securities" as securities acquired directly or indirectly from the issuer thereof, or from an affiliate of such issuer, in a transaction or chain of transactions not involving any public offering or from the issuer in a transaction in reliance on Rule 240 under the Act or which were issued by an issuer in a transaction in reliance on Rule 240 and were acquired in a transaction or chain of transactions not involving any public offering.

[3] Rule 145(c) provides that any party to any transaction subject to Rule 145, other than the issuer, or any person who is an affiliate of such party at the time any such transaction is submitted for vote or consent, who publicly offers or sells securities of the issuer acquired in connection with any such transaction, shall be deemed to be engaged in a distribution and therefore to be an underwriter thereof within the meaning of Section 2(11) of the Act.

might otherwise be considered underwriters or deemed to be engaged in a distribution, provided such resales are made in accordance with certain provisions of Rule 144,[4] including paragraph (f). Rule 144(f) requires that the securities be sold in "brokers' transactions" (as defined in paragraph (g) of Rule 144) and that the person selling the securities not solicit orders to buy such securities or make any payment in connection with their sale to any person other than the broker who executes the order to sell the securities.

The Division's interpretative letter set forth below relates to the proposed writing of exchange-traded call options on securities subject to the resale provisions of Rule 145(d) and subsequent sale of the underlying securities by delivering them in satisfaction of any exercise notices received on the options. The Division has previously expressed the view[5] that the writing of call options involves the solicitation of orders to buy the underlying securities and, therefore, does not comply with the provisions of Rule 144(f). Upon reconsideration, because the mechanics of selling call options over national exchanges are similar to those involved in the sale on an exchange of other exchanged-traded securities, the Division's view is that the writing of exchange-traded call options should not be deemed under Rule 144(f) as a solicitation for the purchase of the underlying securities. This view, which is applicable solely to the provisions of Rule 144 and Rule 145(d), relates only to the writing of exchange-traded options and does not extend to the writing or sale of options under any other circumstances.

While the matter dealt with in the letter relates to the writing of exchange-traded call options on underlying securities subject to Rule 145(d), the Divison's view on solicitation is applicable as well to the writing of exchange-traded options on securities subject to Rule 144. The Commission emphasizes, however, that the Division's views relate only to the manner of sale provison of Rule 144(f) and do not affect the other provisions of that rule. Accordingly, for sales made under Rules 144 and 145(d) through the writing of exchange-traded call options, all of the conditions applicable to those rules must be satisfied both at the time of the writing of the options and the time that the underlying securities are delivered pursuant to exercise notices on the options. With respect to sales made under Rule 144, the notice on Form 144 required by paragraph (h) of that rule would be required to be filed with the Commission and the principal national securities exchange on which the underlying securities are listed at the time the call option is written, and subsequently amended, in the event the option is exercised, at the time of the delivery of such securities.[6]

The Commission reminds affiliates engaging in transactions in exchange-traded options[7] of the provisions of Section 16 under the Securities Exchange Act of 1934 (the "Exchange Act") (15 U.S.C. 78a et seq.). The reporting obligations of Section 16(a) and Rule 16a-6 (17 CFR 240.16a-6) thereunder would require such persons to report the writing, purchase or sale of put and call options covering equity securities of the issuer at the time of the transaction, and subsequently report the exercise, cancellation or expiration of the options.[8]

In a related matter, the Commission has recently permitted shareholders to offer and sell securities covered by an effective shelf registration statement[9] through the writing of exchange-traded call options on such securities and the delivery of those securities upon the exercise of the options. In such circumstances, the Commission believed that the requirements of Section 5 of the Act would be satisfied where: (1) A registration statement is in effect, having a prospectus meeting the requirements of Section 10 of the Act, both at the time the options are written and the underlying securities delivered; (2) copies of such prospectus are delivered, pursuant to Rule 153 (17 CFR 230.153) under the Act, to the exchanges on which the options are written prior to the time the options are written and underlying securities delivered; and (3) such prospectus describes the intended plan of distribution.[10] As indicated, the position taken by the Division relates solely to the question of what is a solicitation for purposes of Rules 144 and 145(d). Any persons considering such transactions should first carefully consider the provisions of Rule 10b-6 (17CFR 240.10b-6) under the Exchange Act.[11]

As indicated in the Division's letter set forth below, additional restrictions on the writing of options on securities whose sale is subject to the registration requirements of the Act or Rules 144 and 145(d) may be imposed by the national securities exchanges.

The Commission authorized the Division of Corporation Finance to issue the following letter:

"Dear Mr. X:

In your letter dated August 13, 1976, you request that this Division reconsider the position expressed in its letter of July 9, 1976, in response to your letter of May 13, 1976, concerning the proposed writing by your client, Mr. Y, of exchange-traded call options on all or a portion of his shares of the common stock of ..... (the 'Company'), as more fully described below.

You state that Mr. Y acquired all of his 8,580 shares of the Company's common

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[4] The applicable provisions of Rule 144 are paragraphs (c) (Current Public Information), (e) (Limitation of Amount of Securities Sold), (f) (Manner of Sale), and (g) (Brokers' Transactions).

[5] See "Columbia University" letter (pub. avail. February 27, 1976); "Burroughs Corporation" letter (pub. avail. August 9, 1976).

[6] Rule 144(h) requires the Form 144 to be filed "concurrently with the placing with a broker of an order to execute a sale". Since the Division deems the writing of the option to be an offer to sell, its view is that the Form must be filed at that time.

[7] Many of the national exchanges currently prohibit their members from accepting orders for the writing of call options from affiliates of the issuer of the underlying securities.

[8] The Commission expresses no view as to the impact of the other provisions of Section 16 to transactions made in such options. Subject to its provisions, Section 16(b) provides that the issuer is entitled to any profit made by a ten percent beneficial owner, officer or director of the issuer from any combination of purchases and sales of its equity securities within a six-month period. In addition, under Section 16(c), such persons are prohibited from selling any equity security of the issuer if such security is not owned by them.

[9] A shelf registration statement refers to a registration statement used in connection with a deferred or extended offering. For a description of the types of offerings where such registration is permitted or required, see Securities Act Release No. 4936, as amended, (December 9, 1968), (33 Fed. Reg. 18617), Paragraph 4.

[10] Under Section 5, it is required that a registration statement be filed with the Commission prior to an offer to sell a security and that a registration statement be in effect, with a prospectus meeting the requirements of Section 10 of the Act, prior to the sale of a security. In the Division's view, the writing of a call option should be considered as an offer to sell the underlying securities, and the delivery of the underlying securities upon the exercise of the option should be considered a sale of those securities. Section 5 would require, therefore, the filing of a registration statement prior to the writing of a call option on the underlying securities being registered and an effective registration statement with a statutory prospectus at the time of the delivery of the underlying securities. Since the terms and conditions of options trading provide that the option is subject to exercise immediately after it is written, as a practical matter in order to avoid violations of Section 5, it would be necessary to have a registration statement in effect and a statutory prospectus delivered to the exchange at the time the call option is written.

[11] Rule 10-6 prohibits, subject to certain specifically enumerated exceptions, underwriters and prospective underwriters, issuers, selling shareholders and broker-dealers who are participating, directly or indirectly, in a distribution of securities to bid for or purchase any securities which are the subject of the distribution or any securities of the same class and series or any right to purchase such securities until after such persons have completed their respective participation in the distribution.

stock on January 23, 1976, pursuant to a merger of Z Corporation into a wholly-owned subsidiary of the Company. In connection with the above-described merger, you indicate that the Company filed a registration statement on Form S-14 under the Securities Act of 1933 (the 'Act') covering shares issued pursuant to the merger, including the 8,580 shares issued to Mr. Y (the 'Y shares'). You further indicate that Mr. Y formerly served as a director of Z Corporation. Accordingly, you represent that sales of the Y shares are required to be effective in accordance with the provisions of Rule 145(d) under the Act. You further state that Mr. Y is not an officer, director or ten percent shareholder of the Company.

You indicate that Mr. Y proposes to write exchange-traded call options on the Company's common stock (which options are listed and traded on the American Stock Exchange ('Amex') and the Chicago Board Options Exchange ('CBOE')) in unsolicited brokerage transactions. In the event that an exercise notice is subsequently assigned against his option account, you state that Mr. Y proposes to satisfy his obligations thereunder by delivering the requisite number of the Y shares of the Company's common stock, provided, of course, that such shares can lawfully be sold at that time.

In your letter of May 13, 1976, you state that, in your opinion, sales by Mr. Y of the Y shares in response to an exercise notice would comply with the provisions of Rule 145(d) under the Act. In our letter of July 9, 1976, we stated that this Division was unable to concur with your opinion because the proposed writing of call options for the Company's stock and the subsequent sale of the Y shares to exercising holders of the options would involve the solicitation of orders to buy the common stock of the Company and, accordingly, would not be in compliance with the requirement of paragraph (f) of Rule 144 that the Y shares be sold in 'brokers' transactions', as defined in that rule.

Pursuant to your request for reconsideration, and after further evaluation of the facts and representations contained in your previous letters, the Commission has directed this Division to inform you that sales of the Y shares by your client in response to the receipt of an exercise notice from a holder of a call option for the Company's stock, in the manner described above, would not involve the solicitation of an order to purchase those shares and, therefore, would not be in violation of Rule 144(f). Accordingly, this Division withdraws the position with respect to Rule 144 previously taken in its letter of July 9, 1976. We wish to emphasize, however, that the foregoing position is based upon your representation that all of the conditions of Rule 145(d) (pursuant to which the Y shares are required to be sold in accordance with certain enumerated provisions of Rule 144) shall be satisfied at the time the call options are written and the Y shares sold in the mannter described above.

Notwithstanding the views expressed herein with respect to Rule 145(d) under the Act, the Division of Market Regulation has requested that we inform you that the rules of certain exchanges may impose restrictions on the delivery of underlying securities in satisfaction of option exercise notices. Specifically, your attention is directed to Amex Option Rule 928, which provides, *inter alia*, that members and member organizations may not accept shares of an underlying security "which may not be sold by the holder thereof except upon registration thereof pursuant to the provisions of the Securities Act of 1933 or pursuant to SEC rules promulgated under the Securities Act of 1933 * * *" for the purpose of satisfying an exercise notice assigned against an option contract.

The division of Market Regulation has further requested that we direct your attention to certain additional exchange rules as well as various rules of the Federal Reserve Board ('FRB') which may have general application to the proposed transactions including, but not limited to, Amex Rule 462, Amex Options Rules 928 and 940, CBOE Rule 12.1 et seq., and FRB Rules promulgated pursuant to Section 7(a) of the Securities Exchange Act of 1934 (12 CFR 220 et seq.). Responsibility for ensuring that the proposed sale of the Y shares are effected in compliance with the foregoing rules and any other applicable rules must, of course, rest with your client.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 20, 1977.

[FR Doc. 78-386 Filed 1-6-78; 8:45 am]

[8010-01]

[Release No. 14285; SR-NYSE-76-34]

NEW YORK STOCK EXCHANGE, INC.

Order Extending Time for Comment with Respect to Proposed Changes

DECEMBER 16, 1977.

The Securities and Exchange Commission today extended until January 1, 1978 the time allotted for interested persons to comment or request a public hearing in connection with the Commission's proceedings to determine whether to disapprove the changes proposed by the New York Stock Exchange, Inc. (the "NYSE"), 55 Water Street, New York, N.Y., to rule 405, the "Know Your Customer" rule.[1]

[1]Securities Exchange Act Release No. 14143 (November 7, 1977), 42 FR 59148 (November 15, 1977) ("Release No. 14143").

Background

On November 7, 1977 in Securities Exchange Act Release No. 14143,[2] the Commission instituted proceedings pursuant to Section 19(b)(2) of the Securities Exchange Act of 1934 (the "Act") with respect ot the NYSE's proposed rule changes to Rule 405,[3] its "Know Your Customer" rule. In that order the Commission identified the grounds which it was considering as bases for disapproval of the proposed changes. The Commission's concerns were grounded primarily in the requirements of Section 6(b)(5) of the Act which prescribes that the rules of a national securities exchange be designed, among other things, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest.

In summary the Commission believes that the proposal raises three major questions: (1) Whether or not the complete or substantial negation of the duty of a firm which carries or clears customer accounts on a fully-disclosed basis to "know its customer" and to supervise the trading activity in those accounts is consistent with the purposes of the Act; (2) whether or not the execution of isolated (i.e., not to exceed five transactions during any twelve month period unless otherwise approved by the NYSE) and unsolicited purchases and sales of securities valued at $2,000 or less per transaction is consistent with the purposes of the Act; and (3) whether or not the rephrasing of the duty of the broker or dealer or deletion of certain specific responsibilities establishes a duty that is consistent with the Act.[4]

In its order the Commission recognized that amendments to Rule 405 which would delineate the relative duties of carrying and introducing firms would be appropriate. It remained uncertain, however, that the changes as proposed were consistent with the Act, particularly Section 6(b)(5).

Discussion

In the order instituting disapproval proceedings the Commission specified

[2]Id.

[3]See Release No. 14143 for a fuller discussion of the Commission's proposed grounds for disapproval.

[4]Notice of the initial filing was given in Securities Exchange Act Release No. 12674 (July 20, 1976), 41 FR 34136 (August 12, 1976); notice of the amended proposal was given in Securities Exchange Act Release No. 13821 (August 2, 1977), 42 FR 40920 (August 9, 1977). No comments were received. The Commission extended until November 7, 1977 the time for its action on this proposal in Securities Exchange Act Release No. 13953 (September 13, 1977), 42 FR 47603 (September 21, 1977).

that, since the issues raised presented matters of legal interpretation, it would, at least initially, consider the issues based on written submission. It invited interested persons to submit their written data, views, or arguments and requests for oral presentations of views within thirty (30) days from November 7, 1977, the date of the order. It also established a ten (10) day period subsequent thereto for rebuttal of any statement tendered.

The Commission has received two written requests for extensions of the time for comment on the proposed rule change.[5] Because of the importance of the policy determination presented by these proposals which, if approved, may be expected to establish the industry standard, because of the apparent diversity of industry practice in ascertaining essential facts relative to customers and supervising accounts, particularly those introduced on a fully disclosed basis, and because of the acknowledged need for clarification of the relative obligations of clearing and introducing firms, the Commission has determined that a longer period for submission of written comment is appropriate.

Therefore, the Commission hereby extends until January 1, 1978 the time for interested persons to comment and to request an opportunity for oral presentations of views. Rebuttal arguments must be submitted within ten (10) days thereafter. Persons wishing to make written submissions or rebuttal statements should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capital Street, Washington, D.C. 20549. All submissions should refer to File No. SR-NYSE-76-34. Copies of all submissions will be avilable for inspection at the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of the proposed rule changes are also available at the principal office of the NYSE.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[5] The Securities Industry Association (the "SIA"), Loeb Rhoades Inc. and the Association of Investment Traders have requested that the Commission afford them the opportunity to present oral testimony on the factual questions, policy issues, and regulatory concerns expressed by the Commission in its order and to respond to questions by the Commission and the staff. It is expected that the Commission will consider these requests early in January 1978.

[FR Doc. 78-389 Filed 1-6-78; 8:45 am]

[8010-01]

[Release No. 14290; SR-PSE-77-33]

PACIFIC STOCK EXCHANGE INC.

Order Approving Proposed Rule Change

DECEMBER 19, 1977.

On October 25, 1977, the Pacific Stock Exchange Incorporated, 301 Pine Street, San Francisco, California 94104, filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change. The rule change would clarify that an Order Book Official may accept options orders from persons associated with members, *i.e.*, clerks, runners or other associated persons, except when the order is one which improves the existing bid or offer in the book, in which case, unless the order is a cancel/replace order, the direct involvement of a member will be required.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 14161, (November 10, 1977)) and by publication in the FEDERAL REGISTER (42 FR 59578 (November 18, 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 registered national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act, that the proposed rule change filed with the Commission on October 25, 1977, be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-390 Filed 1-6-78; 8:45 am]

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RADIO TECHNICAL COMMISSION FOR AERONAUTICS (RTCA); SPECIAL COMMITTEE 135—ENVIRONMENTAL CONDITIONS AND TEST PROCEDURES FOR ELECTRONIC/ELECTRICAL EQUIPMENT AND INSTRUMENTS.

Cancellation of Meeting

This Notice announces the cancellation of the Radio Technical Commission for Aeronautics (RTCA) Special Committee 135 meeting which was scheduled for January 17-18, 1978, and announced in the FEDERAL REGISTER on December 22, 1977 (42 FR 64167).

Issued in Washington, D.C., on January 3, 1978.

KARL F. BIERACH,
Designated Officer.

[FR Doc. 78-323 Filed 1-6-78; 8:45 am]

[1505-01]

INTERSTATE COMMERCE COMMISSION

[Volume No. 48]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

Corrections

In FR Doc. 77-36371 appearing at page 64188 in the issue of Thursday, December 22, 1977, in the "No. MC 117644" paragraph on page 64198 "(Sub-No.)" should read "(Sub-No. 46)".

[7035-01]

[No. 560]

ASSIGNMENT OF HEARINGS

JANUARY 4, 1978.

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 127810 (Sub-No. 3), Sherman & Boddie, Inc., now assigned January 18, 1978, at Charlotte, N.C., is cancelled and reassigned for hearing on January 18, 1978 (3 days), at Raleigh, N.C. and will be held in Room 225, Federal Building, 310 New Bern Avenue.

MC 119991 (Sub 17), Young Transport, Inc.; MC 8973 (Sub 47), Metropolitan Trucking, Inc.; MC 115841 (Sub 558), Colonial Refrigerated Transportation, Inc., and MC 116915 (Sub 37), Eck Miller Transportation Corp., now being assigned January 26, 1978 (2 days), at Columbus, Ohio, and will be held in Room 235, Federal Building, 85 Marconi Boulevard.

MC 65697 (Sub-No. 52), Theaters Service Company, Inc., now being assigned January 31, 1978 (4 days), for continued hearing at Atlanta American Motor Hotel, 160 Spring Street NW., in Atlanta, Georgia.

MC 103993 (Sub 901), Morgan Drive-Away, Inc.; MC 73165 (Sub 413), Eagle Motor

Lines, Inc.; MC 115496 (Sub 70), Lumber Transport, Inc.; MC 119656 (Sub 35), North Express, Inc.; MC 114552 (Sub 141), Senn Trucking Co.; MC 43867 (Sub 35), A. Leander McAlister Trucking Co.; NC-MC 108341 (Sub 72), Moss Trucking Co., now being assigned January 31, 1978, for prehearing conference at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 135195 (Sub 3), Stover Air Cargo, Inc., now assigned January 30, 1978, at Chicago, Ill., is cancelled and transferred to Modified Procedure.

No. 36775, Increased Commutation Fares, Hudson Transit Lines, Inc., now being assigned February 13, 1978 (1 week), at New York, N.Y., in a hearing room to be later designated.

MC 8973 (Sub 46), Metropolitan Trucking, Inc., now assigned February 9, 1978, at Washington, D.C., is postponed indefinitely.

MC-F 12912, United Trucking Service, Inc., Purchase (Portion), Associated Transport, Inc., Thomas J. Cahill, Trustee in Bankruptcy; MC 70151 (Sub 50), United Trucking Service, Inc., MC-F 12909, Duff Truck Line, Inc., Purchase (Portion), Associated Transport, Inc., Thomas J. Cahill, Trustee in Bankruptcy; MC 14314 (Sub 24), Duff Truck Line, Inc.; MC-F 12895, Central Transport, Inc., Purchase (Portion), Associated Transport, Inc., now being assigned February 9, 1978, for continued prehearing conference at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 82492 (Sub 145), Michigan & Nebraska Transit Co., Inc., now being assigned May 1, 1978, at the Offices of the Interstate Commerce Commission in Washington, D.C.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-457 Filed 1-6-78; 8:45 am]

[7035-01]

[No. 561]

ASSIGNMENT OF HEARINGS

JANUARY 4, 1978.

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.

CORRECTION [1]

MC 61592 (Sub-No. 403), Jenkins Truck Line, Inc., now assigned February 28, 1978, at the Offices of the Interstate Commerce Commission in Washington, D.C.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-458 Filed 1-6-78; 8:45 am]

[1] Published in the FEDERAL REGISTER dated November 29, 1977, the title was inadvertently omitted.

[7035-01]

[Notice No. 167TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 29, 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 January 24, 1978. 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 3252 (Sub-No. 98TA), filed December 2, 1977. Applicant: MERRILL TRANSPORT CO., 1037 Forest Ave., Portland, Maine 04103. Applicant's representative: Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, Mass. 02043. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic bottles* in shipper owned trailers, from Portland, Maine, and Westbrook, Maine, to Gardner and Boston, Mass.; Concord, N.H.; Batavia, N.Y.; Berwick, Pa., and Jessup, Md.; North Smithfield, R.I.; Burlington, Vt., and Littleton and Whitman, Mass.; and (2) *Materials, supplies* and *equipment* used or useful in the manufacture and sale of plastic bottles in shipper owned trailers, from Gardner, Mass., to Portland and Westbrook, Maine, for 180 days. Supporting shipper: Bercon Packaging, Inc., 1800 North Market Street, Berwick, Pa. 18603. Send protests to: Donald G. Weiler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Rm. 307, 76 Pearl Street, Portland, Maine 04111.

No. MC 29698 (Sub-No. 19TA), filed December 5, 1977. Applicant: LESTER FELLOWS CO., Tathan and E. Pearl Streets, Box 586, Burlington, N.J. 07076. 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: *Cast iron pipe and pipe fittings*, for the account of Atlantic States Cast Iron Pipe Co., from Phillipsburg, N.J., to Washington, D.C., and points in Delaware, Maryland, and Virginia, and refused or damaged shipments on return, under a continuing contract, or contracts, with Atlantic States Cast Iron Pipe Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Atlantic States Cast Iron Pipe Co., 183 Sitreaves Street, Phillipsburg, N.J. 08865. Send protests to: District Supervisor, Interstate Commerce Commission, 428 East State Street, room 204, Trenton, N.J. 08608.

No. MC 50866 (Sub-No. 7TA), filed December 5, 1977. Applicant: BURLINGAME TRUCK LINE, INC., R. R. 2, Scranton, Kans. 66537. Applicant's representative: Clyde N. Christey, 514 Capitol Federal Building, 700 Kansas Avenue, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry feed and dry feed ingredients*, (except in tank vehicles), from Emporia, Kans., to points in Okla., for 180 days. Applicant states it does not intend to tack or interline. Supporting shipper: Cook Industries, Inc., Box 518, Emporia, Kans. 66801. Send protests to: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 147 Federal Building and U.S. Courthouse, 444 S. E. Quincy, Topeka, Kans. 66683.

No. MC 51146 (Sub-No. 550TA), filed December 5, 1977. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, 2661 South Broadway, Green Bay, Wis. 54306. Applicant's representative: Neil A. DuJardin (same address as applicant). Authority sought to operate as a *common carri-*

er, by motor vehicle, over irregular routes, transporting: *Games and toys*, NOI, from points in the States of Massachusetts, New Jersey, and New York, to the facilities utilized by M. W. Kasch Co., at or near Itasca, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: M. W. Kasch Co., P.O. Box 2040, Milwaukee, Wis. 53201 (Robert Morgan). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, room 619, Milwaukee, Wis. 53202.

No. MC 52709 (Sub-No. 345TA), filed December 5, 1977. Applicant: RINGSBY TRUCK LINES, INC., 3980 Quebec Street, P.O. Box 7200, Denver, Colo. 80207. Applicant's representative: Robert P. Tyler (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulating material*, from Fruita, Colo., to points in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin, and Wyoming, with no compensation on return, (except as otherwise authorized), for 180 days. Supporting shipper: Fibreboard Corp., 55 Francisco Street, San Francisco, Calif. 94133. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 721 19th Street, 492 U.S. Customs House, Denver, Colo. 80202.

No. MC 56640 (Sub-No. 40TA) (correction), filed October 18, 1977, published in the FEDERAL REGISTER issue of November 11, 1977, and republished, as corrected, this issue. Applicant: DELTA LINES, INC., 333 Hegenberger Road, Oakland, Calif. 94621. Applicant's representative: Andrew J. Skaff, 600 Montgomery Street, 46 Floor, San Francisco, Calif. 94111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sodium nitrate* in bags and *ferro silicone* in bags, having a prior interstate movement by rail, between Desert Center, Calif., and Eagle Mountain, Calif., for 180 days. Tacking with MC 56640 (Sub-No. 31) at San Bernardino and Los Angeles, Calif., is requested. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Hercules, Inc., 1 Maritime Plaza, San Francisco, Calif. 94111. Send protests to: A. J. Rodriquez, District Supervisor, 211 Main, Suite 500, San Francisco, Calif. 94105. The purpose of this correction is to show tacking request.

No. MC 61506 (Sub-No. 32 TA), filed December 5, 1977. Applicant: RUSSELL TRANSFER CO., INC., P.O. Box 829, Washington, Ga. 30673. Applicant's representative: Frank D. Hall, Suite 713, 3384 Peachtree Road NE., Atlanta, Ga. 30326. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fibreboard containers* (including tops, ends, and closures therefor, from the plantsite of Container Corp. of America, located at or near Atlanta, Ga., to points in Charleston County, S.C., under a continuing contract, or contracts, with Container Corp. of America, 5853 Ponce de Leon Avenue, Stone Mountain, Ga. 30086. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, Ga. 30309.

No. MC 71452 (Sub-No. 13TA), filed November 18, 1977. Applicant: INDIANA TRANSIT SERVICE, INC., 4300 West Morris Street, Indianapolis, Ind. 46241. Applicant's representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, Tenn. 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, commodities in bulk, household goods as defined by the Commission, and articles which because of size or weight, require special equipment, between points in Adams, Allen, Bartholomew, Blackford, Boone, Brown, Carroll, Cass, Clay, Clinton, Daviess, Decatur, Delaware, Fayette, Fulton, Gibson, Grant, Greene, Hamilton, Hancock, Hendricks, Henry, Howard, Huntington, Jackson, Jay, Jennings, Johnson, Knox, Kosciusko, Lawrence, Madison, Marion, Miami, Monroe, Montgomery, Morgan, Owen, Parke, Posey, Putnam, Randolph, Rush, Shelby, Sullivan, Tippecanoe, Tipton, Vanderburgh, Vigo, Wabash, Wayne, Wells, White, Whitley, Ripley, Jefferson, Scott, Orange, and Dubois Counties, Ind.; Hamilton County, Ohio; McCracken and Graves Counties, Ky.; Fayette and Macon Counties, Ill.; and Louisville, Ky., restricted against the transportation of single articles or pieces which exceed 100 pounds in weight, for 180 days. Supporting shipper(s): There are approximately 58 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, Ind. 46204.

No. MC 76032 (Sub-No. 330TA), filed December 5, 1977. NAVAJO FREIGHT LINES, INC., 1205 South Platte River Drive, Denver, Colo. 80223. Applicant's representative: Eldon E. Bresee, 1205 South Platte River Drive, Denver, Colo. 80223. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages* (except in bulk), from Owensboro, Ky., to Reno and Las Vegas, Nev.; Phoenix, Ariz.; Albuquerque, N. Mex.; Wichita, Kans., and points within their respective commercial zones, and points in California, restricted to traffic moving from named origin and destined to the named destinations, for 180 days. Supporting shipper(s): Glenmore Distilleries Co., P.O. Box 1069, Owensboro, Ky. 42301. Send protests to: H. C. Ruoff, District Supervisor, 492 U.S. Customs House, 721 19th Street, Denver, Colo. 80202.

No. MC 94350 (Sub-No. 404TA), filed December 5, 1977. Applicant: TRANSIT HOMES, INC., P.O. Box 1628, Haywood Road at Transit Drive, Greenville, S.C. 29602. Applicant's representative: Mitchell King, Jr., P.O. Box 1628, Greenville, S.C. 29602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings*, in sections, mounted on wheeled undercarriages, from points in Brigham City, Utah, to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Washington, and Wyoming, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Champion Home Builders Co., 920 West 6th North, P.O. Box 628, Brigham City, Utah 84302. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Room 302, 1400 Building, 1400 Pickens Street, Columbia, S.C. 29201.

No. MC. 95350 (Sub-No. 7TA), filed December 2, 1977. Applicant: R. W. HONES TRUCKING CO., a Utah corporation, P.O. Drawer T, Vernal, Utah 84078. Applicant's representative: Harry D. Pugsley, Suite 1200, 310 South Maine St., Salt Lake City, Utah 84101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, materials, equipment, supplies, and facilities* used in, or incidental to, or in connection with the discovery, development, production, extraction and preservation of oil shales, natural gas and petroleum and the construction, dismantling, repair, servicing and maintenance of facilities for the storage, operation, processing, repressuring and blending of oil shale, natural gas, gasoline, and petroleum, between points in Uintah, Duchesne, Daggett, Summit, Grand, Emery and Carbon Counties, Utah; Madison, Fre-

mont, Clark, Jefferson, Teton, Bonneville, Bingham, Bannock, Caribou, Power, Bear Lake, Oneida, and Franklin Counties, Idaho; Moffatt, Rio Blanco, Routt, Mesa, and Farfield Counties, Colo.; Sweetwater, Uinta, Lincoln, Carbon, and Natrona Counties, Wyo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: There are approximately twelve support statements in this application, which may be examined at the Interstate Commerce Commission, in Washington, or copies may be obtained at the field office below. Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State St., Salt Lake City, Utah 84138.

No. MC 97310 (Sub-No. 24TA), filed November 8, 1977. Applicant: SHARRON MOTOR LINES, INC., P.O. Box 5636, Meridian, Miss., 39301. Applicant's representative: John P. Carlton, 727 Frank Nelson Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except Classes A and B explosives, and commodities which by reason of size or weight require the use of special equipment): (1) Between Birmingham, Ala., and Memphis, Tenn.: (a) From Birmingham over U.S. Highways 31 and Interstate 65 to Athens, Ala., thence over U.S. Highway 72 to Memphis, and return over the same route. (b) From Birmingham over U.S. Highway 78 to Memphis and return over the same route. (c) From Birmingham over U.S. Highways 11 and Interstate 59/20 to Tuscaloosa, Ala., thence over U.S. Highway 82 to Columbus, Miss., thence over U.S. Highway 45 to Tupelo, Miss., thence over U.S. Highway 78 to Memphis, and return over the same route. (2) Between Montgomery, Ala., and Greenville, Miss.: From Montgomery over U.S. Highway 82 to Greenville and return over the same route. (3) Between Columbus, Miss., and Demopolis, Ala.: From Columbus over Mississippi State Highway 69 to its intersection with Alabama State Highway 14 at the Alabama-Mississippi State line, thence over Alabama State Highway 14 to its intersection with U.S. Highway 43, thence over U.S. Highway 43 to Dempolis, and return over the same route. (4) Between Tupelo, Miss., and Clarksdale, Miss.: From Tupelo over Mississippi State Highway 6 to Clarksdale and return over the same route. (5) Between Eupora, Miss., and Oakland, Miss.; From Eupora over Mississippi State Highway 9 to its intersection with Mississippi State Highway 32, thence over Mississippi State Highway 32 to Oakland and return over the same route. (6) Between Greenwood, Miss., and Granada, Miss.; From Greenwood over Mississippi State Highway 7 to its intersection with Mississippi State Highway 8, thence over Mississipi State Highway 8 to Granada, and return over the same route. (7) Between Greenwood, Miss., and Clarksdale, Miss.; From Greenwood over U.S. Highway 49E to its intersection with U.S. Highway 49, thence over U.S. Highway 49, to Clarksdale and return over the same route. (8) Between Forest, Miss. and the intersection of U.S. Highway Interstate 55 with Mississippi State highway 35 at or near Vaiden, Miss.; From Forest over Mississippi State Highway 35 to its intersection with U.S. Highway Interstate 55 and return over the same route. (9) Between Meridian, Miss., and Corinth, Miss.; From Meridian over U.S. Highway 45 to Corinth and return over the same route. (9a) Between the intersection of U.S. Highways 45 and Alternate 45 at or near Brooksville, Miss., and the intersection of U.S. Highways 45 and Alternate 45 at or near Shannon, Miss., over U.S. Highway Alternate 45 and return over the same route. (10) Between Meridian, Miss., and New Albany, Miss.; From Meridian over Mississippi State Highway 15 to New Albany and return over the same route. (10a) Between Philadelphia, Miss., and the intersection of U.S. Highway Interstate 20 and Mississippi State Highway 50; from Philadelphia over Mississippi State Highway 21 to Forest, Miss., thence over Mississippi State Highway 501 to its intersection with U.S. Highway Interstate 20, and return over the same route. (11) Between Jackson, Miss., and Memphis, Tenn.; From Jackson over U.S. Highway 51 (also over U.S. Highway Interstate 55) to Memphis and return over the same route. (11a) Between the intersection of U.S. Highways 49E and 49 at or near Yazoo City, Miss., and Jackson, Miss.; From the intersection of U.S. Highways 49E and 49 at or near Yazoo City, Miss., over U.S. Highway 49 to Jackson, and return over the same route. (12) Between Vicksburg, Miss., and Greenwood, Miss.; From Vicksburg over Mississippi State Highway 3 to its intersection with U.S. Highway 49E, thence over U.S. Highway 49E to Greenwood and return over the same route. (13) Between Vicksburg, Miss., and Memphis, Tenn.; From Vicksburg over U.S. Highway 61 to Memphis and return over the same route. Serving all intermediate points lying on Routes 1-13 above and serving all other points in Mississippi lying on and north of U.S. Highway 80 as off-route points in conjunction with Routes 1-13 above. Restriction: Restricted against provision of single-line service to or from points in Arkansas and Louisiana. Applicant seeks authority to tack the authority sought herein with all of its existing authority at common service points and with any authority issued to it in MC 97310 (Sub-No. 20) which is presently pending at points of service common to this application and the (Sub-No. 20) authority. The effect of applicant's request for authority to tack will be to enable applicant to provide through service between points in its existing territory, points sought in (Sub-No. 20), and points sought in this application. Applicant also requests authority to serve the commercial zones of cities on the routes, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately (205) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 106679 (Sub-No. 12TA), filed November 21, 1977. Applicant: WHEELER FREIGHTWAYS, 3375 South Polaris Avenue, Las Vegas, Nev. 89102. Applicant's representative: R. Alan Wheeler, 3375 South Polaris Avenue, Las Vegas, Nev. 89102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, in hopper-type vehicles, from Victorville, Creal, Monlith, Oro Grande, and Cushenberry, Calif., to points in Clark County, Nev., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Arrow Ready Mix, P.O. Box 5701, Las Vegas, Nev. 89102. (2) Taggart Construction Co., d.b.a. WMK Transit Mix, P.O. Box 14697, Las Vegas, Nev. 89114. (3) Dot Ready Mix, 3450 South Procyon Avenue, Las Vegas, Nev. 89102. Send protests to: W. J. Huetig, District Supervisor, Interstate Commerce Commission, 203 Federal Building, 705 North Plaza Street, Carson City, Nev. 89701.

No. MC 109692 (Sub-No. 49TA), filed December 2, 1977. Applicant: GRAIN BELT TRANSPORTATION CO., 340 North James Street, Kansas City, Mo. 66118. Applicant's representative: Warren H. Sapp, 4420 Madison, Suite 230, Kansas City, Mo. 64111. Authority sought to conduct operations as a *common carrier* by motor vehicle, over irregular routes, transporting: (1) *Irrigation systems and parts and accessories therefor, pipe, tubing, light poles, mast arms, brackets, bases and transmission poles, and equipment and supplies* used in the installation thereof (except commodities in bulk), from

the plantsite of Valmont Industries, Inc., located at or near Valley, Nebr., to points in Arkansas, Illinois, Indiana, Iowa, Louisiana, Michigan, New Mexico, Ohio, Texas, and Wisconsin. (2) *Equipment, materials, and supplies* used in the manufacture of the commodities named in paragraph No. 1 above, from points in Arkansas, Illinois, Indiana, Iowa, Louisiana, Michigan, New Mexico, Ohio, Texas and Wisconsin to the plantsite of Valmont Industries, Inc., located at or near Valley, Nebr. (3) *Used irrigation systems, and parts and accessories thereof, and new and used equipment, materials and supplies used in the installation of* used irrigation systems, restricted to traffic moving for the account of Valmont Industries, Inc., (a) between points in Arkansas, Illinois, Indiana, Iowa, Louisiana, Michigan, New Mexico, Ohio, Texas, and Wisconsin: and (b) between points in the States named in part 3(a) above, on the one hand, and, on the other, points in Kansas, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, and South Dakota, for 180 days. Supporting shipper: Valmont Industries, Inc., Valley, Nebr. 68064. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 112801 (Sub-No. 195TA), Filed November 18, 1977. Applicant: TRANSPORT SERVICE CO., 2 Salt Creek Lane, Hinsdale, Ill. 60521. Applicant's representative: Gene Smith (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic materials*, dry, in bulk, in tank vehicles, from Iliopolis, Ill., to points in Iowa, Missouri, Minnesota, Wisconsin, Michigan, Indiana, Ohio, Kentucky, Tennessee, Mississippi, Georgia, Massachusetts, and Virginia, for 180 days. Supporting shipper(s): (1) Borden chemical, Division of Borden, Inc., Richard L. Roundhouse, Group Distribution Manager, 180 East Broad Street, Columbus, Ohio. 43215. 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 112962 (Sub-No. 10TA), filed December 5, 1977. Applicant: CRUPPER TRANSPORT CO., INC., 25 South Third Street, Kansas City, Kans. 66118. Applicant's representative: W. Boyd Evans of Glaves, Weil & Evans, 900 O. W. Garvey Building, Wichita, Kans. 67202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing, building and insulating materials*, from the plantsite of CertainTeed Corp., Kansas City, Mo., to points and places in the states of Illinois, Indiana, Kentucky, and Tennessee, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): CertainTeed Corp., P.O. Box 860, Valley Forge, Pa. 19482. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 115331 (Sub-No. 434TA), filed November 9, 1977. Applicant: TRUCK TRANSPORT INC., 29 Clayton Hills Lane, St. Louis, Mo. 63131. Applicant's representative: J. R. Ferrus, 230 St. Clair Avenue, East St. Louis, Ill. 62201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dry plastics*, in bulk, in tank or hopper-type vehicles, and liquid chemicals (except liquid fertilizer, liquid oxygen, liquid hydrogen, and liquid nitrogen), in bulk, in tank vehicles, and (2) *dry plastics*, in bulk, in tank or hopper-type vehicles, (1) from the plantsite and facilities of Northern Petrochemical Co., at or near Morris, Ill., to points in Indiana, Ohio, Michigan, Wisconsin, Minnesota, and Iowa, and (2) from the plantsite and facilities of Northern Petrochemical Co., at or near Morris, Ill., to points in Missouri, Kansas, Arkansas, Kentucky, Pennsylvania, Nebraska, and Tennessee, for 180 days. Supporting shipper(s): Northern Petrochemical Co., P.O. Box 459, Route 6 and Tabler Road, Morris, Ill. 60450. Send protests to: J. P. Werthmann, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 North 12th Street, St. Louis, Mo. 63101.

No. MC 116544 (Sub-No. 160TA), filed November 18, 1977. Applicant: ALTRUK FREIGHT SYSTEMS, INC., P.O. Box 1059, St. Joseph, Mo. 64502. Applicant's representative: Kirk Wm. Horton, 260 Sheridan Avenue, Palo Alto, Calif. 94306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Merchandise* dealt in by wholesale, retail, and chain grocery and food business houses, in vehicles equipped with mechancial refrigeration (except commodities in bulk, in tank vehicles), from the plant and warehouse facilities of Kraft, Inc., at Springfield, Mo., to points in Alabama, Arizona, Arkansas, California, Colorado, Floriada, Georgia, Kansas, Kentucky, Louisiana, Mississippi, New Mexico, Oklahoma, South Carolina, North Carolina, Tennessee, Texas, and Virginia, restricted to traffic originating at the above-named origin and destined to the above-named destination States, for 180 days. Applicant states it does not intend to tack or interline. Supporting shipper(s): Kraft, Inc., 500 Peshtigo Court, Chicago, Ill. 60690. Send protests to: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 147 Federal Building and U.S. Courthouse, 444 Southeast Quincy, Topeka, Kans. 66683.

No. MC 118142 (Sub-No. 164TA), filed December 5, 1977. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, Kans. 67219. Applicant's representative: Brad T. Murphree, 814 Century Plaza Building, Wichita, Kans. 67202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, articles distributed by meat packing plants, and foodstuffs* (except hides and commodities in bulk), (1) from the plantsite of Geo. A. Hormel & Co., at Fort Dodge, Iowa, to points in California; and (2) from the plantsite of Geo. A. Hormel & Co., at Austin, Minn., to points in California, 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. 55912. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, Kans. 67202.

No. MC 118159 (Sub-No. 231TA), filed November 14, 1977. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, Okla. 74151. Applicant's representative: Warren Taylor, P.O. Box 51366, Dawson Station, Tulsa, Okla. 74151. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Charcoal, charcoal briquettes, fireplace logs, wood chips, lighter fluid, spices, sauces, and vermiculite* (except commodities in bulk), from Cotter, Ark., to points in the United States (except Alaska and Hawaii); and (2) *materials, supplies, and equipment* used in connection with the commodities described in (1) above (except commodities in bulk), from points in the United States (except Alaska and Hawaii), to Cotter, Ark., for 180 days. Applicant also has filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Kingsford Co., P.O. Box 1033, Louisville, Ky. 40201. Send protests to: Joe Green, District Supervisor, Room 240 Old Post Office and Court House Building, 215 Northwest 3rd, Oklahoma City, Okla. 73102

No. MC 119493 (Sub-No. 169TA), filed December 2, 1977. Applicant: MONKEM CO., INC., P.O. Box 1196, West 20th Street Road, Joplin, Mo. 64801. Applicant's representative: Lawrence F. Kloeppel, P.O. Box. 1196,

Joplin, Mo. 64801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery* from Joplin, Mo., to Tulsa, Okla., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Safeway Stores, Inc., 1401 Junge Boulevard, Joplin, Mo. 64801. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 119555 (Sub-No. 18TA), filed December 5, 1977. Applicant: OIL AND INDUSTRY SUPPLIERS, LTD., P.O. Box 3500, Calgary, Alberta, Canada. Applicant's representative: Ray F. Koby, 314 Montana Building, Great Falls, Mont. 59401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rapeseed oil*, in bulk, in tank vehicles, from the port of entry on the international boundary line at or near Noyes, Minn., to Huntington, W. Va., on traffic originating at Altona, Manitoba, Canada, for 180 days. Supporting shipper(s): Ed Wiebe, Traffic Coordinator, CSP Foods, Ltd., P.O. Box 750, Altona, Manitoba, Canada. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, Mont. 59101.

No. MC 123389 (Sub-No. 39TA) (correction), filed October 20, 1977, published in the FEDERAL REGISTER issue of November 16, 1977, and republished, as corrected, this issue. Applicant: CROUSE CARTAGE CO., P.O. Box 586, Highway 30 West, Carroll, Iowa 51401. Applicant's representative: William S. Rosen, 630 Osborn Building, St. Paul, Minn. 55102. 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 commodities requiring special equipment), between St. Louis, Mo., and points in its commercial zone and Creston, Iowa, and points in its commercial zone, (1) from St. Louis, over U.S. Highway 61 to its junction with Interstate Highway 70, thence over Interstate Highway 70 to its junction with U.S. Highway 63, thence over U.S. Highway 63 to its junction with U.S. Highway 36, thence over U.S. Highway 36 to its junction with Interstate Highway 35, thence over Interstate Highway 35 to its junction with U.S. Highway 34, thence over U.S. Highway 34 to Creston, and return over the same route, serving no intermediate points; (2) from St. Louis over Interstate Highway 70 to its junction with U.S. Highway 63, thence over U.S. Highway 63 to its junction with U.S. Highway 36, thence over U.S. Highway 36 to its junction with Interstate Highway 35, thence over Interstate Highway 35 to its junction with U.S. Highway 34, thence over U.S. Highway 34 to Creston, Iowa, and return over the same route, serving no intermediate points; (3) from St. Louis over Interstate Highway 70 to its junction with Interstate Highway 35, thence over Interstate Highway 35 to its junction with U.S. Highway 34, thence over U.S. Highway 34 to Creston, and return over the same route, serving no intermediate points; (4) from St. Louis over Interstate Highway 70, to its junction with U.S. Highway 65, thence over U.S. Highway 65 to its junction with U.S. Highway 34, thence over U.S. Highway 34 to Creston, and return over the same route, serving no intermediate points, for 180 days. Tacking with MC 123389 and sub numbers and interlining at Des Moines, Davenport, Carroll, and Sioux City, Iowa; Omaha, Nebr.; and St. Joseph and Kansas City, Mo., are requested. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Bunn-O-Matic Corp., Jacob Bunn, Plant Manager, Creston, Iowa 50801. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102. The purpose of this correcton is to indicate that tacking and interlining is requested.

No. MC 124711 (Sub-No. 48TA), filed December 2, 1977. Applicant: BECKER CORP., P.O. Box 1050, 2643 West Central, El Dorado, Kans. 67042. Applicant's representative: T. M. Brown, 223 Ciudad Building, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum coke*, in bulk, in dump vehicles, from El Dorado, Kans.; to points in Arkansas, Colorado, Missouri, Nebraska, Oklahoma, and Texas, for 180 days. Supporting shipper: Great Lake Carbon Corp., 299 Park Avenue, New York, N.Y. 10017. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, Kans. 67202.

No. MC 125433 (Sub-No. 132TA), filed November 18, 1977. Applicant: F-B TRUCK LINE CO., 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: *Wet electrostatic precipitators and component parts*, (1) from the plantsite of Fluid-Ionic Systems located at or near Phoenix, Ariz., to points in the United States, (except Utah, Nevada, Idaho, Wyoming, Montana, Washington, and Oregon; and (2) from the plantsite of Fluid-Ionic Systems, located at or near Avon, Ohio, to points in the United States, (except Colorado, New Mexico, Oklahoma, Texas, Kansas, and Louisiana, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Fluid-Ionic Systems, P.O. Box 20684, Phoenix, Ariz. 85036. (David Van Ness, Vice-President, Administration and Materials). 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 125506 (Sub-No. 27TA) (Correction), filed September 29, 1977, published in the FEDERAL REGISTER issue of October 19, 1977, and republished as corrected this issue. Applicant: JOSEPH ELETTO TRANSFERS, INC., 33 West Hawthorne Street, Valley Stream, N.Y. 11580. Applicant's representative: Morris Honig, 150 Broadway, New York, N.Y. 10038. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by retail specialty shops, dealing primarily in wearing apparel and accessories (excluding furniture, and appliances, and store fixtures, and supplies, not for resale, between New York, N.Y., on the one hand, and, on the other, points in Vermont, New Hampshire, Massachusetts (except Boston), Worcester, Natick, Peabody, and Braintree; Connecticut, except Bridgeport; Rhode Island, except Warwick; New Jersey, except Newark, Wayne, Paramus, and Menlo Park, under a continuing contract or contracts with Wallachs, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s) Wallachs, 3236 47th Avenue, Long Island City, N.Y. 11103. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007. The purpose of this republication is to indicate the correct destination.

No. MC 126327 (Sub-No. 4TA), filed December 2, 1977. Applicant: C & S TRUCKING, INC., 1983 Old Oakland Highway, San Jose, Calif. 95131. Applicant's representative: William J. Monheim, 13710 E. Whittier Boulevard, P.O. Box 1756, Whittier, Calif. 90609. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery products* (other than frozen), from Buena Park, Calif., to points in Utah, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Sup-

porting shipper(s): Nabisco, Inc., East Hanover, N.J. 07936. Send protests to: Michael M. Butler, District Supervisor, 211 Main, Suite 500, San Francisco, Calif. 94105.

No. MC 128205 (Sub-No. 41TA), filed December 8, 1977. Applicant: BULK-MATIC TRANSPORT CO., 12000 South Doty Avenue, Chicago, Ill. 60628. Applicant's representative: Arnold L. Burke, 180 North La Salle Street, Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour*, in bulk, in tank type vehicles, from Indianapolis, Ind., to Wenona, Ill., for 180 days. Supporting shipper(s): Acme-Evans Co., Division of General Grain, Inc., Marvin K. Baker, Vice-President, Operations, 902 West Washington Avenue, Indianapolis, Ind. 46204. 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 128469 (Sub-No. 4TA), filed November 14, 1977. Applicant: A & A TRANSFER & STORAGE, INC., 113 Hollywood Boulevard, NW. Drawer "AA", Fort Walton Beach, Fla. 32548. 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 (1) Jacksonville, Fla., on the one hand, and, on the other, points in Ga.; (2) Pensacola and Fort Walton Beach, Fla., on the one hand, and, on the other, points in Ala., and (3) points in Alabama, and Ga., 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, for 180 days. Supporting shipper(s): (1) Routed Thru-Pac, Inc., 9219 Harford Road, Baltimore, Md. 21234. (2) National Forwarding, Inc., National Plaza, Broadview, Ill. 60153. (3) Vanpac Carriers, Inc., 2114 Macdonald Avenue, Richmond, Calif. 94801. (4) Columbia Export Packers, Inc., 19032 South Vermont Avenue, Torrance, Calif. 90502. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 129387 (Sub-No. 44TA), filed November 14, 1977. Applicant: PAYNE TRANSPORTATION, INC., P.O. Box 12271, Huron, S. Dak. 57350. Applicant's representative: Scott E. Daniel, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionaries, and related advertising and display items*, (1) from the facilities of E. J. Brach & Sons, Inc., located at Chicago, Sullivan, and Carol Stream, Ill., and Davenport, Iowa, to points in Washington, Oregon, California, Idaho, Nevada, Arizona, Utah, Montana, Wyoming, and New Mexico; and (2) from the facilities of E. J. Brach & Sons, Inc., located at or near Reno, Nev., to points in Washington, Oregon, California, Utah, Montana, Idaho, and Arizona, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): E. J. Brach & Sons, Division of American Home Products, 205 Parr Boulevard, P.O. Box 11430, Reno, Nev. 89510. Thomas H. Walker Assistant Traffic Manager. Send protests to: J. L. Hammond District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455 Federal Building, Pierre, S. Dak. 57501.

No. MC 134922 (Sub-No. 245TA), filed November 22, 1977. applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, Ark. 72118. Applicant's representative: Bob McAdams, Route 6, Box 15, North Little Rock, Ark. 72118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *portable ladders, wood ladders, fiberglass ladders, aluminum ladders, mobile steel and aluminum platform ladders, special purpose ladders*, (2) *fixed ladders, steel ladders, aluminum ladders, fiberglass ladders*, (3) *ladder accessories*, (4) *scaffolding, steel aluminum*, (5) *stages and planks, aluminum wood*, (6) *elevating work platforms, mobile telescoping platforms, mobile scissor lift platforms, mobile boom lift platforms, fork lift platforms*, (7) *fall protection equipment*, (8) *ladder racks*, (9) *lumber, fabricated wood parts, wood pallets*, (10) *steel materials, fabricated parts and hardware*, (11) *aluminum extrusions, fabricated parts and casting*, (12) *reinforced plastic protrusions, materials and plastic parts*, from Wooster, Ohio, to Arkansas, Louisiana, Texas, Oklahoma, Missouri, New Mexico, Arizona, California, Colorado, Utah, Nevada, Nebraska, Montana, Wyoming, Washington, Oregon, Idaho, for 180 days. Supporting shipper(s): Bauer Corp., 1505 East Bowman Street, Wooster, Ohio 44691. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 135231 (Sub-No. 26TA), filed December 7, 1977. Applicant: NORTH STAR TRANSPORT, INC., Route 1, Highway 1 and 59 West Thief River Falls, Minn. 56701. 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: *Lumber, lumber products and particleboard*, from points in Washington, Oregon, Idaho, and Montana, to points in Minnesota, North Dakota, South Dakota, Iowa, and Wisconsin, for 180 days. Supporting shipper(s): Emmer Brothers Co., 520 Southdale Office Center, 6800 France Avenue South, Minneapolis, Minn. 55435. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 268, Federal Building and U.S. Post Office, 657 2nd Avenue North, Fargo, N. Dak. 58102.

No. MC 135797 (Sub-No. 87TA), filed November 16, 1977. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, U.S. Highway 71, Lowell, Ark. 72745. Applicant's representative: Don Garrison, 324 North Second Street, Rogers, Ark. 72756. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Canned goods and pimientos* in glass containers, from Johnson and Springdale, Ark., to points in Alabama, Arkansas, Colorado, Florida, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Mississippi, Missouri, Nebraska, New Mexico, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, and Virginia, and (2) *canned goods and canned juices*, from Haskell, Okla., to points in Alabama, Arkansas, Colorado, Florida, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Mississippi, Missouri, Nebraska, New Mexico, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, and Virginia, and (3) *machinery, materials and supplies* used in the manufacture or distribution of the commodities named in (1) and (2) above; from Arkansas, California, Georgia, Indiana, Louisiana, Michigan, Missouri, Nebraska, Oklahoma, Tennessee, and Texas, to Johnson and Springdale, Ark., and Haskell, Okla., restricted to the transportation of traffic originating at the plantsite and facilities of Forrest Park Canning Co., Inc., of Springdale, Ark., for 180 days. Supporting shipper(s): Forrest Park Canning Co., Inc., P.O. Box 191, Springdale, Ark. 72764. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 135861 (Sub-No. 24TA), filed December 5, 1977. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, 2715 Ellis Avenue, Fort Worth, Tex. 76106. Applicant's representative: Billy R. Reid, P.O. Box 9093, Fort Worth, Tex. 76106 Authority sought to operate as a *contract carrier*, by motor ve-

hicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in section A and C of appendix I to the Report in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk, in tank vehicles), from Brownwood, Tex., to Akron, Ohio, under a continuing contract, or contracts, with Swift Fresh Meats Co., 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 & Co., 115 West Jackson Boulevard, Chicago, Ill. 60604. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, Tex. 76102.

No. MC 139584 (Sub-No. 10TA) (correction), filed September 28, 1977, published in the FEDERAL REGISTER issue of November 11, 1977, and republished, as corrected, this issue. Applicant: JOHN BUSCH, P.O. Box 211, Conyngham, Pa. 18219. Applicant's representative: Joseph F. Hoary, 121 South Main Street, Taylor, Pa. 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Laminated wood flooring and wooden furniture parts*, from Nescopeck, Pa., to points in the United States lying on and 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, and Arkansas, Texas, and California; and (2) *lumber* from points in the United States on and 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, and points Arkansas, Texas, and California, to Nescopeck, Pa., for 180 days. Supporting shipper(s): Rad Woodwork Co., Inc., P.O. Box 288, Nescopeck, Pa. 18635. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 314 U.S. Post Office Building, Scranton, Pa. 18503. The purpose of this correction is to show part (2) of the requested authority.

No. MC 136220 (Sub-No. 47TA), filed December 1, 1977. Applicant: ROY SULLIVAN, d.b.a. SULLIVAN TRUCKING CO., P.O. Box 2164, Ponca City, Okla. 74601. Applicant's representative: G. Timothy Armstrong, 6161 North May Avenue, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicles, over irregular routes, transporting: *Petoleum coke* (in bulk, in dump vehicles), from El Dorado, Kans., to points in Arkansas, Colorado, Missouri, Nebraska, Oklahoma (except facilities of Midwest Carbide Corp. near Pryor, Okla.), and Texas, for 180 days, Supporting shipper: Great Lakes Carbon Corp., 299 Park Avenue, New York, N.Y. 10017. Send protests to: Joe Green, District Supervisor, Room 240 Old Post Office and Court House Building, 215 Northwest 3rd, Oklahoma City, Okla. 73102.

No. MC 138328 (Sub-No. 52TA), filed November 10, 1977. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES, I-80 and Highway 50, P.O. Box 37308, Omaha, Nebr. 68137. Applicant's representative: Scott E. Daniel, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chemicals*, utilized in the curing and processing of cement and concrete (except commodities in bulk); and (2) *materials, equipment, and supplies*, used in the manufacture, distribution, and application of the commodities described in (1) above (except commodities in bulk), (a) from Baton Rouge, La., to points in Alabama, Arkansas, Florida, Georgia, Mississippi, Oklahoma, South Carolina, Tennessee, and Texas; (b) from Edison, N.J., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New York, North Carolina, Pennsylvania, Vermont, Virginia, and West Virginia; (c) from points in Connecticut, Maryland, Massachusetts, New York, and Pennsylvania, to Edison, N.J.; (d) from Omaha, Nebr., to points in Arizona, California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Montana, Nevada, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Tennessee, Texas, Utah, Washington, Wisconsin, Edison, N.J., and Baton Rouge, La.; and (e) from Illinois, Indiana, Ohio, Edison, N.J., Emeryville, Calif., and Baton Rouge, La., to Omaha, Nebr., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Nox-Crete Chemicals, Inc., C. Gary Linn, President, 20th and Williams Street, Omaha, Nebr. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 139495. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, Sullivan, Dubin & Kingsley, 1320 Fenwick Lane, Silver Spring, Md. 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Adhesives, sealants, solvents, stains, wood preservatives, and accessories, equipment, materials, and supplies* used in the installation, maintenance, and distribution of floors, floor coverings, walls, and wall coverings, in vehicles equipped with mechanical refrigeration, (1) from the facilities of Roberts Consolidated Industries, Inc., at Dayton and Piqua, Ohio, to points east of Montana, Wyoming, Colorado, and New Mexico; and (2) from the facilities of Roberts Consolidated Industries, Inc., at Kalamazoo, Mich., to Roberts' warehouse locations at Huntingdon Valley, Pa.; Conyers, Ga.; Waco, Tex.; Dayton and Piqua, Ohio; City of Industry and Monrovia, Calif.; and Vancouver, Wash. Supporting shipper: Roberts Consolidated Industries, Inc., 600 North Baldwin Park Boulevard, City of Industry, Calif. 91749. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101A Litwin, 110 North Market, Wichita, Kans. 67202.

No. MC 140768 (Sub-No. 10TA) (Correction), filed November 3, 1977, published in the FEDERAL REGISTER issue of November 3, 1977, and republished, as corrected, this issue. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, N.J. 08835. Applicant's representative: Eugene M. Malkin, 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: *Insulating material* (except in bulk), (1) from the plantsite of Fibreboard Corp. at or near Gramblin, La., to points in Alabama, Georgia, South Carolina, North Carolina, Virginia, West Virginia, Kentucky, Tennessee, Illinois, Indiana, and Ohio; and (2) from the plantsite of Fibreboard Corp. at or near Fruita, Colo., to points in Alabama, Georgia, South Carolina, North Carolina, Virginia, West Virginia, Kentucky, Tennessee, Illinois, Indiana, and Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Fibreboard Corp., 55 Francisco Street, P.O. Box 3611, San Francisco, Calif. 94119. Send protest to: Robert S. H. Vance, District Supervisor, 9 Clinton Street, Room 618 Newark, N.J. 07102. The purpose of this correction is to indicate the correct Sub-No. for this proceeding.

No. MC 140768 (Sub-No. 12TA), filed November 18, 1977. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, N.J. 08835. Applicant's representative: Eugene M.

Malkin, 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: (1) *Electrolyte battery acid, brake fluid, lacquer, gas line anti-freeze, and windshield washer solution* (except in bulk), (a) from the plantsite and warehouse facilities of Scholle Corp. at or near Ridgefield, N.J., to points in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia, and (b) from the plantsite and warehouse facilities of Scholle Corp. at or near Northlake, Ill., to points in Indiana, Iowa, Kentucky, Michigan, Missouri, Ohio, Pennsylvania, West Virginia, and Wisconsin, and (c) from the plantsite and warehouse facilities of Scholle Corp. at or near College Park, Ga., to points in Alabama, Florida, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia, (2) *materials and supplies* used in the manufacture, packaging, and distribution of the commodities in (1) above, from the destinations named in (1) (a), (b), and (c) to their respective origins for 180 days. Supporting shipper(s): Scholle Corp., 200 West North Avenue, Northlake, Ill. 60164. Send protests to: Robert S. H. Vance, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, N.J. 07102.

No. MC 141362 (Sub-No. 9TA) (correction), filed October 28, 1977, published in the FEDERAL REGISTER issue of November 18, 1977, and republished, as corrected, this issue. Applicant: ESCONDIDO TRUCK & EQUIPMENT, 1020 Linda Vista Drive, San Marcos, Calif. 92069. Applicant's representative: William J. Monheim, 15942 Whittier Boulevard, Whittier, Calif. 90609. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed and feed supplements*, dry, in bulk, from Pima County, Ariz., to Imperial County, Calif., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Southwestern Commodities, General Manager, P.O. Box 1281, Indio, Calif. 92201. Send protests to: Edward P. Henry, District Supervisor, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012. The purpose of this correction is to show correct spelling of applicant's name, and to show destination as Imperial County, Calif., in lieu of Imperial County, Ga., as previously published.

No. MC 141635 (Sub-No. 1TA), filed December 1, 1977. Applicant: LAVERN GIBSON, d.b.a., GIBSON SERVICE CO., P.O. Box 1123, 110 Highway 43, Henderson, Tex. 75652. Applicant's representative: Billy R. Reid, P.O. Box 9093, Fort Worth Worth, Tex. 76107. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transportating: *Wrecked, disabled, repossessed, and replacement vehicles and trailers* (except mobile homes), by wrecker equipment, between points in Texas, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper(s): There are approximately 6 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75242.

No. MC 142062 (Sub-No. 7TA), filed November 22, 1977. Applicant: VICTORY FREIGHTWAY SYSTEM, INC., P.O. Box 62, Sellersburg, Ind. 47172. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1267, Arlington, Va. 22210. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum and aluminum products*, and such other commodities as are manufactured or distributed by a manufacturer of aluminum products, from the facilities of Reynolds Metals Co. at or near Louisville, Ky., to points in Texas, and (2) *returned, refused, or rejected shipments* of the foregoing commodities, from points in Texas, to the facilities of Reynolds Metals Co. at or near Louisville, Ky., restricted to the transportation of shipments, under a continuing contract, or contracts, with Reynolds Metals Co., for 180 days. Supporting shipper(s): Reynolds Metals Co., P.O. Box 32920, Louisville, Ky. 40232. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, Ind. 46204.

No. MC 143325 (Sub-No. 1TA), filed November 22, 1977. Applicant: THOMAS L. ROLLANS, P.O. Box 365, Bryant, Ark. 72022. Applicant's representative: Don A. Smith, P.O. Box 43, 510 N. Greenwood, Fort Smith, Ark. 72902. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Construction materials*, including concrete blocks, building blocks, masonry joint reinforcing, and industrial sands, from El Dorado, Pine Bluff, and Little Rock, Ark., to points in that part of Louisiana, on and north of U.S. Highway 190, and points in that part of Mississippi north and west of a line beginning at the Mississippi-Tennessee State line and extending along Mississippi Highway 7 to junction U.S. Highway 51, thence along U.S. Highway 51 to its junction with U.S. Highway 84, thence along U.S. Highway 84 to the Mississippi-Louisiana State line; and return shipments of the named commodities, from the destination territory to the origin points, under a continuing contract, or contracts, with Arkhola Sand and Gravel Co., a Division of Ashland-Warren, Inc., of Fort Smith, Ark., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Arkhola Sand & Gravel Co., Division of Ashland-Warre, Inc., P.O. Box 1627, Fort Smith, Ark. 72902. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 143688 TA (correction), filed September 7, 1977, published in the FEDERAL REGISTER issue of October 26, 1977, and republished, as corrected, this issue. Applicant: PEARL CONTRACT CARRIERS, INC., Rt. 4, Box 98, Lawton, Okla. 73501. Applicant's representative: C. L. Phillips, Room 248-Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, Okla. 73106. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages*, in containers, from Altus, Ark.; Cutler, Guerne Ville, Madera, Modesto, San Jose, St. Helena, and Sonoma, Calif.; Jacksonville, Fla.; Lawrenceburg, Ind.; Chicago, Pekin, Peoria, Plainfield and Lamont, Ill.; Clermont, Bardstown, Frankfort, Louisville, Lawrenceburg, Loretto, Owensboro, and Paducah, Ky.; Baltimore, Md.; Allen Park and Detroit, Mich.; Kansas City and St. Louis, Mo.; Dayton, Jersey City, Kerney, Little Ferry, Newark, Lindon, and Scobeyville, N.J.; Brooklyn, Fairborn, Long Island City, Manhattan, New Hyde Park, New York City, and Queens, N.Y.; Cincinnati, Ohio; and Lynchburg, Tenn., to Oklahoma City, Okla., under a continuing contract or contracts with Central Liquor Co., for 180 days. Supporting shipper: Central Liquor Co., P.O. Box 1194, Oklahoma City, Okla., 73101. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27 Federal Bldg., 819 Taylor Street, Fort Worth, Tex. 76102. The purpose of this correction is to indicate the territory sought.

No. MC 143967 (Sub-No. 2TA), filed November 9, 1977. Applicant: W. K. SPENCE, d.b.a., W. K. TRANSFER, P.O. Box 2796, 11503 East Pine Street, Tulsa, Okla. 74116. Applicant's representative: Arthur J. Cerra, P.O. Box 19251, 2100 Ten Main Center, Kansas

City, Mo. 64141. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in and sold or utilized by retail discount department stores in the conduct of their business, between the warehouse of Wal Mart Stores, Inc., located in Tulsa, Okla., on the one hand, and, on the other, the warehouses of Wal Mart Stores, Inc., located at Kansas City and St. Louis, Mo.; Memphis, Tenn.; Dallas, Tex.; and Little Rock, Ark., and from the warehouse of Wal Mart Stores Inc., located in Tulsa, Okla., to Wal Mart Stores in Oklahoma, under a continuing contract, or contracts, with Wal Mart Stores, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Wal Mart Stores, Inc., P.O. Box 116, Bentonville, Ark. 72712. Send protests to: Joe Green, District Supervisor, Room 240 Old Post Office and Court House Building, 215 Northwest 3rd, Oklahoma City, Okla. 73102.

No. MC 143982 TA, filed November 15, 1977. Applicant: DONALD SCHIRR, R. R. No. 2, Iuka, Ill. 62849. Applicant's representative: Robert T. Lawley, 300 Reisch Building, Springfield, Ill. 62701. Authority sought to operate as a *contract Carrier*, by motor vehicle, over irregular routes, transporting: (A) *Fabricated expanded plastics*, between Fenton, Mich., and Salem, Ill., and (b) *fabricated expanded plastics*, from Salem, Ill., to Fenton, Mo., St. Louis, Mo., and Lima, Ohio, and (c) *expanded plastics*, from Mishawaka, Ind., Coshocton and Hanging Rock, Ohio, to Salem, Ill., all for the account of Creative Foam Corp., Salem, Ill., under a continuing contract, or contracts, with Creative Foam Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Creative Foam Corp., 1003 South Maple, Salem, Ill. 62881. (Max Carraway Plant Manager). Send protests to: District Supervisor, Interstate Commerce Commission, 414 Leland Office Bldg., 527 East Capitol Avenue, Springfield, Ill. 62701.

No. MC 143993 (Sub-No. 1TA), filed December 7, 1977. Applicant: BLACK HILLS TRUCKING, INC., 106 Rivercross Road, Casper, Wyo. 82601. Applicant's representative: Tommy L. Smith, 106 Rivercross Road, Casper, Wyo. 82601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, between points in Wyoming, North Dakota, Montana, Colorado, Beaver, Harper, Ellis, Dewey, Woods, Alfalfa, Major, Custer, Woodward, and Texas Counties, Okla., and Hemphill, Ochiltree, Lipscomb, Roberts, and Hansford Counties, Tex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper (S): There are approximately (11) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below: Send protests to: Paul A. Naughton, District Supervisor, Interstate Commerce Commission, Room 105 Federal Building & Court House, 111 South Wolcott, Casper, Wyo. 82601.

No. MC 144032 (Sub-No. 1TA), filed November 18, 1977. Applicant: R & S TRUCKING, INC., R. R. 1, Box, 123, Garretson, S. Dak. 57101. Applicant's representative: Jack L. Shultz, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Packaged edible meat*, between Omaha, Nebr., and points in the State of California. Restriction: The above traffic is restricted to shipments originating at and destined to the plantsite and production facility of H. Shenson & Co., Inc., (2) *Fresh beef briskets*, in mixed loads with fresh beef, from the plantsite of Iowa Beef Packers, Inc., at Pasco, Wash., and Boise, Idaho.; and from the plantsite of Armour Foods Co., at or near Nampa, Idaho to Omaha, Nebr. Restriction: The above traffic is restricted to shipments originating at the designated origins and destined to the H. Shenson & Co., Inc., facility in Omaha, Nebr. All of the above authority is to be performed under a continuing contract, or contracts, with H. Shenson & Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: H. Shenson & Co., Inc., 27th and Y Omaha, Nebr. 68107. (Jack H. Feller, Jr.) Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, S. Dak. 57501.

No. MC 144038 (Sub-No. 1TA), filed December 2, 1977. Applicant: SOUTHWEST SUPPLY, INC., 350 Roanoke Street, Bluefield, W. Va. 24701. Applicant's representative: Stephen P. Swisher, 339-12th Street, Dunbar, W. Va. 25064. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic materials, mining chemicals and flotation reagents*, in packages, from the warehouse sites of Southwest Supply, Inc., from the warehouse sites of Southwest Supply, Inc., in Bluefield and Wheeling, W. Va., to coal mining preparation (cleaning) plants, at or near Arjay, Brookside, Corbin, Highsplint, Lovely, Phelps, Pikesville, and Sidney, Ky.; Alledonia and Powhatan Point, Ohio; Ellsworth, Tarentum, Tire Hill, and West Newton, Pa.; Andover, Appalachia, Cleveland, Dante, Glamorgan, McClure, St. Paul, and Vansant, Va., under a continuing contract, or contracts, with American Cyanamid Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Charles F. Neuhaus, Division Transportation Manager, American Cyanamid Company, Wayne, N.J. 07470. Sent protests to: Frances A. Ciccarello, Secretary, Interstate Commerce Commission, 3108 Federal Office Building, 500 Quarrier Street, Charleston, W. Va. 25301.

No. MC 144059 TA, filed December 6, 1977. Applicant: AMERICAN INTERNATIONAL EXPORTS, INC., 1346 Connecticut Avenue NW., Washington, D C. 20036. Applicant's representative: Daniel B. Johnson, 4304 East-West Highway, Washington, D.C. 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods and appliances*, from Washington, D.C., and its commercial zone, to Baltimore, Md., restricted to a service performed in conjunction with packing and crating and to the transportation of shipments having a subsequent movement by water in foreign commerce, for 180 days. Supporting shipper(s): (1) Nigerians Student Union, 2 Manchester Place, Apt. 201, Silver Spring, Md. 20901. (2) Ijesha Student Union, 1509 Elkwood Drive, Apt. 101, Beaver Heights, Md. 20027. (3) International Marketing Associates, Inc., 1601 Connecticut Avenue NW., Washington, D.C. 20036. Sent protests to: W. C. Hersman, District Supervisor, Interstate Commerce Commission, 12th & Constitution Avenue NW., Room 1413, Washington, D.C. 20423.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-460 Filed 1-6-78; 8:45 am]

[7035-01]

[Notice No. 279]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment re-

sulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before February 8, 1978. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-77383, filed December 20, 1977. Transferee: CARL L. FRYE, 10330 Kingsport Drive, Cincinnati, Ohio 45241. Transferor: Ray Hamilton, Sr. (Frank R. Waldron, Commissioner, Estate of Ray Hamilton, Sr.), d.b.a. Ray Hamilton & Co., 2141 Gilbert Avenue, Cincinnati, Ohio 45206. Applicant's representative: Carl L. Frye. Address: Same as transferee. Authority sought for purchase by transferee of the broker operations of transferor as set forth in License No. MC 12801 (Sub-No. 1), issued December 13, 1963, as follows: *Furnishings, machinery, and other equipment,* which are a part of the contents of an industrial plant, office building, or institution, to be moved as a unit from one location to another, between points in the United States, including Alaska and Hawaii. Applicant is authorized to engage in the above-specified operations as a broker at Cincinnati, Ohio, and 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-77435, filed November 29, 1977. Transferee: UNION CITY TRANSFER, INC., 1295 Railroad Avenue, Beaumont, Tex. 77701. Transferor: Cecil E. Vallee (Ferrel Ridley Vallee, Executrix), E. H. Vallee, Effie Vallee Albaugh and Helen Vallee Withers (Richard E. Withers, Sr., Executor), a partnership, d.b.a. Union City Transfer, 1295 Railroad Avenue, Beaumont, Tex. 77701. Applicants' representative: John H. Benckenstein, Attorney at Law, 550 Fannin, 1305 Petroleum Building, Beaumont, Tex. 77701. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificates No. MC 32528 (Sub-No. 1), and MC 32528 (Sub-No. 29) issued April 24, 1968, and March 9, 1955 respectively as follows: *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products; and *machinery, materials, equipment and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof, over irregular routes, between points and places in Louisiana, Mississippi, and Texas. *Structural and plate steel, reinforcing steel, and tank steel, contractors' machinery, equipment and supplies,* and such commodities as require the use of special equipment by reason of size or weight, and parts thereof, when moving in connection with above-named commodities, over irregular routes. Between points and places in Orange and Jefferson Counties, Tex., on the one hand, and, on the other, points and places in Louisiana. *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of sulphur, its products and by-products, between points in Louisiana and Texas. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77451, filed December 7, 1977. Transferee: ARTHUR C. LAMB, d.b.a. ARTHUR C. LAMB CO., 160 Turnpike Street, Canton, Mass. 02021. Transferor: Chester A. Lamb and Foye D. Lamb, a partnership, d.b.a. Lamb Bros., 23 Grantley Street, Hyde Park, Mass. 02136. Applicants' representative: Frank J. Weiner, Attorney at Law, 15 Court Square, Boston, Mass. 02108. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 82108, issued June 12, 1953, as follows: *Boilers, steel tanks, smokestacks, and parts thereof,* over irregular routes, from Fitchburg, Lawrence, Lowell, and Boston, Mass., and points within 10 miles of Boston, to points in New Hampshire and Rhode Island, with no transportation for compensation on return except as otherwise authorized. *Boilers, steel tanks, smokestacks, heavy machinery, and parts thereof,* over irregular routes, between points in Connecticut, between points in Maine, between points in Massachusetts, between points in New Hampshire, between points in Rhode Island, between points in Vermont. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77454, filed December 19, 1977. Transferee: H & S TRANSFER, INC., 3109 Crestline Drive, Steubenville, Ohio 43952. Transferor: Stony's Trucking Co., 6135 Catawba Drive, Canfield, Ohio 44406. Applicant's representative: Daniel B. Roth c/o Roth & Stevens, 1000 Union National Bank Building, Youngstown, Ohio 44503; Paul F. Beery, Attorney at Law, 275 East State Street, Columbus, Ohio 43215. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificate No. MC 75816 (Sub-No. 1), issued August 23, 1974, as follows: *Commodities, steel, and metal and wire products,* between Columbus and Martin's Ferry, Ohio, on the one hand, and, on the other, points in Ohio. *Wire and wire products, sheet steel wire, steel coal doors, steel channels, steel fence posts, solder, sheet steel, tin plate, and terce plate,* between Columbus and Portsmouth, Ohio, and Wheeling, W. Va., and points within 25 miles of Wheeling, W. Va., on the one hand, and, on the other, points in Ohio, and a specified part of Indiana, from Portsmouth, Ohio, and Wheeling, W. Va., and points within 25 miles of Wheeling, W. Va., to Detroit, Mich., with no transportation for compensation on return except as otherwise authorized. *Fertilizer,* between Columbus, Ohio, on the one hand, and, on the other, points in that part of West Virginia, on the west of U.S. Highway 19, and on the north of U.S. Highway 60. *Flat rolled steel sheets and strip steel* (flat or on coils), from Weirton, W. Va., to Seymour, Ind., with no transportation for compensation on return except as otherwise authorized. *Ferroalloys,* in bulk, in dump vehicles, from Brilliant, Ohio, to Baltimore, Md., St. Louis, Mo., points in Illinois, Indiana, Kentucky, Michigan, New York, and specified portions of Pennsylvania and West Virginia. *Ferro-alloys,* from Brilliant, Ohio, to points in specified portions of Pennsylvania and West Virginia. transferee presently holds no authority from this Commission. Application has been filed for temporary authority under section 210a(b).

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-456 Filed 1-6-78; 8:45 am]

[7035-01]

[Notice No. 278]

MOTOR CARRIER TRANSFER PROCEEDINGS

JANUARY 9, 1978.

Application filed for temporary authority under section 210a(b) in connection with transfer application under Section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC 77477. By application filed December 27, 1977, P.D.F. TRUCKING CO., 949 North Munroe Road, Talmadge, Ohio 44278, seeks temporary authority to transfer the operating rights of Fischbach Trucking Co., 921 Sherman Street, Akron, Ohio 44311, under section 210a(b). The transfer to P.D.F. Trucking Co., of the operating rights of Fischbach Trucking Co., is presently pending.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-459 Filed 1-6-78; 8:45 am]

[7035-01]

[No. 36782[1]]

SOUTHERN RAILWAY CO. AND NORFOLK AND WESTERN RAILWAY CO.

Elimination of Walnut Cove, N.C., Interchange

Southern Railway Co. (Southern) and Norfolk and Western Railway Co. (N&W) filed a joint petition on August 26, 1977, asking approval to abolish their Walnut Cove, N.C., interchange. Our permission for elimination of the Walnut Cove junction is required as a condition imposed in the November 25, 1949, order in Finance Docket No. 16577, Southern Railway Co. Purchase. The purpose of the propsed elimination is to make local train operations more efficient and safer by transferring Walnut Cove interchange to nearby Winston-Salem, N.C.

North Carolina Utilities Commission (NCUC), a party to F.D. No. 16577, filed on September 26, 1977, a petition for leave to intervene in the application to eliminate the Walnut Cove interchange and requesting that an investigation be instituted. By reply filed October 7, 1977, Southern and N&W do not object to further participation by NCUC, indicating that rate changes may result from their proposal, and requesting that their petition be received as the opening statement under modified procedure. Therefore,

It is ordered: A proceeding is instituted to consider the petition of Southern and N&W to eliminate their Walnut Cove, N.C., interchange, and such proceeding is docketed as set forth above.

Petitioners, Southern and N&W, are hereby made respondents, and petitioner, NCUC, is hereby made a protestant in this proceeding.

This order shall be served upon petitioners and all other interested persons and parties in F.D. No. 16577, and shall be delivered to the FEDERAL REGISTER for publication therein.

No oral hearing will be scheduled for receiving testimony in this proceeding unless a need should later appear, but any interested persons may participate in this proceeding by submitting for consideration written statements of facts, views, or arguments on the issues mentioned above, or any other subjects pertaining to those issues.

Any person intending to participate actively in this proceeding shall notify the Commission by filing the original and one copy of a statement of intent to participate, as well as the position it intends to take, with the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423, on or before January 30, 1978. The Office of Proceedings shall then prepare and make available to all persons a list containing the names and addresses of all parties to this proceeding, upon whom copies of all statements must be served. At the time of transmittal of the service list, the Commission will fix the time within which initial statements and reply statements must be filed.

Dated at Washington, D.C., this 22d day of December 1977.

By the Commission, Commissioner Murphy.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-455 Filed 1-6-78; 8:45 am]

[1] Petition filed under Finance Docket No. 16577, "Southern Railway Co. Purchase."

sunshine act meetings

This section of the FEDERAL REGISTER contains notice of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6320-01]

[M-92]

CIVIL AERONAUTICS BOARD.

JANUARY 4, 1978.

TIME AND DATE: 10 a.m.—January 11, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 1. Ratification of items adopted by notation.

2. Docket 24694, *Miami-Los Angeles Competitive Nonstop Case* (OGC).

3. Docket 28866, *Singapore Airlines Limited*, Application of Singapore Airlines for a foreign air carrier permit (OGC, BIA).

4. Docket 31117, *Club Med, Inc., Foreign Indirect Air Carrier Permit* (Memo No. 7688, BLJ, OGC).

5. Dockets 30181 and 30174, Motion of Pacific Seaboard for Hearing (Memo No. 6899-B, BOR, OGC).

6. Dockets 27999 and 28000, United Air Lines, Inc.—Certificate Amendment to Permit Nonstop Service Between Cleveland and New Orleans (Memo No. 7361-A, BOR).

7. Dockets 30693 and 30723, Standard and Transocean—Exemptions to engage in supplemental air transportation (Memo No. 7690, BOR, OGC).

8. Docket 31126, American's exemption request to provide nonstop New York/Newark-Bahamas service (Memo No. 5177-F, BOR, BIA, OGC).

9. Disclosure of Information to the Federal Aviation Administration (Memo No. 7689, BOE).

10. Proposal to increase fares to/from/within the Pacific Trust Territory by Continental/Air Micronesia (BFR).

11. Docket 31867, Stop-N-Save fares proposed by Ozark (BFR).

12. Docket 31914, proposals to increase mainland-Puerto Rico/Virgin Islands fares by American and Eastern (BFR).

13. General fare increase proposed by Alaska (BFR).

14. Mainland-Hawaii fare increase proposed by Continental and Western (BFR).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202-673-5068.

[S-32-78 Filed 1-5-78; 3:42 pm]

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[6320-01]

[M-91 amdt. 1]

CIVIL AERONAUTICS BOARD.

JANUARY 3, 1978.

Notice of addition of item to the January 5, 1978 meeting agenda.

TIME AND DATE: 10 a.m.—January 5, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 4a. Part 298—Dual Operating Authority (Memo No. 7693 OGC, BOR).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: This item is a draft final rule to amend Part 298 so as to permit certain all-cargo air service carriers to continue to be eligible to operate also as air taxi operators, effective January 9, 1978. A related item, Sample Certificate for Section 418 Carriers (Memo No. 7675, BOR, OGC), is already on the Calendar for January 5. So that the Board can consider these items at the same meeting, the following Members have voted that agency business requires the addition of this item to the January 5, 1978 agenda on less than seven days' notice and that no earlier announcement of this addition was possible:

Chairman, Alfred E. Kahn.
Vice Chairman, Richard J. O'Melia.
Member, G. Joseph Minetti.
Member, Lee R. West.
Member, Elizabeth E. Bailey.

[S-33-78 Filed 1-5-78; 3:42 pm]

[6335-01]

3

COMMISSION ON CIVIL RIGHTS.

DATE AND TIME: Monday, January 9, 1978, 9 a.m. to 5 p.m., Tuesday, Janaury 10, 1978, 1:30 to 3 p.m., Room 512, 1121 Vermont Avenue NW., Washington, D.C.

STATUS: Part of the meeting will be open to the public and part of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portion open to the public, 9 a.m. to 12:30 p.m., Monday, January 9, 1978.

I. Approval of Agenda.

II. Approval of Minutes of last meeting.

III. Staff Director's Report; (A) Status of Funds; (B) Personnel Report; (C) Correspondence: 1. Letter from Senator S. I. Hayakawa re: bias in textbooks study, 2. Letter from Civil Service Commission Chairman Alan Campbell re: comments on Special Emphasis Employment Programs, 3. Letter from Legal Services Corporation Director Thomas Ehrlich re: comments on LSC amendments, 4. Letter from Frank Diaz, Chairman of Concerned Puerto Rican Committee, re: presentation to Commission, 5. Letter from LaDonna Harris, President of Americans for Indian Opportunity, re: affirmative action statement, 6. Letter from International Women's Year Presiding Officer Bella Abzug re: detail of Elvira Crocker; (D) Office Directors' Reports.

IV. Report on Civil Rights Developments in the Mid-Atlantic Region.

V. Discussion of Public Service Radio and TV Spots.

VI. Discussion of Unemployment and Underemployment Study.

VII. Discussion of Reorganization Task Force Options.

VIII. Discussion of Title I "Follow The Child" Policy.

IX. Briefing on Battered Women Consultation.

MATTERS TO BE CONSIDERED: Portion closed to the public, 2 to 5 p.m.:

I. Review draft of State of Civil Rights report.

II. Approval of Regional Advisory Committee members.

MATTERS TO BE CONSIDERED:

Portion open to the public, 1:30 to 3 p.m., Tuesday, January 10, 1978:

I. Briefing by Eleanor Holmes Norton, Chair, Equal Employment Opportunity Commission on the recent reorganization of that Commission.

FOR FURTHER INFORMATION CONTACT:

Loretta Ward, Public Affairs Unit, 202-254-6697.

[S-21-78 Filed 1-5-78; 10:31 am]

[6351-01]

4

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., January 12, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Judicial session.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-18-78 Filed 1-5-78; 10:31 am]

[6351-01]

5

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 2 p.m., January 10, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement matters.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-19-78 Filed 1-5-78; 10:32 am]

[6351-01]

6

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., January 13, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market Surveillance.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-20-78 Filed 1-5-78; 10:31 am]

[6740-02]

7

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (To be published January 6, 1978).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: January 11, 1978, 10 a.m.

CHANGE IN THE MEETING: The following items have been added:

Item No., Docket No., and Company

ER-11—ER77-546, Dayton Power & Light Co.
M-5—RM74-16, Natural Gas Companies' Annual Report of Proved Domestic Gas Reserves: FPC Form No. 40.
M-6—Policy on Rate-of-Return for Subsidiaries.

KENNETH F. PLUMB,
Secretary.

[S-29-78 Filed 1-5-78; 11:29 am]

[6720-01]

8

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., January 4, 1978.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall, 202-377-6679.

MATTERS TO BE CONSIDERED: Consideration of Appointment of Ms. Anne P. Jones as General Counsel.

ANNOUNCEMENT IS BEING MADE AT THE EARLIEST PRACTICABLE TIME. No. 121, January 3, 1978.

[S-22-78 Filed 1-5-78; 8:45 am]

[6720-01]

9

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: January 11, 1978, 9:30 a.m.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall, 202-377-6679.

MATTERS TO BE CONSIDERED:

Applications for Bank Membership and Insurance of Accounts, California Women's Savings and Loan Association, Los Angeles, Calif.
Branch Office Applications, Pulaski Federal Savings and Loan Association, Little Rock, Ark.
Appointment of Director, Office of Community Investment, No. 122, January 4, 1978.

[S-23-78 Filed 1-5-78; 10:31 am]

[6210-01]

10

FEDERAL RESERVE SYSTEM.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 F.R., 60, January 3, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Thursday, January 5, 1978.

CHANGES IN THE MEETING: Deletion of the following open item from the agenda:

Federal Reserve Board budgets for 1978.

This matter will be considered at the Open Meeting on January 11, 1978.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: January 5, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[S-25-78 Filed 1-5-78; 10:32 a.m.]

[6750-01]

11

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Thursday, January 12, 1978.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED: Oral Presentation to the Commission regarding the Proprietary Vocational and Home Study Schools Trade Regulation Rule, Representatives of Federal agencies, trade associations, and consumer groups will present their views and respond to questions from the Commission regarding the proposed rule.

CONTACT PERSON FOR MORE INFORMATION:

Wilbur T. Weaver, Office of Public Information, 202-523-3830; Recorded message, 202-523-3806.

[S-28-78 Filed 1-5-78; 11:17 am]

[7035-01]

12

INTERSTATE COMMERCE COMMISSION.

JANUARY 3, 1978.

TIME AND DATE: 9:30 a.m., Tuesday, January 10, 1978.

PLACE: Room 4225, Interstate Commerce Commission Building, 12th and Constitution Avenue NW., Washington, D.C.

STATUS: Special Conference.

MATTERS TO BE CONSIDERED: 1. Review of Commission's Canons of Conduct (discussion and voting).

CONTACT PERSON FOR MORE INFORMATION:

Office of Information and Consumer Affairs, Douglas Baldwin, Director, telephone: 202-275-7252.

The Commission's professional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.

[S-24-78 Filed 1-5-78; 10:31 am]

[7550-01]

13

NATIONAL MEDIATION BOARD.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 64782.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2 p.m.; Wednesday, January 4, 1978.

CHANGES IN THE MEETING: Addition to matters to be considered—Adoption of uniform system of citation to National Mediation Board decisions.

SUPPLEMENTARY INFORMATION: Chairman Ives and Board Members Stowe and Harris have determined by recorded vote that Agency business required this change and that no earlier announcement of such change was possible.

(Date of Notice: January 4, 1978.)

[S-27-78 Filed 1-5-78; 11:17 am]

[7590-01]

14

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Wednesday, January 11 and Thursday, January 12, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE CONSIDERED:

WEDNESDAY, JANUARY 11

9:30 a.m.—General briefing on international programs and discussion of export/import regulations, part 110 (approx. 2 hrs.) (public meeting).

2 p.m.—1. Discussion of antitrust decision in Midland (ALAB-452) (approx. ½ hr.) (public meeting). 2. Discussion of pending attorney disciplinary proceeding arising from Midland CP remand (approx. ½ hr.) (closed—exemptions 6 and 10). 3. Discussion of personnel matter (approx. 2 hrs.) (closed—exemption 6).

THURSDAY, JANUARY 12

9:30 a.m.—Discussion of personnel matter (approx. 1½ hrs.) (closed—exemption 6).

11 a.m.—Oral arguments in St. Lucie (ALAB-420) (approx. 1 hr.) (public meeting).

2 p.m.—1. Discussion of St. Lucie (ALAB-420) (approx 1 hr.) (public meeting). 2. License Fees (approx. 1 hr.) (public meeting).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

WALTER MAGEE,
Office of the Secretary.

JANUARY 4, 1978.

[S-30-78 Filed 1-5-78; 1:57 pm]

[7600-01]

15

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., January 11, 1978.

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, 202-634-7970.

Dated: January 5, 1978.

[S-26-78 Filed 1-5-78; 10:50 am]

[3810-70]

16

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.

TIME AND DATE: January 16, 1978, 8 a.m.

PLACE: Uniformed Services University of the Health Sciences, 4301 Jones Bridge Road, Bethesda Md. 20014 (rooms 264 and 126).

STATUS: Open.

MATTERS TO BE CONSIDERED:

8—Meeting—Educational Affairs Committee: (1) Graduate Education Accreditation; (2) Admission Committee Report; (3) Distinguished Professor Title; (4) Faculty Appointments.

8—Meeting—Administrative Affairs Committee: (1) Report: Director of Administrative Affairs; (2) FY 1979 Budget Report; (3) Construction Costs and Changes.

10—Meeting—Board of Regents: (1) Report: Educational Affairs Committee; (2) Report: Administrative Affairs Committee; (3) Report: Acting President; (4) Report: Dean, School of Medicine; (5) Service Obligation of Students who Fail to Graduate; (6) Awards.

New Business.

SCHEDULED MEETINGS: March 13, 1977.

CONTACT PERSON FOR MORE INFORMATION:

Tor Richter, Capt., MC USN, Executive Secretary of the Board, AC 202-295-2106.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

JANUARY 5, 1978.

[S-31-78 Filed 1-5-78; 1:57 pm]

federal register

MONDAY, JANUARY 9, 1978
PART II



DEPARTMENT OF DEFENSE

Engineer Corps, Department of the Army

■

NATURAL DISASTERS

Emergency Employment of Army and Other Resources; Administrative Procedures

[3710-92]

Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

PART 203—EMERGENCY EMPLOYMENT OF ARMY AND OTHER RESOURCES, NATURAL DISASTER PROCEDURES

Revision to Administrative Procedures

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Final rule.

SUMMARY: This regulation provides revisions to administrative procedures established for the Corps of Engineers in conducting emergency operations pursuant to Pub. L. 84-99 (33 U.S.C. 701n), and as directed pursuant to Pub. L. 93-288. The emergency operations consist of flood emergency measures and recovery from other natural disasters as provided in the referenced legislation. The revisions constitute changes to the organization of the regulation and extent of delegated authority, necessary for clarity and adequacy for authorized procedures. They are construed to be an administrative change and are to be published as final rules. Accordingly, notice of proposed rule making "the procedures thereto are considered unnecessary."

EFFECTIVE DATE: January 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Fletcher, 693-6875.

SUPPLEMENTARY INFORMATION:

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

Dated: December 20, 1977.

THOMAS J. WOODALL,
Lt. Colonel, Corps of Engineers, Assistant Executive Director, Engineer Staff.

Subpart A—Introduction

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203.11 Purpose.
203.12 Applicability.
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Subpart B—Missions, Authorities, Command Channels, Delegations, and Responsibilities

203.21 Corps of Engineers.
203.22 Department of Defense (DOD).
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203.24 Non-Federal interests responsibilities.
203.25 Emergency drinking water.
203.26 Advance measures.

Subpart C—Disaster Preparedness Code 910-100

203.31 General.
203.32 Program features.
203.33 Emergency manuals.
203.34 Exercises and training.
203.35 Inspection of non-Federal flood control works.
203.36 Supplies and equipment.

Subpart D—Emergency Operations Code 910-200

203.41 General.
203.42 Authorities.
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203.44 Reporting.

Subpart E—Rehabilitation Code 910-300

203.51 Authority.
203.52 General.
203.53 Restrictions.
203.54 Environmental impact statements.
203.55 Permits.
203.56 Coordination with Federal agencies.
203.57 Determination of economic justification.
203.58 Project development.
203.59 Special considerations and alternative methods of rehabilitation.
203.60 Flood control dams constructed by non-Federal agencies.
203.61 Specific Projects under Pub. L. 84-99.
203.62 Transfer of completed work to local interests.
203.63 Rehabilitation investigations.
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Subpart F—Emergency Water Supplies Code 910-400

203.71 Purpose.
203.72 Authority.
203.73 Policy.
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203.75 Delegation of authority.
203.76 System rehabilitation.
203.77 Types of assistance.
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Subpart G—Advance Measures Code 910-500

203.81 General.
203.82 Delegation of authority.
203.83 Eligibility criteria.
203.84 Areas of application.
203.85 Advance measures report.

Subpart H—Corps Activities for FDAA (Pub. L. 93-288)

203.91 General.
203.92 Administrative support of FDAA.
203.93 FDAA directives to Federal agencies.
203.94 Responsive action by the Corps.
203.95 Permits.
203.96 Completed Corps work.
203.97 State or local government funds.
203.98 Government liability.
203.99 Final inspection of work by applicants.

Subpart I—Procurement During Emergencies

203.101 Administration.
203.102 Use of local firms and individuals.
203.103 Contracting officers.
203.104 Contracting procedures.
203.105 Supply procedures.

Subpart J—Public Affairs

203.111 Public affairs policy.
203.112 Objectives.
203.113 Staffing.
203.114 Operating guidelines.
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Subpart K—Preservation of Order

203.121 Preservation of order policy.
203.122 Preservation of order program.

AUTHORITY: Pub. L. 84-99 (33 U.S.C. 701n); Pub. L. 93-288.

Subpart A—Introduction

§ 203.11 Purpose.

This regulation prescribes administrative policies, guidance, and operating procedures for natural disaster activities of the Corps of Engineers. These are:

(a) *Flood and coastal storm emergencies* (33 U.S.C. 701n) (69 Stat. 186) (Pub. L. 84-99). Authorized activities include disaster preparedness, advance measures, flood fighting and rescue work, rehabilitation of flood control works damaged or destroyed by flood, protection or repair of federally authorized shore protective works threatened or damaged by coastal storm, and provision of emergency drinking water.

(b) *Disaster relief and assistance* (42 U.S.C. 5121 et. seq.) (88 Stat. 143) (Pub. L. 93-288). This normally consists of technical advice and construction contracting assistance to the Federal Disaster Assistance Administration (FDAA). It encompasses conducting preliminary surveys/estimates of damages, furnishing recommendations and damage survey reports, and performing specific mission assignments requested by FDAA. These mission assignments may include clearance of debris and wreckage; emergency work essential for the protection of life and property; permanent repair, restoration, reconstruction or replacement of public and non-profit facilities; and disaster preparedness.

§ 203.12 Applicability.

This regulation is applicable to Corps of Engineers Divisions and Districts performing or supporting natural disaster assistance and recovery operations. Its provisions are applicable within the 50 States, the District of Columbia, and territories where other Corps statutory authorities apply. The Corps will also provide disaster assistance under Pub. L. 93-288 and Pub. L. 84-99 in Puerto Rico, Virgin Islands, American Samoa, Guam, and the Trust Territories.

§ 203.13 References.

(a) AR 10-5.
(b) Part 502.
(c) ER 10-1-3.
(d) ER 11-2-320.
(e) Part 220.
(f) ER 1150-2-301.

§ 203.14 Implementation.

This regulation will be used as the organization's natural disaster procedures. Supplements required by this regulation (see § 203.32) will cover specific operational information not included in this regulation.

§ 203.15 Reports Control Symbol.

Reports Control Symbol DAEN-CWO-2 is assigned to the flood and disaster reports prescribed in this regulation.

Subpart B—Missions, Authorities, Command Channels, Delegations, and Responsibilities

§ 203.21 Corps of Engineers.

(a) *Mission*—(1) *AR 10-5 and Part 502.* AR 10-5, the regulation which describes the organization and functions of the Corps of Engineers, provides that the Chief of Engineers accomplish his Civil Works responsibilities under the direction and supervision of the Assistant Secretary of Army (Civil Works), in administering the provisions of Pub. L. 84-99 which provides authority for flood emergency activities. Part 502, Disaster Relief, contains Department of the Army policy and responsibilities for operations involving military elements of the Army in disaster relief activities. It specifically identifies the administration of Pub. L. 84-99 as a separate activity under the supervision of the Chief of Engineers. It also establishes the Chief of Engineers' responsibility for providing disaster assistance through use of Division and District Engineer resources when required by imminently serious conditions, as authorized by statutory authorities, or as directed by the FDAA Administrator or Regional Director, under the provisions of Pub. L. 93-288.

(2) *Broad objective.* The Corps must be responsive to the public need, and be prepared to perform in accordance with the national mission. During flood or other emergencies the full capabilities and authorities of the Corps will be utilized for the common good in order to save human life, prevent immediate human suffering or mitigate property damage. To be prepared for every eventuality, a planned system of timely reports, quick responses, appropriate actions and subsequent documentation must be effectively established, taught, and practiced.

(3) *Mission execution.* Division and District Engineers are responsible for the accomplishment of authorized emergency missions in their jurisdictional areas in accordance with the policies, responsibilities, duties, and functions prescribed in this regulation. They execute their responsibilities through the Emergency Operations Manager (EOM), as outlined in Appendix XX, ER 10-1-3.

(4) *Purpose.* This Subpart provides information on the general authorities related to flood control work, delegated authorities, and responsibilities of Office, Chief of Engineers, Division and District Engineers. Paragraphs (d)(2) and (3) of this section provide summaries of the Division and District Engineer's standing obligational authorities for emergency work.

(b) *Authorities.*—(1) Pub. L. 84-99. An emergency fund is authorized to be expended at the discretion of the Chief of Engineers; for flood emergency preparation; flood fighting and rescue operations; repair or restoration of flood control works threatened, damaged, or destroyed by flood; emergency protection of federally authorized hurricane or shore protection projects being threatened; and the repair and restoration of any federally authorized hurricane or shore protective structures damaged or destroyed by wind, wave, or water action of other than an ordinary nature. The law as amended includes for provision of emergency supplies of clean drinking water. A copy of Pub. L. 84-99, as amended, is on page A-1 of this regulation. In general, the emergency fund is replenished annually by Congress based on projections of requirements furnished by OCE. The law further provides that should the emergency fund be depleted, other flood control appropriations may be temporarily used pending a reimbursing appropriation.

(2) *Disaster Relief Act of 1974* (Pub. L. 93-288). The law authorizes Federal assistance to State and local governments in a major disaster or emergency and is supplementary to other Federal authorities.

(3) *Special continuing authorities.* Part 220 of this chapter provides guidance concerning special continuing authorities, which are available to the Chief of Engineers. Authorities relating to flood control follow:

(i) *Snagging and clearing channels for flood control* (Sec. 208 of the Flood Control Act approved Sept. 3, 1954) (33 U.S.C. 701g). This authority provides for removal of snags and debris, for channel clearance, and for straightening or other construction to improve natural channels in the interest of flood control ($250,000 project limit).

(ii) *Emergency Bank Protection* (Sec. 14 of the Flood Control Act approved July 24, 1946) (53 U.S.C. 701r). This authority provides for construction, repair, restoration, and modification of emergency streambank and shoreline protection works to prevent damage to highways, bridge approaches, other public works, churches, hospitals, schools, and other nonprofit public services ($250,000 project limit).

(iii) *Small flood control projects not specifically authorized by Congress* (Sec. 205 of the Flood Control Act approved in 1948 and associated legislation) (33 U.S.C. 701s). This special continuing authority provides for construction of small flood control projects on an expedited basis subject to each project being complete in itself and meeting other specified criteria ($2,000,000 and $3,000,000 project limit).

(4) *Work for others.*—(i) *Work for Federal agencies.* Section 219, Pub. L. 89-298, October 27, 1965 permits the Corps of Engineers to accept orders from other Federal departments and agencies for work or services and to perform all or any part of such work or services by contract (ER 1140-2-302).

(ii) *Work for State and local agencies.* Title III, Intergovernmental Cooperation Act of 1968 authority limits Federal agencies to providing in-house technical and specialized services (ER 1140-2-305). Cooperation under the act does not permit performance of contract work as the agent for State and local units of government. Emergency work in support of State and local communities must be limited to that authorized pursuant to Pub. L. 84-99, Pub. L. 93-288, or Part 502.

(c) *Command channels.*—(1) *Chief of Engineers.* The Chief of Engineers, under the guidance and supervision of the Army General Staff, has Army Staff responsibility for the management of engineer activities of the Army. His Civil Works responsibilities are accomplished under the supervision of the Secretary of the Army through the Assistant Secretary of the Army for Civil Works (ASA-CWO).

(2) *Army establishment.* With the exception of Civil Works programs, responsibility for Army disaster relief activities has been delegated in Part 502 to the Commanding General, U.S. Army Forces Command (FORSCOM), who has redelegated responsibilities in the Continental U.S. (CONUS), to the Army Commanders (CONUSA). Unified commanders are responsible for the conduct of all foreign disaster relief support activities in response to requests from Department of State and for the conduct of disaster relief operations in Alaska, Hawaii, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territories of the Pacific.

(3) *Command relationships.*—(i) *Established liaison.* Division Engineers will define and clarify their command relationships and channels with CONUSA Commanders and FDAA Regional Directors. Relationships between District Engineers and Army Commanders will be in accordance with mutual arrangements developed by the Division Engineers and CONUSA or Unified Commanders concerned. Similar operating relationships will be developed with U.S. Coast Guard and other Federal agencies at the field level as necessary for joint emergency operations.

(ii) *Detail of military resources to division and district engineers.* Military resources supplied to a Division in support of emergency operations and di-

saster recovery efforts, will be under the operational control of the responsible division or district engineer. However, such division or district engineer's operational control of supporting forces or resources will be limited to disaster operations within the authority of the Chief of Engineers.

(iii) *Detail of Corps of Engineers resources to CONUSA commanders.* Corps of Engineers forces or resources supplied to CONUSA commanders in support of their disaster operations will be under the control of the CONUSA commander concerned.

(iv) *Command of Corps of Engineers resources providing interdivisional assistance.* When resources of other division and districts are used to augment local disaster operations, they will be employed and directed by the local division or district engineer.

(v) *Realignment of Corps activities.* Generally, the established civil works boundaries will be adhered to in defining areas of responsibility. However, should the situation dictate a need for temporary realignment to clarify jurisdictional responsibilities, realignment by mutual agreement of affected division engineers is authorized. When finalized the responsible division engineers will advise HQDA (DAEN-CWO-E), Washington, D.C. 30214, of the action taken.

(d) *Delegations.*—(1) *Action in case of imminent seriousness.* Authority is delegated by the Chief of Engineers, under Part 502, for division and district engineers, and other civil works field operating agency commanders, to take independent emergency action to provide necessary assistance under conditions of immediate urgency in the absence of specific statutory authority. Action taken will be as necessitated to save human life, prevent immediate human suffering, or mitigate major property damage or destruction. In such a situation, any available Government resources in their charge may be used by Corps officers or subordinates on their own authority. Except for emergency operations under Pub. L. 84-99 authority, contractors must be engaged by non-Federal public entities, unless and until there is a Presidential declaration making Pub. L. 93-288 authority applicable and an FDAA mission or request has been assigned.

(2) *Division engineers.* Division engineers are delegated authority as follows:

(i) *Disaster preparedness—Code 910-100.* Transfer of funds up to $5,000 between features within a district's approved program is authorized. NED and POD have $5,000 transfer authority. Specific procedures are contained in ER 11-2-320.

(ii) *Emergency operations—Code 910-200.* No delegated authority, except NED and POD.

(iii) *Rehabilitation—Code 910-300.* (A) Transfer of up to 25 percent of the approved estimated Federal cost of rehabilitation, or $50,000 whichever is less, to an approved project. Specific procedures are contained in ER 11-2-320.

(B) Increase district engineers rehabilitation investigation authority up to $5,000 per project. NED and POD have $5,000 obligational authority per project.

(iv) *Emergency water supplies—Code 910-400.* (A) Increase district engineers investigation authority up to $5,000 per request. NED and POD have $5,000 obligational authority per request.

(B) Approve measures for furnishing emergency supplies of clean drinking water, up to $50,000 per request.

(v) *Advance measures 910-500.* No delegated authority. NED and POD have authority of $2,500 for investigations to determine eligibility of work.

(vi) *Hired labor.* Authorize performance of emergency work by using Government plant or hired labor (see Subpart I of this Part).

(vii) *Military support.* Obtain use of military support from CONUSA and unified commanders in emergency operations when the special capabilities of troops, equipment, and aircraft are required. Under Part 502, CONUSA and unified commanders are authorized to make their uncommitted resources available to Corps division engineers conducting emergency operations.

(viii) *Rehabilitation work.* Whenever disaster effects are so widespread and extensive that decentralization of project approval authority is necessary to facilitate the simultaneous rapid progress on many projects, then division engineers may be delegated temporary authority to act for the Chief of Engineers, in authorizing rehabilitation work. This authority may not be redelegated, and is not a continuing authority.

(3) *District engineers.* District engineers are delegated authority under Pub. L. 84-99 in the following areas:

(i) *Disaster preparedness—Code 910-100.* Transfer of up to $1,500 between features within a district's approved disaster preparedness program. Specific procedures are contained in ER 11-2-320.

(ii) *Emergency operations—Code 910-200.*—(A) *Field investigations.* Standing obligational authority up to $10,000 per situation or flood event district wide. NED and POD also have $10,000 authority.

(B) *Flood Emergency Operations.* Standing obligational authority up to $100,000 per flood event. NED and POD also have $100,000 authority. A flood event may involve several river basins, but the $100,000 authority is applicable district-wide, regardless of the number of river basins and/or States affected.

(C) *Post-flood reporting.* Standing obligation authority up to $10,000 per flood event, district-wide. NED and POD also have $10,000 authority.

(iii) *Rehabilitation—Code 910-300.*—(A) *Rehabilitation-investigations.* Standing obligation authority up to $2,500 per project following a flood event.

(B) Transfer of up to 15 percent of initially approved project estimate, or $10,000 whichever is less, to a rehabilitation project for which an individual cost estimate has been approved. Specific procedures are contained in ER 11-2-320.

(iv) *Emergency water supplies—Code 910-400.* Standing obligational authority up to $2,500 for investigation of each request.

(v) *Advance measures—Code 910-500.* Standing obligational authority up to $2,500 for investigations to determine eligibility of work.

(e) *Responsibilities.* Division and District Engineers have overall responsibility for accomplishing the emergency missions. This includes maintaining an organization ready to respond to emergencies by training of emergency personnel, reviewing funding requests, and appointing an individual to manage the Emergency Operations function. This position is the counterpart to the Chief, Emergency Operations Branch, Construction-Operations Division, OCE, and is required by ER 10-1-3, and the duties are listed in Appendix XX of that regulation.

(1) *OCE emergency operations branch.* The Chief of Engineers responsibilities regarding emergency operations are executed through the Chief of the Emergency Operations Branch, OCE (DAEN-CWO-E).

(2) *Division engineer.* The division engineer's responsibilities regarding emergency operations are executed through the emergency operations manager (EOM) as follows:

(i) *Disaster preparedness—Code 910-100.* (A) Prepares division annual disaster preparedness program request.

(B) Assures that the districts annual disaster preparedness request is complete and appropriate. Approved programs are forwarded with recommendations, to HQDA (DAEN-CWO-E), Washington, D.C. 20314, for necessary action.

(C) Prepares division supplements to Part 203.

(D) Determines requirements for division-wide emergency operations training including conduct of exercises.

(E) Establishes and maintains liaison with CONUSA commanders, FDAA regional directors and other agencies as necessary for effective response.

(ii) *Emergency operations—Code 910-200.* (A) Activates and staffs an emergency operations center (EOC) when deemed necessary.

(B) Aids districts in obtaining personnel, equipment, supplies, and funds during flood fighting or other emergency efforts.

(iii) *Rehabilitation—Code 910-300.* (A) Reviews districts rehabilitation reports to determine if work is applicable under the authority of Pub. L. 84-99 and if appropriate forwards with recommendations to HQDA (DAEN-CWO-E), Washington, D.C. 20314, for necessary action.

(B) Makes periodic field investigations immediately following natural disasters to assess damages and makes site inspections, as required, during and after construction, to ensure that work is being accomplished within the scope of Pub. L. 84-99.

(iv) *Emergency water supplies—Code 910-400.* Reviews district's request to furnish emergency drinking water to determine if the measure is applicable under the authority of Pub. L. 84-99, and as appropriate, approve or forward request to HQDA (DAEN-CWO-E), Washington, D.C. 20314, for necessary action.

(v) *Advance measures—Code 910-500.* (A) Reviews districts advance measures reports to determine if work is applicable under the authority of Pub. L. 84-99 and if appropriate forwards with recommendations to HQDA (DAEN-CWO-E), Washington, D.C. 20314, for necessary action.

(B) Makes periodic field investigations as required of proposed advance measures projects to determine if work is within guidelines established under Pub. L. 84-99.

(vi) *Interdivisional assistance.* Requests interdivisional assistance whenever it is determined that available local and division resources are inadequate to cope with an existing or predicted emergency or a natural disaster recovery mission. Requests for assistance should be kept to a minimum, and personnel temporarily assigned, should be retained no longer than necessary. Assistance requests will be direct communication between the divisions with close coordination between emergency operations manager and personnel offices. HQDA (DAEN-CWO-E), Washington, D.C. 20314, will be kept informed by the requesting division of the progress made in obtaining the needed personnel.

(A) *Information furnished the requestor.* The supporting division will notify the requesting division of the support which can be provided. It will then furnish the supported division a list of the personnel comprising the emergency assistance units or teams, showing their qualifications and positions held.

(B) *Support.* The table below serves as a guide for interdivisional support but is not limited thereto.

Requesting Division and Support Division

New England—NCD, ORD, and NAD.
North Atlantic—ORD, NCD, and NED.
South Atlantic—LMVD and ORD.
Lower Mississippi Valley—SAD, SWD, and MRD.
Ohio River—NCD, MRD, and LMVD.
North Central—MRD, NAD, and ORD.
Missouri River—NPD, NCD, SWD, and LMVD.
Southwestern—SPD, LMVD, and MRD.
South Pacific—NPD, SWD, and POD.
North Pacific—SPD, MRD, and POD.
Pacific Ocean—SPD and NPD.

(vii) *Coordination with Federal Disaster Assistance Administration.* Coordinates with FDAA regional directors regarding all Corps actions pursuant to Pub. L. 93-288. Accept mission assignments and designate appropriate district for implementation.

(viii) *Coordination with military.* Coordinates with CONUS Army Commanders in disaster preparedness and keeps them informed of any significant emergencies where their assistance may be required.

(3) *District engineer.* District engineers responsibilities regarding emergency operations are executed through the EOM as follows:

(i) *Disaster preparedness—Code 910-100.* (A) Prepares letter report on disaster preparedness program in accordance with ER 11-2-320.

(B) Prepares district annexes to this regulation in preparation for natural disasters.

(C) Develops annual training program for personnel who may be assigned roles in emergency operations.

(D) Assures the inspection of non-Federal flood control works which have received Corps assistance pursuant to Pub. L. 84-99.

(E) Maintains a list of supplies and equipment available for use in a disaster emergency.

(F) Establishes and maintains close liaison with other Federal agencies and non-Federal interests.

(G) Prepares quarterly summary report as required by ER 11-2-320.

(ii) *Emergency operations—Code 910-200.* (A) Activates and staffs an EOC when deemed necessary.

(B) Institutes measures to keep informed of disaster potential and advises Federal and non-Federal interests as appropriate.

(C) Provides non-Federal interests with such information in flood or coastal storm forecasts as is furnished by the National Weather Service (NWS). Provides technical assistance by advising non-Federal interests in their efforts to maintain the integrity of flood control works and federally authorized shore and hurricane protection projects under their jurisdiction. When non-Federal interests have committed their resources, and are unable to cope with the flood or coastal storm situations, directs Corps assistance either by supply of needed materials and equipment or by undertaking Corps flood fighting and rescue operations.

(D) Furnishes to division and OCE situation reports in connection with potential or actual emergency flood control activities under Pub. L. 84-99 and with other natural disasters which involve or may involve action by the Corps of Engineers pursuant to Pub. L. 93-288. The division and HQDA (DAEN-CWO-E), Washington, D.C. 20314, offices will be called immediately to report an emergency potential or incident. An appropriate written report will also be forwarded. The listing of required reports is furnished in § 203.44(b).

(iii) *Rehabilitation—Code 910-300.* (A) When rehabilitation of a flood control or federally authorized hurricane protection works is required, a field investigation must be made to determine if the repair work is within the authority of Pub. L. 84-99. A rehabilitation letter report is submitted to the division for necessary action.

(B) Rehabilitation work should be treated with the same degree of exigency as all other emergency operation activities.

(C) Furnishes to the division a copy of the letter that transfers completed emergency repair work under Pub. L. 84-99 to non-Federal interests as outlined in ER 1150-2-301.

(iv) *Emergency drinking water—Code 910-400.* When a State Governor requests assistance for emergency drinking water, a field investigation will be made to determine if the assistance requested is within the authority of Pub. L. 84-99 and if applicable, a letter report requesting funds and authority to give assistance will be submitted to the division for necessary action.

(v) *Advance measures—Code 910-500.* When advance measures are requested, a field investigation will be made to determine if the work is within the authority of Pub. L. 84-99. When applicable, a letter report will be submitted to the division for necessary action.

(vi) Responds to FDAA mission assignments through the Division.

§ 203.22 Department of Defense (DOD).

As stated in Part 502, the Secretary of the Army has been designated the DOD executive agent throughout the United States and its territories for military support in disasters, including responsibility for effective use, coordination and control of military resources employed by the Army, Navy, Air Force, and other DOD components. The authority to task appropriate DOD components for resources to conduct disaster relief has been delegated to the Commanding General, FORSCOM (CGFORSCOM). CONUSA commanders are directed to coordinate the military effort with assistance provided by the Corps of Engineers. In major disasters, CONUSA

commanders will appoint a DOD military representative to act as the point of contact for military support. A unified commander's authority and responsibility similarly applies to the planning and use of military resources outside CONUS. Acting under DOD instructions, and pursuant to Part 502, the Army has primary responsibility among the military services for provision of disaster relief. It is also responsible for coordinating the disaster activities of the military services. In summary, the DOD can provide the following when appropriate.

(a) *Military support.* (1) Flood fighting assistance.

(2) Emergency shelter.

(3) Search and rescue.

(4) First-aid and emergency hospitalization.

(5) Field sanitation.

(6) Preventive medicine.

(7) Graves registration and mass burial.

(8) Debris removal.

(9) Restoration of utilities and provision of emergency communications.

(10) Mass hysteria control.

(11) Traffic control and maintenance of law and order, with prevention of looting and plundering.

(12) Fire fighting personnel and equipment.

(13) Emergency land, sea, and air transportation.

(14) Supplies of food, water, fuel, and other vital necessities including administering its distribution to the civilian population.

(15) Decontamination following radiological or toxic gas incidents.

(16) Emergency construction.

(17) Restoration of public facilities.

(b) *Air Force.* The Air Force is equipped for aerial reconnaissance, photographic, and transport missions. By use of the helicopter, the Air Force has furnished rescue service during flood emergencies. Regulations concerning processing requests for aerial photography by the Air Force are contained in ER 1110-2-1002.

(c) *Defense Civil Preparedness Agency (DCPA).* Assist State and local officials in their preparation to meet disaster emergencies; and makes available in time of disaster stockpiled civil defense equipment and supplies.

§ 203.23 Other agencies.

As indicated in Part 502, the closest cooperation between disaster relief agencies is necessary to mitigate the results of natural disasters. Contacts should promote mutual assistance in execution of assigned missions, avoid duplication of effort, and preclude encroachment on other agencies' statutory authorities. These associations foster professionalism and permit proper referrals of disaster victims who need assistance. A list of these agencies with a brief discussion of their mission is as follows:

(a) *Federal Disaster Assistance Administration (FDAA).* Section 101 of Pub. L. 93-288 authorizes Federal assistance to State and local governments in a major disaster or emergency (Subpart H of this Part)

(b) *American National Red Cross.* The national organization of the Red Cross is organized to undertake activities for the relief of persons suffering. The Red Cross is required to continue and carry on a system of national and international relief in time of peace; to apply that system in mitigating the suffering caused by pestilence, famine, fire, floods, and other great national calamities; and to devise and carry on measures for preventing those calamities. The disaster activities carried on under Division or District Engineer authority and responsibility will be coordinated as necessary with those of the Red Cross, and that organization will be given full cooperation in its work of mass shelter, feeding, and care incident to major floods or coastal storm. Additional guidance is provided in Part 502.

(c) *The Salavation Army.* Its purpose is to meet the needs of victims of natural and man-made disasters. It aids in registration and identification of victims; missing persons services—locating individuals and answering inquiries from concerned relatives and families outside the disaster area. Provides meals and/or snacks for disaster victims and emergency workers at the scene of the catastrophe. Collects the following donated goods for victims according to pre-determined need: food, clothing, furniture, medical supplies, building materials, bedding, utensils, tools, etc.

(d) *Department of Agriculture.*—(1) *Agricultural Stabilization and Conservation Service (ASCS).* Provides up to 80 percent cost-sharing assistance to farmers for emergency conservation measures (ECM program) on farmlands. The program is authorized by Pub. L. 85-58 and requires a disaster declaration by the Secretary of Agriculture. It may include debris removal and rehabilitation of farmlands after a natural disaster in the declared counties.

(2) *Soil Conservation Service (SCS).* Furnishes emergency watershed protection against flooding and the products of erosion. The emergency measures are authorized as amended in section 216, Flood Control Act of 1950 (Pub. L. 81-516). They may include repair of dams and dikes, stream clearance, bank stabilization, and emergency conservation measures.

(3) *Extension Service (ES).* Renders advice on cleanup of damaged property, sanitary precaution, water supply and sewage disposal, insect infestations, use of canned or locker-stored food subsequent to disaster caused power failure, food and water for livestock, safety of damaged buildings, substitute planting for damaged crops, grain storage problems, and renovation of farm equipment and facilities.

(4) *Forest Service (FS).* Furnishes personnel and equipment for rescue work, snow removal, and fire fighting in disaster situations located in or immediately adjacent to a national forest.

(5) *Rural Electrification Administration (REA).* Assist in restoration of electric power and rural telephone service in REA service lines. May assist other power service restoration. Also furnishes credit and technical assistance to rural electric and telephone cooperatives whose facilities have suffered damage as a result of the disaster.

(e) *Department of Commerce.*—(1) *Office of Industrial Mobilization.* Provides assistance in expediting procurement of materials and equipment required for rehabilitation of plants producing defense materials which have been damaged or hampered by disaster. Machine tools may be leased from the Commerce inventory.

(2) *National Weather Service (NWS), National Oceanographic and Atmospheric Administration (NOAA).* Provides:

(i) Storm warning including tornado, hurricane, cold wave, heavy snow, blizzards, and heavy rainfall.

(ii) Weather forecast.

(iii) Flood warnings.

(iv) Forecasts of water stages, in particular the peak flows and duration of high water. Since the issuance to the public of forecasts or river discharge and stages is the legal responsibility of the Weather Service, forecasts prepared by the Corps of Engineers in the execution of its responsibilities should not be released to the general public except under exceptional circumstances in a major emergency. However, release to interested parties of factual information on current storms or river conditions and properly quoted Weather Service forecasts is permissible.

(3) *Maritime Administration.* Provides:

(i) Lease of tools, automotive and floating equipment, and other equipment and supplies.

(ii) Rescue operations by any ship under the jurisdiction of the Maritime Administration.

(iii) Charter of ships from the national defense reserve fleet for transportation, shelter, storage, or electrical power in disaster areas.

(iv) Lease of shore-based installations for shelter and storage near disaster areas.

(v) Provide trained personnel and equipment for fire fighting in a disaster area.

(4) *National Ocean Survey.* Provides seismic seawave warnings (Tsunami).

(f) *Department of Health, Education, and Welfare (DHEW)*—(1) *Food and Drug Administration (FDA).* Cooperates with local, State and Federal food and drug agencies in:

(i) Inspecting, impounding, or destroying damaged food and drug supplies, with all due consideration to the processes of law.

(ii) Inspecting, closing, and certifying for re-opening of damaged food and drug manufacturing and warehousing establishments.

(iii) Keeping informed as to the proper methods for handling contaminated, spoiled, or suspect foods and drugs. District Engineers will notify District Directors of the FDA of all floods which are considered to cause damage to food and drug stocks or to contaminated water used in the manufacture or processing of foods and drugs.

(2) *Public Health Service (PHS).* In emergency situations, it utilizes its health resources and technical personnel to control communicable and chronic diseases by assisting State, local and Federal agencies in maintaining adequate and safe food supply, sanitary waste disposal, adequate refuse disposal facilities, and the control of insects and rodents. It can also be expected to evaluate health hazards and recommend corrective action. Assistance may also include emergency assignment of its medical and nursing personnel, engineers, entomologists, sanitarians, epidemiologists, veterinarians, and laboratory technicians.

(3) *Office of Education.* This agency furnishes financial assistance for repair or restoration of damaged public school facilities, replacement of supplies and equipment, and operation of temporary schools pending repair or replacement of damaged facilities in a major disaster.

(g) *Department of Interior*—(1) *Bureau of Mines (USBM).* Has major Federal responsibility in mine disasters and will assist by providing engineers and safety personnel for inspection and prevention of fire explosions, and other hazards such as escaping gas.

(2) *Bureau of Reclamation (USBR).* Operating in the 17 Western States, the USBR may render Flood fighting assistance and perform rescue operations in any natural disaster situation including transportation of personnel and materials. May also assist local interests in repair and restoration of flood control works when authorized by the Commissioner of Reclamation. Provides some earthmoving equipment and supplies such as tools. Can provide personnel trained in operation of electric power lines and distribution systems with attendant trucks and support equipment.

(3) *U.S. Geological Survey (USGS).* In addition to furnishing a variety of maps, the USGS collects and furnishes data on stream-flow and water surface elevation at many locations. Close coordination with pertinent field offices of the USGS will therefore be maintained during flood emergencies.

(h) *Department of Transportation (DOT)*—(1) *Federal Highway Administration (FHWA).* Federal funds for emergency repair of Federal-aid highways and bridges which have suffered serious damage as the result of disaster over a wide area are available on a matching basis. Additionally, Federal funds up to 100 percent are available for the repair of reconstruction of highways, roads, and trails which the Secretary of Transportation shall find have suffered serious damage as the result of a disaster over a wide area, such as by floods, hurricanes, tsunami, earthquakes, severe storms, landslides, or other catastrophes in any part of the United States.

(2) *Office of Emergency Transportation (OET).* Assistance in coordinating transportation intelligence.

(3) *Federal Aviation Administration (FAA).* This agency maintains an extensive air navigation and communication network. It may provide communications for local authorities when commercial facilities are not available. It will assist in determining damage to airports, may participate in repair or restoration, and will assist in mobilization of local civil aviation for emergency operations.

(4) *U.S. Coast Guard (USCG).* Coordination between the Corps of Engineers and the Coast Guard under natural disaster conditions will usually be in connection with emergency flood control activities. The primary mission of the Coast Guard in time of floods is to render aid and assistance and supplement the efforts and resources of State and local governments and the Red Cross. Operations are commensurate with the gravity of the situation and the facilities available. The USCG's rescue capability is of particular note. Responsibility for icebreaking or maintain essential navigation also belongs to the Coast Guard.

(i) *General Services Administration (GSA).* In major disaster areas the GSA has accepted the responsibility to provide office space, hotel rooms, motor pool cars, communications, and other essential services.

(1) *Federal Supply Service (FSS).* The FSS can provide emergency procurement and warehousing operations in a disaster area; supply common-use items to Government agencies to insure continuity of essential operations; and perform general procurement and supply operations for wholesale and quantity deliveries from available sources.

(2) *Public Buildings Service (PBS).* This agency will furnish advice on repair of damaged public buildings, or their demolition, acquisition of temporary quarters, and is a source of engineering and architectural personnel.

(3) *Property Management and Disposal Service (PMDS).* This agency can provide for the lease of idle government-owned tools and production equipment; sale of excess material from the national stockpile; and supply from stocks on hand in Civil Defense warehouses, those items required for disaster relief. Included within its organization are elements that provide services in ascertaining the availability of excess and surplus personal property needed for disaster relief purposes and the disposal of such property upon the termination of a disaster.

(j) *Federal Communications Commission (FCC).* The FCC provides for clearing the amateur radio channels to permit emergency communications and use of emergency frequencies for amateur operations.

(k) *Interstate Commerce Commission (ICC).* Assistance available from the ICC includes:

(1) Temporary authority for motor or water command and contract carriers to perform urgently needed transportation for hire to points and within areas having no carrier service capable of meeting the needs of the situation.

(2) Permission for common carriers to transport passengers without charge, or freight at reduced rates, into or out of disaster areas.

(3) Suspension of any or all rules, regulations, or practices of car service.

(4) Direction of joint use of equipment and facilities.

(5) Direction of preference, priorities, or embargoes for specific traffic in specified areas for a definite time.

(6) Diversion or rerouting of traffic by rail, water, or highway.

(l) *Coordination with U.S. Fish and Wildlife Service (USF&WS).* It is the policy of the Chief of Engineers that the provisions of the Fish and Wildlife Coordination Act (Pub. L. 85-624) and the formal agreement between USF&WS and the Corps of Engineers (ER 1120-2-401) shall apply to emergency work performed by the Corps under authority of Pub. L. 84-99 or at the direction of FDAA under Pub. L. 93-288. District Engineers will cooperate with conservation efforts by coordinating with the USF&WS on work accomplished under Pub. L. 84-99 authority affecting fish and wildlife resources. When time is a limiting factor, informal coordination may be accomplished. For work accomplished with the FDAA, the Corps and USF&WS have agreed that USF&WS is responsible for recommending appropriate conservation measures to the FDAA prior to any project authorization. Maximum cooperation with conservation agencies will be included in accomplishing FDAA-direct-

ed work. Any features considered economically unfeasible or not practical will be referred to the responsible FDAA representative for decision.

§ 203.24 Non-Federal interests responsibilities.

(a) *Disaster preparedness.* Maintain flood and shore or hurricane protection projects in a satisfactory condition in preparation for possible disaster. Local maintenance will include stockpiling or otherwise providing for sandbags and/or other materials or equipment. Further it includes training of personnel and stressing familiarization with operation and maintenance procedures.

(b) *Emergency operations.* During a flood fight, non-Federal interests are normally responsible within limits of their capabilities for the following: providing power for emergency operations, providing manual labor as required, patrolling levees, utilizing all available community owned equipment and operators, and removing temporary structures if necessary.

(c) *Rehabilitation.* It is the policy of the Chief of Engineers that as a prerequisite or authorization of a non-Federal rehabilitation project non-Federal interests will furnish assurances of local cooperation. As a minimum the local cooperation agreement will include provisions that local interest will:

(1) Provide without cost to the United States all lands, easements, and rights-of-way necessary for the construction of the project.

(2) Hold and save the United States free from damages due to the construction operation and maintenance of the project, except damage due to the fault or negligence of the United States or its contractors.

(3) Maintain and operate all the works after completion in accordance with prescribed regulations. Sponsorship by a political entity is preferred; however, in exceptional cases rehabilitation projects may be sponsored by individual as well as organized property owners. Additional features of local participation, including financial contributions, will be required with respect to any improvements undertaken in connection with the work, and for maintenance or other items considered the responsibility of non-Federal interests.

§ 203.25 Emergency drinking water.

Non-Federal interests must initiate their request for emergency drinking water through the Governor of the affected State, since Corps response must be restricted to request for assistance received from a State governor. Request must include the criteria as set forth in Subpart F of this Part.

§ 203.26 Advance measures.

Advance measures must be geared to complement maximum non-Federal effort. Compatible with local capabilities, justified from an engineering and economic standpoint, and capable of completion in a timely manner. Non-Federal participation can be in the form of either financial contribution or utilization of non-Federal resources. The assurances of local cooperation and participation, generally referred to as the abc's, will be furnished to the Corps prior to construction.

Subpart C—Disaster Preparedness Code 910-100

§ 203.31 General.

(a) *Definition.* Disaster Preparedness consists of those activities designed to facilitate quick and effective response in time of natural disaster.

(b) *Basic responsibilities.* The Division and District Emergency Operations Managers are responsible for the overall adequacy of the Division and District Disaster Preparedness Program. Formulation and coordination of the programs should be performed by the Division and District Emergency Operations Manager in accordance with procedures detailed in ER 11-2-320 and this Subpart.

(c) *Annual program.* The Division and District disaster preparedness program is formulated and funded annually according to organizational requirements. All programs must be reviewed by DAEN-CWO-E before implementation. District programs must be thoroughly reviewed by Division for compliance with program guidelines before forwarding to DAEN-CWO-E for authorization, work allowance and funding. Deficient programs will not be reformulated by DAEN-CWO-E and will be returned to the Division/District for resubmission.

(d) *Organization.* The organization of the disaster response elements prior to the occurrence of a disaster incident is vital for effective response.

(1) *Corps disaster teams.* The presence of highly competent Corps personnel on the site immediately following the occurrence of a natural disaster is essential. Division and District Engineers will assure the organization of an emergency cadre capable of managing an emergency operation center and of carrying out activities in the disaster area. Subpart B of this Part prescribes procedures for interdivisional assistance when additional support is necessary. Emergency teams should be prepared to operate from remote temporary headquarters.

(2) *Number and uniformity of disaster teams.* The essential functions within District organizations must be maintained during disaster operations. The commitment of personnel and equipment to disaster teams must be considered in the light of existing organizational strengths and requirements. At least one disaster team, to constitute an area office, will be organized to survey the disaster area. Its size and composition will depend on the particular requirements encountered. Personnel rosters, including qualifications of disaster team members, will be published in Division Supplement A and District Annex A and will be kept current.

(3) *Area Office.* An emergency area office supervised by a single, qualified individual having had prior training in Corps of Engineers' emergency procedures will be established in the disaster area to support the disaster teams. The nature of the disaster, the size of the area involved, and other such considerations may require the establishment of area offices to accommodate smaller, subordinate teams. (The term "Area Office" is used as a familiar frame or reference and is not intended as an indication of established organizational authorities.)

§ 203.32 Program features.

Features have been established as follows to coincide with activities under the Disaster Preparedness Program.

(a) Emergency Manuals.

(b) Exercises and Training.

(c) Inspection of Non-Federal Flood Control Works.

(d) Supplies and Equipment.

(e) Supervision and Administration. (See ER 11-2-320.)

(f) Emergency Operations Manager and Staff. (See ER 11-2-320.)

(g) District Overhead. (See ER 11-2-320.)

§ 203.33 Emergency Manuals.

Part 203 provides the basic guidance on emergency preparedness, organization and operations, and is intended for use at all echelons. Specific operational information for Division and District level operations is provided through supplements by Divisions and annexes by Districts which are to be reviewed and updated annually.

(a) *Supplements and Annexes*—(1) *Supplement A/Annex A.* "Natural Disaster Activities under Pub. L. 84-99" will cover Division/District operational procedures under the purview of Pub. L. 84-99. Details concerning the emergency organization and functions, disaster preparedness program, operational policies and other information peculiar to that office will be included. The supplements and annexes should closely parallel Part 203 in format and be designed for easy use by emergency augmentees. Included in the supplements and annexes, or optionally published as a separate document, will be a Hurricane Preparedness Plan for those Divisions and Districts containing coastal areas susceptible to hurricanes.

(2) *Supplement B/Annex B.* "Natural Disaster Activities Under Pub. L. 93-

288" will cover Division Supplement and District Annex operational procedures in support of the FDAA.

(3) *Supplement C/Annex C.* "Emergency Communications" will cover organizational policies and procedures for the operation of communications equipment. It will provide for communications via local and long distance telephones, TWX services, commercial telegraph, and applicable electronic capabilities. The Supplement and Annex is applicable to all natural disaster situations and other emergencies. Supplement C/Annex C should be coordinated with the Continuity of Operations Plan. Procedures for the authorization and establishment of radio and radar installations, and the allocation of call signs and frequencies, are covered in ER 1125-2-308. ER 105-1-5 covers procedures and responsibilities for fixed signal communications systems, facilities, and services other than electronic communication systems. In general, detailed Standing Operating Procedures should be confined to the District Annex. The Division Supplement should provide policy and guidance for coordination between Districts within the Division and with other Divisions.

(4) *Annex D.* Additional annexes will be prepared by the District as required.

(b) *Pocket manuals.* The preparation of other documents, such as pocket manuals, may be accomplished at operating Divisions and Districts. Such pocket manuals should be locally oriented and include only those portions of this regulation and related public laws and instructions pertinent to field use. A similar pocket manual, Part 203, covering the main authorities and principles has been prepared by DAEN-CWO-E for emergency briefings.

(c) *Distribution.* One copy of the supplements and annexes will be furnished HQDA (DAEN-CWO-E) Washington, D.C. 20314 upon issuance. The ER 310-1-1 submission satisfies this requirement for Division supplements. Local distribution of this regulation and supplements will be made by Division and District coordinators to CONUSA or Unified Commanders, regional director or participating Federal agencies, and heads of State and local government, as appropriate.

§ 203.34 Exercises and training.

(a) *General.* Personnel assigned roles in emergency operations will be provided the opportunity and encouraged to familiarize themselves with pertinent publications. Selected individuals will receive in-service training in the disaster operations field through attendance at government-sponsored courses and other training activities undertaken at Division and District offices. Attendance at the OCE sponsored Emergency Operations Course is a basic requirement. FDAA conducts training which is also applicable and is considered a part of the Corps support to FDAA team training.

(b) *Flood and coastal emergency exercises.* Flood and coastal emergency exercises will be conducted by Divisions and Districts to test the plans developed by Supplements and Annexes A, B, C and D to Part 203. Exercises will be conducted as determined appropriate by the Division Engineer. HQDA (DAEN-CWO-E) Washington, D.C. 20314 will be advised of the scheduled training in the Quarterly Summary Report. Following each exercise, the District Engineer will furnish the Division Engineer a letter report indicating the nature and scope of the exercise, weaknesses revealed, and any corrective action required. The Division Engineer will forward one copy of the report to HQDA (DAEN-CWO-E) Washington, D.C. 20314 together with a copy of the Division Engineer's action thereon.

(c) *Damage survey teams.* Designated members of the Corps damage survey teams are required to participate in training for preparation of FDAA Damage Survey Reports. Repeat assignment of trained and experienced Corps personnel to these teams is desirable and encouraged. Use of personnel thoroughly familiar with the eligibility criteria for the work categories will aid in expeditious, uniform preparation of the survey reports.

§ 203.35 Inspection of non-Federal flood control works.

(a) *General.* Regular inspection of non-Federally constructed flood control works will generally be limited to projects that have received Corps assistance pursuant to Pub. L. 84-99. Scheduling of the inspections should be coordinated with the inspection of completed works program when practicable. Inspections should be conducted to establish whether the flood control works will continue to provide the intended degree of flood protection, and to determine if the maintenance program is adequate. Usually, these projects will not require the same degree of inspection and maintenance commitments expected for Federally authorized projects.

(b) *Local requests.* If requested by non-Federal interests, inspection of flood control works may be performed even though there has been no previous Corps Pub. L. 84-99 assistance provided.

(c) *Advice and reporting.* Information on the results of inspections will be furnished to non-Federal interests and should be maintained in District offices. Non-Federal interests will be informed that the quality of maintenance and that maintenance deficiencies are factors for consideration of future work and local cost-sharing participation in any proposed work. Follow-up inspections will be made to monitor progress in correcting deficiencies. Liaison with local interests will include suggestions on required remedial maintenance, organization, other measures or preparedness for flood and coastal emergencies.

§ 203.36 Supplies and equipment.

Lists of supplies and equipment available for use in a disaster emergency will be prepared and maintained current. These lists should include, but need not be limited to floating plant, construction materials and equipment, portable radio facilities, and emergency office support supplies. A package of Alert Cadre use materials, ready for immediate issue, should be maintained. Stockpiling for natural emergency operations requirements will be limited to supplies charged to the Disaster Preparedness Program in conformance with ER 11-2-320. Items such as video tape equipment, radios and other supplies not used exclusively for Emergency Operations, should be funded on a pro-rata share for initial cost and maintenance.

(a) *Stream gages.* Pub. L. 84-99 funds will not be used for installation or maintenance of stream gages. This activity should be performed under the Cooperative Stream Gaging Program or with project funds, if appropriate.

(b) *Emergency radio equipment.* The acquisition of radio equipment essential for flood and coastal storm emergency operations supplementing regular project equipment is chargeable to Code 910-100, Disaster Preparedness. Their operation should be charged to the pertinent activity as a Code 910-200, Emergency Operations, expenditure.

(c) *Training aids and equipment.* Supplies and equipment items pertaining to the training of personnel for natural emergencies may be procured under the Disaster Preparedness Program. Training films, slides, publications, and specialized training aids are included in the category.

(d) *Sandbags.* Depot stocks of sandbags for flood emergency use are not maintained. Engineer District procurement offices may acquire flood emergency use sandbags under either category, Disaster Preparedness, or Emergency Operations, depending upon the flood emergency phase. When needed, every effort will be made to purchase untreated bags locally, to take advantage of cost savings. Preservative treated sandbags may be purchased if required to replace District reserve stocks depleted in the flood fight.

(e) *Pumps.* Pumps for use during flood emergencies may be rented as needed to supplement local flood fight measures under Code 910-200, "Emergency Operations" category. Rental

procedures are recommended to avoid maintenance and storage costs when not in use. If necessary, pumps may be purchased with prior approval from OCE during emergencies, and subsequently transferred and maintained under the Code 910-100, Disaster Preparedness Program.

(f) *Emergency operations identification.* Specific items to provide a means of increasing the visibility of Corps employees, vehicles, and office locations during Corps emergency operations, including signs, banners, clothing, etc., identifying U.S. Army Corps of Engineers Emergency Operations, will be centrally procured by HQDA (DAEN-CWO-E) Washington, D.C. 20314.

(g) *Emergency operations centers (EOC).* The EOC will normally be activated and staffed during major emergencies. It will be a part of the Division or District office and under the direction of the Emergency Operations Manager. The center will, as a minimum, coordinate all emergency measures, be a central point of contact, and furnish required reporting activities. A specific area will be designated for an EOC. Provision for display boards, radios, telephones, telecopiers, and other requirements is authorized under this feature.

Subpart D—Emergency Operations, Code 910-200

§ 203.41 General.

(a) *Mission execution.* Division and District Engineers are responsible for the overall accomplishment of authorized emergency missions in accordance with the policies, responsibilities, duties, and functions prescribed in this regulation. They execute their responsibilities through an organization of emergency operations managers and operations personnel who are knowledgeable in the requirements, authorities, and needs within the division or district.

(b) *Objectives of disaster operations.* The objectives of Federal and local agency natural emergency operations fall into three general categories: disaster assistance, disaster fighting, and disaster recovery or rehabilitation. The Corps of Engineers is normally directly engaged in disaster fighting and rehabilitation, but may be called upon in rescue operations.

(c) *Policy.* In time of flood or coastal storm, emergency operations will be undertaken by the Corps of Engineers to supplement local efforts. Protective and preventive measures will generally be of a temporary nature. A declaration of a State of Emergency or a written request by the Governor of a State, or responsible authority of a political subdivision, while desirable, is not a prerequisite to furnishing emergency assistance under Pub. L. 84-99. It is the policy that local assurance of cooperation and indemnification of the U.S., and appropriate requests, will be obtained. These assurances must specify that they pertain only to costs or work eligible under Pub. L. 84-99 so as not to prevent local governments from receiving funds from other Federal programs. Participation by the Corps of Engineers in emergency operations may extend to assumption of leadership role if responsible local authorities are unable to cope with the situation. Such leadership is limited to operational control of emergency forces and should be followed by a request from State or local authorities. These actions should be followed by a request from State or local authorities. These actions should be subordinate to the State and local responsibilities and authorities. The Corps' capabilities and pre-eminence in the field should be made available when needed. An aggressive interest in providing assistance to the community including all available pre-flood information, prediction, and advice is desirable.

§ 203.42 Authorities.

The authority under Code 910-200 "Emergency Operations" applies to emergency flood fighting and rescue, and protection of Federally authorized shore or hurricane projects. The flood fighting measures are applicable to any flood control structure—Federal, public or private. Included in the authority is collection of flood data that would be lost if not collected during the flood, or soon after the flood recedes. Channel debris clearance is authorized if the debris is causing flooding. Post flood debris clearance, or cleanup, is not authorized. Where other Federal agencies have emergency authorities for their structures, Corps work under Pub. L. 84-99 is not appropriate.

(a) *Field investigations.* This authority applies to special investigations of flood or coastal storm potentials to obtain data not otherwise available. Initiation of field reconnaissance for data collection should be due to some special condition for unusual concern. The authority may be used to collect essential data of a transitory nature, such as high water marks and snow pack. District Engineers and operating Divisions have obligational authority up to $10,000 for each situation or incident. Divisions and HQDA (DAEN-CWO-E) Washington, D.C. 20314 will be notified when the data indicates a potential for a damaging flood or coastal storm and follow-up with a written report.

(b) *Flood emergency operations.* Furnish required assistance in support of other agencies and by supplementing local resources as appropriate. Division and District Engineers who accept requests to assume leadership and direction of flood fighting operations will not assume the responsibilities of other agencies. Corps assistance may include the following: furnishing technical advice and assistance; furnishing flood fighting materials, i.e., sandbags, polyethylene sheeting, lumber, pumps, riprap to stabilize eroding levees or improved property; hiring of equipment and operators for flood fighting operations; and removal of log or debris jams that are blocking stream flow and causing, or are likely to cause, flooding of communities. District Engineers, and operating Divisions, have obligation authority up to $100,000 for each situation or incident. Additional authority for emergency operations will be requested of HQDA (DAEN-CWO-E).

(c) *Authorization of post-flood reports.* Data collection and other investigative and reporting activities may be initiated or continued for each flood event when the storm has ceased or high water has receded. A flood event is defined as a situation where heavy rains, snowmelt, or ice jamming caused overbank flows with resulting flood conditions. Such events terminate on cessation of flood or high water conditions with no prediction of early recurrence. Post-flood reports compile the data related to the flooding. District Engineers, and operating Divisions, have obligation authority up to $10,000 for each incident.

(d) *Ice jam removal.* The Corps policy is that ice jam removal is a local responsibility. Corps technical advice and assistance can be provided under the standing $10,000 authority, as specified in paragraph (a) of this section. When the ice jam poses an immediate flood threat to improved property, Corps efforts to supplement State, county, and local efforts is authorized under Code 910-200. The assistance must be limited to flood fighting and terminate as the flood flows recede. Actual ice jam removal should be a last resort action by the Corps. Blasting of ice jams should be limited to exceptional cases as the accompanying effects often outweigh the benefits. Complete coordination with local authorities is required. Releases from liability for property damage and personal injury are required.

(e) *Snagging and clearing.* Removal of log jams or obstructions causing flooding beyond the local, county, and State capability may be accomplished to relieve the immediate threat or flood. When flood waters recede within the channel boundaries, the flood fight will terminate and additional stream debris clearance will not normally be performed under Pub. L. 84-99.

(f) *Limitation on extent of emergency operations.* Following determination that a specific emergency pro-

gram is to be undertaken by the Corps of Engineers, emergency measures will be of temporary nature designed to meet the imminent threat and to preserve existing protective works. Pub. L. 84-99 authority does not extend to the removal of temporary protective works. Work of a permanent nature may be undertaken if it is the minimum work necessary to achieve the required protection.

(g) *Limitation on diversion of emergency (Pub. L. 84-99) funds to local interests.* Emergency funds will be expended directly by the Corps of Engineers for authorized purposes. No authority exists under Pub. L. 84-99 to reimburse local interests for costs of emergency operations accomplished on their own account.

§ 203.43 Procedures.

(a) *Personnel.* Personnel operating under emergency disaster conditions may be subjected to extreme hardships. Accordingly, all regulations pertaining thereto will insure the maximum possible protection of the personal welfare of the individual. Accomplishment of this requires that arrangements be made for advance payments of travel allowance, limiting the tour of duty, and control of overtime.

(b) *Hazard pay differential.* Pay differential of 25 percent is authorized for irregular or intermittent duty while working within or immediately adjacent to a building or structure which has been severely damaged by earthquake, fire, tornado, flood or similar cause, when the structure has been declared unsafe by competent technical authority, and when such work is considered necessary for the safety of personnel or recovery of valuable materials or equipment, and the work is authorized by competent authority. Federal Personnel Manual Supplement 990-2, Book 550, Chapter 59, authorized the differential in the general schedule work situation.

(c) *Communication and transportation.* Effective use of all types of communication and transportation facilities will be required in any emergency disaster operation. Radio facilities should be controlled by the operation forces. The use of all types of commercial communications and transportation facilities will be subject to established administrative procedures.

(d) *Designation of transportation agents.* To facilitate transportation and insure proper shipment and receipt of property during emergencies, district emergency plans should designate agents to perform these functions.

(e) *Military air transportation.* Emergency operations will be conducted with the policy of utilizing local and commercial resources and organizations to the maximum of their capabilities. Agreements with National Guard and Reserve component units are authorized when additional support is required. Requests for airlift support by either active Army or Air Force units will be processed through divisions to their respective CONUS Army commands. Each request will require the following:

(i) Description, origin, and destination of the cargo.

(ii) Weight and cube measurements of the shipment.

(iii) A statement by the Division Engineer or his representative that commercial firms are not available, or able, to accomplish the mission as required.

(f) *Costs.* Costs incurred by DOD agencies that are additional to their normal operating expenses, and in support of Corps flood fighting operations, are reimbursable under Pub. L. 84-99, Code 910-200, funding. DOD costs in support of Corps response to mission assignments from FDAA are reimbursable by FDAA and included as Corps expenses.

(g) *Liaison.* During emergency operations of major proportions, it may be necessary to provide special liaison between HQDA (DAEN-CWO-E) Washington, D.C. and the field. A Division or District representative will be detailed to the Emergency Operations Branch (DAEN-CWO-E) in OCE if requested.

(h) *Loan or issue of supplies and equipment.* Issuance of sandbags, other material, or government equipment (less operating personnel if appropriate) to non-Federal interests is authorized only in actual emergencies. Furnishing government supplies is permitted only after local resources are exhausted or it becomes evident that they will be exhausted. Unused stocks on loan should be returned to the Corps. Consumed supplies will be replaced in kind or paid for by local interests to the extent considered feasible and practicable by the Division or District Engineers.

(i) *Identification of Corps of Engineers operations.* Corps of Engineers personnel and equipment engaged in emergency operations will be identified through the use of Corps of Engineers distinctive identification items as required by current regulation. Red Emergency Operations jackets and shirts have been issued to Divisions and Districts for distribution to emergency operations teams performing disaster work. A stock of these items is maintained and additional requirements should be submitted to HQDA (DAEN-CWO-E) Washington, D.C. 20314. Distinctive car door signs have been made available for issue. An Emergency Operations Award will be issued to personnel taking part in significant flood fights or other disaster operations. These items are described in OCE Supplement 1 to AR 672-20.

§ 203.44 Reporting.

This section outlines the submission and distribution of reports required from Divisions and Districts for use within HQDA (DAEN-CWO-E) Washington, D.C. in connection with activities under Pub. L. 84-99.

(a) *Commercial teletypewriter (Western Union) Service.* Teletypewriter (TWX) machines have been installed in the Division and District Offices and in OCE primarily to permit the fastest means of reporting emergency situations. The TWX machine installed in OCE Civil Works Directorate has a 24-hour automatic receiving capability with an answer back signal DAEN-CW WSH. One, receive only, monitor is connected to this primary TWX line permitting a simultaneous readout of information in the Emergency Operations Center. A second TWX, send and receive station (DAEN-CW WSH B), is located in the Emergency Operations Center for emergency use when the primary station cannot be reached. A directory of Corps of Engineers call numbers on the Western Union TWX service is included in Appendix D (Note the Alaska District and Pacific Ocean Division do not have TWX facilities. They will submit reports by the fastest electrical means available).

(b) *Reports required.* (1) Flood or coastal storm potential reports (see paragraph (d) of this section).

(2) Initial report of flooding or coastal storm (see paragraph (e) of this section).

(3) Follow-up flood or coastal storm situation reports (see paragraph (f) of this section).

(c) *Classification of emergency situations.* For purposes of reporting, significant floods and other natural disasters are categorized and described below:

(1) *Category A.* Includes all major floods in large drainage areas in which extensive property damage or serious danger to life or flood protective works prevails or is imminent.

(2) *Category B.* Consists of relatively localized floods that produce high property damage or hazard to life without creating or contributing substantially to dangerous flooding downstream. Category B floods also include so-called "flash floods" and other short duration floods that preclude submission of emergency flood reports to the Chief of Engineers before critical phases of flooding have passed.

(3) *Category C.* Consists of floods in large drainage areas which have not directly caused loss of life or extensive property drainage, but create conditions especially favorable for a major flood if further adverse conditions develop.

(4) *Category D.* Includes non-flood incidents such as tornadoes, volcanic eruptions, earthquakes or other natu-

ral phenomena causing extensive damage where Corps of Engineers assistance will be involved or is likely to be involved.

(d) *Flood or coastal storm potential reports.* District Engineers will report to the Division by TWX, with information copy to HQDA (DAEN-CWO-E) Washington, D.C. 20314, any potential flood, coastal storm, or advance measures action that should be brought to the attention of the Chief of Engineers. The report is designed to facilitate responses to inquiries from Members of Congress and others at the Washington level. Accordingly, it should be prepared and dispatched expeditiously, and in advance of any actual disaster (flash flood excepted). Include a narrative summary of the situation and, if possible, an estimate of the probable disaster impact development. If feasible, each report will be definitive and minimize a follow-up report. Dispatch of subsequent messages will be determined by the urgencies of each situation as it develops. These reports, prefixed by "Flood or Coastal Storm Potential Report," will be transmitted to the Division Engineer with simultaneous copies to HQDA (DAEN-CWO-E) Washington, D.C. 20314, the appropriate CONUSA or Unified Commander, and the FDAA National and Regional Directors concerned. The reports required here pertain to emergency short range situations. Long range seasonal conditions are reported in accordance with ER 1110-2-240.

(e) *Initial report.* Initial reports will be furnished as follows:

(1) *During OCE office hours.* An initial report from the Division on any non-flood disaster or imminently anticipated actual flood or coastal storm condition, whatever their nature, will be made during OCE office hours by telephone directly to the Chief, Emergency Operations Branch (202-693-6875). Such initial report will serve the primary purpose of alerting the chief of Engineers to the possibility of inquiries to him for situation reports. Any information of the type listed in paragraph (c) of this section will be included to the extent immediately available from sources including local news reports. The initial report will not be delayed in order to collect and compile additional information.

(2) *Outside of OCE office hours.* During periods outside of OCE office hours, the initial report by telephone will be deferred unless it concerns a major emergency or serious short-duration disaster, such as a severe flash flood or tornado. In that event, the initial report will be made to the Chief, Emergency Operations Branch or assistant, at their home telephones. A TWX message may be substituted for a deferred telephone initial report if the message is available at the start of the next work day. Confirmation of initial telephone messages to OCE will be by TWX.

(3) *Advising CONUSA Commanders, FDAA National and Regional Directors, and Others.* District Engineers (Reference Part 502) will furnish the CONUSA, or Unified Commander concerned, pertinent information on Category A or B floods or Category D disasters, using the fastest electrical means available. Other officials concerned will be similarly informed, including the FDAA Administrator and regional Director(s), American Red Cross Area Manager, Coast Guard District Commander, State Natural Disaster (Civil Defense) Director and other key Federal, State and local officials, as appropriate. This may be done by means of information copies of the report submitted to Division and OCE, except that such addressees will not be furnished detailed hydrologic data, details concerning the operation of flood control works, or preliminary estimates of damages prevented by engineer projects.

(f) *Reports during flood or coastal storm.* Following the initial report, additional reports will be made as indicated below:

(1) *Category A flood situation reports.* Whenever a Category A flood is in progress, submit daily situation reports direct to the Division and an information copy to HQDA (DAEN-CWO-E) Washington, D.C. 20314. These reports, by TWX, will be dispatched as early as practicable but not later than noon (local time). On working days, they will be dispatched by TWX, preceded or supplemented if the situations warrant, by telephonic report(s). On Saturdays, Sundays, holidays, and non-working hours, reports by telephone will be made only in the event of significant change in flood conditions as previously reported, or the occurrence of major flooding or other development of serious proportions, resulting or likely to result in heavy loss of life and/or property damage. TWX reports may be transmitted to Office of the Chief of Engineers on Saturdays, Sundays, holidays, and at night to be available at the start of the next working day.

(2) *Reporting format.* During the critical phase of Category A flood, the daily TWX situation report will include the following coverage, as available and applicable, using the paragraph numbers shown in the following example. Subparagraphs may be used as required. In order to meet the noon deadline (local time) as stated in paragraph (f) of this section, items 6, 7, and 8 of the report may be omitted from the TWX and sent by telecopier or other means in time to be received by close of business. When the report is sent in two parts they should bear the same report number.

Subject. Category A SITREP No. 3 (indicate FINAL REPORT submission).

1. *General Situation Summary.* Location of stricken area by river basin; weather conditions and forecast (include rainfall data); condition of flood control works and their effectiveness (identify whether Federal or non-Federal); Federal property (military and civil works installations) damaged or threatened; communities damages or threatened; essential transportation systems (land, air, marine and rail) out of service; emergencies declared by Governor(s); and any other significant events such as lives lost, utility failures, etc.

2. *Efforts by State and local interests.* Nature, location, and degree to which State and local interests are applying their capabilities in rescue, evaluation of flood fighting, and related matters. Include whether they can cope with the situation and any activity of National Guard (provide unit designation); Nature and location of prospective requests for Pub. L. 84-99 assistance; Status of a Governor's application for Pub. L. 93-288 assistance.

3. *Military efforts.* Nature of actions where taken by the military (Army, Navy, Air Force and other DOD components). Also, where applicable, indicate military participation in flood fighting and rescue work under Corps of Engineers direction and control, specifying unit designations.

4. *Other efforts.* Brief coverage of nature and location of support being rendered by Red Cross, Coast Guard, and other Federal, State, charitable, and local agencies furnishing significant aid. Indicate role of FDAA, location of field office if established, name and phone number of person in charge. List or describe liaison and coordination effected with other Federal agencies.

5. *Corps of Engineers efforts.*

(a) Summarize District Engineer's activity in discharging his mission, including liaison, rescue, flood fighting, damage surveys, and data collection. Upon activation of District EOC, provide hours of operation, phone number(s) and person in charge.

(b) Following is a summary of pertinent data on this flood event which began on 14 August 1975:

(1) Number of COE personnel involved—85 (20 District; 60 Field; 5 TDY).

(2) Number of sandbags furnished to date—250,000.

(3) Number of pumps on loan—14.

(4) (Other significant materials issued such as rolls of polyethylene sheeting, riprap, snow fencing, etc.).

(5) Number and value of emergency contracts—6—$75,000.

(6) Estimated total Pub. L. 84-99 obligations to date—$90,000.

6. *Damages and Damages Prevented.*

(A) Acres Flooded:

State	Agricultural	Other	Total
Mississippi	60,000	5,000	65,000
Louisiana	40,000	0	40,000

(B) Total Preliminary Damages Estimate:

State	Amount
Mississippi	$1,000,000
Louisiana	200,000

(C) Effects of Corps of Engineers Projects (Permanent and Temporary Protection:

(1) Damages Prevented:)

State	Amount
Mississippi	$5,000,000
Louisiana	10,000,000

(2) Acres Protected:

State	Number
Mississippi	10,000
Louisiana	350,000

7. Tabulation of River State Data.

Gage	River stage			News predicted		Record	
	Zero damage	Today	Tendency	Crest	Date	Stage	year
Mississippi River							
Vicksburg, MS	30.0	35.0		38.0	Aug. 20	60.0	1943
Natchez, MS	21.5	28.7		31.0	Aug. 24	55.6	1937
Big Black River							
Sun City, MS	14.0	17.5		18.0	Aug. 19	25.0	1960
Monroe, MS	12.5	16.0		17.0	Aug. 21	23.4	1973

8. Tabulation of Reservoir Data.

Reservoir	Average past 12 hr. (CFS)					Percent of
			Pool elevation			
	Inflow	Outflow	Normal	Today	Tendency	flood control utilization

The tabular data referred to above that are not dependent upon daily observations may be furnished HQDA (DAEN-CWO-E) in advance by letter for selected key stations, and subsequently omitted from teletype reports pertaining to those stations. After the critical phase of a flood has passed and stages have receded generally to a relatively nondangerous stage, daily reports, as specified above, may be reduced in scope. They will include a description of the flood situation in general terms, supplemented as required for clarity, by selected representative river stage and pool data. River stage data normally available on Weather Service teletype, Schedule C, CE sequence, may be omitted from reports submitted during the later recession phases of floods. During critical flood periods, daily reports will be adequately self-contained, inasmuch as the desired data are not always available from Weather Service teletype reports.

(3) *Category B flood situation reports.* As soon as practicable after occurrence of a Category B flood, a TWX report will be dispatched from the District concerned direct to the Division with information copy to DAEN-CWO-E in the manner specified in paragraph (f)(2) of this section. Category B flood will be reported on Saturdays, Sundays, holidays and night time in the same manner as Category A floods. Telephone reports will be made only when exceptionally severe property damage or loss of life is suffered; otherwise, TWX reports will be dispatched to the Division and HQDA (DAEN-CWO-E) as early as possible on the first working day following. The initial report will present a summary generally similar to that prescribed for Category A floods, based on information obtainable from all available sources. Subsequent reports will be submitted as required to present a reasonably accurate account of the extent and noteworthy effects of the flood.

(4) *Category C flood situation reports.* When Category C conditions tions will be dispatched daily, on regular working days only, in the general manner prescribed in paragraph (f)(2) of this section. In the case of streams characterized by very slow or sluggish runoff, where stages usually remain above official flood stages for long periods during flood seasons without constituting an unusual flood hazard to downstreams areas, daily TWX reports will not be required, but reports should be forwarded at such intervals considered necessary to keep officials informed of stream flow conditions that might reasonably develop into serious floods. In preparing reports pertaining to Category C floods, it may be assumed that OCE has access to data normally transmitted over Weather Service Teletype Schedule C.

(5) *Category D natural disaster situation reports.* Daily TWX situation reports to the Division with information copy to HQDA (DAEN-CWO-E) Washington, D.C. 20314, subsequent to the initial non-flood disaster report under paragraph (e) of this section, are required only when the Corps of Engineers is engaged or likely to be engaged in furnishing assistance. Frequency of submission may be diminished according to developments. When furnished, these reports should include available and appropriate coverage of:

(i) *TWX designation.* Example: Tornado: Tornado Situation Report No. 2.

(ii) *Nature of emergency.* Location, extent and amount of damage, and estimated duration.

(iii) *Corps.* Requests for Corps of Engineers assistance; nature of action taken if any; personnel and resources committed.

(iv) *Recovery efforts.* Those actions by State and local interests; forces, supplies, and equipment committed; adequacy of capability to cope with situation.

(v) *Military assistance.* Description of Army, Navy, Marine Corps, Air Force, personnel forces, supplies and equipment committed.

(vi) *Other.* Activities by Red Cross and other Federal Agencies.

(g) *Collection of data and post flood reports.* Collection under this heading should usually be completed within 30 days of the emergency.

(1) *Scope of data collection.* Data collection during and after flood events will be limited to that data which is unique to the basin and would be irretrievably lost if not collected during or shortly after the flood. The following are types of data that are acceptable to be collected under Pub. L. 84-99: photography (aerial and ground), documentation and survey of high water marks, preliminary flood damage assessments, basic hydrologic data not obtainable under other programs or from other agencies. These activities should be performed during and shortly after the actual flood. The scope of data collection does not include detailed flood damage surveys, hydrologic studies, compilation of comprehensive flood data, sedimentation surveys, or detailed frequency analysis.

(2) *Post flood report.* Following a Category A or B flood causing major damage, a letter report therein, will be submitted to Division, and in duplicate to HQDA (DAEN-CWO-E). These reports are to be prepared in two separate Sections. The total report will be completed within 3 months of the time of disaster, include the statement of final cost and be submitted with the request for reimbursement for costs incurred in the operation. All activities costing in excess of the $10,000 District Engineers authority, must be approved by higher authority prior to initiation.

(i) *Section 1—summary of operations.* This section should be prepared by the EOM as soon as practicable after the flood fight is complete and recovery operations are substantially underway. It should be a brief summary of the disaster operation and interagency coordination, which can be used independently from Section 2, for improving future operations. Section 1 is not intended to cover the entire recovery operation, but rather to summarize the coordination and initiation of the response. It should include discussion of the type of assistance provided, coordination with FDAA and other agencies, effectiveness of the response, strengths and weaknesses of the operation, specific problems and suggested solutions, general appraisal, comments, conclusions and recommendations. Section 1 may be submitted separately from Section 2, if desirable.

(ii) *Section 2—data summary.* This section should include: summarization of information and data pertinent to Pub. L. 99 emergency flood control ac-

tivities, presentation of principal supporting hydrologic information and complete bibliography of the pertinent data collected and filed in District office, evaluation of stage reductions effected at key stations by flood control reservoirs operated by the Corps or by other agencies. It is not necessary to include isohyetal charts, high water profiles, complete meteorological history of storms, or data that are obtainable from other agencies. However, reference should be made to pertinent data that can be obtained from other agencies, such as U.S.G.S. and NWS.

(h) *Disaster recovery report.* Special operations of large magnitude under Pub. L. 84-99 and Pub. L. 93-288 usually involve post-disaster recovery activities. Disaster Recovery Reports to Divisions with information copy to HQDA (DAEN-CWO-E) Washington, D.C. 20314 will be in the format shown below. These reports will replace sitrep reports upon discontinuance of the disaster fight and when recovery operations begin. (See Subpart H of this Part for Corps activities for FDAA Pub. L. 93-288.)

SAMPLE FORMAT FOR DISASTER RECOVERY REPORT

RR 011800Z Sep 77
FM: DISTENGR Seattle WA //NPSOP-NF//
To: HQDA WASHDC //DAEN-CWO-E//
UNCLAS
Subject: Disaster recovery report, Western Washington, report No. 1
A. (As Required)
1. Summary of Contracts under Pub. L. 93-288:

	No. Contracts	Total contract amount	Percent complete
Snohomish county:			
(A) Debris	2	$450,000	24
Public building.	1	74,000	50
Subtotal	3	524,000	30
Skagit county:			
(B) Protective work	1	125,000	15
Misc. (aerial photo)	1	15,000	100
Subtotal	2	140,000	20
Total	5	664,000	30

2. Summary of Rehabilitation (Code 300) work under Pub. L. 84-99:

	No. contracts (jobs)	Total contract (job) amount	Percent complete
County:			
Snohomish	4	$325,000	25
Skagit	3	125,000	30
Whatcom	2	80,000	50
Total	9	530,000	25

	No. contracts (jobs)	Total contract (job) amount	Percent complete

3. Number of Corps personnel engaged in post-disaster work:

District	Civilian	Military
Pub. L. 84-99:		
NPS	21	3
NPP	5	1
NPW	3	0
Total	29	4
Pub. L. 93-288:		
NPS	43	2
NPP	10	0
NPW	2	0
Total	55	2

4. Number of contractor personnel engaged in post-disaster work:

Pub. L. 84-99:	
Washington	55
Oregon	21
Total	76
Pub. L. 93-288:	
Washington	74
Oregon	28
Total	102

5. A brief written summary of major activities and significant events.

Subpart E—Rehabilitation Code 910-300

§203.51 Authority.

(a) *Chief of Engineers Authority.* The Chief of Engineers has authority to develop standards and criteria for rehabilitation of any flood control work or Federally authorized shore protection threatened or damaged by flood or unusual coastal storm.

(b) *Authorization of rehabilitation work.* Authorization and funding of recommended rehabilitation projects will be from HQDA (DAEN-CWO-E) Washington D.C. 20314. District Engineers are authorized to undertake investigations of flood control works damaged by flood, and Federally authorized shore and hurricane protection projects damaged by coastal storm, to determine the necessary emergency repairs.

(1) The District Engineer will investigate requests for assistance received from non-Federal interests and will either submit a letter report to the Division or will take unfavorable action, without consulting higher authority. Information copy of unfavorable action on a request for assistance will be furnished to Division Offices and HQDA (DAEN-CWO-E) Washington, D.C. 20314.

(2) When approving authority has been delegated by the Chief of Engineers to a Division Engineer under conditions requiring expedited action, the Division Engineer may authorize individual rehabilitation projects, define the terms of non-Federal participation, and approve project cost estimates. The Division Engineer authorizing rehabilitation projects under delegated authority will furnish an information copy of that action, and the district report, to HQDA (DAEN-CWO-E) Washington, D.C. 20314.

(3) In the absence of delegated authority, the Division will review Districts rehabilitation reports to determine if work is applicable under the authority of Pub. L. 84-99 and if appropriate will forward the request with recommendations to HQDA (DAEN-CWO-E) Washington, D.C. 20314 for necessary action.

§203.52 General.

(a) *Scope of rehabilitation.* Pub. L. 84-99 authorizes repair and restoration of any flood control or Federally authorized hurricane, or shore protective work to insure its continued function. From this point on, the terms "works" will be used to denote any flood control project or Federally authorized shore protection project. Modification of works to increase the degree of protection or to provide protection to a larger area is beyond the scope of work of Pub. L. 84-99. Such major modifications unless accomplished at non-Federal expense, require Congressional authorization and appropriation, or approval under special continuing authorities.

(b) *Effectiveness of rehabilitation.* It is general policy that rehabilitation incorporating any necessary modifications of works will be undertaken only when an adequate degree of damage prevention will result. The rehabilitation will normally be designed to provide the same degree of protection as provided by the original structures. If improvements necessary for preserving the integrity of the protective work are incorporated, they will be included in the project subject to appropriate limitations of Federal cost, as described in §203.60. Other improvements may be included at non-Federal cost. Once a higher degree of protection has been justified, the Federal project cost limitations and resulting effects on maintenance costs will be clearly explained to the non-Federal interests.

(c) *Maintenance deficiencies.* Rehabilitation under Pub. L. 84-99 will not be applied to works which, as a result of poor maintenance, have deteriorated to the point where substantial reconstruction is required. No emergency funds will be expended for rehabilitation, even though built or previously repaired by the Corps of Engineers, if non-Federal interests are delinquent in meeting their maintenance commit-

ments. All deficient or deferred maintenance outstanding when damage occurs, will be accomplished by or at the expense of the responsible non-Federal interest, either prior to or concurrently with authorized rehabilitation work. When work accomplished by the corps corrects accumulated deferred maintenance, the estimated deferred maintenance cost will be included as contributed funds. This policy does not preclude furnishing flood fight assistance in an emergency.

(d) *Release of information.* As indicated in ER 1165-2-101, the findings and recommendations of the reporting officers in reports or studies undertaken pursuant to special continuing authorities are considered to be of an internal nature and not appropriate for release to the public pending final approval or disapproval by higher authority. Accordingly, care should be taken not to release information before approval is granted by higher authority on Pub. L. 84-99 requests.

(e) *Time limitation for rehabilitation reports.* The District Engineer will submit post flood disaster rehabilitation letter reports to the Division Engineer within 90 days following the declaration of a major disaster by the President. If no Presidential declaration is made, the Division Engineer will determine the commencement of the 90 day time period after the flood incident, for report submissions. When warranted, the Division Engineer may extend the time limitation(s) not to exceed an additional 30 days.

(f) *Rehabilitation of flood control structures.* Repair of works to be accomplished under the category "Rehabilitation, Code 910-300" will be initiated within 60 days following approval by higher authority. An extension of this can be granted by the Division Engineer.

(g) *Requirements for non-Federal cooperation and participation.* See appendix C of this regulation.

(h) *Contributed funds.* See appendix C of this regulation.

(i) *Military installation repairs.* Rehabilitation at military installations may not be acomplished under Pub. L. 84-99 authority. AR 415-15 for the Army, and AR 415-11 (AFR 88-3A), for the U.S. Air Force, provides authority for emergency work at military installations. The following references also provide for rehabilitation work at military installations.

(1) 10 U.S.C. 2673.

(2) Section 103 of Pub. L. 89-568.

(3) 10 U.S.C. 2674.

§ 203.53 Restrictions.

(a) *Restriction to flood control works.* Structures built for channel alignment, navigation, recreation, fish and wildlife, land reclamation, drainage, or to protect against land erosion which are not designed and constructed to have appreciable and dependable effects in preventing inundation by irregular and unusual rises in water level, are not classed as flood control works, and are ineligible for Pub. L. 84-99 rehabilitation. Exception may be made for bank protection works and river control structures constructed by the Corps.

(b) *Non-flood related rehabilitation.* Rehabilitation of flood control structures damaged by occurrences other than floods or coastal storms is not authorized under Pub. L. 84-99.

§ 203.54 Environmental impact statements.

Emergency flood control, shore protection, and disaster recovery actions performed by the Corps of Engineers under Pub. L. 84-99, Pub. L. 93-288, and Section 14 of the 1946 Flood Control Act (Emergency Bank Protection), are excluded by ER 1105-2-507 from required preparation of environmental impact statements. No action performed pursuant to these authorities, that has the effect of restoring the facilities substantially as they existed prior to the disaster, shall be deemed as major Federal action significantly affecting the environment. The influence of major rehabilitation (Code 910-300) upon the environment, however, must be considered. This includes consideration of endangered species (Pub. L. 93-205) and archeological sites (ER 1105-2-12). An environmental assessment will be performed and retained in the project files. The total number of major rehabilitation projects determined during the quarter that do not have a significant impact on the environment will be noted on the quarterly submission of the Environmental Impact Statement Schedule.

§ 203.55 Permits.

For emergency activities performed under Pub. L. 84-99 and Pub. L. 93-288 involving work subject to the provisions of section 404, Pub. L. 92-500, the procedures provided for under "Nationwide Permits" outlined in ER 1105-2-401 will be followed. In those cases not covered by nationwide permits, the District Engineer should accomplish a Sec. 404 evaluation and issue public notice, as required by the reference above unless he determines that delays caused by such requirements will result in unacceptable risks to health, life or property, or severe and unacceptable economic losses. The District Engineer's determination that all or part of the Sec. 404 evaluation be excluded should be justified and documented in the request for Pub. L. 84-99 funds. Once a determination has been made and documented to exclude all or part of the Sec. 404 evaluation, the District Engineer should accomplish the Sec. 404 evaluation to the extent practicable if unanticipated delays in accomplishing the work result. The District Engineer's determination should be addressed in Para. 10 of the rehab. letter report.

§ 203.56 Coordination with Federal Agencies.

(a) *General.* Emergency rehabilitation of agricultural levees will be coordinated with the Department of Agriculture local conservation repre- sentative. If the President has determined that disaster assistance is also warranted under Pub. L. 93-288, coordination with the concerned FDAA Regional Director will be accomplished to prevent duplication of coverages.

(b) *Coordination with FDAA.* Following a Presidential declaration of a major disaster or emergency under Pub. L. 93-288, FDAA Regional Directors will be informed of any applications pursuant to Pub. L. 84-99. Requests for work beyond the authority of Pub. L. 84-99 will be coordinated with FDAA regional offices to obtain determination of applicability of Pub. L. 93-288. The applicant will be informed of actions taken.

(c) *Coordination with the Department of Agriculture Programs (USDA)*—(1) *Coordination.* Consideration should be given to assistance available on a cost-share basis to individual farmers and ranchers, or organized groups, through USDA programs affecting farm levees and other works. A general knowledge of the various USDA programs is essential for investigative and review personnel when agricultural areas are affected. Development of a justified rehabilitation project under Pub. L. 84-99 may proceed despite knowledge that participating non-Federal interests may later attempt to secure reimbursement for all or part of their participating effort from another Federal agency. The agency concerned will be kept informed of Corps of Engineers action by the Appropriate Division or District Engineer. In addition to coordination on the above agricultural conservation program coordination may be needed with the Soil Conservation Service (SCS), State representative, regarding any affected projects of the SCS or constructed under Pub. L. 83-566 (Watershed Protection and Flood Prevention Act of 1954), as amended. In addition, applications for repair of agricultural levees will be checked with the State Agricultural Stabilization and Conservation Service (ASCS), or County ASCS Office, to determine if the requested work should be considered and processed as an emergency conservation measure under a current or forthcoming emergency program administered by the ASCS with engineering assistance from SCS.

(2) *Restriction on eligibility.* Any flood control works previously con-

structed, modified, or repaired with financial assistance from the USDA, whether through Agricultural Conservation Program Service (ACPS), or Soil Conservation Service (SCS), should not be repaired by the Corps of Engineers, unless there is strong justification for it. The applicability of the Corps emergency rehabilitation authority under Pub. L. 84-99 will be considered only if appropriate representatives of the USDA have first ruled that their authority is not applicable. In that event, consideration of a rehabilitation request will be under the same criteria as for other requests.

§ 203.57 Determination of economic justification.

(a) *General.* The economic analysis will be of sufficient detail to determine if benefits exceed costs. All previous work on project including Pub. L. 84-99 rehabilitation will be considered sunk costs and will not be used in the economic justification. A benefit-cost ratio need be furnished only on those analyses where detailed evaluation is necessary to determine economic feasibility. In those cases analyses will utilize the current Federal discount rate for Water Resources Evaluation. For projects of minor costs, such determination may be expressed in general terms. As warranted by the size of the project, and for dams constructed by other agencies, an economic analysis will be prepared in such detail as appropriate. Comparison of benefits to costs may be between rough estimates of annual benefits and annual economic costs (estimated damages prevented divided by maintenance and average economic charges).

(b) *Specific data.* Economic data in the letter report should include:

(1) Area protected.

(2) Land use of protected area.

(3) Estimated damages in average annual dollars, if rehabilitation is not performed.

(4) Average annual cost including operation and maintenance of total project.

(5) Number and average value of residences in the protected area.

(6) Project life and degree of protection.

(c) *Project life.* For analysis of rehabilitation work, project life will be determined as described below:

(1) *Federal Projects.* Life of the type work as described in ER 1105-2-250 less the number of years since maintenance of the completed project was assumed by local interests.

(2) *Non-Federal Agricultural.* Ten years or the degree of protection provided, whichever is less.

(3) *Non-Federal Developed Area.* Fifty years or the degree of protection provided, whichever is less.

(4) The project life should not exceed the remaining physical life of the project. Any exceptions to the above will require extraordinary justification in the letter report.

(d) *Examples.* The following are examples of letter report analysis.

(1) About 3,000 acres are protected by the Pelucia Creek levees. At least 80 percent of this area is intensively farmed in cotton and soybeans. Annual agricultural flood damages without the levee system are about $10 on the current discount rate and a 10 year project life. There are 25 residences in the area with an average value of $12,000. Damages would greatly exceed the cost of rehabilitation and no further economic analysis is considered necessary.

(2) The Tchula Creek levee protects 1,000 acres from a five year frequency flood. The land use within the area is 40 percent grassland, 20 percent soybeans and 40 percent woodland. Four residences are in the area with an average value of $10,000. Analysis is based on the current discount rate. Annual benefits for the rehabilitation work are listed below:

Physical damages prevented:	
Agricultural crops	$6,400
Residential structures	400
Emergency costs prevented	2,300
Total annual benefits	9,100
Annual costs:	
First cost	30,000
Interest and amortization at 6¾ percent	7,200
Operation and maintenance	300
Total annual cost	7,500

The benefit cost ratio of the proposed work is 1.2 to 1.0.

(e) *Other.* Data necessary for backup of economic analysis should be retained in the project file but need not be included in the letter report. Benefit analysis will be provided only for the recommended alternative. For projects of marginal justification, sufficient detail to support a favorable recommendation should be included in the report.

§ 203.58 Project development.

In early negotiations, project sponsor should be informed (a) of recommended modifications to existing protective works and incremental costs, and (b) that the apportioned cost must be borne by the non-Federal interests. The project sponsor should be further informed that final determination of non-Federal participation will be made by higher authority. In reporting on this aspect of a proposed project, recommendations will take into account the need for expeditious action, the history of previous efforts by non-Federal interests, and other pertinent factors if variations are recommended. In this connection, the fact that proposed modification conform to an authorized protection project on which construction has not been initiated, is not justification for initiation of construction with emergency funds.

§ 203.59 Special considerations and alternative methods of rehabilitation.

(a) *General.* Alternative methods for providing equivalent protection may be employed provided the estimated Federal costs under such procedures are not in excess of those for rehabilitation of the existing works. Alternative methods such as levee setback, revetment, bulkheads, or seawalls should also be considered to ensure the integrity of the works. These alternatives must be beyond the scope of non-Federal maintenance responsibility or capabilities. Any increase in Federal cost resulting from non-Federal preference of an alternative, other than the least expensive when all costs are included will be borne by the non-Federal interests.

(b) *Spoil banks.* Spoil banks created by channel or drainage ditch excavation may be considered flood control works under Pub. L. 84-99 if they constitute a sufficiently integrated levee system in grade, alignment, and other characteristics with appreciable and dependable flood control effects. Maintenance of these structures will conform to requirements stated in § 203.52(c).

(c) *Channels.* Restoration of the preflood hydraulic capacity of Federally authorized channel improvement projects is authorized under Pub. L. 84-99 when flood waters have deposited debris and silt beyond non-Federal local maintenance capabilities. When not undertaken immediately after a flood event, restoration of natural river or drainage channels to preserve federally constructed flood control works can be considered under Advance Measures (see § 203.84(b)(3)).

(d) *Bank protection vs. levee setback.* When considering construction of bank protection to avoid abandoning a levee on its present alignment (which is threatened by stream erosion), alternative plans will be compared on an engineering and economic basis. Requests by non-Federal interests will be evaluated to determine the least Federal cost. No commitment will be made to non-Federal interests regarding future restoration of the levee to the previously existing alignment. Any extra Fderal costs anticipated to protect a levee on existing alignment will be borne by the non-Federal interests with comparison based on the following evaluation procedures:

(1) Same standard of flood protection is assumed (costs attributable to an increased standard will be separately considered).

(2) Respective economic lives are estimated, and all costs compared on an annual basis.

(3) Levee setback cost estimate will include costs of engineering and con-

struction; relocation of roads, utilities, right-of-way exclusive of any allowances for land severance or depreciated value of land not in right-of-way.

(4) Bank protection cost estimate will include costs of engineering and construction plus cost of additional right-of-way; and cost of maintenance.

(5) Include in both estimates, any other associated costs to non-Federal interests.

(e) *Deliberate levee cuts.* Repair of deliberate levee cuts is a non-Federal responsibility and should be accomplished at non-Federal expense. Variation from this general policy will be considered where the purpose of the cut was to preserve existing flood control works.

§ 203.60 Flood control dams constructed by non-Federal agencies.

Rehabilitation of flood related damages to these structures may be authorized. Repairs will be limited to project features having a direct flood control function.

§ 203.61 Specific projects under Pub. L. 84-99.

(a) *Federally authorized flood control projects*—(1) Modification of Federally constructed works may be accomplished in conjunction with post flood rehabilitation at Federal expense when:

(i) Non-Federal maintenance cannot be effectively accomplished due to changed conditions or functional inadequacy.

(ii) Further serious damage to the project cannot be prevented without installation of riprap or other preservative construction.

(iii) Use of emergency funds for project modification will produce significant savings of future maintenance cost.

(2) *Flood Control Works Under Construction by the Corps.* Rehabilitation of these structures will normally be accomplished with regular project construction funds. Repair of units completed and accepted from the contractor can be considered under Pub. L. 84-99 authority when project construction funds are not available.

(3) *Flood Control Works Constructed, Operated, and Maintained by the Corps.* Rehabilitation of those flood control works maintained as a Federal responsibility will normally be accomplished with regular project maintenance funds. In the case of major flood damage necessitating immediate repair, and when pertinent project funds are not available for work that cannot be deferred, consideration will be given within OCE to authorizing post flood work under authority of Pub. L. 84-99. In the case of reservoir and multiple-purpose projects, consideration will be limited to component structures having a direct flood control function.

(b) *Non-Federally constructed flood control works.* In conjunction with post flood rehabilitation, modifications designed to preserve the integrity of these structures may be accomplished at additional Federal expense. The added Federal cost is limited to:

(1) Not more than one-third of the estimated Federal cost of rehabilitation to preflood conditions alone.

(2) Federal cost limit of $50,000. Costs of preservative modifications in excess of the controlling Federal cost limitation above will be borne by the non-Federal interests. The entire cost of modifications for providing an increased degree of flood protection or protecting an additional area will be a non-Federal cost.

(c) *Secondary flood control works.* It is general policy that Federal funds should not be expended for post flood repair or restoration on structures which provide a low degree of protection and are constructed riverward of the primary flood control system. Exception of this policy is when the low level structure provides protection to human life and is economically justified.

(d) *Nonconforming flood control works.* Any non-Federal flood control work constructed without having the necessary permit(s) will not be rehabilitated by the Corps under Pub. L. 84-99.

§ 203.62 Transfer of completed work to local interests.

This will be in accordance with Appendix C of this regulation.

§ 203.63 Rehabilitation investigations.

(a) Following a flood event, a survey of damages to flood control and Federally authorized hurricane or shore protection works should be undertaken as soon as water levels permit. This survey would expedite the processing of requests and applications from non-Federal interests and avoid repetitious investigations in the same area.

(b) *Scope of investigations.* On-site investigation, engineering studies, and plans for rehabilitation should be held to the minimum necessary for evaluation of requested work. Where appropriate, modified existing drawings or aerial photographs should be used in lieu of finished drawings. In general, consideration should be given to the size of the job in determining a reasonable allocation for preliminary costs. The District Engineer has standing obligation authority up to $2,500 per project under the category "Rehabilitation" Code 910-300, following a flood event.

§ 203.64 Rehabilitation report.

(a) *Letter report.* Separate letter reports should be furnished for each individual project. The report should describe the damages and proposed repairs to provide the same degree of protection that existed prior to the flood event and present an evaluation of the effectiveness of the proposed repair. When improvements necessary for preserving the integrity of the works are incorporated, these items and associated added costs will be broken down into Federal and non-Federal costs of work items, including allocations for Engineering and Design, and Supervision and Administration (including overhead). The appropriate limitation on the added Federal cost for necessary modifications will be shown. The report should adhere to the following format. If the main paragraph does not apply, retain it in the report and label it "Not Applicable".

(1) *Project background.* (i) Authorizing Legislation (Fed Projects) and source of funds.

(ii) Construction Cost.

(iii) Construction start and completion date.

(iv) Date and cost of recent modifications.

(v) Project purpose (recreation, reclamation, flood control, shore or hurricane protection, etc.).

(vi) Location (river, county, State).

(vii) General location drawing.

(2) *Disaster incident.* (i) Description of flood event that caused the damage.

(ii) Frequency of storm—duration of flooding.

(iii) Comparison of historical floods.

(iv) Date of incident.

(v) Reference to situation reports made to DAEN-CWO-E.

(3) *Non-Federal Cooperation and Participation (see Appendix C).* (i) Quality of past maintenance and annual costs by non-Federal interests.

(ii) What is the estimated amount of any unperformed maintenance prior to the damage? If any, non-Federal interests are required to pay cost involved.

(iii) What participation in goods and services are non-Federal interests willing to provide?

(iv) Discussion of desirable non-Federal cooperation and participation and willingness of non-Federal interests to furnish the necessary assurances.

(4) *Federal involvement.* (i) Efforts by Corps under Pub. L. 84-99 or other authority (dates, amounts, reference authorizing letters, etc.).

(ii) Efforts by other Federal agencies.

(iii) Coordination with Federal agencies (FDAA, USDA, etc.).

(5) *Damage description.* (i) Cause of damage.

(ii) Description of physical damage to project feature (dimensions).

(iii) Photographs of damaged areas (before and after if possible).

(6) *Alternatives.* List alternatives with cost and other basic considerations.

(7) *Proposed work.* (i) Recommended course of action and reasons for course of action.

(ii) Schedule of work to include completion of plans and specs, advertisement period, contract award, and estimated completion date.

(iii) Plan, single sketch or other graphic presentation of reasonably large scale, showing cross-sections where pertinent, and relationship of damaged areas to overall flood control system (finished drawings are not required).

(8) *Economic justification (see § 203.56).* (i) General statement of project economics.

(ii) Benefit to cost ratio and computations if necessary.

(9) *Environmental effect.* (i) Statement on effect of work on environment.

(ii) Environmental Assessment or required Negative Assessment on file in the District office.

(iii) Sec. 7 of the Endangered Species Act of 1973 (Pub. L. 93-205) (16 U.S.C. 1531-1534). (If major rehabilitation project.)

(iv) ER 1105-2-12, "Archeological Investigations and Salvage Activities." (If major rehabilitation project.)

(10) *Permits required.* (i) District engineer's decision on applicability of permit requirements.

(ii) Justification and documentation that section 404 evaluation has been considered.

(11) *Request for authority, work allowance, funds.* (i) Request for authority/increase in authority.

(ii) Request for approval of estimated Federal cost/increase in cost.

(iii) Request for work allowance/increase in work allowance/use of available work allowance.

(iv) Request for funds/transfer of funds.

(v) Civil Works Information System (CWIS) number.

§ 203.65 TWX report.

A TWX report may be substituted for a letter report when mail delivery will cause an unacceptable delay. However, the same degree of field investigation and consideration, although necessarily brief, will be reflected in the TWX report. In addition, appropriate plans or sketches should be telecopied concurrently with the transmission of the TWX report for review.

Subpart F—Emergency Water Supplies Code 910-400

§ 203.71 Purpose.

This Chapter provides information, guidance and policy for execution of the Chief of Engineer's authority to furnish emergency supplies of clean drinking water pursuant to Pub. L. 84-99, as amended by Section 82(2), Pub. L. 93-251 (88 Stat. 34), dated 7 March 1974.

§ 203.72 Authority.

Pub. L. 84-99, as amended, provides that the Chief of Engineers, in his discretion, is authorized to provide emergency supplies of clean drinking water, on such terms as he determines to be advisable, to any locality which he finds is confronted with a source of contaminated drinking water causing or likely to cause a substantial threat to the public health and welfare of the inhabitants of the locality.

§ 203.73 Policy.

Emergency work under this authority will be considered when requested by the Governor of States where the source of water has become contaminated. The contamination may be accidental, deliberate, or caused by natural events. However, loss of the water source or supply is not applicable under this authority. When the emergency water situation becomes known, the involved Division will notify DAEN-CWO-E by telephone.

§ 203.74 Guidance.

(a) The method of furnishing emergency water supplies is not provided for in Pub. L. 84-99, and is left to the discretion of the Chief of Engineers. Any feasible method, including restoration of service from an alternate source when the main source has been contaminated, is authorized.

(b) The scope of work is limited to providing emergency supplies of clean drinking water. The Corps of Engineers role in providing emergency supplies is a temporary measure until the locality is able to assume its responsibility. The locality is required as soon as possible to actively initiate measures required to resolve the emergency situation.

(c) The authority encompasses all situations involving contaminated sources of drinking water, whether caused by flooding or otherwise.

(d) Failures in the purification or distribution systems are not eligible. A loss of supply or diminishing of the source, due to such things as an earthquake or drought, does not in itself justify Corps activity.

(e) The contamination must cause or be likely to cause a substantial threat to the public health and welfare. An identifiable and defined threat of impairment to the public health and welfare is considered necessary. The allowable contaminant levels in drinking water are set forth by the Environmental Protection Agency pursuant to the Safe Drinking Water Act (Pub. L. 93-523). There is no requirement that actual sickness exists from contaminated water to invoke the authority, but a clear threat must be established.

(f) Contamination which causes a loss of palatability, but poses no material threat to public health and welfare is not eligible for Corps action under this authority.

(g) Contamination, such as by bacteria, which can be reduced to a safe level by the users boiling the water would not be eligible for Corps assistance.

(h) Contamination by natural intrusion over a period of time, which are known to be occurring and which may accumulate in sufficient concentrations to pose a future health threat, but which have not yet reached the level of a present hazard is the responsibility of the locality to correct.

(i) Contamination which, while posing a substantial threat to health and welfare, can be corrected by local authorities or other Federal authorities, or other appropriate means before emergency supplies are deemed necessary will not be eligible for Corps assistance.

(j) A business firm faced with contamination of water used in its process is not eligible. The drinking water used by the people must be affected before Corps assistance can be applied.

§ 203.75 Delegation of authority.

The authority to approve measures under Code 910-400 "Emergency Water Supplies" is delegated to Division Engineers up to $50,000 per incident. District Engineers are delegated authority up to $2,500 for investigation of each request except NED and POD are authorized up to $5,000. Division Engineers have authority to increase District Engineers authority from $2,500 up to $5,000.

§ 203.76 System rehabilitation.

The authority does not require correcting the contamination, or repair of water systems so that clean drinking water supplies become available again. This is a responsibility of local government and other Federal Programs. Authority is granted, however, to repair the water system in lieu of reverting to a more expensive method of providing clean drinking water. To the extent that a local government can provide water with their own resources, the locality will be excluded from the provision of emergency supplies under Pub. L. 84-99.

§ 203.77 Types of assistance.

The temporary emergency supplies of clean drinking water may be provided through such actions as:

(a) The use of water tank trucks to haul clean drinking water from a nearby known safe source to water points established for local distribution.

(b) Procurement and distribution of bottled water.

(c) Laying of temporary above ground water lines from a nearby safe source of water to the affected community where water points for local distribution can be established.

(d) Installation of temporary filtration.

(e) Temporary use of military, mobile purification units when available.

§ 203.78 Report Format.

Separate reports should be furnished for each proposed project. The report should detail all information pertinent to the decision to request emergency supplies of drinking water. The report should cover the items listed below and adhere to the following format with respect to main paragraph and subjects, giving consideration to the general topics listed under each paragraph as appropriate. If the main paragraph does not apply, retain it in the report and label it "Not Applicable."

(a) *Background.* (1) Affected locality and capability.

(2) Requesting governor and State capability.

(3) Cause of contamination.

(4) Documentation of health hazard.

(5) Coordination with others.

(b) *Alternatives considered.*

(c) *Proposed action.* (1) Method of supply.

(2) Estimated cost.

(3) Duration of involvement.

(4) Schedule for implementation.

(5) Permits required.

(6) Environmental consideration.

(d) *Request for authority and funds.*

Subpart G—Advance Measures Code 910-500

§ 203.81 General.

"Advance Measures" consists of those activities performed prior to flooding or flood fight to protect against loss of life and damages to improved property from flooding. This term replaces the terminology "Operation Foresight" previously used to describe large scale joint Federal and non-Federal operations undertaken to prevent forecasted flooding.

§ 203.82 Delegation of authority.

District Engineers, NED and POD are delegated obligational authority up to $2,500 to determine eligibility of each request.

§ 203.83 Eligibility criteria.

(a) *Threat of flooding.* There must be an immediate threat of *unusual* flooding present before advance measures can be considered. The threat may be established by National Weather Service predictions or Corps of Engineers determinations of unusual flooding from adverse conditions. The threat must be of a nature that if action is not taken immediately, damages will be incurred.

(b) *Feasibility.* The proposed work should be temporary in nature, must be designed to deal effectively with the specific threat, and be capable of construction in time to prevent damages.

(c) *Economic justification.* All work undertaken under this category must have a favorable benefit-to-cost ratio.

(d) *Local cooperation/responsibilities* (See appendix C).

§ 203.84 Areas of application.

Threat of flooding due to:

(a) *Failure of flood protection.*—(1) *Federal Constructed—locally operated projects.* Work may be undertaken on projects which are in danger of failing and fulfill the eligibility criteria in § 203.83. Work undertaken may be permanent in nature on a Corps constructed locally maintain project, if time allows completion in time to prevent damages.

(2) *Non-Federal projects.* Flood control work must be technically functional, and designed for a reasonable frequency in order to be eligible.

(b) *Channel obstructions*—(1) *Federal projects.* Channel clearance/dredging to restore the original project design capacity is authorized on Federal channel projects that do not have adequate hydraulic capacity to pass predicted flood flows.

(2) *Non-Federal Projects.* In channels when the hydraulic capacity is not known, clearance work will not be undertaken unless time allows preliminary survey to establish the required capacity. The estimated amount of required additional capacity should be known before beginning any channel work.

(3) *Types of obstructions*—(i) *Ice jams.* Advance measures to remove ice jams should always be coordinated with Cold Regions Research and Engineering Laboratory (CRREL). Direct contact between divisions, districts and CRREL is authorized. The proposed removal operations should have a reasonable chance of success. Consideration should be given to other techniques to prevent flooding such as ice dusting, temporary dikes, sandbagging or other flood fight techniques.

(ii) *Snags/debris.* Snagging and clearing as Advance Measures should be limited to removal of definable snags or debris obstructions where water is predicted to impound causing unusual flooding.

(iii) *Channel deposits/siltation.* Removal of silt, gravel or other channel deposits should only be accomplished only where the hydraulic capacity has been proven by survey to be inadequate to prevent flooding. The provisions of Section 404, FWPCA can be waived by the District Engineer if he deems it necessary to expedite the emergency action. (See § 203.55 *Permits.*)

(c) *Snowmelt from abnormal snowpack.* Advance measures undertaken to prevent predicted flooding from heavy snowmelt are appropriate when based on measureable conditions. Snow surveys which relate depth of snow and water content as well as soil moisture content are prepared by the Soil Conservation Service, and serve as a reliable indicator along with NWS forecasts. The use of experimental snow sampling devices or techniques are not appropriate under Pub. L. 84-99 and should be pursued under R&D programs during non-emergency periods.

(d) *Dam failures.* (1) Advance Measures are appropriate to relieve the threat of flooding from dam failures when a structure is endangered by a prediction of unusual inflows which will result in catastrophic failure. The cost of measures to be undertaken should be compared with the projected damages if the dam is allowed to fail. Advance Measures could involve dewatering of the impoundment, controlled breaching, or strengthening of the structure, depending on time available, and costs involved. All work should be ceased when the threat has subsided. Restoration or rehabilitation of the structure is a local responsibility.

(2) The Corps should work closely with State and local interests in situations of probable dam failure, to assist in the formulation of an evacuation plan which defines organization, responsibilities, channels of communication, procedures, warning times, etc. These plans should be formulated in a manner which does not arouse unnecessary alarm or controversy. The Corps may participate in preparation of plans for non-Federal interests on a reimbursable basis.

(e) *Volcanic eruptions.* The authority for a military commander to take immediate action to save human life, prevent human suffering, or to mitigate major property damage or destruction from a disaster condition such as a volcanic eruption is established in Part 502. Advance measures, such as construction of lava deflection barriers or other structures are not eligible under Pub. L. 84-99.

§ 203.85 Advance measures report.

(a) *Initial contact.* When Advance Measures are appropriate and a recommendation is being prepared, initial division contact with HQDA (DAEN-CWO-E) should be made by telephone to apprise the staff of the anticipated request for authority and funds.

(b) *TWX report.* A TWX report is preferable to a letter report since Advance Measures usually require expedited review. However, the use of TWX reporting in no way diminishes the requirement for a comprehensive report as detailed in § 203.85(c). Appropriate sketches, plans or other information not transmittable by TWX will be sent by telecopier concurrently with the TWX transmission. (Use only

the DAEN-CWO-E TWX and telecopier numbers.)

(c) *Report format.* Separate reports should be furnished for each proposed project. The report should detail all information pertinent to the decision to request advance measures. The report should cover the items listed below and adhere to the following format with respect to main paragraph and subjects, giving consideration to the general topics listed under each paragraph as appropriate. If the main paragraph does not apply, retain it in the report and label it "Not Applicable."

(1) *Project background.* (i) Authorizing legislation (Federal Projects) and source of funds for non-Federal projects.

(ii) Construction cost.

(iii) Construction start and completion date.

(iv) Date and cost of recent modification.

(v) Project purposes (recreation, reclamation, flood control, shore or hurricane protection, etc.).

(vi) Location.

(vii) General location drawing.

(2) *Summary of conditions causing flood threat.* (i) Past and current meteorological conditions.

(ii) Predicted meteorological conditions (NWS statement).

(iii) Anticipated hydrology.

(iv) Comparison to historical floods.

(v) Predicted time of flooding.

(vi) Other substantiating information.

(3) *Local cooperation and participation.* (i) The nature of Advance Measures often requires that special considerations be included in the local assurance agreement to protect the Federal investment. Consideration should be given to including any activity or input by non-Federal interests as part of the formal agreement to insure timely compliance.

(ii) See Appendix C for further details.

(4) *Federal involvement.* (i) Efforts by other Federal Agencies pursuant to their authorities.

(ii) Efforts by Corps under Pub. L. 84-99 or other authority (dates, amounts, reference outstanding letters, etc.).

(iii) Coordination of Federal agencies (FDAA, USDA, etc.).

(5) *Alternative course of action.* (i) List alternatives considered with cost, and other basic consideration.

(ii) Appropriate sketches.

(6) *Proposed work.* (i) Description and reasons for recommended course of action.

(ii) Plan, single sketch or other graphic presentation of reasonably large scale, including cross section if required.

(iii) Schedule of work items (plans and specs, advertisement period, estimated award, and completion date).

(7) *Anticipated damages without proposed work.* (i) Description of damage.

(ii) Estimated amount of damages.

(8) *Economic justification (see § 203.56).* (i) General statement of project economics.

(ii) B/C computation if necessary.

(9) *Environmental effect.* (i) Foreseeable effect of work on environment.

(ii) Environmental assessment or negative assessment in file.

(10) *Permits required.* (i) DE's decision on applicability of permit requirement to proposed work (Section 404, etc.).

(ii) Justification and documentation that Sec. 404 evaluation has been considered pursuant to EC 1165-2-125 (see § 203.55 *Permits*).

(iii) Consider section 7 of the Endangered Species Act of 1973 (Pub. L. 93-205) (16 U.S.C. 1531-1534).

(iv) Consider ER 1105-2-12 "Archeological Investigation and Salvage Activities."

(11) *Request for authority, work allowance, funds.* (i) Request for Authority/Increase in authority.

(ii) Request for approval of estimated Federal cost-increase in cost.

(iii) Request for work allowance/increase in work allowance/use of available work allowance.

(iv) Request for funds/transfer of funds.

(v) Civil Works Information System (CWIS number).

Subpart H—Corps Activities for FDAA (Pub. L. 93-288)

§ 203.91 General.

The Federal Disaster Assistance Administration (FDAA) acts on behalf of the Secretary, Department of Housing and Urban Development, with authority from the President assigned in Executive Order 11795. FDAA promulgates Federal regulations, orders, circulars, handbooks, and other publications containing guidance governing application of Pub. L. 93-288.

(a) *Definitions.* (1) "Emergency" means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe in any part of the United States which requires Federal emergency assistance to supplement State and local efforts to save lives and protect property, public health and safety or to avert or lessen the threat of a disaster.

(2) "Major Disaster" means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe in any part of the United States which, in the determination of the President, causes damage of sufficient severity and magnitude to warrant major disaster assistance under the Act, above and beyond assigned emergency services performed by the Federal Government, to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

(b) *Section 306 cooperation.* Section 306 of Pub. L. 93-288 authorizes Federal agencies, when directed, to utilize or lend their resources to provide specific types of assistance. Following are types of assistance the Corps of Engineers may be called upon to render when specifically authorized in mission assignments by FDAA:

(1) Damage assessments and investigations of requests for Presidential declarations.

(2) Damage Survey Reports (DSR's) and Final Inspection Reports (FIR).

(3) Provide direct Federal assistance in the following categories:

(i) Performing on public and private lands or waters any emergency work essential for the protection and preservation of life and property including channel clearance and emergency shore protection.

(ii) Clearing and removing debris and wreckage.

(iii) Making repair to restore to service, or replacing public facilities (incuding structures of all types) of State and local governments, or private nonprofit organizations.

(4) Providing technical advice and engineering services.

(c) *Authority of FDAA Administrator.* The Secretary, Department of Housing and Urban Development (D/HUD) has been designatd by the President in Executive Order 11795 to administer the Federal Disaster Relief Act of 1974, and supplemental legislation, and to prescribe rules and regulations for carrying out provisions thereof. The President reserved the authority to declare major disasters or emergencies. All other authorities pertaining to natural disaster functions pursuant to previous Executive Orders that were transferred by E.O. 11795 to the Secretary D/HUD, have been further delegated, with certain exceptions, to the Federal Disaster Assistance Administration, D/HUD. The FDAA Administrator has been given certain authorities and functions under Pub. L. 93-288, including:

(1) The authority to direct Federal agencies to provide assistance in "Major Disasters or Emergencies" with or without reimbursement.

(2) The authority to coordinate the activities of Federal agencies in providing disaster relief.

(3) The authority to appoint a Federal Coordinating Officer.

(d) *Authority of FDAA regional directors.* The FDAA Administrator has

redelegated certain authorities and functions to the FDAA Regional Directors within their respective areas including: the authority to direct and coordinate with activities of the Federal agencies in providing disaster assistance and to direct any Federal agency to utilize its available personnel, equipment, supplies, facilities and other resources. This authority to issue mission assignments and approve project applications may be redelegated by the Regional Director.

(e) *Federal Coordinating Officer (FCO).* The FCO, appointed by the FDAA Administrator will perform the following functions:

(1) Make an initial appraisal of the types of relief most urgently needed.

(2) Establish such field offices as the FCO deems necessary.

(3) Coordinate the administration of relief.

(4) Take such other action consistent with the provisions of Pub. L. 93-288 and other authority delegated as deemed necessary to assist local citizens and public officials in promptly obtaining assistance to which they are entitled.

(f) *Emergency assistance.* If the President determines that a major disaster or an emergency exists, he is authorized to use all resources of the Federal Government to avert the disaster or lessen its effects. Division Engineers will be fully responsive to FDAA directives or requests for emergency assistance.

(g) *FDAA—Corps relationships.* Section 302, Pub. L. 93-288, authorizes the President to coordinate the activities of Federal agencies in order to provide maximum mobilization of the available Federal assistance. It also authorizes directing a Federal agency to utilize its available resources in disaster assistance, with or without reimbursement. These section 302 provisions have been delegated to the FDAA Regional Directors. Under those terms, Division Engineers may accept mission assignments, or work directives, from FDAA Regional Directors. Actions taken to manage the mission will be in accordance with existing policies, procedures, authorities, and available resources. Administration and management of Corps personnel, resources, and equipment is the responsibility of the Division. Missions from FDAA during emergency situations are beyond the Corps statutory authority and a mission assignment under Pub. L. 93-288 is required to conduct operations.

§ 203.92 Administrative support of FDAA.

(a) *Emergency support teams.* Regional Directors are authorized to form emergency support teams of Federal personnel to assist in carrying out disaster assistance missions. Team members may be assigned to the field offices, or may be assigned to assist State or local governments in obtaining Federal assistance. Even before a major disaster declaration, the FDAA Regional Director may contact relevant Federal agencies and indicate requirements for members of emergency support teams. In coordination with FDAA Regional Directors, Divisions will designate personnel for assignment to emergency support teams. During pre-disaster threat phase, designated personnel will be alerted for pre-positioning when requested by FDAA to expedite their availability in a major disaster area. Reimbursement by the FDAA for emergency support teams members will be as outlined in ER 11-2-320.

(b) *Corps disaster field office.* Corps disaster field offices estaablished to support Pub. L. 93-288 operations should be close to or collocated with FDAA disaster field headquarters. The same facilities and communications may be utilized. This policy should not over-ride the principle of location close to the disaster area.

(c) *FDAA Regional Disaster Assistance Plans.* When requested by Regional Directors, Corps Managers will participate in the formulation of appropriate sections of the FDAA Regional Disaster Assistance Plans.

(d) *Preliminary assessments.* Regional Directors may assign responsibilities for preliminary damage assessments to Federal agencies by categories of damage most relevant to the agencies' activities. Preliminary field assessments are made for any disaster for which the Governor of a State requests the declaration of a major disaster or emergency. Expenses incurred in providing preliminary field assessments not warranting a declaration are chargeable to FDAA when requested by FDAA.

(e) *Funding.* FDAA directives or requests will be treated as "Reimbursable Work Orders". Refer to ER 11-2-320 for guidance on funding and reimbursement procedures.

§ 203.93 FDAA directives to Federal Agencies.

(a) *Nature of Directive.* FDAA Directives or Letters of Request, to Federal agencies specify in general terms the nature and scope of disaster assistance to be provided. Letters of request are supplemented as necessary. FDAA work requests will consist of items eligible under Pub. L. 93-288 in categories designated A through I (HUD Handbook 3300.6). Projects resulting from such FDAA work requests are reviewed with consideration of the interrelated statutory authorities of the Corps of Engineers and other Federal agencies. FDAA directives are framed accordingly, to provide for only supplementary Federal assistance determined by FDAA to be eligible under Pub. L. 93-288.

(b) *Issuance and channeling.* A directive may initially be issued either orally or in writing. An oral directive must be confirmed by a Letter of Request. The Administrator of FDAA submits requests to the Chief of Engineers; FDAA Regional Directors submit requests to Division Engineers. Notification of receipt of any oral request, and an information copy of each letter request and supplements thereto, will be furnished to HQDA (DAEN-CWO-E).

§ 203.94 Responsive action by the Corps.

(a) *Request to the Corps.* Action will be initiated immediately following receipt of valid FDAA directives, whether written or oral. Work will be accomplished in conformance with the FDAA general guidance and directives as well as directives issued pertinent to a specific program of disaster assistance. Consideration will be given to the interrelated statutory authorities of the Corp.

(b) *Support of other Federal agency missions.* Corps resources may be utilized in support of disaster recovery operations assigned by FDAA to other Federal agencies. Written directives which outline the desired support are required from the requesting Federal agency.

(c) *Disaster Operations Coordinator.* During major Pub. L. 93-288 operations involving a disaster declaration covering more than one district area within a Division and State, a COE Disaster Operations Coordinator (DOC) will be appointed by the Division Engineer as he determines necessary, and as may be requested by the Regional Director. The DOC will serve as the liaison officer between the COE, FDAA and other agencies. If the declaration covers areas of more than one division within the State, determining the need for and appointing a DOC will be by mutual agreement of the Division Engineers.

(1) When a large disaster requires declarations in more than one State and more than one FCO has been appointed, a separate DOC will be appointed, if required by the situation, for liaison with each FCO. The DOC will make contact with the FCO and be prepared to be the COE point of contact or liaison officer as required.

(2) The DOC will coordinate all Corps requests for military assistance with the appointed DOD Military Representative. Part 502 now provides that the CONUSA Commander appoint a single DOD Military Representative when a major disaster has been declared. The DOD Military Representative is to coordinate all requests, including those from the Corps, for military assistance. The regulation states that a separate DOD Military Representative will be appointed for each major disaster declaration. Similarly,

when requested by the Regional Director a DOD Military Representative may be appointed when an emergency is declared by the President.

(3) In exceptional cases, OCE may designate a Division Engineer to be in overall charge of the COE disaster operation.

§ 203.95 Permits.

For emergency activities performed under PL 93-288 involving work which would normally be subject to provisions of Section 404, PL 92-500, the procedures outlined in Para. 9, EC 1105-2-401 will be followed.

§ 203.96 Completed Corps work.

(a) *Final report.* FDAA requests the preparation of a D/HUD form 485, Report of Final Completed Work Inspection, for each Damage Survey Report, approved by FDAA under a mission assignment as a project for COE completion as direct Federal assistance. A final joint inspection with the counterpart State agency and local government official is preferred but not mandatory for such projects.

(b) *Maintenance.* Provision of a State or local maintenance assurance is not a mandatory prerequisite to Pub. L. 93-288 work accomplishment. The District or Division Engineer may notify local authorities by letter of the completion date and termination of Corps activity on major projects. The letter should include, as applicable and appropriate, advice as to the further maintenance and improvement, or replacement required in the interest of public safety.

(c) *Records.* Permanent file maps, drawings, and other records of public facility repair or replacement and protective work accomplished, which may be of use for possible future Civil Works or FDAA activities, will be retained.

§ 203.97 State or local Government funds.

In the accomplishment of FDAA directed work such as debris removal and repair and restoration of public facilities, the Corps is authorized to accept funds contributed by States or local governments for the inclusion of betterments in work underway. Grants-in-aid, paid to States or local governments by the FDAA for planned accomplishment of recovery work items cannot be accepted by the Corps for undertaking that work at a later date.

§ 203.98 Government liability.

Pub. L. 93-288 includes a specific provision to the effect that the Federal Government shall not be liable for claims based on actions or omitted actions by a Federal employee or agency in providing Federal assistance under Pub. L. 93-288 authority. District Engineers should obtain a copy of the blanket "Hold and Save Harmless" resolution as signed by the public entities before undertaking any construction activities by FDAA or by the Corps directed by a FDAA mission assignment. A sample resolution is contained in Appendix 16 of HUD Handbook 3300.5.

§ 203.99 Final inspection of work by applicants.

The State agency designated by the Governor's Authorized Representative will notify the district when work in a category has been completed. The State agency and district personnel will then schedule a final inspection of completed work normally within 15 days. The Corps inspector will decide who is to make the final inspection but a joint Federal-State final inspection is strongly preferred. If State personnel make the final inspection alone, the Corps is responsible to the FDAA for reviewing the State report, and for its adequacy. The results of the final inspection will be reported on D/HUD form 485. Each COE inspector should review the HUD/FDAA Eligibility Handbook 3300.6 (REV), § 203.84 on pages 7-2 thru 7-5, before taking any actions related to such final inspections.

Subpart I—Procurement During Emergencies

§ 203.101 Administration.

(a) *General.* Nothing in this Chapter is to be interpreted as authority to ignore regulatory requirements during periods of emergency. Normal administrative requirements are secondary to expeditious accomplishment of disaster operations when saving time is essential for public health, safety, and preservation of life and property. It is the contracting officers responsibility to insure that required documentation be completed at the earliest practicable time. Accordingly, it is essential that qualified procurement personnel be assigned to the "Corps Team." As necessary therefor, authority and responsibility will be delegated to the maximum and temporary variations from normal command and communication channels will be permitted. The contracting officer must have funds at his disposal to place his procurements rapidly. Control of the funds is essential, but should be at minimum consistent with the emergency.

(b) *Procurement procedures.* Emergency disaster operations will be accomplished using the most appropriate of the various procurement methods authorized. Normal procurement procedures may have to be modified in order to accomplish urgent work promptly. Experience has shown that competitive advertising of emergency work can be compressed into a matter of hours and is a successful method of procurement during emergencies. Negotiated lump-sum and unit price procurement will be used to the extent that the nature of the work and time available will not permit formal advertising. Every advantage will be taken of special and emergency procedures in order to minimize serious delay of urgent operations or the procurement of vital equipment supplies. When time does not permit even modified procedures, immediate authorization to proceed on urgent work pursuant to a letter contract, paragraph (f) of this section may be used.

(c) *Contract negotiation.* Negotiation of Contracts in connection with work covered by this regulation is authorized subject to the restrictions below, without limitation to type, if formal advertising is impractical. Usually the "public exigency" exception under 10 U.S.C. 2304(a)(2) is applicable but on occasion, one of the other exceptions may be appropriate. If required by the exception, a Determinations and Findings meeting the requirements of Part 3, Sec. III, ASPR, must be executed by the Contracting Officer as a prerequisite to each contract negotiation.

(d) *Cost Plus a Percentage of Cost Contracts.* This type of contracting is prohibited by law (10 U.S.C. 2306).

(e) *Cost Plus Fixed Fee Contracts (CPFF).* Except in extraordinary cases, prior approval for use of CPFF contracts under Pub. L. 84-99 and Pub. L. 93-288 shall be obtained from an authority no less than the Deputy Director of Civil Works. The FDAA Regional Director must also approve any CPFF Contracts under Pub. L. 93-288. If the circumstances so dictate, approval action may be effected by telephone with written confirmation following. The contract file shall reflect the means of and person(s) granting such approval.

(f) *Letter Contracts.* Urgent work may be commenced immediately by letter contract under the conditions set out in ASPR 3-408. Prior OCE approval is required if the contracted amount exceeds 50 percent of the estimated definitive contract.

(g) *Bid, Performance and Payment Bonds.* ASPR, Section 10, requires bid, performance, and payment bonds in connection with construction contracts exceeding $2,000 (Miller Act). There is no exception to the law for construction contracts even though performed during emergencies pursuant to this regulation. Disaster recovery operations, however, are ordinarily accomplished under service type contracts for which bid, performance, and payment bonds are not required, although Contracting Officers may require bonds if deemed necessary. The policy is that bid, performance, and payment bonds will ordinarily be required for disaster operations except that a bid bond requirement during

initial recovery effort may work a hardship on bidders and the Contracting Officer should consider this possibility.

§ 203.102 Use of local firms and individuals.

Section 310 of the Disaster Relief Act of 1974 (Pub. L. 93-288) provides in part that, "In the expenditure of Federal funds * * * preference shall be given, to the extent feasible and practicable, to those organizations, firms and individuals who reside or do business primarily in the disaster area." This provision applies to work for and directed by the FDAA, but may be considered also in Pub. L. 84-99 situations if appropriate. During the immediate post disaster operations, contracts for the most urgent requirements will ordinarily be awarded under the negotiation procedures, including letter contracts. In selecting contractors, or distributing requests for proposals, first consideration must be given to those provided preference under the Disaster Act. When negotiation procedures are employed, local contractors can be afforded preference by being permitted to reduce their offers to meet the low proposal, provided that their original offer does not exceed 130 percent of the low proposal. The request for proposals will advise all offerers of the requirement for favoring local firms and individuals.

(a) *Performance of work by contractor.* To assure adequate interest in, and supervision of the entire project, the prime contractor shall be required to perform a significant part of the work with his own forces as determined adequate by the Contracting Officer, but not less than 20 percent. The following clause will be included in the contract:

Performance of Work by Contractor (1965 JAN). The Contractor shall perform with his own organization, work equivalent to at least (words) percent ——— (figures) of the total amount of work to be performed under the contract. If, during the progress of the work hereunder, the Contractor requests a reduction in such percentage, and the Contracting Officer determines that it would be to the Government's advantage, the percentage of the work required to be performed by the Contractor may be reduced; *Provided,* Written approval of such reduction is obtained by the Contractor from the Contracting Officer (ASPR 7-603.15).

(b) *Local labor preference.* All prime contracts awarded, including letter contracts, will include the following clause:

Local Labor Preference. In the performance of work included in the contract, the contractor shall, in procurement of supplies and equipment, awarding subcontracts, and in the employment of laborers and mechanics, give first priority to those residing in or doing business in (————) County(ies). This clause shall be included in all prime contracts offering substantial subcontracting opportunities when there are indications of a high rate of local unemployment (Part 203).

(c) *Subsequent contracting.* Contracts awarded in the later phases of the operation for work such as major rehabilitation of levees, streets, sewage treatment systems, or for new construction, should be awarded under standard procedures. The clauses prescribed above should, however, be included in all prime contracts offering substantial subcontracting opportunities when there are indications of a high rate of local unemployment.

(d) *Disaster area.* The disaster area is considered to be that area and its environs affected by the disaster and as designated by the Administrator, FDAA and published in the FEDERAL REGISTER.

§ 203.103 Contracting officers.

(a) *Appointment.* Authority to appoint Contracting Officers has been delegated no lower than Division Engineers. As a minimum, qualification criteria for Emergency Contracting Officers shall be the same as for Resident Contracting Officers. Pre-planning for emergencies will include the selection of individuals occupying or to occupy positions in which contracting authority would be essential in case of domestic emergency. The contracting authority of such individuals becomes effective only upon the happening of a certain event creating emergency conditions requiring expedited action. Replacement action will be taken promptly when selected individuals become unavailable.

(b) *Requests.* Appointment requests will be made to cognizant Division Engineers for appointment of the selected individuals as Contracting Officers as provided by ECI 1-405(2). Request will state that the contracting authority is for obtaining supplies and services, indicating any exclusions desired, and monetary limitation. A complete summary of the individual's experience and training will be furnished, as outlined in paragraph 500, Appendix A, ER 1180-1-1. The request will include who is to notify the individual that his special contracting authority is being activated, the means of notification, and the basis for activating the special authority.

(c) *Certificate of appointment.* The certificate will state that such contracting authority will not be exercised by the individual until he is notified by the specified official (usually the District Engineer) and by the specified means, that such emergency authority has been made effective. Copies of all such notifications will be furnished to HQDA (DAEN-ECP) Washington, D.C. 20314, and when the authority reverts to a "stand-by" basis.

(d) *Temporary loan.* A division or district engineer desiring the temporary services of a conditional contracting officer from another office will request that his appointment, activation, and cessation will apply.

§ 203.104 Contracting procedures.

(a) *General.* Policies, procedures, and forms to be utilized will be as prescribed in the Armed Services procurement regulation (ASPR), Army procurement procedure (APP), engineer contract instructions (ECI) identified as ER 1180-1-1, and the provisions of this regulation. Emergency local reproduction of contract forms, as necessary, is authorized. The type and method of contracting will be consistent with circumstances and the nature of the emergency involved. Normally, debris removal is done by the cubic yard rather than equipment rental. The appropriate contract type for such work is found in ASPR, section IV, Part 5. The format is entitled "Contract for Dismantling, Demolition, or Removal of Improvements." However, the alternate format excluding the last two words of the title "of improvements" and adding a payment bond provision (2 pages—cover and page 1) as prepared and distributed by ORD for use in wreck removals is appropriate for this purpose. Of course, the regular titled cover sheet is for use where the demolition or removal of an improvement is involved.

(b) *Rental rates.* Where contracts covering work such as clearing, demolition, etc., involve the hire of equipment, with or without operating personnel, the rental rates agreed upon should be the most reasonable obtainable under the circumstances. In addition, a knowledge of local equipment rental practices and current District records should be used to assist in determining reasonable rates. Reminder: DD Form 1155 (Purchase Order) may be used in lieu of the long form contract (ECI A-301) for a procurement action to lease plant or equipment that does not exceed $10,000 per ECI A-301.1(i).

(c) *Debarred Bidders List.* In addition to insuring that a contract is not awarded to a firm or individual appearing on the DOD joint consolidated list of debarred, ineligible, or suspended firms of individuals (commonly called "Debarred Bidders List"), all proposed awards for work under Pub. L. 93-288 will be checked against the DHUD Debarred Bidders List as well. Such list is available from the Federal Coordinating Officer.

(d) *Publicizing procurement actions.* ECI 1-1050.70 requires certain Congressional and higher authority notification of award of contracts negotiat-

ed under the determination of "public exigency."

§ 203.105 Supply procedures.

(a) *Federal property used in major disaster* (Pub. L. 93-288). The FDAA regional director verifies the need, and certifies to the General Services Administration the eligibility of a State to receive Federal property for purposes authorized by Pub. L. 93-288. He determines the amount and type of equipment, material, and supplies required. The GSA Administrator, as directed by the FDAA regional director, locates and determines Federal property available for authorized requirements. When requested by GSA, the available quantities of the desired Federal property, including property in current inventory or property declared to be excess or surplus, held by the Corps civil works or military accounts not required for current needs of the Corps, and reasonably usable for disaster purposes, will be reported to GSA. Loan or donation of Federal property will be in accordance with GSA procedures, and under conditions stipulated in a "Loan or Donation of Federal Property" agreement between the State, FDAA regional director, and GSA regional administrator. Arrangements for loan or donation will be made by the GSA regional administrator in the following priority order: surplus property; excess property; and active stocks. Accountability of donated items will be transferred to the State, but will be retained for loaned property.

(b) *Priority of use.* Surplus, excess property, and active stocks will be utilized, preferably in the order listed, in any disaster program when requested by the GSA regional administrator at FDAA direction, or when required for disaster programs accomplished independently by the Corps of Engineers under its authority. The controlling factor will be the urgency of need for the requested or required items.

(c) *Reimbursement and disposition procedures.* Required reimbursement for Corps supplies and equipment made available for disaster programs will, as appropriate, be accomplished in accordance with the provision of ER 775-2-1, ER 1125-2-305, Part 502, and this regulation. Wherever in the above regulations reference is made to working capital funds, this term will be considered to also include civil works emergency supplies and equipment owned by the revolving fund. The disposition procedures are also covered in those references.

(d) *Stock owned by Project "Disaster Preparedness".* Adequate stocks will be provided for special flood emergency requirements. Stock levels will consider that some items are readily purchaseable. Surplus items of any supplies and equipment acquired during a specific flood emergency, with Pub. L. 84-99 funds, may be transferred to project stock by memorandum. Flood fighting stocks will be limited to items required solely from flood fighting and rescue work. Common use items will be held to a minimum. Separate flood emergency reserve stocks will not be established for like items already in warehouse inventory accounts maintained primarily in support of civil works normal missions. Civil works supply policies and procedures set forth in ER 701-300, "Administration and Supervision of Civil Works Procurement and Supply Activities," ER 740-2-1, "Warehousing and Utilization," and ER 1180-1-1 "Engineer Contract Instruction," will be adhered to.

(e) *Stock control.* The adequacy of flood emergency reserve stocks will be reviewed at periodic intervals and adjusted upward or downward as dictated by prudent supply practices. Particular attention should be given to the use or transfer of items in danger of deterioration. If usable, such items or excess stocks will be freely offered and made available on a non-reimbursable basis to other districts.

(f) *Storage charges.* An equitable charge will be made for space used for "Disaster Preparedness" supplies and equipment unless the stored items occupy less than 25 percent of the gross storage space at the facility. In that event there will be no such charge. However, appropriate charges may be made for loading, unloading, checking, sorting, placing in storage, withdrawal, preservation, packaging (time and material) inventory, and special activities totalling $100 annually each.

(g) *Property accountability.* Property accounting procedures established for accountability of property during emergency disaster operations must insure sufficient control to protect the Government against negligence and waste.

(h) *Loan of DLA stock fund material.* Defense Logistics Agency stock of non-expendable equipment and supplies may be loaned to the Corps of Engineers for support of emergency mission. Loans will be made on the basis of material available in the system stocks. No procurement will be make by DLA to satisfy a loan request. Loan conditions are set forth in AR 700-49.

(i) *Forms.* Procurement related forms usually necessary for field operations are listed below. Sets of these forms and any other required locally, should be assembled, stored, and prominently marked so as to be readily available for the initial days of field operations. For locally reproduced forms, only master sets should be stored. All stored forms will be checked for currency no less than annually.

FORMS FOR PROCUREMENT AND RELATED MATTERS

Form No.	Title
SF-18	Requests for quotations.
SF-19	Invitations, bid and award (construction, alteration, or repair).
SF-19A	Labor standards provisions.
SF-19B	Representations and certifications (construction contract).
SF-20	Invitation for bids (construction contract).
SF-21	Bid form (construction contract).
SF-22	Instructions to bidders (construction contract).
SF-23	Construction contract.
SF-23A	General provisions (construction contract).
SF-25	Performance bond.
SF-25A	Payment bond.
SF-30	Amendment of solicitation/modification of contract.
SF-32	General provisions (supply contract).
SF-33	Solicitation offer and award.
SF-36	Continuation sheet (supply contract).
SF-44	Purchase order-invoice-voucher.
SF-1165	Receipt for cash-subvoucher.
Unnumbered (ASPR Sec. IV, Part 5).	Contract for dismantling, demolition removal of improvements.
DD-350	Individual procurement action report.
DD-783	Royalty report.
DD-1155	Order for supplies or services.
DD-ASPR 1270.	General provisions (short form negotiated contract).
ECI A-301	Lease of plant or equipment by Government.
ENG 93	Payment estimate (contract performance).
ENG 2459	Pre-award survey A-E and construction contracts.
ENG 3051	Receiving report.
Unnumbered	Letter contract.

Subpart J—Public Affairs

§ 203.111 Public affairs policy.

(a) The basic policy of the Corps of Engineers is to let the American people, and especially the vicitms of disaster, know what assistance the Corps is providing during and after a natural or man-made disaster.

(b) The Corps of Engineers will take the initiative to inform the public of Corps activities, its authority, and its plan of emergency operations.

(c) Every reasonable form of assistance will be given to the news media in obtaining and disseminating information about Corps of Engineers activities during an emergency.

§ 203.112 Objectives.

(a) To provide a clear description of the Corps' role in supporting rescue, clean-up, or reconstruction work either under the provisions of Pub. L. 84-99 or as an agent for FDAA.

(b) To provide assistance to FDAA.

(c) To establish and maintain close coordination between the Corps of Engineers and the respective Federal, State, local, and other concerned agencies.

(d) To insure the public understands that the Corps of Engineers is taking all necessary action within its authority to protect the public welfare and safety during emergency operations.

§ 203.113 Staffing.

During an emergency, it may be necessary to augment the regular district or division public affairs staff with public affairs officers (PAO) from other districts or divisions. If the division cannot provide sufficient manpower, OCE Public Affairs Office should be contacted to arrange for additional help from other divisions.

§ 203.114 Operating guidelines.

(a) Primary responsibility for keeping the public informed on Corps emergency operations lies at the district level. Assistance will be provided by the PAO in the division or OCE when required.

(b) The district PAO or his representative will maintain close liaison with the EOC, accepting all news media contacts and coordinating and releasing current information on the disaster recovery operation. Regular hours should be established for press conferences, when appropriate, taking into account the respective deadlines of a.m. and p.m. newspapers and radio/television newscasts. The PAO also must evaluate the news value of field reports and select and prepare these items for release, i.e., written release, telephone release, personal interview.

(c) In addition, one or more public affairs representatives will be assigned full-time at the scene of recovery operations. It will be this representative's responsibility to coordinate and release on-the-scene information and to maintain close contact with the FDAA information officer and information officers of the various agencies and organizations providing disaster relief in the area.

(d) Area engineers and other field personnel authorized to release statements to the news media should confine their statements to activities within their jurisdiction. Requests for information outside their jurisdiction should be referred to the public affairs representative assigned in support of the operation.

(e) Release of information concerning emergency operations being performed under Pub. L. 93-288 will be coordinated with the FDAA's public information officer.

(f) The PAO will provide appropriate input to the post flood report outlined in § 203.44(g).

(g) To assist the Corps team in achieving optimum visibility during emergency operations, the PAO will place emphasis on identification of Corps operations as prescribed in § 203.43(i).

(h) Still and motion picture photographic coverage of recovery operations for both historical record and media use, should be collected under staff supervision of the public affairs representative and made available to the news media as soon as possible. This coverage includes 8 x 10 black and white glossy photographs and 35 mm slides, as well as motion picture footage for TV use. Determination as to whether or not motion picture footage will be assembled and produced as a documentary film will be made by the affected division after consultation with DAEN-CWO-E and approval by DAEN-PAI (App. D, ER 360-1-1). While use of Corps staff photographers is preferred, purchase of photographic coverage, including contracting for photographic services, is permitted. To augment the regular district photographic unit, the division should contact OCE Public Affairs Office to arrange for additional photographers from other divisions.

(i) Video tape equipment from the EOM office of each division will be used to provide rapidly televised reports to OCE and Members of Congress. Videotapes will be expeditiously forwarded to DAEN-CWO-E, and when necessary, special messenger service should be used. If the videotaping capability permits, and if the Corps equipment is compatible with that in use by the news media, the PAO may also use videotapes in disseminating information on the emergency operations effort.

(j) The district PAO will forward local and regional newsclips covering the disaster and Corps activities directly to OCE Public Affairs (Attn.: DAEN-PAI) on a daily basis along with copies of any written news releases or brief summaries of verbal news releases.

§ 203.115 Coordination.

(a) District elements must inform the PAO or his representative of newsworthy items promptly to permit rapid transmission to the news media.

(b) Public Affairs Officers in adjacent districts should be alert for opportunities to issue collateral news releases connected with the emergency, in coordination with the District primarily affected.

(c) Whenever more than one district is directly involved in the recovery effort, direct communication will be established between public affairs personnel of affected districts. Information should be exchanged on a regular basis and when appropriate a central point of contact will be established for coordinating general news media inquiries. Normally, this point of contact will be the District with the largest recovery effort, although consideration should be given to the location offering the greatest availability to news media outlets (especially the wire service bureaus).

Subpart K—Preservation of Order

§ 203.121 Preservation of order policy.

The Corps of Engineers preservation of order policy in areas of flood, hurricane, earthquake, and other natural disaster or other emergency action is to depend upon duly constituted authority for the control of personnel circulation and vehicular traffic and the maintenance of law and order.

§ 203.122 Preservation of order program.

(a) *Staffing.* The Corps of Engineers Provost Marshal/Security Officer organization at OCE, divisions, and districts will coordinate activities related to the preservation of order in a distressed area.

(b) *Operations.* The Engineer Division Provost Marshal will act as the coordinator between the Corps and law enforcement authorities in the area to guarantee the security of Government property and unimpeded development or employment of the Corps of Engineers task force.

[FR Doc. 78-24 Filed 1-6-78; 8:45 am]

federal register

MONDAY, JANUARY 9, 1978
PART III



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

■

REGIONAL FISHERY MANAGEMENT COUNCILS, FISHERY MANAGEMENT PLANS AND CONFIDENTIALITY OF STATISTICS

Proposed Guidelines

[3510-22]

National Oceanic and Atmospheric Administration

[50 CFR Parts 601, 602, 603]

REGIONAL FISHERY MANAGEMENT COUNCILS, FISHERY MANAGEMENT PLANS AND CONFIDENTIALITY OF STATISTICS

Proposed Guidelines

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed Rules.

SUMMARY: NOAA is issuing Proposed Rules to obtain public comment on several sections held in "Reserved" status when Final Regulations were published on July 5, 1977, which provided overall guidance to the eight Regional Fishery Management Councils established pursuant to the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265).

The Proposed Rules presented below would provide guidance on: (1) Use of funds from sources other than the Department of Commerce; (2) carryover of administrative and programmatic funds; (3) compliance with National Environmental Policy Act of 1969 when preparing Fishery Management Plans; and (4) confidentiality of statistics which are submitted to the Secretary of Commerce pursuant to a Fishery Management Plan.

DATE: Comments must be received on or before March 10, 1978.

ADDRESS: Comments should be addressed to: Assistant Administrator for Fisheries, National Marine Fisheries Service (NMFS), Washington, D.C. 20235

FOR FURTHER INFORMATION CONTACT:

Richard H. Schaefer, Chief, Fisheries Management Operations Division, 202-634-7454; or Robert J. Williams, Fisheries Management Support Specialist, Fisheries Management Operations Division, 202-634-7436, National Marine Fisheries Service, Washington D.C. 20235.

SUPPLEMENTARY INFORMATION:

Background

Final Regulations were published on July 5, 1977 (42 FR 34449), to provide essential clarifications of guidance for the effective functioning of the Councils. Certain sections were reserved to allow additional time for resolution and further clarification of identified legal and policy questions.

Purpose

To amend 50 CFR, chapter VI by withdrawing the reserved designation of certain sections of the Final Regulations, and by adding new text. The concerned sections provide guidance which is summarized as follows:

(1) *Funds from other sources.* This section states that Councils may enter into cooperative agreements with states and other institutions in certain cases, but advance approval must be obtained from the Secretary of Commerce. Any monies received from sources other than the Department of Commerce must be funneled through NOAA to the Councils.

(2) *Carryover of funds.* This section specifies that unused grants for operational and general expenses usually will revert to NOAA at the end of each fiscal year. Programmatic grants associated with development of fishery management plans may be written for more than one fiscal year in appropriate cases. Upon completion of the specific work unused funds will revert to NOAA.

(3) *Compliance with National Environmental Policy Act.* This section describes procedures for complying with the National Environmental Policy Act (NEPA), in developing a fishery management plan (FMP), and amendments. These regulations require that an environmental assessment of the impacts of the FMP be conducted by the Council and NMFS at the earliest practicable stage to determine if an environmental impact statement (EIS), is required under NEPA criteria. We seek public comment particularly on whether the EIS and FMP should be two separate documents bound together and cross-reference, or should be totally integrated into one document.

The regulations further specify that all EIS's will be submitted to the Environmental Protection Agency (EPA), following review by appropriate NMFS/NOAA/DOC offices. NMFS and the concerned Council(s) will jointly sponsor a hearing(s) on the draft EIS and the draft FMP, and will provide appropriate advance public notice.

The FMP may be implemented by the Secretary 30 days after the FMP has been approved and the final EIS has been filed with EPA and made available to commenting parties. If after the FMP has been approved the Secretary determines that any changes in the FMP or regulations may be substantial enough to warrant a supplement or amendment to the final EIS, the Assistant Administrator for Fisheries will initiate such action in consultation with the Council, NOAA, and Council on Environmental Quality.

(4) *Confidentiality of statistics.* This section describes procedures for safeguarding certain information which must be submitted to the Secretary under FMP's in accordance with statutory requirement of section 303(d) of the Fishery Conservation and Management Act of 1976. Statistics may be released to the public in aggregate or summary form only if such release would not directly or indirectly reveal the identity or business of any person who submits such statistics. The regulations also indicate when raw data may be disclosed within NOAA or to Regional Council members or staff. Procedures for handling Freedom of Information Act requests also are described.

Public Comment

Interested parties, Regional Fishery Management Councils, and governmental agencies are encouraged to submit written comments, views, or data concerning the rules hereby proposed, to the Assistant Administrator for fisheries, National Marine Fisheries Service, Washington, D.C. 20235. All such submissions received on or before March 10, 1978, will be considered prior to amending the Final Regulations.

The Assistant Administrator for Fisheries is delegated authority to approve regulations in Department of Commerce Organization Order 25-5A, Section 3.01 dd, Amendment 4 (dated September 30, 1976), and NOAA Directives Manual 05-50 (dated November 4, 1977).

(Secs. 301(b), 302(f), 303(d), Fishery Conservation and Management Act of 1976 (16 U.S.C. 1851, 1852, 1854, 1855).)

Issued: January 4, 1978.

DAVID H. WALLACE,
Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

In consideration of the foregoing, the following regulatory language is proposed for inclusion in 50 CFR Parts 601, 602, and 603:

PART 601—REGIONAL FISHERY MANAGEMENT COUNCILS

§ 601.23 [Amended]

1. The following language is proposed for inclusion as § 601.23(c)(2):

(c)* * *

(2) *Funds from other sources.* The Councils may enter into cooperative agreements with States and private institutions on matters of mutual interest which further the objectives of the Act. However, approval from the Secretary must be obtained prior to entering into such arrangements, and each agreement must specify the nature and extent of non-Council participation. The Councils are not authorized to accept gifts or contributions directly. All such donations must be directed to the NOAA Administrator in accordance with Agency regulations, which are available on request.

* * * * *

2. The following language is proposed as a new paragraph to be added to § 601.23(c)(3):

(c)* * *

(3)* * *

(vi) *Carryover of funds.* Councils receive funds in the form of (*a*) administrative grants for operational and general expenses and (*b*) programmatic grants for technical development of specific fishery management plans (FMP) generally to obtain or analyze data required for completion of management plans. Administrative grants are made by fiscal year (October 1–September 30) and expire on September 30. Unused funds (unobligated balances) from the administrative grants will be returned to NOAA after each Council's final close-out report. Administrative grants will not be extended unless unusual circumstances requiring extension are identified and approved. Programmatic grants are made as specific FMP needs are identified and a grant request is initiated by the Council and approved by NMFS/NOAA. These programmatic grants may be written for one fiscal year and later extended, if necessary; or they may initially be written for more than one fiscal year period. Upon completion of the specific work, unused funds will be returned to NOAA in the same manner as for administrative grants.

PART 602—GUIDELINES FOR DEVELOPMENT OF FISHERY MANAGEMENT PLANS

3. The following language is proposed for inclusion as § 602.6:

§ 602.6 Compliance with National Environmental Policy Act (NEPA).

(a) *General.* (1) Section 102(2)(c) of NEPA requires preparation of a detailed environmental impact statement (EIS) for major Federal actions that significantly affect the quality of the human environment. Both the submission to the Secretary by a Council of a fishery management plan (FMP) and the implementation of an FMP by the Secretary may constitute "major Federal actions significantly affecting the quality of the human environment" within the meaning of this section of NEPA. If an EIS is required, then only one environmental impact statement need be prepared pertaining to the submission and implementation of the FMP.

(2) The filing of an EIS by the Secretary on behalf of the Department of Commerce (DOC) or a Council pursuant to this section shall not limit the authority of the Secretary to approve, disapprove or partially disapprove an FMP.

(3) The procedures described in this section apply to the initial submission and implementation of FMP's and amendments to existing FMP's. Accordingly, in the case of a proposed amendment, the term FMP appearing in this section shall, where the context requires, mean an "amendment to an existing FMP".

(4) In addition to the guidelines provided in this section, further information for responding to the requirements of NEPA can be found in the Guidelines of the Council on Environmental Quality (40 CFR, Part 1500) which are soon to be replaced by new regulations to implement NEPA, and guidelines and procedures of the DOC (Department Administrative Order 216-6) and the NOAA Directives Manual 02-10.

(b) *Environmental assessment.* (1) To determine whether the submission and implementation of an FMP would significantly affect the quality of the human environment, an assessment of the environmental impacts of these actions must be conducted at the earliest stage practicable in the development of an FMP. This assessment will be conducted by the Council developing the FMP with the assistance of the NMFS Regional Office. The assessment will provide the basis for an informed and adequately documented Council recommendation to the Assistant Administer for Fisheries as to whether to file a negative declaration or to prepare a draft environmental impact statement (DEIS).

(2) If, after consultation with the appropriate NOAA personnel, the Assistant Administrator for Fisheries disagrees with the Council's recommendation, he should inform the Council of his reasons and work out a solution with the Council.

(c) *Negative declaration.* If the Council recommends, after consultation with the NMFS Regional office, that no EIS is necessary and that a negative declaration may therefore be filed with respect to the proposed FMP, the Council shall include a draft negative declaration along with its recommendation to the Assistant Administrator for Fisheries. If the Assistant Administrator for Fisheries, after consultation with the appropriate NOAA personnel, agrees with the Council's recommendation, the Assistant Administrator for Fisheries will send the negative declaration through the appropriate NOAA office, to the DOC Office of Environmental Affairs for approval and filing on behalf of the Department and the Council.

(d) *Draft environmental impact statement (DEIS).* (1) If the Council recommends, after consultation with the NMFS Regional office, that a DEIS should be prepared for a particular proposed FMP, the Council shall prepare a DEIS with the assistance of the NMFS Regional office and submit it to the Assistant Administrator for Fisheries for review. It is suggested that the DEIS and FMP be prepared as two separate documents bound together. In many instances, the EIS could be succinct and fairly short (e.g., 10–15 pages) and could be cross-referenced to the text of the FMP for more detail where appropriate. Use of separate EIS and FMP documents will facilitate publication of the FMP in the FEDERAL REGISTER, as required by section 305 of the Act, after the Secretary approves the FMP.

(2) The Assistant Administrator for Fisheries, in cooperation with the DOC and the Council, shall review the combined DEIS and FMP and, if it is satisfactory, shall submit it to the appropriate NOAA office for processing through the DOC Office of Environmental Affairs to the Environmental Protection Agency (EPA) for publication of a Notice of Availability in the FEDERAL REGISTER. (The DEIS and FMP will be made available for comment by governmental agencies and by the public prior to the hearing(s) required by section 302(h)(3) of the Act, and referred to in §§ 601.24(c) and 602.6(d)(3) of these regulations.)

(3) The Assistant Administrator for Fisheries, in cooperation with the Council, shall publish a notice in the FEDERAL REGISTER setting a comment period on the DEIS and announcing the date(s) for joint NMFS and Council hearing(s) on the DEIS and FMP. Oral and written statements and other public comments at these joint NMFS and Council hearings will be received with respect to the DEIS and the FMP. Comments on the DEIS and the FMP will be jointly considered by the Council and NMFS but the Council shall have the lead responsibility in incorporating the comments into the FEIS and/or FMP as appropriate.

(e) *Final environmental impact statement (FEIS).* Upon the Council's submission of the FEIS and FMP to the Assistant Administrator for Fisheries, the NMFS staff, in coordination with the Council, will review the document and place the FEIS portion in final form. Thereafter, the Assistant Administrator for Fisheries will promptly send the combined FEIS and FMP through the appropriate NOAA office to the DOC Office of Environmental Affairs for submission to the EPA. The Assistant Administrator for Fisheries and the Council will make the combined FEIS and FMP available to commenting parties.

(f) *Regulations to implement the FMP.* (1) As soon as practicable after the Secretary has approved the FMP and the combined FEIS and FMP has been made available to the Council on Environmental Quality and commenting parties, the Assistant Administrator for Fisheries shall publish the FMP along with any regulations which the Secretary proposes to promulgate to implement the FMP in the FEDERAL REGISTER. Such notice shall provide a period of not less than 45 days for public comment on the FMP

and the proposed regulations. The Assistant Administrator for Fisheries may schedule a hearing to receive public comment on the FMP and the proposed regulations.

(2) After consideration of all comments, views, and data presented during the 45-day public comment period and at the hearing, if any, the Secretary may promulgate final regulations implementing the FMP.

(3) The Secretary may promulgate emergency regulations pursuant to section 305(e) of the Act immediately after the Secretary has approved the FMP and the combined FEIS and FMP has been made available to the EPA and commenting parties. These regulations shall be effective for a period of 45 days, following publication in the FEDERAL REGISTER, and may be repromulgated for an additional period of not more than 45 days.

(g) *Supplement or amendment to the FEIS.* (1) If, at any time, the Secretary determines that changes in the approved FMP or proposed regulations may be substantial enough to warrant a supplement or amendment to the FEIS, the Assistant Administrator for Fisheries, in consultation with the appropriate Council and NOAA office, will initiate such supplement or amendment. This process shall conform to the Council on Environmental Quality guidelines (or new regulation) which provides that, in effecting such a change, "* * * the agency should consult with the Council on Environmental Quality with respect to the possible need for or desirability of recirculation of the statement for the appropriate period" (40 CFR 150.11(b)).

PART 603—CONFIDENTIALITY OF STATISTICS

4. The following language is proposed for inclusion as Part 603:

Sec.
603.1 Purpose.
603.2 Definitions.
603.3 Types of statistics covered.
603.4 Submission of statistics.
603.5 Procedures for disclosure.

AUTHORITY: 5 U.S.C. sec. 301.522, 533, sec. 303(d), Pub. L. 94-265, 90 Stat. 352; Reorganization Plan No. 4 of 1979.

§ 603.1 Purpose.

The purpose of this Part 603 is to prescribe those procedures required by section 303(d) of the Act to preserve the confidentiality of any statistics submitted to the Secretary by any person in compliance with any requirement under a fishery mangement plan prepared by a Council or the Secretary.

§ 603.2 Definitions.

The terms and phrases used in this part shall have meaning and effect as similar terms and phrases in section 3 of the Act, 90 Stat. 333, and Part 601 of this chapter.

§ 603.3 Types of statistics covered.

For the purpose of this Part statistics will include, but not be limited to, information regarding the type and quantity of fishing gear used, catch by species in numbers of fish or weight thereof, areas in which fishing was engaged in, time of fishing, number of hauls, and other similar information required to be submitted by a plan.

§ 603.4 Submission of statistics.

All statistics submitted to the Secretary as required by a plan shall be provided to the Assistant Administrator for Fisheries or his designee. After receipt of the statistics the Assistant Administrator for Fisheries or his designee shall delete all identifying particulars from the statistics at the first practicable opportunity consistent with the needs of the agency and good scientific practice. Appropriate safeguards shall be applied to the maintenance of all statistics, whether separated from identifying particulars or not, to ensure their confidentiality and integrity.

§ 603.5 Procedures for disclosure.

(a) Statistics required to be submitted under a plan may be disclosed within NOAA on a need-to-know basis to those officers and employees who are subject to the prohibitions against the disclosure of confidential information contained in 18 U.S.C. 1905.

(b) Statistics required to be submitted under a plan may be provided to Council Members and staffs on a need to know basis. The Council members and staffs are subject to the provisions of 18 U.S.C. 1905, and are restricted from further disclosure without the express written authorization of a Regional Director. Regional Directors shall receive the concurrence of the NOAA General Counsel prior to any authorization of disclosure.

(c) The Assistant Administrator for fisheries or his designee shall institute a control system to identify all nonroutine disclosures of statistics. Such a system shall include at least the following: the name of the person to whom the statistics were disclosed, a general statement adequate to identify the statistics, the date of the disclosure and the reason or reasons for disclosure to include disclosure pursuant to the Freedom of Information Act (FOIA).

(1) All requests for statistics submitted in response to a requirement of a plan shall be processed consistent with NOAA Freedom of Information Act regulations (15 CFR Part 903), NOAA Directives Manual 21-25, Department of Commerce Administrative Orders 205-12 and 205-14 and 15 CFR Part 4.

(2) The Assistant Administrator for Fisheries or his designee shall not disclose to the public statistics in other than aggregate or summary form except as required by court order.

(3) The Assistant Administrator for Fisheries shall have the authority to issue all initial denials of requests subject to the FOIA for statistics submitted in response to a plan. All initial denials shall indicate that exemption 3 of FOIA (5 U.S.C. 552(b)(3)) is the basis for denial, making specific reference to section 303(d) of the Act and reciting in its entirety the first sentence of that section. Further, citing this regulation, the denial letter shall indicate that the application of section 303(d) is non-discretionary and shall refer specifically to the appropriate portion of the applicable plan that required the submission of the requested statistics. Exemption (b)(4) (5 U.S.C. 552(b)(4)), as well as other applicable FOIA exemptions, may be cited in addition where appropriate.

(4) The Assistant Administrator for Fisheries may release statistics to the public in aggregate or summary form only in those instances where the disclosure would not directly or indirectly reveal the identity or business of any person who submits such statistics. Such identification may occur in instances where the statistics submitted have some unique character or the request for the statistics is so narrow as to identify in advance the person who has submitted the statistics. In such instances the Assistant Administrator for Fisheries shall consider the information as exempt from disclosure and shall issue an initial denial as required by this Part. The NOAA Office of General Counsel shall be consulted prior to the public release of statistics which may reveal the identity or business of any person who submits such statistics or the issuing of denials of requests for disclosure.

(5) Appeals from initial denials shall be made to the Administrator of NOAA, Department of Commerce, Washington, D.C. 20230. The Administrator shall not make discretionary release of statistics unless upon review it is determined that the Assistant Administrator for Fisheries improperly applied exemption (b)(3) to the requested statistics. In such cases the Administrator will instruct the Assistant Administrator to release the statistics to the requestor.

[FR Doc. 78-419 Filed 1-6-78; 8:45 am]

federal register

MONDAY, JANUARY 9, 1978
PART IV



DEPARTMENT OF THE TREASURY

Office of the Secretary

■

"TRIGGER PRICES" FOR IMPORTED STEEL MILL PRODUCTS

[4810-22]

DEPARTMENT OF THE TREASURY

Office of the Secretary

"TRIGGER PRICES" FOR IMPORTED STEEL MILL PRODUCTS

On December 28, 1977, the Treasury Department announced proposed rulemaking procedures with respect to regulations applicable to the information required to be filed at the time of importation of certain articles of steel (42 FR 65214). As was there indicated, the Secretary intends to implement a "trigger price mechanism" as recommended to, and approved by, the President. For that purpose, "trigger prices" for steel mill products are to be published as the basis upon which imported steel products will be monitored for the purpose of determining whether investigations under the Antidumping Act of 1921, as amended, 19 U.S.C. § 160 et seq., would be appropriate.

I am hereby announcing the base prices to be used in the trigger price mechanism (TPM) for certain imported steel mill products. These prices are based upon evidence made available to the Treasury Department by the Japanese Ministry of International Trade and Industry (MITI) concerning the current cost of producing steel in Japan, recognized as the most efficient exporting country today, as well as other information available to the Department. The data supplied by MITI were compiled by the six major, integrated steel companies in Japan, as well as by a number of smaller, electric-furnace steel makers.

The methodology employed in arriving at a cost of production estimate is similar to that utilized in the Council on Wage and Price Stability (CWPS) Report to the President on Prices and Costs in the United States Steel Industry, released in October 1977, but the product coverage is different.

The individual components of the cost of producing raw steel are totaled and then divided by the appropriate yield factor to obtain the cost of finished steel products. To that figure, appropriate coefficients, expressing the average experience of the Japanese firms in producing individual types of steel mill products, are used to derive the costs of those products. The conclusions published in the CWPS Report concerning costs of producing steel in Japan were based on average data for the Japanese steel industry as a whole, as reflected in published sources. The figures for the estimated costs of production being published today are for items produced principally by the large, integrated companies and, therefore, are based on information from these firms. As a result, they differ from the estimates published in the CWPS Report. The data being submitted by the smaller, nonintegrated companies through MITI will be utilized to construct the costs of production for such items as alloy products, wire, and small structural shapes. These cost estimates will be published shortly.

The total Japanese costs of production for the major firms are found to be:

TABLE 1.—*Estimated Japanese cost of production*

(Per net ton of finished product)

Raw materials	$165.19
Labor	68.56
Other expenses	19.39
Depreciation	16.79
Interest plus profit	33.83
Less scrap credit	−5.96
Total	297.80

1. *The construction of "trigger prices" for "steel mill products."* "Steel mill products" include a wide variety of commodities, produced in a multitude of grades and sizes. For each major steel mill product (excluding stainless steel) imported into the U.S. in significant quantities, a set of "base prices" is being or will be announced, based upon the estimated Japanese costs of production of all steel products. Most of these base prices are being announced with this notice; others—including alloy products, wire, tubular and the remaining bar products—will be announced shortly, as soon as the necessary information is obtained and analyzed. Some products which are not imported in significant quantities, or for which cost data are difficult to obtain, may not be assigned a base trigger price. The Treasury Department will continually review the coverage of the trigger price mechanism at a later date to determine the appropriateness of the coverage of product categories.

Most imported steel mill products are sold to specifications for width, thickness, chemistry, or surface preparation that differ from the base product. To establish "trigger prices" for most of these combinations, "extra" charges must be added to the base price. A complete set of charges for extras is being supplied by MITI as a reflection of the Japanese Differentials between the various combinations. In many cases, these "extras" charges are similar to those charged for extras by the U.S. industry; in others they diverge. The Treasury Department will publish the extras charges it will use for the trigger price mechanism as soon as possible.

2. *Cost of production for basic carbon steel products.* The estimated cost of production for the base products comprising the most significant imports, as produced by the six integrated Japanese firms, are listed in table 2. The Treasury estimates are based on an addition of raw material inputs, labor expenses, overhead, and a profit margin, as well as all other capital charges for all steel, multiplied by an appropriate coefficient based on the experience of the reporting firms.

3. *Importation charges.* To the estimated cost of production for each steel mill product consisting of its base price and "extras," there must be added importation costs (excluding duty) from Japan. The resulting total constitutes the Treasury trigger price. The importation costs include Japanese inland freight, loading, ocean freight, insurance, interest, and wharfage charges. These have been calculated for each broad product category on the basis of existing data on average freight rates and wharfage charges for each of four regions of the country—East, West, Gulf, and Great Lakes. Insurance and interest costs have been estimated, based on reported transactions. The resulting importation costs for each major product category appear in table 3. Importers' sales commissions are excluded, since the "trigger price" is based upon the cost to the importer, assuming the importer is dealing on an arms' length basis. To the extent the importer is related to the producer exporting the steel mill product and the transfer price does not reflect an arms' length transaction, the first resale price by the related importer to an unrelated U.S. buyer will be used as the comparison with the trigger price.

TABLE 2

ESTIMATED COST OF PRODUCTION INCLUDING ALL CAPITAL CHARGES -- BASE ITEMS
(F.O.B., JAPAN)

Category Number	Products	Specification	Dimension	Cost of Production ($/Net Ton)
II	Wire Rods			
	Commercial Quality	AISI 1008	5.5m/m	240
	Welding Quality	JIS G3503 SRWYLL equivalent	5.5m/m	241
	High Carbon	AISI 1065 (specific)	5.5m/m	280
	Cold Heading Quality	AISI 1038 (specific)	12.7m/m	289
III	Wide Flange Beams	ASTM A36	12" x 12"	235
IV	Sheet Piling	ASTM A-372	ARCH WEB PDA-27	265
V	Steel Plates	ASTM A36	1/2" x 80" x 240"	241
X	Hot-rolled Carbon Bars	AISI 1045 40 mm round x 4 meters		308
XXII	Black Plate	ASTM A-625-76	0.0083" x 34" x Coil	338
XXIII	Electrolytic Tin Plate	SR-25/25	75L x 34" x C	433
XXV and XXIX	Hot-Rolled Steel Sheets in Coil	ASTM A569	0.121" x 48" x C	210
XXVI and XXX	Cold-Rolled Steel Sheets in Coil	ASTM A366	1.0m/m x 48" x C	269
XXVI	Electrical Steel Sheets			
	Grain-Oriented	M-4	0.012" x 33" x C	907
	Non-Oriented	M-45	0.018" x 36" x C	488
XXVII	Electro-Galvanized Iron Sheets in Coil	EGC-10g/M^2	1.0m/m x 48" x C	311
XXVII	Galvanized Iron Sheets in Coil	ASTM A525G90	0.8m/m x 48" x C	313
XXXII	Tin Free Steel Sheets in Coil	SR	75L x 34" x C	375

TABLE 3

IMPORTATION CHARGES ON
JAPANESE STEEL PRODUCTS
($/net ton)

	PRODUCT	FREIGHT	INSURANCE	INTEREST	HANDLING	TOTAL
II	Wire Rods					
	Commercial Quality					
	East	28.13	2.69	6.73	3.63	41.18
	Lakes	40.83	2.82	8.66	3.63	55.94
	Gulf	23.59	2.65	6.62	4.54	37.40
	Pacific	22.69	2.64	5.10	2.72	33.15
	High Carbon					
	East	28.13	3.13	7.87	3.63	42.76
	Lakes	40.83	3.25	10.06	3.63	57.77
	Gulf	23.59	3.08	7.76	4.54	38.97
	Pacific	22.69	3.07	5.98	2.72	34.46
III	Wide Flange Beams					
	East	30.85	2.66	6.57	3.63	43.71
	Lakes	42.65	2.78	8.44	3.63	57.50
	Gulf	27.22	2.62	6.48	4.54	40.86
	Pacific	24.50	2.60	4.97	2.72	34.79
IV	Sheet Piling					
	East	30.85	2.96	7.31	3.63	44.75
	Lakes	42.65	3.08	9.35	3.63	58.71
	Gulf	27.22	2.92	6.56	4.54	41.24
	Pacific	24.50	2.90	5.53	2.72	35.65
V	Plates					
	East	28.13	2.69	7.04	3.63	41.49
	Lakes	36.30	2.77	8.91	3.63	51.61
	Gulf	22.69	2.64	6.91	4.54	36.78
	Pacific	22.69	2.64	5.35	2.72	33.40
X	Hot Rolled Carbon Bars					
	East	28.13	3.36	8.77	3.63	43.89
	Lakes	40.83	3.49	11.18	3.63	59.13
	Gulf	23.59	3.32	8.66	4.54	40.11
	Pacific	22.69	3.31	6.68	2.72	35.40
XXII	Black Plate					
	East	24.50	3.62	9.55	3.63	41.30
	Lakes	31.76	3.70	11.97	3.63	51.06
	Gulf	20.87	3.59	9.46	4.54	38.46
	Pacific	20.87	3.59	7.32	2.72	34.50

TABLE 3
(continued)

	PRODUCT	FREIGHT	INSURANCE	INTEREST	HANDLING	TOTAL
XXIII	Electrolytic Tin Plate					
	East	30.85	4.64	11.77	3.63	50.89
	Lakes	33.58	4.67	14.57	3.63	56.45
	Gulf	24.50	4.58	11.62	4.54	45.24
	Pacific	23.59	4.57	8.97	2.72	39.85
XXXII	Tin Free Steel					
	East	30.85	4.06	10.83	3.63	49.37
	Lakes	33.58	4.09	13.40	3.63	54.70
	Gulf	24.50	4.00	10.67	4.54	43.71
	Pacific	23.59	3.99	8.24	2.72	38.54
XXV						
XXIX	Hot Rolled Sheets					
	East	24.50	2.34	6.14	3.63	36.61
	Lakes	31.76	2.42	7.77	3.63	45.58
	Gulf	20.87	2.31	6.05	4.54	33.77
	Pacific	20.87	2.31	4.68	2.72	30.58
XXVI						
XXX	Cold Rolled Sheets					
	East	24.50	2.94	7.73	3.63	38.80
	Lakes	31.76	3.01	9.73	3.63	48.13
	Gulf	20.87	2.90	7.64	4.54	35.95
	Pacific	20.87	2.90	5.91	2.72	32.40
XXVII	Galvanized Sheets and Electro Galvanized					
	East	24.50	3.36	8.91	3.63	40.40
	Lakes	32.67	3.45	11.21	3.63	50.96
	Gulf	20.87	3.33	8.82	4.54	37.56
	Pacific	21.78	3.34	6.84	2.72	34.68
XXII	Electrical Sheets					
	East	29.95	7.27	19.55	3.63	60.40
	Lakes	33.58	7.31	24.16	3.63	68.68
	Gulf	24.50	7.22	19.41	4.54	55.67
	Pacific	23.59	7.21	15.00	2.72	48.52

4. *Assumptions utilized in estimating Japanese cost of production.*—(a) *Exchange rate.* All calculations have been based upon an exchange rate of 240 yen to the U.S. dollar applied to the most recent data made available on raw material, labor, capital, and other costs incurred by the Japanese steel industry.

(b) *Capacity utilization.* All calculations have been based upon a "standard" utilization ratio of 85 percent of capacity. While the Japanese industry is currently operating at only 70 percent of capacity, it has averaged more than 85 percent utilization through its business cycles since 1956. Therefore, a standard volume, equal to 85 percent of capacity, is considered the appropriate basis for calculating Japanese production costs.

(c) *Labor productivity.* All calculations have been derived from an estimated labor usage of 7 man-hours per metric ton of raw steel produced. At present, the entire Japanese steel industry is utilizing nearly 10 man-hours per metric ton of raw steel, but this includes the labor-intensive specialty steel firms. Moreover, the Japanese industry has reduced its employment levels by less than 1.5 percent since 1973, while it has reduced output by more than 10 percent. During this period, the industry has made continued technological progress. Therefore, it can expand output to 85 percent of capacity with little or no additional employment. At this higher level of utilization, the average man-hours per metric ton of crude steel for the entire industry would be approximately 8.2. Excluding specialty steel production and eliminating labor not applied to steelmaking operations, the average man-hours required at an 85 percent capacity utilization in integrated carbon steel production has been determined to be about 7 man-hours per metric ton.

(d) *Yield.* The Japanese steel industry yield from raw steel to finished products is placed at 80 percent in calculating production cost. In the CWPS Report, the Japanese yield was estimated to be 77.8 percent in 1976 on a U.S. product-mix basis. The evidence obtained from the MITI and other sources indicates that this estimate was too low.

A study to be released next year by the International Iron and Steel Institute, based in Brussels, demonstrates that the Japanese steel industry obtains a yield of more than 93 percent from raw steel to such semifinished products as billets, blooms, and slabs. By contrast, the IISI study shows that the U.S. industry obtains only an 86 percent yield from raw steel to these semifinished products. This difference of more than 7 percent is attributable to more continuous casting in Japan and Japanese experience in both continuous casting and the rolling of ingots.

From the semifinished stage to the final product, the Japanese industry as a whole also enjoys a considerable advantage because of computer control of rolling mills, more precise control over the thickness of the final product, cold scarfing techniques, longer runs, and larger coils. The U.S. industry realizes an 83 percent yield from semifinished to finished products. A conservative estimate of Japanese yields from semifinished products, is 86 percent. Therefore, the Japanese yield to finished products has been calculated as: $0.86 \times 0.93 = 0.80$. This 80 percent yield factor is used in the cost calculation in table 1.

(e) *Capital costs.* Total depreciation charges per net ton of finished products are approximately $17 for the six largest firms. Net interest expenses and a profit margin add another $34 per net finished ton. The total beforetax payments to capital are therefore $50.62 per net ton, or more than 13 percent of total assets related to steel production. This compares most favorably with the better years for the U.S. industry in the past decade. In the boom year of 1974, U.S. producers realized 20 percent on assets before taxes, but this was the only year in the past decade in which these gross returns were greater than 15 percent. In calculating total charges against capital, interest charges were adjusted to avoid double counting for the highly leveraged Japanese steel firms. Total interest payments, depreciation and other fixed charges represent overhead expenses of considerably more than 10 percent of direct costs.

(f) *Scrap netback.* In calculating production costs based upon Japanese raw materials and labor costs, it is necessary to credit the Japanese firms for scrap or secondary product generated. Yield factors reported by the Japanese industry were not used in the calculation of trigger prices in the belief that some of the products considered "finished" would be regarded by U.S. standards as low quality, perhaps not much above scrap. However, this low quality product must receive a cost credit based, at the minimum, on the current market price of high quality scrap. So doing yields a value of $5.96 per net ton of finished steel.

5. *Implementation of the trigger price mechanism.*—(a) *Publication.* The trigger prices hereby established and to be published for additional products in the near future will be applicable to all shipments loaded for export through the second calendar quarter of 1978. Cost of production data will be collected and reviewed on a continuous basis and trigger prices will be revised on a quarterly basis to reflect changes in costs and in exchange rates. It is the present intention of the Treasury Department to announce trigger prices 60 to 90 days before they become applicable. Therefore, trigger prices applicable to shipments loaded during the third calendar quarter in 1978 will be published during April 1978. Revised trigger prices will be established within 5 percent above or below any revised cost of production data where necessary to minimize fluctuations.

(b) *Imports below trigger prices.* Following the date as of which the special steel summary invoice (SSSI) is to be used for steel imports, currently estimated to be February 15, 1978, all imports of steel mill products loaded for export to the United States after the publication of the relevant trigger prices will be examined by the Customs Service. Forms reflecting substantial or repeated imports at prices below applicable trigger prices will be investigated by the Special Customs Steel Task Force. If the accompanying documentation demonstrates to the satisfaction of the Secretary that the prices for any particular shipment were fixed before the publication of the applicable trigger price and could not be varied in accordance with the terms of the parties' contract, no immediate formal investigation will be initiated in the absence of other information indicating that such shipments are at less than fair value, as defined in the Antidumping Act. In all other cases in which a shipment is found to be at prices below applicable trigger prices, the Customs Service may initiate immediate, informal inquiries of the importer to determine whether such sale is less than fair value within the meaning of the Antidumping Act. Unless the Secretary is satisfied within the time to be allotted therefor, that no reasonable possibility of sales at less than fair value may be found, an antidumping proceeding notice will promptly be published with respect to that shipment and other shipments of such or similar merchandise from the same exporter or from the same country of exportation as he deems appropriate.

(c) *Rights of interested parties preserved.* Implementation of the trigger price mechanism is not intended to deny to any party interested in the importation of steel mill products any rights it may have under the Antidumping Act or other applicable law. It is intended and will be used solely to enable the Secretary to determine on an expedited basis whether or not to initiate antidumping proceedings pursuant to section 153.30(a) of the Customs regulations and to reach the stage of making a tentative determination with respect to sales at less than fair value within a period substantially shorter than the six months provided in section 153.32 of the Customs regulations.

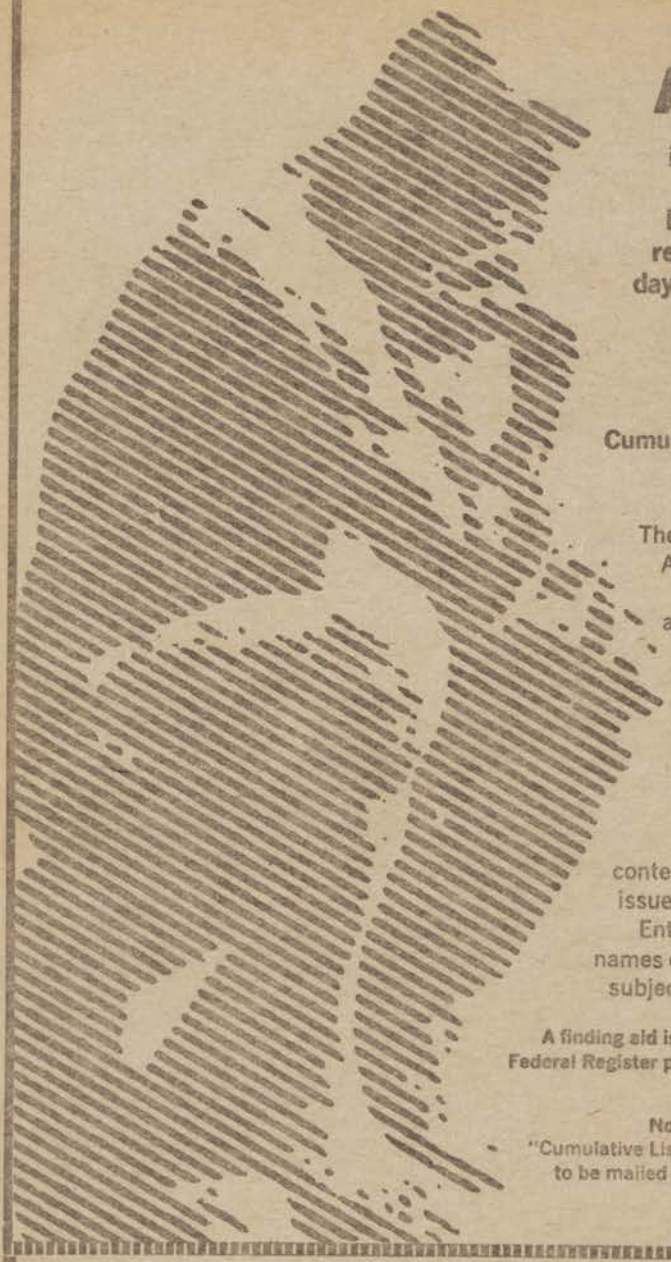
6. *Public comment.* Comments from the public should be addressed to:

Peter D. Ehrenhaft, Deputy Assistant Secretary and Special Counsel (Tariff Affairs), Room 3424, Main Treasury, Washington, D.C. 20220.

Dated: December 30, 1977.

ANTHONY M. SOLOMON,
Acting Secretary of the Treasury.

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