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federal register

THURSDAY, APRIL 13, 1978

highlights

SIGN LANGUAGE INTERPRETER

HOW TO USE THE FEDERAL REGISTER

WHO: The Office of the Federal Register will provide a sign language interpreter at a workshop on how to use the Federal Register.

FOR: Any deaf person who must use the Federal Register and Code of Federal Regulations.

WHAT: Free public workshop (approximately 3 hours) to present:

1. Brief history of the Federal Register system.
2. Difference between legislation and regulations.
3. Relationship of Federal Register and the Code of Federal Regulations.
4. Introduction to the finding aids of FR/CFR system.

WHEN: 9 a.m., Friday, April 21, 1978.

WHERE: 1100 L Street NW., Washington, D.C., Room 9409.

WHY: To give deaf persons an opportunity to learn about publication of Federal regulations and encourage their fuller participation in the Government rulemaking process.

INFORMATION: Marty Franks, 202-523-3517.

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
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	HEW/CDC			HEW/CDC
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	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

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

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

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

federal register

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

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

[3410-02]

Title 7—Agriculture

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

[Navel Orange Regulation 438, 439; Amdt. 1]

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

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final Rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period April 14-20, 1978, and increases the quantity of such oranges that may be so shipped during the period April 7-13, 1978. Such action is needed to provide for orderly marketing of fresh navel oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: The regulation becomes effective April 14, 1978, and the amendment is effective for the period April 7-13, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of navel oranges, as hereafter provided, will tend to effectuate the declared policy of the act by tending to establish and maintain such orderly marketing conditions for such oranges as will provide, in the interests of producers and consumers, an orderly flow of the supply thereof to market throughout the normal marketing season to avoid unreasonable fluctuations in supplies and prices, and is not for the purpose of maintaining prices to farmers above the level which it is declared to be the policy of Congress to establish under the act.

The committee met on April 11, 1978, to consider supply and market conditions and other factors affecting the need for regulation, and recommended quantities of navel oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for navel oranges showed renewed strength last week.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necesary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of navel oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

1. § 907.739 Navel Orange Regulation 439.

Order. (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period April 14, 1978, through April 20, 1978, are established as follows:

(1) District 1: 900,000 cartons;

(2) District 2: unlimited movement;

(3) District 3: unlimited movement.

(b) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" mean the same as defined in the marketing order.

2. Paragraph (a)(1) (2) and (3) in § 907.738 Navel Orange Regulation 438 (43 F.R. 14435), is hereby amended to read:

(1) District 1: 870,000 cartons;

(2) District 2: 180,000 cartons:

(3) District 3: unlimited movement.

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

Dated: April 12, 1978.

FLOYD F. HEDLUND
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-10068 Filed 4-12-78; 11:43 am]

[3410-02]

[Valencia Orange Reg. 583, 584; Amdt. 1]

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

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period April 14-20, 1978, and increases the quantity of such oranges that may be so shipped during the period April 7-13, 1978. Such action is needed to provide for orderly marketing of fresh Valencia oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: The regulation becomes effective April 14, 1978, and the amendment is effective for the period April 7-13, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of Valencia oranges,

as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on April 11, 1978, to consider supply and market conditions and other factors affecting the need for regulation, and recommended quantities of Valencia oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for Valencia oranges has improved considerably and this trend is expected to continue.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of Valencia oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

1. § 908.884 Valencia Orange Regulation 584.

Order. (a) The quantities of Valencia oranges grown in Arizona and California which may be handled during the period April 14, 1978 through April 20, 1978, are established as follows:

(1) District 1: 165,814 cartons;

(2) District 2: 75,365 cartons;

(3) District 3: 250,000 cartons.

(b) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" mean the same as defined in the marketing order.

2. Paragraph (a)(3) in § 908.883 Valencia Orange Regulation 583 (43 FR 14435), is hereby amended to read:

"(3) District 3: 300,000 cartons."

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

Dated: April 12, 1978.

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

[FR Doc. 78-10069 Filed 4-12-78; 11:44 am]

[1505-01]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 170—FEES FOR FACILITIES AND MATERIALS LICENSEES AND OTHER REGULATORY SERVICES UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

Revision of Fee Schedule

Correction

On page 11815 in the issue for Wednesday, March 22, 1978, there appeared a correction to FR Doc. 78-4355 which appeared at page 7210 in the issue for February 21, 1978. In item "6." of the correction document, an incorrect reference was made to a paragraph "1(b)" in § 170.32. It should have referred to paragraph "1(H)(3)(b)". Therefore, the beginning of item "6." of the part of the correction now reading "On page 7225, in 1(b) of § 170.32, first line, "21 per year" should read "1 per year"; . . ." should be changed to read as follows: "On page 7225, in 1(H)(3)(b) of § 170.32, first line, "21 per year" should read "1 per year"; . . .".

Please note that the rest of the correction is accurate and remains unchanged.

[6210-01]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

[Reg. Q]

Part 217—Interest on Deposits

Order Granting Temporary Suspension of Early Withdrawal Penalty

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Temporary suspension of the regulation Q penalty normally imposed upon the withdrawal of funds from time deposits prior to maturity.

SUMMARY: The Board of Governors, acting through its Secretary, pursuant to delegated authority, has suspended temporarily the regulation Q penalty for the withdrawal of time deposits prior to maturity from members banks for depositors affected by the severe storms, ice jams, snowmelt, and flooding beginning about March 13, 1978, in the State of Nebraska.

EFFECTIVE DATE: March 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Allen L. Raiken, Associate General Counsel, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-3625.

SUPPLEMENTARY INFORMATION: On March 24, 1978, pursuant to section 301 of the Disaster Relief Act of 1974 (42 U.S.C. 5141) and Executive Order 11795 of July 11, 1974, the President, acting through the Administrator of the Federal Disaster Assistance Administration, designated the following counties of the State of Nebraska a major disaster area: Cass, Colfax, Dodge, Douglas, Jefferson, Nuckolls, Platte, Sarpy, Saunders, and Thayer. The Board regards the President's action as recognition by the Federal government that a disaster of major proportions has occurred. The President's designation enables victims of the disaster to qualify for special emergency financial assistance. The Board believes it appropriate to provide an additional measure of assistance to victims by temporarily suspending the regulation Q early withdrawal penalty.[1] The Board's action permits a member bank, wherever located, to pay a time deposit before maturity without imposing this penalty upon a showing that the depositor has suffered property or other financial loss in the disaster area as a result of the severe storms, ice jams, snowmelt, and flooding. A member bank should obtain from a depositor seeking to withdraw a time deposit pursuant to this action a signed statement describing fully the disaster-related loss. This statement should be approved and certified by an officer of the bank. This action will be retroactive to March 24, 1978, and will remain in effect until 12 midnight September 30, 1978.

Section 19(j) of the Federal Reserve Act (12 U.S.C. 371b) provides that no member bank shall pay any time deposit before maturity except upon such conditions and in accordance with such rules and regulations as may be prescribed by the Board. The Board has determined it to be in the overriding public interest to suspend the penalty provision in § 217.4(d) of regulation Q for the benefit of depositors suffering disaster-related losses within those geographical area of the State of Nebraska officially designated a major disaster area by the President. The Board, in granting this temporary suspension, encourages member banks to permit penalty-free withdrawal before maturity of time deposits for depositors who have suffered disaster-

[1] Sec. 217.4(d) of regulation Q provides that where a time deposit, or any portion thereof, is paid before maturity, a member bank may pay interest on the amount withdrawn at a rate not to exceed that currently prescribed for a savings deposit and that the depositor shall forfeit 3 months of interest payable at such rate.

related losses within the designated disaster area.

In view of the urgent need to provide immediate assistance to relieve the financial hardship being suffered by persons directly affected by the severe damage and destruction occasioned by the flooding in the designated counties of Nebraska, the Board finds that good cause exists for dispensing with notice and public participation referred to in section 553(b) of title 5 of the United States Code with repect to this action and that public procedure with regard to this action would be contrary to the public interest. Because of the need to provide assistance as soon as possible and because the Board's action relieves a restriction, the Board finds that there is good cause to make the action effective immediately.

By order of the Board of Governors, acting through its Secretary, pursuant to delegated authority (12 CFR 265.2(a)(18)), April 7, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-9850 Filed 4-12-78; 8:45 am]

[7535-01]

CHAPTER VII—NATIONAL CREDIT UNION ADMINISTRATION

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: When the existing regulation on amortization and payment of loans to members was promulgated, the words "of principal" were inadvertently added to those provisions setting forth the requirement that loan payments must be substantially equal and made at intervals not greater than 12 months. The inclusion of the "of principal" phrase would prohibit the use of level payment loan plans, which was not the intent of the National Credit Union Administration. These amendments remove that phase from the regulation.

EFFECTIVE DATE: May 1, 1978.

ADDRESS: National Credit Union Administration, 2025 M St. NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT:

Robert M. Fenner, Office of the General Counsel, National Credit Union Administration, at the above address, telephone 202-632-4870.

The notice and public participation requirements of 5 U.S.C. 553 were not followed in connection with this revision of section 701.21-2. These procedures were found to be unnecessary because the revision removes a requirement in the existing regulation.

Accordingly, 12 CFR Part 701 is amended as follows:

§ 701.21-2 [Amended]

1. By deleting the phrase "of principal" in section 701.21-2(a).

2. By deleting the phrase "of principal" in § 701.21-2(b)(1).

AUTHORITY.—Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1104 (12 U.S.C. 1789).

Dated: March 29, 1978.

LAWRENCE CONNELL,
Administrator.

[FR Doc. 78-9897 Filed 4-12-78; 8:45 am]

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 78-EA-7; Amdt. 39-3182]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule (AD) amends AD 77-24-01 applicable to PA-31, PA-31-325, and PA-31-350 type airplanes. The purpose of this rule is to add aircraft for coverage by AD 77-24-01, which concerns an inspection and repair where necessary of the horizontal stabilizer and fin skin to stiffener rivet attachments.

EFFECTIVE DATE: April 17, 1978.

ADDRESS: Piper Service Bulletins may be acquired from the manufacturer at Piper Aircraft Corp., 820 East Bald Eagle Street, Lock Haven, Pa. 17745.

FOR FURTHER INFORMATION CONTACT:

C. Kallis, Airframe Section, AEA-212, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430; tel. 212-995-2875.

DRAFTING INFORMATION

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

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 amending AD 77-24-01, as follows:

Amend Ad 77-24-01 so as to delete the applicability paragraph and insert in lieu thereof:

PIPER: Applies to the following models: PA-31 and PA-31-325, Serial Nos. 31-465, 31-7712057 through 31-7712078, 31-7712081, and 31-7712083; PA-31-350 Serial Nos. 31-7752099, 31-7752101, 31-7752103, 31-7752105 through 31-7752114, 31-7752117 through 31-7752131, and 31-7752134 through 31-7752138, certificated in all categories.

Effective date. This amendment is effective April 17, 1978.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 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 April 3, 1978.

L. J. CARDINALI,
Acting Director,
Eastern Region.

[FR Doc. 78-9697 Filed 4-12-78; 8:45 am]

[4910-13]

[Docket No. 77-EA-6; Amdt. 39-3181]

PART 39—AIRWORTHINESS DIRECTIVES

Canadair Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule (AD) revises and amends AD 76-15-05 applicable to Canadair CL-44D4 and CL-44J type airplanes. It will simplify the language of the AD and cover situations where V.S. 2738 bolts are inspected and reinstalled in the nose landing gear leg and where installed bolts are replaced by new V.S. 2738 bolts. It also places a life limit on the V.S. 2738 bolt. These amendments are necessary because of the lack of coverage in the AD as initially published.

EFFECTIVE DATE: April 17, 1978.

ADDRESS: Canadair Service Bulletins may be acquired from the manufacturer at P.O. Box 6087, Montreal, Canada.

FOR FURTHER INFORMATION CONTACT:

L. Lipsius, Airframe Section, AEA-212, Engineering and Manufacturing

Branch, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430; tel. 212-995-2875.

SUPPLEMENTARY INFORMATION:

There are at present only two U.S. registered type aircraft, i.e., registered to Flying Tigers and Blue Bell, Inc. The matter has been discussed with the operators. However, the item does affect air safety as it relates to a contingency not covered by the original rule. Since the subject affects air safety, notice or public procedure hereon are impractical and good cause exists for making the rule effective in less than 30 days.

DRAFTING INFORMATION

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

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 revising and amending AD 76-15-05 as follows:

CANADAIR: Applies to all CL-44D4 and CL-44J airplanes, certificated in all categories.

Compliance required as indicated unless already accomplished. Affects the nose landing gear retraction actuator lever attachment bolts.

(a) On airplanes with nose landing gear retraction actuator lever attachment bolts, P/N 44-85279, installed:

(1) Within the next 250 landings after the effective date of this AD, accomplish the following:

(i) Replace bolts with unused vacuum cadmium plated Voi-Shan bolts, P/N V.S. 2738, or equivalent bolts. Voi-Shan bolts are identified by part number impression on the bolt head.

(ii) Install V.S. 2738 bolts in accordance with paragraph 4.1(e) through 4.1(h) of Canadair Service Information Circular No. 387-CL44, Issue 2, (SIC) or an equivalent installation.

(b) On airplanes with V.S. 2738 bolts installed:

(1) Within the next 25 landings after the effective date of this airworthiness directive, accomplish the following:

(i) Inspect V.S. 2738 bolts in accordance with paragraph 4.1(a) through 4.1(c) of the SIC, or an equivalent inspection, for cracks, corrosion, pitting, or rework by chrome plating.

(ii) Replace bolts showing signs of any of the above defects, before further flight, with unused V.S. 2738 bolts, and install in accordance with paragraph 4.1(c) through 4.1(h) of the SIC or approved equivalent procedure.

(2) Vacuum cadmium plated V.S. 2738 bolts, found free from defects, may be reinstalled provided:

(i) Within the next 500 hours in service or 125 landings, whichever occurs first, after reinstallation and thereafter, at intervals not to exceed 500 hours in service or 125 landings from the last inspection, the bolts are inspected for cracks by magnetic particle inspection or eddy current inspection or an equivalent procedure.

(ii) Reinstalled bolts that have attained 5,000 hours in service or 1,250 landings, must be replaced with unused V.S. 2738 bolts or equivalent bolts, and installed in accordance with paragraph 4.1(c) through 4.1(h) of the SIC or approved equivalent procedure.

(iii) The repetitive inspection required by paragraph (b)(2)(i) may be discontinued when the used bolts are replaced with unused vacuum cadmium plated V.S. 2738 bolts or equivalent bolts and installed in accordance with paragraph 4.1(c) through 4.1(h) of the SIC, or approved equivalent procedure.

(c) Unused vacuum cadmium plated Voi-Shan bolts, installed in accordance with paragraph (a)(1)(ii), must be replaced with unused bolts of the same type and installed in the same manner, at or before 13,500 hours in service or 8 years, whichever occurs first. If bolts are removed prior to the aforementioned life limits, they must be inspected and installed in accordance with paragraph (b)(1) (i) and (ii).

(d) Equivalent inspections, installations, bolts, and service information circular revisions, must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

(e) Upon submission of substantiating data, by an owner or operator through an FAA Maintenance Inspector, the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, may adjust the compliance time specified in this AD.

Effective date. This amendment is effective April 17, 1978.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 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 April 3, 1978.

L. J. CARDINALI,
Acting Director,
Eastern Region.

[FR Doc. 78-9698 Filed 4-12-78; 8:45 am]

[4910-13]

[Docket No. 78-SO-19; Amdt. 39-3183]

PART 39—AIRWORTHINESS DIRECTIVES

Grumman American Aviation Corp., Models G-159 and G-1159

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises Airworthiness Directive (AD) 77-13-01 to specify the cut-off dates for: (1) Submittal of justification for a grant of extension and (2) the granting of extensions. This action is necessary since the requested dates for grants of extension for AD 77-13-01 are becoming exceedingly long. The modification kits specified in the AD can be made available if the number of interested operators is known, thus allowing the manufacturer to order long-lead time parts.

DATE: Effective date: April 21, 1978. Compliance required within 10 hours time in service after June 21, 1977, (original effective date of the AD).

ADDRESSES: Grumman American Aviation Corp. (GAAC) Service Change Number 226 may be obtained from GAAC, P.O. Box 2206, Savannah, Ga. 31402, telephone 912-964-3000. A copy of the Service Change is contained in Room 275, Engineering and Manufacturing Branch, FAA, Southern Regional Office Building, 3400 Whipple Avenue, East Point, Ga.

FOR FURTHER INFORMATION CONTACT:

Curtis Jackson, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Southern Region, P.O. Box 20636, Atlanta, Ga. 30320, telephone 404-763-7407.

SUPPLEMENTARY INFORMATION: Since August 8, 1977 (the effective date of the AD amendment that allowed grants of extension of compliance time), seventy-two (72) G-1159 extensions and twenty-five (25) G-159 extensions have been issued. Since the jumpseats are installed by outfitters in the field, it is not known which of the remaining aircraft have jumpseats installed. Also, it is not known which operators desire to utilize the jumpseat during ground operations. Therefore, the necessary quantity of modification kits should be determined so that long-lead time parts can be ordered. In the interest of safety, the FAA desires to have the remaining aircraft modified as soon as possible. GAAC is manufacturing additional jigs and fixtures so that the G-1159 modification rate can be increased. These fixtures will be available to be used by outside modifiers.

Therefore, this amendment of AD 77-13-01 will allow interested operators until July 21, 1978, to submit the required justification. After this date, applications for extensions will not be considered. An operator must also, as before, furnish a firm commitment from GAAC or another qualified modifier on the available date for the modification kit for that aircraft. This amendment also establishes the latest date for an extension as November 8, 1979. After this date, all G-159 and G-1159 aircraft with any jumpseat installed between fuselage stations 119

and 169 must have installed either the applicable structural modification or a placard prohibiting use of the jumpseat during taxi, takeoff, or landing.

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

DRAFTING INFORMATION

The principal authors of this document are Curtis Jackson, Engineering and Manufacturing Branch, Flight Standards Division; and Keith May, Office of Regional Counsel, Federal Aviation Administration, Southern Region.

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), Amendment 39-2919, AD 77-13-01, as amended by Amendment 39-3003, is further amended to read as follows:

GRUMMAN AMERICAN AVIATION CORP. (GAAC): Applies to GAAC Model G-159, all serial numbers, and Model G-1159, serial numbers 1 through 208 and 775, airplanes certificated in all categories.

Compliance required within 10 hours time in service after June 21, 1977, unless already accomplished.

To prevent injury to an occupant of any jumpseat located between fuselage stations 119 and 169 on GAAC Models G-159 and G-1159 airplanes, accomplish one of the following:

(a) Install a placard either on the bulkhead adjacent to the jumpseat or at any equivalent location approved by the Federal Aviation Administration utilizing a minimum of 3/16-inch high letters with the wording: "JUMPSEAT OCCUPANCY DURING TAXI, TAKEOFF, OR LANDING PROHIBITED." or

(b) Modify in the following manner:

1. The Model G-159 nose landing gear drag strut fused or bulkhead modification in accordance with GAAC Aircraft Service Change No. 226, Part I or II, or later FAA approved revision, or in an equivalent manner approved by the Chief, Engineering and Manufacturing Branch, FAA, Southern Region.

2. The Model G-1159 nose landing gear wheel well bulkhead is modified to eliminate drag strut penetration in accordance with GAAC Aircraft Service Change No. 226, Part II, or later FAA approved revision, or in an equivalent manner approved by the Chief, Engineering and Manufacturing Branch, FAA, Southern Region, or

(c) Upon a grant of extension of compliance time by the Chief, Engineering and Manufacturing Branch, FAA, Southern Region, the required placard may be removed for the length of the extension. Interested operators must furnish documentation with justification for the need for an extension to the Federal Aviation Administration, Chief, Engineering and Manufacturing Branch, P.O. Box 20636, Atlanta, Ga. 30320 by July 21, 1978. Also required in this documentation is evidence of a firm commitment from GAAC or a qualified modifier on the available date for the modification kit for that serial number aircraft. Each request for an extension will be handled on an individual aircraft basis.

When either of the modifications described in paragraph b(1) or b(2) are accomplished, or the individual grant of extension is issued in accordance with paragraph (c), the required placard of paragraph (a) may be removed. However, grants of extension of compliance time will not be issued for any date beyond November 8, 1979. After November 8, any G-159 or G-1159 aircraft with a jumpseat installed between fuselage stations 119 and 169 must have installed either the modification in paragraph b(1) or b(2), or the placard in paragraph (a).

Amendment 39-2919 became effective June 21, 1977.

Amendment 39-3003 became effective August 8, 1977.

This Amendment 39-3183 becomes effective April 21, 1978.

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

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 East Point, Ga., on April 3, 1978.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc. 78-9699 Filed 4-12-78; 8:45 am]

[4910-13]

[Docket No. 17533; Amdt. 39-3186]

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 adopts a new airworthiness directive (AD) which requires inspections 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 was prompted by reports of cracks, which could result in cabin depressurization.

DATES: Effective May 15, 1978. Compliance required as indicated.

ADDRESSES: The applicable service bulletin may be obtained from: British Aircraft Corp., Inc., 13850 McLearen Road, Herndon, Va. 20070, 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, 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: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring inspections 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, was published in the FEDERAL REGISTER at 43 FR 1353 on January 9, 1978. The proposal was prompted by reports of cracks, which could result in cabin depressurization.

Interested persons have been afforded an opportunity to participate in the making of the amendment. Allegheny Airlines commented that they had insitutued the proposed AD inspection requirements with 750 flighthour intervals in February 1977. During 1978, they expect to increase their "B" check interval to an 850 hour frequency. It would simplify their situation if the AD contained provision allowing the operator to make application for time/frequency adjustment through their local FAA office. Most AD's written against BAC 1-11 aircraft contain this provision. The FAA agrees and provision has been made for this change by adding a new paragraph (h).

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.

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:

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 thereafter 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. Modification 52-PM5448, 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.

(h) Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East 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.

NOTE.—For additional clarification of types of cracking to be expected and crack limitations, refer to British Aircraft Corporation 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.

This amendment becomes effective May 15, 1978.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 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 April 3, 1978.

JAMES M. VINES,
Acting Director,
Flight Standards Service.

[FR Doc. 78-9705 Filed 4-12-78; 8:45 am]

[4910-13]

[Docket No. 78-EA-2; Amdt. 39-3179]

PART 39—AIRWORTHINESS DIRECTIVES

Canadair Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment (AD) is applicable to Canadair CL-215 type airplanes and requires replacement of the aluminum water door hinge plates with steel hinge plates to prevent cracking of the plates. Such cracking could result in opening of the forward edge of the water door causing a hazard on takeoff and landing.

EFFECTIVE DATE: April 14, 1978. Compliance required prior to receiving U.S. airworthiness certification date.

ADDRESS: Canadair Service Bulletins may be obtained from the manufacturer at P.O. Box 6087, Montreal, Canada.

FOR FURTHER INFORMATION CONTACT:

I. Mankuta, Airframe Section, AEA-212, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430, telephone 212-995-2875.

SUPPLEMENTARY INFORMATION: There have been reports of cracks in the aluminum water door hinge plates. Since there are no CL-215 aircraft with U.S. registry, an AD is being issued to require replacement of the aluminum hinges with steel hinges prior to application for a U.S. airworthiness certificate. Since there are no CL-215 aircraft of U.S. registry notice and public procedure hereon are unnecessary and the directive may be made effective in less than 30 days.

DRAFTING INFORMATION

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

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 issuing a new airworthiness directive as follows:

CANADAIR: Applies to Canadair CL-215-1A10 Airplanes, Serial Numbers 1001 and 1050 which incorporate aluminum alloy water door hinge plates 215-33159-2, -3, -6 or -7.

Compliance required prior to U.S. airworthiness certification.

Unless already accomplished replace the aluminum water door hinge plates, P/N 215-33159-2, -3, -6 or -7 with steel hinge plates, P/N 215-33159-8 or approved equivalents in accordance with paragraph 2(d) of Canadair Service Information Circular No. 143-CL-215, Issue 3, Revision B, dated October 20, 1977, or an approved equivalent.

Equivalent replacement parts and installation procedures must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

Effective date: This amendment is effective April 14, 1978.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 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 Jamaica, N.Y., on March 31, 1978.

L. J. CARDINALI,
Acting Director,
Eastern Region.

[FR Doc. 78-9710 Filed 4-12-78; 8:45 am]

[4910-13]

[Docket No. 77-EA-95; Amdt. 39-3178]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to Piper PA-23 type airplanes. It requires a repetitive inspection of the upper and lower rudder hinge reinforcement brackets. The amendment is needed to discover and replace cracked brackets which could fail, causing loss of rudder control.

EFFECTIVE DATE: April 14, 1978. Compliance is required in accordance with the schedule in the AD.

ADDRESSES: Piper Service Bulletins may be acquired from the manufacturer at Piper Aircraft Corp., 820 East Bald Eagle Street, Lock Haven, Pa. 17745. A copy of the docket may be obtained at the Office of Regional Counsel, FAA, Eastern Region, Jamaica, N.Y. 11430.

FOR FURTHER INFORMATION CONTACT:

J. Maher, Airframe Section, AEA-212, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430, telephone 212-995-2875.

SUPPLEMENTARY INFORMATION: There have been reports of cracks in the reinforcing bracket of the upper and lower rudder hinges. Extended progression of these cracks could cause shearing away of the hinges and loss of rudder control. Since this is a deficiency which can exist or develop in similar type design airplanes, an Airworthiness Directive is being issued which will require a repetitive inspection or replacement of the part.

DRAFTING INFORMATION

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

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 issuing a new airworthiness directive as follows:

PIPER: Applies to Piper Models PA-23 and PA-23-160, Serial Nos. 23-1 and up certificated in all categories.

To prevent hazards in flight associated with cracks in the rudder upper hinge reinforcing bracket or rudder lower hinge bracket assembly, accomplish the following:

(a) Within the next 25 hours in service from the effective date of this AD or upon the attainment of 1,000 total hours in service, whichever is later, remove the rudder upper hinge P/N 17063-00 and inspect the rudder upper hinge reinforcement bracket P/N 17067-18 for cracks using a dye penetrant or equivalent method. Also inspect the rudder lower hinge bracket assembly P/N 17289-00 in the bearing area for cracks using a dye penetrant or equivalent method.

(b) Within 100 hours in service from the inspection of paragraph (a), and there after at intervals not to exceed 100 hours since the last inspection, inspect the rudder upper hinge reinforcing bracket P/N 17067-18 for cracks along the periphery of the rudder upper hinge using a magnifying glass of at least ten power. It is not necessary to remove the hinge. Also inspect the rudder lower hinge bracket assembly P/N 17289-00 for cracks in the bearing area using a magnifying glass of at least ten power or equivalent.

(c) If cracks are found in the reinforcing bracket during the inspections of paragraphs (a) or (b) remove it and inspect the spar web for cracks using a dye penetrant method or equivalent.

(d) Cracked parts must be replaced using undamaged parts of the same part number or equivalent before further flight.

(e) Equivalent inspections and repairs must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

(f) Upon submission of substantiating data by an owner or operator through an FAA Maintenance Inspector, the Chief Engineering and Manufacturing Branch, FAA, Eastern Region may adjust the inspection intervals specified in this AD.

(g) Report positive findings from paragraph (a) to Chief, Engineering and Manufacturing Section, FAA, Eastern Region within ten days of inspection. (Reporting approved by Office of Management and Budget under OMB No. 04-R0174).

Effective Date: This amendment is effective April 14, 1978.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, 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 Jamaica, N.Y., on March 31, 1978.

L. J. CARDINALI,
Acting Director,
Eastern Region.

[FR Doc. 78-9712 Filed 4-12-78; 8:45 am]

[4910-13]

[Docket No. 77-NW-31-AD; Amdt. 39-3187]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule supersedes an existing airworthiness directive which requires a one-time inspection of the two gates of each pressurization system outflow valve assembly on Boeing B-747 airplanes. The new airworthiness directive requires repetitive inspections and eventual modification of the gates. The modification is necessary to prevent loss of the gates and resulting rapid decompression of the airplane due to delamination of the gate-to-hinge bond.

DATES: Effective date May 10, 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. Hamilton Standard Service Bulletins specified in this directive may be obtained upon request to Hamilton Standard Division, United Technologies, Bradley Field Road, Windsor Locks, Conn. 06096. 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:

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. On December 8, 1977, Airworthiness Directive 77-25-06, Amendment 39-3098, (42 FR 63637) was issued to require a visual inspection of the gate-to-hinge bond. On December 28, 1977, a notice of proposed rule making was issued to supersede Airworthiness Directive 77-25-06 and to require repetitive inspections and eventual modification of the two gates of both pressurization system outflow valve assemblies. The terminating action is a modification that adds 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. The need for this amendment was generated by the in-flight rapid depressurization of a 747 airplane. The comments received on the notice of proposed rule making can be placed in the following three general categories:

1. The results of the visual inspection required by Airworthiness Directive 77-25-06 did not discover any additional confirmed delaminations of the gate-to-hinge bond; therefore, the proposed repetitive inspection interval should be deleted or increased.

2. The proposed 1800-hour compliance time for modification of the Hamilton Standard P/N 719201-2, -3, -4, and -5 valve assemblies is not justified since there have not been any re-

ported delaminations on these part number valves.

3. The proposed 2500-hour compliance time for modification of all Hamilton Standard P/N 719201-6, -7, -8, and -9 valve assemblies will impose a serious hardship; therefore, it was suggested that FAA permit a program of repetitive visual inspections.

In reference to the first category of comments pertaining to the visual inspection, the FAA does not agree that the results of this inspection justify deleting the repetitive inspection requirements. The visual inspection does not reveal the detailed condition of the bond joint. The FAA does not have sufficient data available to allow determination of the rate of propagation of bond separation or bond deterioration that may occur. The FAA does consider that the initial inspection results are adequate to permit an increased repetitive inspection interval of 900 hours time in service.

The initial inspection results did not reveal any defective gate-to-hinge bonds in the Hamilton Standard P/N 719201-2, -3, -4, and -5 assemblies. Based on this information the FAA concurs with the second category of comments that a lower compliance time for these parts is not justified; therefore, the compliance time for modification of these parts will be increased to equal that of the other affected assemblies.

One commentator stated that the reliability of the outflow assemblies has been extremely high; therefore, few spares had been sold to operators. In addition, he stated that the capability to provide a quantity of spares is limited by a long lead time for the hinge castings. In consideration of this and the results of the initial inspection and the requirement for repetitive inspections, the FAA has increased the modification compliance time for all affected assemblies to 4000 hours time in service.

Drafting Information

The principal authors of this document are Weston B. Slifer, Engineering and Manufacturing Branch, Northwest Region, and Richard Salwen, Acting Regional Counsel, Northwest Region.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by superseding AD 77-25-06, Amendment 39-3098 (42 FR 63637) with the following new airworthiness directive:

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 900 hours time in service until modified in accordance with part B of this airworthiness directive, inspect forward and aft gates of each outflow valve assembly in accordance with the instructions contained in Boeing Service Bulletin No. 747-21-2139, Revision 1 dated April 7, 1978, or later FAA approved revisions, or in a manner 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 of this airworthiness directive, as applicable, prior to being returned to service.

B. Within 4000 hours time in service after the effective date of this airworthiness directive, modify the outflow valve assemblies in accordance with the instructions contained in Hamilton Standard Service Bulletin H.S. Code 747 AC-114, Revision 1 dated March 15, 1978, or later FAA approved revision, or by an equivalent method approved by the Chief, Engineering and Manufacturing Branch, FAA, Northwest Region.

C. 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 airworthiness directive 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.

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).

(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) 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 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 April 5, 1978.

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

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

[FR Doc. 78-9863 Filed 4-12-78; 8:45 am]

[4910-13]

[Docket No. 78-SO-22]

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

Alteration of Oxford, N.C., Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters the Oxford, N.C., Transition Area. The Oxford-Henderson Airport owners have relocated the Huntsboro NDB from an on-airport site to an off-airport site. This action of the airport owners permits a reduction in the size of the Oxford, N.C., Transition Area and requires this to be reflected in the Transition Area description.

EFFECTIVE DATE: 0901 G.m.t., May 18, 1978.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320.

FOR FURTHER INFORMATION CONTACT:

William F. Herring, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320; telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION: The owners of the Oxford-Henderson Airport have relocated the Huntsboro NDB from an on-airport site to an off-airport site and this will permit a reduction in the size of the 700-foot Transition Area by deleting the extension southwest of the airport. Therefore, it is necessary to alter the description of the Oxford, N.C., transition area by deleting the extension of the 700-foot transition area. Since this alteration lessens the burden on the public, notice and public procedure hereon are unnecessary.

Drafting Information

The principal authors of this document are William F. Herring, Airspace and Procedures Branch, Air Traffic Division, and Eddie L. Thomas, Office of Regional Counsel.

Adoption of the Amendment

Accordingly, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., May 18, 1978, as hereinafter set forth.

In Subpart G, § 71.181 (43 FR 440), the Oxford, N.C. transition area is amended as follows:

"* * *; within 3 miles each side of the 244° bearing from Huntsboro RBN (lat. 36°21'52"

N., long. 78°31'29" W.), extending from the 6.5-mile radius area to 8.5 miles southwest of the RBN * * *" is deleted.

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

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

Issued in East Point, Ga., on April 6, 1978.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc. 78-9703 Filed 4-12-78; 8:45 am]

[4910-13]

[Docket No. 78-SO-16]

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

Alteration of Fort Bragg, N.C., Control Zone and Fayetteville, N.C., Southern Pines, N.C., and the North Carolina Transition Areas.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters the control zone and transition areas by deleting all reference to Restricted Area R-5311A. Effective May 18, 1978, R-5311A will be changed from exclusive military to joint-use airspace. This will allow civil aircraft to operate in this airspace when it is not being utilized for military operations. This action will provide additional airspace for civil users and results in more efficient utilization of airspace.

EFFECTIVE DATE: 0901 G.m.t., May 18, 1978.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320.

FOR FURTHER INFORMATION CONTACT:

William F. Herring, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320; telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION: The three transition areas and the control zone are described in Part 71 of the Federal Aviation Regulations and all contain reference to R-5311A. Changing the mode of operation of the restricted area requires necessary action to alter these descriptions by deleting reference to R-5311A.

Therefore, it is necessary to alter the named control zone and transition areas by this editorial change. Since this alteration is minor in nature, notice and public procedure hereon are not considered necessary.

DRAFTING INFORMATION

The principal authors of this document are C. Herman Thomspon, Airspace and Procedures Branch, Air Traffic Division, and Eddie L. Thomas, Office of Regional Counsel.

ADOPTION OF AMENDMENT

Accordingly, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., May 18, 1978, as herein set forth:

Subpart F, § 71.171 (43 FR 355) is amended by deleting " * * * the portion within R-5311 and * * * " in the Fort Bragg, N.C. description. Subpart G, § 71.181 (43 FR 440) is amended by deleting " * * * excluding the portion within R-5311." in the following descriptions:

Fayetteville, N.C.
Southern Pines, N.C.
North Carolina.

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

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

Issued in East Point, Ga., on April 6, 1978.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc. 78-9704 Filed 4-12-78; 8:45 am]

[4910-13]

[Airspace Docket No. 77-EA-91]

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

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alteration, Revocation and Designation of Jet Routes, Control Areas, Transition Areas and Compulsory Reporting Points

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments alter Jet Routes 62, 97 and the Barnegat, N.J., control area; revoke Jet Routes 63, 153, the CODDS, HADDY, SHADS, TUNNA reporting points, the Bethany Beach, Del., Hog Island, Va., Nantucket, Mass., Narragansett, R.I., Patchogue, N.Y., Pendleton, Va., control areas and the Fire Island, N.Y., and South Island, N.Y., transition areas; and designate the North Atlantic Control Area. These amendments provide for the safe and efficient use of the navigable airspace by improving and increasing the FAA's traffic handling capabilities.

EFFECTIVE DATE: May 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Huff, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone, 202-426-3715.

SUPPLEMENTARY INFORMATION:

HISTORY

On March 6, 1978, the FAA proposed to amend Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) to alter Jet Routes 62 and 97; revoke Jet Routes 63 and 153, the CODDS, HADDY, SHADS and TUNNA reporting points, the Barnegat, N.J., Bethany Beach, Del., Hog Island, Va., Nantucket, Mass., Narragansett, R.I., Patchogue, N.Y., and Pendleton, Va., control areas and the Fire Island, N.Y., and South Island, N.Y., transition areas; and to designate a North Atlantic Control Area (43 FR 9157). Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. No comments were received. Sections 71.161, 71.163, 71.181, 71.209 and 75.100 were republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 347, 348, 440, 641 and 714).

THE RULE

These amendments to Subparts E, G and I of Part 71 and Subpart B of Part 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75), with the exception of Barnegat, N.J., control area, are those proposed in the notice (43 FR 9157). The upper limits of the Barnegat control area, 2,000 feet and above, as proposed in the NPRM, will become part of the North Atlantic control area. However, the lower limits, below 2,000 feet, will be retained to encompass planned instrument approach procedures to various oil rig sites.

DRAFTING INFORMATION

The principal authors of this document are Mr. Richard Huff, Air Traffic Service, and Mr. Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subparts E, G, and I of Part 71 and Subpart B of Part 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) as republished (43 FR 347, 348, 440, 641, and 714) are amended, effective 0901 G.m.t., May 18, 1978, as follows:

In § 71.161 "Jet Route No. 63 and 153" are deleted. In Jet Route No. 62 "the INT of the Nantucket 089° radial and the western boundary of the New York Oceanic Control Area." is deleted and "Lat. 41°08'00" N., Long. 67°00'00" W." is substituted therefor. In Jet Route No. 97 "the INT of the Nantucket 157° radial and the western boundary of the New York Oceanic control area." is deleted and "Lat. 39°07'00" N., Long. 67°00'00" W." is substituted therefor.

In § 71.163 "Bethany Beach, Del.", "Hog Island, Va", "Nantucket, Mass.", "Narragansett, R.I.", "Patchogue, N.Y.", "Pendleton, Va." are deleted; "North Atlantic—that airspace extending upward from 2,000 feet MSL bounded on the south by the South Atlantic control area; on the west along a line 3 NM east of and parallel to the U.S. shoreline; on the north by Lat. 41°40'00" N.; on the east by a line from Lat. 41°40'00" N., Long. 67°00'00" W.; to Lat. 39°00'00" N., Long. 67°00'00" W.; to Lat. 38°35'00" N., Long. 68°53'00" W.; to Lat. 38°20'00" N., Long. 69°57'00" W.; to Lat. 37°31'00" N., Long. 71°41'00" W.; to Lat. 37°15'00" N., Long. 73°00'00" W.; and the New York Oceanic CTA/FIR." is added; and in Barnegat, N.J., after "by latitude 39°44'00" N.", "The portion within North Atlantic control area is excluded." is added.

In § 71.181 "Fire Island, N.Y." and "South Island, N.Y." are deleted.

In § 71.209 "CODDS" "HADDY" "SHADS" and "TUNNA" are deleted.

In § 75.100, within Jet Route No. 62 "the INT of the Nantucket 089° radial and the western boundary of the New York Oceanic Control Area (CODDS)." is deleted and "Lat. 41°08'00" N., Long. 67°00'00" W." is substituted therefor. "Jet Route No. 63" is deleted. In Jet Route No. 97 "the INT of the Nantucket, Mass., 157° radial and the western boundary of the new York Oceanic Control Area," is deleted and "Lat. 39°07'00" N., Long. 67°00'00" W." is substituted therefor. "Jet Route No. 153" is deleted.

(Secs. 307(a), 313(a), 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), 1510); Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.69.)

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 Washington, D.C., on April 4, 1978.

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

[FR Doc. 78-9706 Filed 4-12-78; 8:45 am]

[1505-01]

Title 15—Commerce and Foreign Trade

CHAPTER IX—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 930—FEDERAL CONSISTENCY WITH APPROVED COASTAL MANAGEMENT PROGRAMS

Correction

In FR Doc. 78-6376 appearing at page 10510 in the issue for Monday, March 13, 1978, the following corrections should be made:

(1) On page 10518, third column, the section heading "§ 930.19 Management program" should have appeared above the 4th full paragraph which begins with the words "The term "management program" * * *".

(2) In the same column, the section heading "§ 930.20 Coastal zone." should have appeared above the 5th full paragraph beginning "The term "coastal zone" * * *".

(3) On page 10519, middle column, the following heading should have appeared above the section "§ 930.30 Objectives.":

Subpart C—Consistency for Federal Activities

(4) On page 10520, first column, in the paragraph numbered "(2)" of the Comment for § 930.32 paragraph (a), at the end of the paragraph, the parenthesis should be deleted after the word "Mexico". Also, the following paragraph which begins "The duty the Act imposes * * * " is part of the *Comment* and should have appeared in small type with a parenthesis at the end (after the word " * * * mandates.").

[8010-01]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-14634]

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

Delegation of Authority to Regional Administrators

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its rules governing the delegation of authority to grant extensions of time for filing certain Financial and Operational Combined Uniform Single (FOCUS) reports by brokers and dealers. The amendment authorizes a Regional Administrator of the Commission to grant or deny requests made by brokers and dealers for extensions of time within which to file Part I, Part II and Part IIA of Form X-17A-5. This delegation of authority, limited to extension requests which the Regional Administrator determines to be routine and which require no hearing, will reduce the time necessary to process these applications.

EFFECTIVE DATE: April 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Herbert F. Brooks, Jr., Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549, 202-755-1370.

SUPPLEMENTARY INFORMATION: The Commission today announced the amendment, effective immediately, of its rules governing delegation of authority to the Regional Administrators (17 CFR 200.30-6) with respect to the Securities Exchange Act of 1934 (the "Act") (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)). The new amendment authorizes a Regional Administrator of the Commission to grant or deny requests made by brokers and dealers for extensions of time within which to file Part I, Part II and Part IIA of Form X-17a-5 (17 CFR 249.617) under paragraph (a) of Rule 17a-5 (17 CFR 240.17a-5) ("Section 240.17a-5").

DISCUSSION

Section 240.17a-5(a) under the Act requires brokers and dealers to file periodic reports with the Commission an with designated self-regulatory organizations under the Financial and Oper-

ational Combined Uniform Single ("FOCUS") reporting system. Presently, requests for extensions of time to file such reports with the Commission or a designated self-regulatory organization are processed by the Division of Market Regulation pursuant to authority delegated to the Director of the Division. Insofar as such requests for extensions of time within which to file such reports are routine in nature and do not involve policy considerations or novel questions, it would be more efficient for the Regional Offices to consider these requests. Accordingly, the Commission delegates to the Regional Administrators the authority to grant or deny such extensions of time for filing reports pursuant to section 240.17a-5(a) under the Act.

Subsequent to this date, therefore, any request for an extension of time for filing Parts I, II and IIA of Form X-17A-5 must be directed to the Regional Office in which the broker-dealer has its principal place of business.

The Commission's Regional Offices are located at the following addresses:

Atlanta Regional Office, 1375 Peachtree Street, N.E., Atlanta, Ga. 30309.
Boston Regional Office, 150 Causeway Street, Boston, Mass. 02114.
Chicago Regional Office, Everett McKinley Dirksen Bldg., 219 South Dearborn Street, Room 1204, Chicago, Ill. 60604.
Denver Regional Office, Two Park Central, 1515 Arapahoe Street, Denver, Colo. 80202.
Fort Worth Regional Office, 503 U.S. Court House, 10th and Lamar Streets, Fort Worth, Tex. 76102.
Los Angeles Regional Office, 10960 Wilshire Blvd., Ste. 1710, Los Angeles, Calif. 90024.
New York Regional Office, 26 Federal Plaza, New York, N.Y. 10007.
Seattle Regional Office, 3040 Federal Building, 915 Second Avenue, Seattle, Wash. 98174.
Washington Regional Office, Ballston Center Tower 3, 4015 Wilson Blvd., Arlington, Va. 22203.

The Commission hereby revises 17 CFR 200.30-6(c) to read as follows:

§ 200.30-6 Delegation of authority to Regional Administrators.

* * * * *

(c) With respect to the Securities Exchange Act of 1934, 15 U.S.C. 78a et seq.: Pursuant to Rule 17a-5(a) (§ 240.17a-5(a) of this chapter) and Rule 17a-5(d) (§ 240.17a-5(d) of this chapter), to consider applications by brokers and dealers for extensions of time within which to file reports required by Rule 17a-5 (§ 240.17a-5) of this chapter) and to grant or to deny such applications: *Provided*, Such applicant is advised of his right to have such denial reviewed by the Commission.

* * * * *

STATUTORY BASIS AND COMPETITIVE CONSIDERATIONS

The Securities and Exchange Commission acting pursuant to the Act, and particularly section 2, 17 and 23 thereof (15 U.S.C. 78b, 78q and 78w), hereby adopts the amendments to section 200.30-6(c). The Commission finds that any burden upon competition imposed by the amendment is necessary and appropriate in the public interest and for the protection of investors.

The Commission also finds that the foregoing action relates solely to agency management and personnel and, accordingly, that notice and prior publication for comment under the Administrative Procedure Act (5 U.S.C. 553) are not necessary. This action, taken pursuant to Pub. L. 87-592, 76 Stat. 395 (15 U.S.C. 78d-2), becomes effective immediately.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

APRIL 6, 1978.

[FR Doc. 78-9858 Filed 4-12-78; 8:45 am]

[6740-02]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL ENERGY REGULATORY COMMISSION, DEPARTMENT OF ENERGY

[Docket No. RM77-17; Order No. 5]

ORDER AMENDING THE UNIFORM SYSTEMS OF ACCOUNTS FOR PUBLIC UTILITIES AND LICENSEES FOR THE PURPOSE OF RECLASSIFYING AMORTIZATION RESERVES

APRIL 5, 1978.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Commission is amending its Uniform systems of Accounts for Public Utilities and Licensees (all classes) for the purpose of reclassifying Account 264—Amortization Reserves-Federal. Amendments are also ordered for related report forms and the regulations prescribing one such report forms. These changes are being made to reflect the true nature of the amortization reserves and also to reflect the intent of Congress in its enactment of the Federal Power Act.

EFFECTIVE DATE: January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

M. Wayne McDanal, Office of Chief Accountant, 202-275-4052.

SUPPLEMENTAL INFORMATION:

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 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 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 Delegation Order No. 0204-1 of the Department of Energy pursuant to Section 642 and 402(e) of the DOE Act.

The joint regulations 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.

On April 8, 1977, the Federal Power Commission issued a Notice of Proposed Rulemaking in Docket No. RM77-17 (42 FR 20303, April 19, 1977). This rulemaking proposed to amend the Uniform Systems of Accounts and related report forms for Public Utilities and Licensees (All Classes); the regulations prescribing one of such report forms; FPC Report Form No. 2, Annual Report for Natural Gas Companies (Class A and Class B); and FPC Report Form No. 2-A, Annual Report for Natural Gas Companies (Class C and Class D) for the purpose of reclassifying Account 264, Amortization Reserve—Federal.

Comments were invited from interested persons on or before May 13, 1977. Due to a request, this date was extended to June 1, 1977. Comments were received from 14 respondents. The List of Respondents is designated as Attachment A hereto.

The majority of the respondents supported the proposed rulemaking, however, many of these respondents suggested modification to the proposal. The most numerous comments received expressed concern over the FPC's proposal to retitle Account 264, Amortization Reserve—Federal, as Account 215.1, Appropriated Retained

Earnings—Amortization Reserve, Federal. The majority of the respondents believe that the term "segregated" or "restricted" is preferable to the proposed term "appropriated."

The term "appropriated retained earnings" indicates that an equivalent amount in assets is not to be paid out in dividends which conveys the intent of Congress in establishing these reserves. For this reason and the fact that the term "appropriated" is consistent with the wording of Section 3(13) of the Federal Power Act (Act), we do not believe that the term should be modified.

Two respondents disagreed with the proposed accounting changes and recommended that the present accounting for the reserves be maintained. One respondent suggested that the proposed accounting would violate the "clean surplus" concept. Another respondent stated that excess earnings should not be used in the computation of debt service coverage and included in the equity portion of a utility's capital structure.

We do not agree with the respondents' comments. The "clean surplus" concept holds that all items of profit and loss are to enter into the determination of net income. The transfer of amounts from unappropriated to appropriated retained earnings does not violate the concept. Earnings required to be set aside by licensees under Section 10(d) of the Act are earnings in excess of the specified return in hydroelectric project licenses. To what extent, if any, earnings set aside may be considered as excess earnings is a matter to be determined through recapture proceedings under Section 14 of the Act, or in other proceedings before the Commission. The reclassification of these amounts from the operating reserve classification to the appropriated retained earnings classification is without prejudice to treatment of these amounts in future proceedings before the Commission.

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

(2) The amendments to the Commission's Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act, Parts 101 and 104, Subchapter C, to § 141.13, Part 141, Subchapter D, and to FPC Forms No. 1, No. 1-F, and No. 9 prescribed by §§ 141.2, and 141.13, Part 141, Subchapter D, all in Chapter I, Title 18 of the Code of Federal Regulations, herein adopted, are necessary and appropriate for the administration of the Federal Power Act.

(3) The amendments to FPC Forms No. 2 and No. 2-A prescribed by §§ 260.1 and 260.2, Part 260, Subchapter G, in Chapter I, Title 18 of the Code of Federal Regulations, herein adopted, are necessary and appropriate for the administration of the Natural Gas Act.

(4) The reclassification and amendments, herein adopted, are necessary to reflect the true nature of the amortization reserves and the intent of Congress in its enactment of the Federal Power Act.

(5) The action taken herein is without prejudice to treatment of the amounts recorded in Account 215.1, Appropriated Retained Earnings—Amortization Reserve—Federal, in future proceedings before the Commission.

(6) Good cause exists for making the amendments to FPC Forms No. 1, No. 1-F, No. 2, No. 2-A, and No. 9, herein adopted, effective for the reporting year 1978.

(7) Good cause exists for making the amendments to the Uniform System of Accounts for Public Utilities and Licensees and to the regulations prescribing FPC Form No. 9 herein adopted, effective January 1, 1978.

The Commission, acting pursuant to the provisions of the Federal Power Act, as amended, particularly Sections 10(d), 301(a) 302(b), 304(a), 309 and 311 thereof (41 Stat. 1069, 49 Stat. 843, 82 Stat. 617, 49 Stat. 854, 855, 858, 859; 16 U.S.C. 803(d), 825(a), 825a(b), 825c(a), 825h, 825j), and the provisions of the Natural Gas Act, as amended, particularly Sections 10(a) and 16 thereof (52 Stat. 826, 830; 15 U.S.C. 717i(a), 717o), orders:

PART 101—UNIFORM SYSTEM OF ACCOUNTS FOR PUBLIC UTILITIES AND LICENSES (CLASS A AND CLASS B)

(A) Effective as of January 1, 1978, the Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act (Class A and Class B), Part 101, Subchapter C, Chapter I, Title 18, Code of Federal Regulations, is amended as follows:

(1) The balance Sheet Chart of Accounts is amended as follows:

(a) Add a new Account "215.1, Appropriated Retained Earnings—Amortization Reserve, Federal," immediately following Account "215, Appropriated Retained Earnings."

(b) Delete Account "264, Amortization Reserve—Federal."

As amended, the balance Sheet Chart of Accounts reads:

BALANCE SHEET CHART OF ACCOUNTS

* * * * *

LIABILITIES AND OTHER CREDITS

5. *Proprietary Capital*

* * * * *

215.1 Appropriated retained earnings—Amortization reserve, Federal.

* * * * *

(2) The text of the Balance Sheet Accounts is amended as follows:

(a) Amend Account "127, Amortization Fund—Federal" by changing the title of Account "264, Amortization Reserve—Federal" mentioned therein to read "215.1, Appropriated Retained Earnings—Amortization Reserve, Federal."

(b) Redesignate Account "264, Amortization Reserve—Federal" by changing the title thereof to read "215.1, Appropriated Retained Earnings—Amortization Reserve, Federal." Amend the language of paragraph A thereof and relocate such account immediately following Account "215, Appropriated Retained Earnings."

As amended, the text of the Balance Sheet Accounts reads:

Balance Sheet Accounts

ASSETS AND OTHER DEBITS

* * * * *

2. OTHER PROPERTY AND INVESTMENTS

* * * * *

127 Amortization fund—Federal.

* * * * *

215.1 Appropriated Retained Earnings—Amortization Reserve, Federal.

* * * * *

LIABILITIES AND OTHER CREDITS

5. PROPRIETARY CAPITAL

* * * * *

215.1 Appropriated retained earnings—Amortization reserve, Federal.

A. This account shall be credited with such amounts as are appropriated by a licensee from account 216, Unappropriated Retained Earnings, for amortization reserve purposes in accordance with the requirements of a hydroelectric project license.

B. This account shall be debited with only such items or amounts as the Commission may require or approve. (see account 127, Amortization Fund—Federal.)

PART 104—UNIFORM SYSTEM OF ACCOUNTS FOR PUBLIC UTILITIES AND LICENSEES (CLASS C AND CLASS D)

(B) Effective as of January 1, 1978, the Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act (Class C and Class D), Part 104, Subchapter C, Chapter I, Title 18, Code of Federal Regulations is amended as follows:

(1) The Balance Sheet Chart of Accounts is amended as follows:

(a) Add a new Account "215.1, Appropriated Retained Earnings—Amortization Reserve, Federal," immediately following Account "215, Appropriated Retained Earnings."

(b) Delete Account "264, Amortization Reserve—Federal."

As amended, the Balance Sheet Chart of Accounts reads:

BALANCE SHEET CHART OF ACCOUNTS

* * * * *

LIABILITIES AND OTHER CREDITS

5. *Proprietary Capital—*

* * * * *

215.1 Appropriated retained earnings—Amortization reserve, Federal.

* * * * *

(2) The text of the Balance Sheet Accounts is amended as follows:

(a) Amend Account "125, Special Funds," Note B, by changing the title of Account "264, Amortization Reserve—Federal" mentioned therein to read "215.1, Appropriated Retained Earnings—Amortization Reserve, Federal."

(b) Redesignate Account "264, Amortization Reserve—Federal" by changing the title thereof to read "215.1, Appropriated Retained Earnings—Amortization Reserve, Federal." Amend the language of paragraph A thereof and relocate such account immediately following Account "215, Appropriated Retained Earnings."

As amended, the text of the Balance Sheet Accounts reads:

Balance Sheet Accounts

ASSETS AND OTHER DEBITS

* * * * *

2. OTHER PROPERTY AND INVESTMENTS

* * * * *

125 Special funds.

* * * * *

NOTE B.—* * *

215.1 Appropriated Retained Earnings—Amortization Reserve, Federal.

* * * * *

LIABILITIES AND OTHER CREDITS

5. PROPRIETARY CAPITAL

* * * * *

215.1 Appropriated retained earnings—Amortization reserve, Federal.

A. This account shall be credited with such amounts as are appropriated by a licensee from account 216, Unappropriated Retained Earnings, for amortization reserve purposes in accordance with the requirements of a hydroelectric project license.

B. This account shall be debited with only such items or amounts as the Commission may require or approve. (See account 125, Special Funds.)

PART 141—STATEMENTS AND REPORTS (SCHEDULES)

(C) Effective as of January 1, 1978, paragraph (c) of § 141.13, Part 141, Subchapter D, Chapter I, Title 18, Code of Federal Regulations, which prescribes FPC Form No. 9, Annual Report Form for Licensees of Privately Owned Major Projects (Utility and Industrial), is amended by changing the title of the schedule entitled "Amortization Reserve—Federal" to read "Appropriated Retained Earnings—Amortization Reserve, Federal."

(D) Effective for the reporting year 1978, certain schedule pages of FPC Form No. 1, Annual Report for Electric Utilities, Licensees and Others (Class A and Class B), prescribed by § 141.1, Part 141, Subchapter D, Chapter I, Title 18 of the Code of Federal Regulations, are amended, all as set out in Attachment B below.

PART 260—STATEMENTS AND REPORTS (SCHEDULES)

(E) Effective for the reporting year 1978, certain schedule pages of FPC Form No. 2, Annual Report for Natural Gas Companies (Class A and Class B), prescribed by § 260.1, Part 260, Subchapter G, Chapter I, Title 18 of the Code of Federal Regulations, are amended, all as set out in Attachment B below.

(F) Effective for the reporting year 1978, certain schedule pages of FPC Form No. 1-F, Annual Report for Public Utilities and Licensees (Class C and Class D), prescribed by § 141.2, Part 144, Subchapter D, Chapter I, Title 18 of the Code of Federal Regulations, are amended, all as set out in Attachment C below.

(G) Effective for the reporting year 1978, certain schedule pages of FPC Form No. 2-A, Annual Report for Natural Gas Companies (Class C and Class D), prescribed by § 260.2, Part 260, Subchapter G, Chapter I, Title 18 of the Code of Federal Regulations, are amended, all as set out in Attachment C below.

(H) Effective for the reporting year 1978, certain schedule pages of FPC Form No. 9, Annual Report Form for Licensees of Privately Owned Major Projects (Utility and Industrial), prescribed by § 141.13, part 141, Subchapter D, Chapter I, Title 18 of the Code of Federal Regulations, are amended, all as set out in Attachment D below.

(I) Amounts currently recorded in Account 264 shall be removed therefrom and credited to Account 215.1 as of January 1, 1978.

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

(K) The Secretary shall cause copies of the schedules, as modified by this order, to be transmitted to the Director of the Office of Management and Budget.

By the Commission.

KENNETH F. PLUMB,
Secretary.

ATTACHMENT A—LIST OF RESPONDENTS, DOCKET NO. RM77-17

ELECTRIC UTILITIES

Carolina Power & Light Company
Cleveland Electric Illuminating Company
Duke Power Company
Hydroelectric Licensee Group
  Alabama Power Company
  Appalachian Power Company
  Baltimore Gas & Electric Company
  Carolina Power & Light Company
  Central Maine Power Company
  Consumers Power Company
  Georgia Power Company
  Jersey Central Power & Light Company
  Louisville Gas & Electric Company
  Minnesota Power & Light Company
  The Montana Power Company
  New England Power Company
  New York State Electric & Gas Corp.
  Northern States Power Company (Wis.)
  Pacific Gas and Electric Company
  Pennsylvania Electric Company
  Pennsylvania Power & Light Company
  Portland General Electric Company
  Public Service Electric & Gas Company
  Public Service of Indiana
  Puget Sound Power & Light Company
  South Carolina Electric & Gas Company
  Southern California Edison Company
  Union Electric Company
  Utah Power Company
  The Washington Water Power Company
  York Haven
Idaho Power Company
Minnesota Power & Light Company
Niagara Mohawk Power Corporation
Pacific Power & Light Company
Pennsylvania Power & Light Company
Southern California Edison Company
Southern Company Services, Inc.
  Alabama Power Company
  Georgia Power Company
  Gulf Power Company
  Mississippi Power Company
  Southern Electric Generating Company
Washington Water Power Company
Wisconsin Michigan Power Company

POWER SUPPLIERS

Oglethorpe Electric Membership Corporation and North Carolina Electric Membership Corporation

FPC Forms No. 1 and 2 Docket No. RM77-17 Attachment B, 1 of 3

Annual Report of ..... Year ended December 31, 19 .....

COMPARATIVE BALANCE SHEET

Liabilities and Other Credits (omit cents)

Statement A

Line No.	Title of Account (a)	Page No. (b)	Balance Beginning of Year (c)	Balance End of Year (d)	Increase or (Decrease) (e)
	Proprietary Capital		$	$	$
1	Common Stock Issued (201)	215			
2	Preferred Stock Issued(204)	215			
3	Capital Stock Subscribed (202, 205)	216			
4	Stock Liability for Conversion (203, 206)	216			
5	Premium on Capital Stock (207)	216			
6	Other Paid-In Capital (208-211)	217			
7	Installments Received on Capital Stock (212)	216			
8	Discount on Capital Stock (213)	218	( )	( )	
9	Capital Stock Expense (214)	218	( )	( )	
10	Retained Earnings (215, 215.1, 216)	117			
11	Unappropriated Undistributed Subsidiary Earnings (216.1)	117			
12	Reacquired Capital Stock (217)	215	( )	( )	
13	Total Proprietary Capital	—	$	$	$
	Long-Term Debt				
14	Bonds (221) (Less $ reacquired (222))	219			
15	Advances from Associated Companies (223)	219			
16	Other Long-Term Debt (224)	219			
17	Unamortized Premium on Long-Term Debt (225)	211			
18	Unamortized Discount on Long-Term Debt-Dr. (226)	211			
19	Total Long-Term Debt	—	$	$	$
	Current and Accrued Liabilities				
20	Notes Payable(231)	221			
21	Accounts Payable (232)	—			
22	Payables to Associated Companies (233, 234)	221			
23	Customer Deposits (235)	—			
24	Taxes Accrued (236)	222			
25	Interest Accrued (237)	—			
26	Dividends Declared (238)	—			
27	Matured Long-Term Debt (239)	—			
28	Matured Interest (240)	—			
29	Tax Collections Payable (241)	—			
30	Miscellaneous Current and Accrued Liabilities (242)	224			
31	Total Current and Accrued Liabilities		$	$	$
	Deferred Credits				
32	Customer Advances for Construction (252)	224			
33	Accumulated Deferred Investment Tax Credits (255)	229			
34	Deferred Gains from Disposition of Utility Plant(256)	224A			
35	Other Deferred Credits (253)	225			
36	Unamortized Gain on Reacquired Debt (257)	214B			
37	Accumulated Deferred Income Taxes (281-283)	227-227E			
38	Total Deferred Credits		$	$	$
	Operating Reserves				
39	Operating Reserves (261-265)	226			
40	Total Liabilities and Other Credits		$	$	$

FPC Forms No. 1 and 2 Docket No. RM77-17 Attachment B, 2 of 3
Annual report of.....Year ended December 31, 19.....

STATEMENT OF RETAINED EARNINGS FOR THE YEAR - Statement D (Continued)

Line No.	Item (a)	Amount (b)
	APPROPRIATED RETAINED EARNINGS (Account 215) State balance and purpose of each appropriated retained earnings amount at end of year and give accounting entries for any applications of appropriated retained earnings during the year.	
39		
40		
41		
42		
43		
44		
45	Total Appropriated Retained Earnings (Account 215)	$
	APPROPRIATED RETAINED EARNINGS-AMORTIZATION RESERVE, FEDERAL (Account 215.1) State below the total amount set aside through appropriations of retained earnings, as of the end of the year, in compliance with the provisions of Federally granted hydroelectric project licenses held by the respondent. This total shall agree with the amounts reported on schedule page 13, Appropriated Retained Earnings-Amortization Reserve, Federal, of the FPC Form No. 9, Annual Report for Licensees of Privately Owned Major Projects (Utility and Industrial). If any reductions or changes other than the normal annual credits hereto have been made during the year, explain such items in detail in a footnote.	
46	Total Appropriated Retained Earnings-Amortization Reserve, Federal	
47	(Account 215.1)	$
48	Total Appropriated Retained Earnings (Accounts 215, 215.1)	$
49	Total Retained Earnings (Account 215, 215.1, 216)	$
	UNAPPROPRIATED UNDISTRIBUTED SUBSIDIARY EARNINGS (Account 216.1)	
50	Balance - Beginning of Year (Debit or Credit)	$
51	Equity in earnings for year (Credit)	$
52	Dividends received (Debit)	$
53	Other changes (Explain)	$
54	Balance - End of Year	$
	NOTES TO STATEMENT OF RETAINED EARNINGS FOR THE YEAR	

FPC Forms No. 1 and 2 Docket No. RM77-17 Attachment B, 3 of 3

Annual report of ..... Year ended December 31, 19 ....

OPERATING RESERVES (Accounts 261, 262, 263, 265)

1. Report below an analysis of the changes during the year for each of the above-named reserves.

2. Show title of reserve, account number, description of the general nature of the entry and the contra account debited or credited. Combine the amounts of monthly accounting entries of the same general nature. If respondent has more than one utility department, contra accounts debited or credited should indicate the utility department affected.

3. For Accounts 261, Property Insurance Reserve and 262, Injuries and Damages Reserve, explain the nature of the risks covered by the reserves.

4. For Account 265, Miscellaneous Operating Reserves, report separately each reserve comprising the account and explain briefly its purpose.

Line No.	Item (a)	Balance Beginning of Year (b)	Debits		Credits		Balance End of Year (g)
			Account (c)	Amount (d)	Account (e)	Amount (f)	
1							
2							
3							
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FPC Forms No. 1-F and 2-A Docket No. RM77-17 Attachment C

Annual Report of ..... Year ended December 31, 19

STATEMENT OF RETAINED EARNINGS

1. Report in this schedule all changes in appropriated and unappropriated retained earnings for the year.

2. Each credit and debit during the year should be identified as to the retained earnings account in which recorded (Accounts 433, 436-439 inclusive) and the contra primary account affected shown in column (b).

3. For each reservation or appropriation of retained earnings, state the purpose and amount.

4. List first account 439, Adjustments to Retained Earnings, reflecting adjustments to the opening balance of retained earnings. Follow by credit then debit items.

5. Dividends should be shown for each class and series of capital stock. Show amounts of dividends per share.

6. Show separately the state and federal income tax effect of items shown in account 439, Adjustments to Retained Earnings.

7. Explain in a footnote, the basis for determining the amount reserved or appropriated and if such reservation or appropriation is to be recurrent, state the number and annual amounts to be reserved or appropriated as well as the totals eventually to be accumulated.

8. If any notes appearing in the report to stockholders are applicable to this statement, attach them hereto.

Line No.	ITEM (a)	CONTRA PRIMARY ACCOUNT AFFECTED (b)	AMOUNT (c)
	UNAPPROPRIATED RETAINED EARNINGS (Account 216)		
1	Balance Beginning of year		$
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
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16			
17			
18			
19			
20			
21			
22	Balance - End of year		$
23	APPROPRIATED RETAINED EARNINGS (Account 215)		
24	State balance and purpose of each appropriated retained earnings amount at end of year and give accounting entries for any applications of retained earnings during the year.		
25			
26			
27			
28			
29	Total Appropriate Retained Earnings (Account 215)		$
30			
31	APPROPRIATED RETAINED EARNINGS-AMORTIZATION RESERVE, FEDERAL (Account 215.1)		
32			
33	State below the total amount set aside through appropriations of retained earnings, as of the end of the		
34	year, in compliance with the provisions of Federally granted hydroelectric project licenses held by the		
35	respondent. This total shall agree with the amounts reported on schedule page 13, Appropriated Retained		
36	Earnings-Amortization Reserve, Federal, of the FPC Form No. 9, Annual Report for Licensees of Privately		
37	Owned Major Projects (Utility and Industrial). If any reductions or changes other than the normal annual		
38	credits hereto have been made during the year, explain such items in detail in a footnote.		
39	Total Appropriated Retained Earnings-Amortization Reserve, Federal (Account 215.1)		$
40			
41	Total Appropriated Retained Earnings (Accounts 215, 215.1)		$
42	Total Retained Earnings (Account 215, 215.1, 216)		$

LIST OF SCHEDULES

Title of Schedule	*Page No.*
Information Concerning Licenses and Location of Records	1
Licensed Project Plant	2–3
Additions–Licensed Project Plant	4–5
Retirements–Licensed Project Plant	6–7
Adjustments–Licensed Project Plant	8
Accumulated Provision for Depreciation of Licensed Project Plant	9
Accumulated Provision for Amortization of Licensed Project Plant	10
Depreciation Expense for Licensed Project Plant	11
Amortization Expense for Licensed Project Plant	12
Appropriated Retained Earnings–Amortization Reserve, Federal	13
Information Concerning Operation of Licensed Projects and the Sale or Use of Energy Produced	14
Energy Generated and Energy Delivered by Licensed Projects	15

APPROPRIATED RETAINED EARNINGS-AMORTIZATION RESERVE, FEDERAL

1. This schedule is applicable to each licensed project which has been in operation under license for a period of 20 years or more and is subject to the provisions of section 10 (d) of the Federal Power Act.
2. Report below the amounts of the amortization reserve for each licensed project. Show the balance at the beginning of the year, increase during the year, and balance at the end of the year.
3. There shall be attached to and made a part of this report tabulations showing the computation of the annual project earnings and the effect on the project amortization reserve.
4. If the plant is used to generate mechanical or electric energy used by the licensee and not sold, the computation should show the basis used in valuing the energy so utilized by the licensee for industrial purposes.

	Project No. (a)	Project Name (b)	Balance Beginning of Year (c) $	c.	Increase During Year (d) $	c.	Balance End of Year (e) $	c.
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3								
4								
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[FR Doc. 78-9770 Filed 4-12-78; 8:45 am]

[6560-01]

Title 40—Protection of Environment

[FRL 879-3]

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Maine Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Disapproval of SIP revision.

SUMMARY: EPA is disapproving a proposed Implementation Plan revision submitted by the State of Maine which would have allowed open burning of solid waste at dumps serving less than 1,000 people. The information available does not provide sufficient documentation that violations of ambient air quality standards will not occur. The regulations in the federally-approved Implementation Plan, which prohibit all open-burning dumps, remain in effect.

EFFECTIVE DATE: May 15, 1978.

FOR FURTHER INFORMATION CONTACT:

David Stonefield, Air Branch, EPA Region I, Room 2113, JFK Federal Building, Boston, Mass. 02203, 617-223-5609.

SUPPLEMENTARY INFORMATION: On December 7, 1976, the Commissioner of the Maine Department of Environmental Protection (Maine DEP) submitted a revision to the State Implementation Plan (SIP) which would exempt open-burning dumps serving towns of less than 1,000 people from the open-burning regulations in the presently approved SIP. The regulations prohibit open burning of solid waste material at all solid waste disposal sites after July 1, 1975. If the revision is approved by EPA, dumps serving less than 1,000 people would be allowed to conduct open burning unless the Maine Board of Environmental Protection (Maine BEP) shows that continuance of such burning will violate ambient air quality standards.

On December 20, 1977 (42 FR 63796), the Regional Administrator published a Notice of Proposed Rulemaking in the FEDERAL REGISTER announcing that he was considering disapproval of the SIP revision, since the exemption of open-burning dumps could result in violations of the NAAQS for total suspended particulates (TSP). The results of a generalized class dispersion model, developed by EPA, and a limited ambient monitoring program, conducted by the Maine DEP, are inconclusive and do not provide sufficient documentation that standards violations will not occur. The Regional Administrator also stated that a more definitive analysis of air quality impact would have to be based on modeling, topographic, and/or monitoring data for each open-burning dump. Until information becomes available to show that such open burning will not interfere with attainment and maintenance of the NAAQS, the SIP revision would have to be disapproved.

During the 30-day public comment period, one letter of comment was received, which supported EPA's proposed disapproval. However, the commenter disagreed with the basis of EPA's decision, contending that it should have been based instead on the Resource Conservation and Recovery Act of 1976 (Pub. L. 94-580), which prohibits open dumping and requires development of a schedule of remedial measures leading to compliance with such prohibition by 1983. If another SIP revision to continue open burning at municipal dumps is submitted with the appropriate air quality impact evaluations, EPA will review the proposed revision in terms of the requirements of the Resource Conservation and Recovery Act as well as those of the Clean Air Act.

After evaluation of the State's submittal, the Administrator has determined that the Maine revision does not meet the requirements of the Clean Air Act and 40 CFR Part 51. Accordingly, this revision is disapproved as a revision to the Maine Implementation Plan.

(Sec. 110(a) of the Clean Air Act, as amended, 42 U.S.C. 7410.)

Dated: April 7, 1978.

DOUGLAS M. COSTLE,
Administrator.

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart U—Maine

1. A new paragraph (8) is added in § 52.1020(c) to read as follows:

§ 52.1020 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(8) Revision to open burning regulation submitted on December 7, 1976 by the Commissioner of the Maine Department of Environmental Protection.

2. A new paragraph (d) is added in § 52.1025 to read as follows:

§ 52.1025 Control strategy: Particulate matter.

* * * * *

(d) The revision to the open burning regulation submitted on December 7, 1976 is disapproved because of provisions therein which would interfere with the attainment and maintenance of national ambient air quality standards.

[FR Doc. 78-9898 Filed 4-12-78; 8:45 am]

[4110-07]

Title 45—Public Welfare

CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 232—SPECIAL PROVISIONS APPLICABLE TO TITLE IV-A OF THE SOCIAL SECURITY ACT

Good Cause for Refusing to Cooperate; Program Instruction

AGENCY: Social Security Administration and Office of Child Support Enforcement, HEW.

ACTION: Notice of program instruction.

SUMMARY: On January 16, 1978, the Department published final regulations specifying standards under which State and local welfare agencies shall determine whether an applicant or recipient of Aid to Families with Dependent Children (AFDC) has good cause for refusing to cooperate in establishing paternity and securing child support. This document will clarify several issues that have arisen concerning the Good Cause for Refusing to Cooperate Regulation.

FOR FURTHER INFORMATION CONTACT:

Steve Henigson, 202-472-4510.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Acting Commissioner of Social Security and Acting Director, Office of Child Support Enforcement has issued the following "Program Instruction" to clarify several issues that have arisen concerning the Good Cause for Refusing to Cooperate Regulation. This Program Instruction has been transmitted to State agencies administering the AFDC program, State agencies administering the child support enforcement plans approved under title IV-D of the Social Security Act, and other interested individuals by Action Transmit-

tal SSA-AT-78-13(OFA) and OCSE-AT-78-8, dated April 5, 1978.

PROGRAM INSTRUCTION

SUBJECT

Good Cause for Refusing to Cooperate.

REGULATION REFERENCE

45 CFR 232.13; published in the FEDERAL REGISTER, January 16, 1978 (43 FR 2170); transmitted by SSA-AT-78-2(OFA) dated February 1, 1978 and OCSE-AT-78-1 dated January 20, 1978.

PURPOSE

To clarify several issues that have arisen concerning the good cause regulations.

BACKGROUND

On January 16, 1978, the Department published final regulations specifying standards under which State and local welfare agencies shall determine whether an applicant or recipient of Aid to Families with Dependent Children (AFDC) has good cause for refusing to cooperate in establishing paternity and securing child support.

The Notice in the FEDERAL REGISTER which adopted this final regulation solicited additional comments for a 90 day period ending June 15, 1978. Following the close of the comment period, the Department will amend the regulation to incorporate the clarification contained in this Program Instruction. Additional changes to the regulation will be made if warranted after careful consideration of all comments received. The new regulation will repeal the current good cause regulation.

CONTENT

1. *Prompt resolution of good cause claim.* 45 CFR 232.13(j) provides that the State or local agency shall not deny, delay, or discontinue assistance pending the agency's final good cause determination if the applicant or recipient has complied with the requirement to provide evidence or information (§ 232.13(c)). The Preamble to the regulation points out that this provision "reflects HEW's long standing policy requiring States to furnish assistance promptly and without any appreciable delay attributable to the State agency's administrative processes (see 45 CFR 206.10)."

The cooperation requirement is an AFDC eligibility condition, unless the applicant has good cause for refusing to cooperate. In all but exceptional cases (such as when it is very difficult to gather information), the good cause determination must be made with the same degree of promptness as the determination of AFDC eligibility.

For good cause claims that arise after initial AFDC eligibility has been determined, 45 CFR 206.10(a)(9) is applicable. That section provides that eligibility will be reconsidered or redetermined promptly upon change in circumstance that may affect the amount of assistance or eligibility. Therefore, in this situation the good cause determination should be made with the same degree of promptness as any other redetermination of eligibility.

2. *Substantiation of good cause claim.* 45 CFR 232.13(f)(3) provides that "if the State or local agency investigates the circumstances of the good cause claim, a determination that good cause exists may be based on any *verifying* information acceptable to the State or local agency." (Emphasis added.) The Preamble states that this provision "leaves the nature and scope of its investigation to agency discretion and merely requires that the good cause circumstances be confirmed by the investigation."

Although the States are given this discretion, the information must in fact verify the claim. Uncorroborated statements of the applicant or recipient do not constitute "verifying information" as required by the regulation. The evidence upon which the State bases its determination of good cause should be of probative value and should be, to the extent possible, supported by written statements.

3. *Agency assistance in obtaining required evidence.* 45 CFR 232.13(f)(2) requires that "the State or local agency will assist the applicant or recipient in obtaining the required evidence." This requirement is not intended to place an unreasonable burden upon the agency by allowing the applicant or recipient claiming good cause to require the agency to conduct a "fishing expedition" and thereby delay or frustrate a determination concerning a good cause claim.

The applicant or recipient has the burden of producing the evidence required by § 232.13(f)(1). The regulatory provision that, upon request, the agency will assist her in obtaining this evidence does not shift the basic burden. The regulation only requires that the State give reasonable assistance by advising the applicant or recipient how to go about obtaining the documents. In addition, the agency is required upon request to undertake reasonable efforts to obtain for the applicant or recipient evidence that she is not reasonably able to obtain by herself. This requirement is limited to the specific documentary evidence enumerated at § 232.13(f)(1) and, of course, the applicant or recipient must provide specifics as to the type of document or record she wishes to obtain as well as provide sufficient identifying information to make it possible to be obtained.

4. *Physical or emotional harm.* The good cause circumstance of physical or emotional harm must be determined by the State to be of a genuine and serious nature. The mere belief of the applicant or recipient that cooperation would result in harm would not be a sufficient basis for finding good cause. This good cause circumstance is not intended to encourage violence, and States may wish to consider protective measures to deter threats of harm.

The emotional harm to the mother must be of such a serious nature that the capacity of the applicant or recipient to care for the child adequately would be reduced.

5. *Notice requirement.* The notice required by section 232.13(b) should be provided at the time of application for assistance. The applicant should sign a copy of the notice, and the signed copy should be placed in the AFDC case record. The attached suggested notice meets the requirements of section 232.13(b). (The Department will publish a new suggested notice as an appendix to the amended good cause regulation to be adopted after close of the comment period.)

INQUIRIES TO

OCSE Regional Representatives, Regional Commissioners, SSA.

Dated: April 5, 1978.

DON I. WORTMAN,
Acting Commissioner of Social Security, and Acting Director, Office of Child Support Enforcement.

NOTICE CONCERNING GOOD CAUSE FOR REFUSAL TO COOPERATE

1. You are required by Federal Law, as a condition of eligibility for assistance under the AFDC Program, to cooperate with the State by engaging in activities that are related to the following objectives:

Identifying and locating the parent of the child or children for whom you are claiming aid;

If necessary, establishing the paternity of the child;

Obtaining support payments from the child's absent parent;

Obtaining other payments or property due to you or the child;

unless you are determined to have good cause for refusing to cooperate as explained in this notice. If you fail to cooperate and are not found to have good cause, your needs will be removed from the grant and assistance for your children will be provided in the form of a protective payment.

2. You may claim to have good cause for refusing to cooperate. However, the Welfare Agency will determine that you have good cause for refusing to cooperate only if one or more of the following circumstances exists:

Your cooperation is reasonably anticipated to result in:

Physical or emotional harm to the child;

Physical or emotional harm to you which is so serious as to reduce your capacity to care for the child adequately.

Welfare Agency finds that proceeding to establish paternity or secure support will be detrimental to the child because:

The child was conceived as a result of incest or forcible rape;

Legal proceedings for adoption of the child are pending before a court;

You are currently being assisted by a public or licensed private social agency to resolve the issue of whether to keep your child or relinquish him for adoption.

3. If you claim good cause for refusing to cooperate, you must either:

Supply certain documentary evidence (listed below) that establishes that you have good cause for refusing to cooperate; or

Furnish sufficient information such as the putative father or absent parent's name and address to permit the Welfare Agency to investigate the circumstances of your claim of good cause for refusing to cooperate.

The documentary evidence referred to above is limited to one or more of the following documents:

A birth certificate or medical or law enforcement record which indicates that the child was conceived as the result of incest or forcible rape;

A court document or other record which indicates that legal proceedings for adoption are pending before a court of competent jurisdiction;

A court, medical, criminal, child protective service, social service, psychological, or law enforcement record which indicates that the putative father or absent parent might inflict physical or emotional harm on the child or you;

A medical record which indicates the emotional health history and present emotional health status of you or the child; or, a written statement from a mental health professional indicating a diagnosis or prognosis concerning the emotional health of you or the child; or

A written statement from a public or licensed private social agency that you are being assisted by the agency to resolve the issue of whether to keep the child or relinquish him for adoption.

4. If you need help in getting a copy of one of the required documents listed in number 3 above, you can request the Welfare Agency to assist you. Upon your request, the Welfare Agency will provide reasonable assistance in obtaining the required document.

5. On the basis of the evidence you supply, our investigation of the information you provide, or a combination of both, the Welfare Agency will determine whether you have good cause for refusing to cooperate.

6. The Child Support Enforcement Agency may review the Welfare Agency's findings and basis for a good cause determination in your case. If you request a hearing, regarding the issue of good cause for refusing to cooperate, the Child Support Enforcement Agency may participate in that hearing.

7. If the Welfare Agency determines that you have good cause for refusing to cooperate, the agency may allow the Child Support Enforcement Agency to attempt to establish paternity, if necessary, and collect support if the Welfare Agency determines that this can be done without risk to you if done without your participation.

I have read and understand the foregoing statement concerning my right to claim good cause for refusing to cooperate.

(Signature)

(Date)

NOTE.—This suggested notice meets the notice requirements of 45 CFR 232.13(b) and should be provided at the time of application for assistance. The signed copy should be placed in the AFDC case record and one copy retained by the applicant.

Before being used by a State, this document should be adapted by substituting the appropriate agencies' names.

[FR Doc. 78-9836 Filed 4-12-78; 8:45 am]

[7035-01]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

Subchapter A—General Rules and Regulation

[Service Order No. 1320]

PART 1033—CAR SERVICE

Richmond, Fredericksburg and Potomac Railroad Co. Authorized to Divert Traffic Destined to Consignee on Virginia Central Railway

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Service Order No. 1320).

SUMMARY: Service Order No. 1320 authorizes the Richmond, Fredericksburg, and Potomac Railroad to transport two carloads of fertilizer consigned to Fredericksburg, Va., to the same consignee at Richmond, Va., without additional cost to the shipper because of cessation of operations by the destination carrier, the Virginia Central Railway Co.

DATES: Effective 12:01 a.m., April 8, 1978. Expires 11:59 p.m., April 15, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION: At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 7th day of April 1978.

On March 20, 1978, the Virginia Central Railway (VC) notified the Commission that it was unable to continue operations because of a lack of operating funds. Accordingly, an embargo was placed against shipment of freight routed via the VC. The Richmond, Fredericksburg and Potomac Railroad Co. is holding two cars of fertilizer at Fredericksburg for a consignee located on the VC which cannot be delivered because of the cessation of operations by the VC. The consignee has a warehouse served by the Chesapeake and Ohio Railway Co. in Richmond, Va., and is willing to accept and unload these cars at that location. Arrangements for the unloading of these cars at Richmond will require diversion and reconsignment in a manner prohibited by the applicable tariffs. It is the opinion of the Commission that such diversions and reconsignments are necessary to enable the prompt unloading of these cars and their continued use in transportation service; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1320 Richmond, Frdericksburg and Potomac Railroad Co. authorized to divert traffic destined to consignee on Virginia Central Railway.

(a) The Richmond, Fredericksburg and Potomac Railroad Co. (RFP) is authorized to divert via any available route cars CN 352183 and SCL 240673, held at Frdericksburg, Va., awaiting delivery to a consignee served by the Virginia Central Railway (VC), to the same consigee at Richmond, Va., becuase of the inability of the VC to accept the cars from the RFP.

(b) *Reconsignment and diversion charges.* Carloads reconsigned, diverted, or reshipped under the provisions of this order shall not be subject to reconsignment or diversion charges provided in the applicable tariffs.

(c) *Rates applicable.* The rates applicable to carloads reconsigned, diverted or reshipped under the provisions of this order shall be the rates that would have been applicable on the shipments at the time of shipment had they been originally destined to the point to which reconsigned, diverted or reshipped. When the applicable tariffs provide routes from origin to the new destination via the line and the point at which the car is held, such routes must be utilized for the rerouting, diversion or reshipment. When no such route exists any available route may be used.

(d) *Divisions of revenues.* In executing the directions of the Commission provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the

rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(e) *Waybills to be endorsed.* Waybills authorizing movement of cars reconsigned, diverted or reshipped under this order shall be endorsed as follows: "(Reconsigned) (Diverted) (Reshipped) authority ICC Service Order No. 1320."

(f) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(g) *Effective date.* This order shall become effective at 12:01 a.m., April 8, 1978.

(h) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., April 15, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1(10-17).)

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-9892 Filed 4-12-78; 8:45 am]

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Listing of the Little Kern Golden Trout as a Threatened Species with Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines the Little Kern golden trout (*Salmo aguabonita whitei*) to be a Threatened species. This action is being taken because of the threats of habitat modification and the effects of exotic trout on populations of this species, and will provide Federal protection for the species and its habitat. The Little Kern golden trout occurs only in Tulare County, Calif.

DATES: This rule becomes effective on May 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-4646.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On September 1, 1977, the Service published a proposed rulemaking in the FEDERAL REGISTER (42 FR 43995-43997) advising that sufficient evidence was on file to support a determination that the Little Kern golden trout was a Threatened species pursuant to the Endangered Species Act of 1973, 16 U.S.C. 1531 et seq. That proposal summarized the factors thought to be contributing to the likelihood that this fish could become Endangered within the foreseeable future, specified the prohibitions which would be applicable if such a determination were made, and solicited comments, suggestions, objections, and factual information from any interested person. Section 4(b)(1)(A) of the Act requires that the Governor of each State or Territory, within which a resident species of wildlife is known to occur, be notified and be provided 90 days to comment before any such species is determined to be a Threatened species or an Endangered species. A letter was sent to Governor Brown of the State of California on September 8, 1977, notifying him of the proposed rulemaking for the Little Kern golden trout. On September 8, 1977, letters were sent to interested parties notifying them of the proposal and soliciting their comments and suggestions. A press release dated September 9, 1977, invited all interested parties to submit factual reports or information which might contribute to the formulation of a final rulemaking.

SUMMARY OF COMMENTS AND RECOMMENDATIONS

Section 4(b)(1)(C) of the Act requires that a summary of all comments and recommendations received be published in the FEDERAL REGISTER prior to adding any species to the List of Endangered and Threatened Wildlife and Plants. All comments received during the period September 1, 1977, through January 25, 1978, were considered.

Comments were received from the State of California, U.S. Forest Service, two national conservation groups, one local conservation group, one museum of natural history, and six citizens. The State of California supported the rulemaking as proposed. Their comments included recent information on the status and threats to the Little Kern golden trout. Additional threats which could impair restoration efforts in the future include habitat degradation resulting from: (1) steam sedimentation following uncontrolled off-road vehicle activities, improper road construction or careless logging; (2) stream pollution due to extraction and milling of minerals; (3) activities associated with recreation development in adjacent Mineral King and Jordan Peak areas; and (4) impacts from livestock. We agree that these threats could adversely impact the Little Kern golden trout, and that monitoring and enforcement of water quality and mining statutes within the Critial Habitat will be necessary if habitat is to be maintained. A status report and management plan are being prepared by the State of California.

The U.S. Forest Service supported the proposed Threatened status but suggested a minor alteration of Critical Habitat. Alteration of the Critical Habitat delineation involves the deletion of that area below the natural barrier falls located approximately one mile below the mouth of Meadow Creek. The Little Kern River below the barrier falls is inhabited by rainbow trout or rainbow trout x Little Kern golden trout hybrids and would not support pure populations of Little Kern golden trout. This area has been deleted from the Critical Habitat. The Forest Service also recommended that reference to the loss or destruction of habitat due to forestry practices be deleted since it was not supported by facts. They did agree, however, that uncontrolled or poorly planned logging is detrimental to water quality and fish habitat. The final rulemaking has been reworded to indicate these activities as a potential threat.

Two national and one local conservation organizations responded and indicated their support of the proposal. They also mentioned potential threats to the Little Kern golden trout and its habitat. These include overgrazing, off-road vehicles, heavy angler and recreational use and mining. They also supported efforts to restore genetically pure Little Kern golden trout in the Little Kern drainage.

One museum of natural history responded indicating their support and endorsement of the proposed Threatened status and Critical Habitat of the

Little Kern golden trout. Six citizens submitted comments supporting the proposal.

CONCLUSION

After a thorough review and consideration of all the information available, the Director has determined that the Little Kern golden trout is threatened with becoming Endangered throughout all or a significant portion of its range due to one or more of the factors described in Section 4(a) of the Act. These factors, and their relationship to the Little Kern golden trout, are as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.*—The Little Kern golden trout is known only from the Little Kern River in Tulare County, Calif. In the Little Kern River watershed, the water quality of the streams inhabited by this fish is generally good. However, uncontrolled use of ORV's, improper road construction, careless logging activities, pollution from mining operations or overgrazing in a large portion of the drainage basin could result in an alteration of existing water quality by increasing temperature and siltation which would seriously threaten the survival of the Little Kern golden trout.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.*—Not applicable.

3. *Disease or predation.*—Not applicable.

4. *The inadequacy of existing regulatory mechanisms.*—Not applicable.

5. *Other natural or manmade factors affecting its continued existence.*—Rainbow trout were introduced into the Little Kern River System in the 1930's. Subsequent hybridization between the Little Kern golden trout and the introduced rainbow trout resulted in a reduction in the number of pure populations of Little Kern golden trout. At present, pure populations of Little Kern golden trout exist only in headwater streams which were not stocked with rainbow trout or have barrier falls which have prevented upstream migration of rainbow trout.

CRITICAL HABITAT

The Director has considered all comments and data submitted in response to the proposed determination of Critical Habitat for the Little Kern golden trout (42 FR 43995-43997).

Based on this review and the criteria in 50 CFR 402.05, the Critical Habitat for the Little Kern golden trout is determined to include the following area (exclusive of those existing man-made structures or settlements which are not necessary to the normal needs or survival or the species):

California. Tulare County. Little Kern River, main channel and all streams tributary to the Little Kern River above the barrier falls located on the Little Kern River one mile below the mouth of Trout Meadows Creek.

EFFECT OF THE RULEMAKING

Section 7 of the Act, entitled "Interagency Cooperation," states:

The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

A definition of the term "Critical Habitat" was published in 50 CFR Part 402 jointly by the Fish and Wildlife Service and the National Marine Fisheries Service in the FEDERAL REGISTER of January 4, 1978 (43 FR 870-876) and is reprinted below:

Critical habitat means any air, land, or water area (exclusive of those existing manmade structures or settlements which are not necessary to the survival and recovery of a listed species) and constituent elements thereof, the loss of which would appreciably decrease the likelihood of the survival and recovery of a listed species or a distinct segment of its population. The constituent elements of critical habitat include, but are not limited to: physical structures and topography, biota, climate, human activity, and the quality and chemical content of land, water, and air. Critical habitat may represent any portion of the present habitat of a listed species and may include additional areas for reasonable population expansion.

As specified in the regulations for Interagency Cooperation as published in the January 4, 1978, FEDERAL REGISTER (43 FR 870), the Director will consider the physiological, behavioral, ecological, and evolutionary requirements for survival and recovery of listed species in determining what areas or parts of habitat are critical. These requirements include, but are not limited to:

(1) Space for individual and population growth and for normal behavior;

(2) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, or rearing of offspring; and generally,

(5) Habitats that are protected from disturbances or are representative of the geographical distribution of listed species.

The application of these factors, based on data presently available, to the proposed Critical Habitat of the Little Kern golden trout are discussed in the following paragraph.

The streams included in the Little Kern River watershed determined to be Critical Habitat include sufficient area for individual and population growth and dispersal of the Little Kern golden trout. The pools in stream areas within the designated area are proper habitat for aquatic insects which provide food for the trout. The cobbles and larger rocks provide cover for both juvenile and adult fish. The gravel bottom in pool areas of the Critical Habitat streams provides proper substrate for the excavation of nest. The Little Kern River is the only known habitat of the Little Kern golden trout.

The areas included in this proposal do not necessarily include the entire Critical Habitat of the Little Kern golden trout, and modifications of its Critical Habitat designations may be proposed in the future. In accordance with section 7 of the Act, all Federal departments and agencies are required to insure that actions authorized, funded, or carried out by them would not result in the destruction or adverse modification of the Critical Habitat of the Little Kern golden trout.

There may be many kinds of actions which can be carried out within the Critical Habitat of a species which would not be expected to adversely affect that species. This point has not been well understood by some persons. There has been widespread and erroneous belief that a Critical Habitat designation is something akin to establishment of a wilderness area or wildlife refuge, and automatically closes an area to most human uses. Actually, a Critical Habitat designation applies only to Federal agencies, and essentially is an official notification to these agencies that their responsibilities pursuant to section 7 of the Act are applicable in a certain area.

A Critical Habitat designation must be based solely on biological factors. There may be questions of whether and how much habitat is critical, in accordance with the above interpretation, or how to best legally delineate this habitat, but any resultant designation must correspond with the best available biological data. It would not be in accordance with the law to involve other motives; for example, to enlarge a Critical Habitat delineation so as to cover additional habitat under section 7 provisions, or to reduce a delineation so that actions in the omitted area would not be subject to evaluation.

There may indeed be ligitimate questions of whether, and to what extent, certain kinds of actions would adversely affect listed species. These questions, however, are not relevant to the

biological basis of Critical Habitat delineations. Such questions should, and can more conveniently, be dealt with after Critical Habitat has been designated. In this respect, the Service in cooperation with other Federal agencies has drawn up regulations which, in part, establish a consultation and assistance process for helping to evaluate the possible effects of actions on Critical Habitat. Provisions for Interagency Cooperation were published on January 4, 1978, in the FEDERAL REGISTER (43 FR 870-876) to assist Federal agencies in complying with Section 7 of the Endangered Species Act of 1973.

EFFECT INTERNATIONALLY

In addition to the protection provided by the Act, the Service will review the Little Kern golden trout to determine whether it should be proposed to the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora for placement upon the appropriate Appendix(ices) to that Convention or whether it should be considered under other, appropriate international agreements.

NATIONAL ENVIRONMENTAL POLICY ACT

An environmental assessment has been prepared and is on file in the Service's Washington Office of Endangered Species. It addresses this actionas it involves the Little Kern golden trout. The assessment is the basis for a decision that this determination is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary author of this rule is Dr. James D. Williams, Office of Endangered Species, 202-343-7814.

REGULATIONS PROMULGATION

Accordingly, § 17.11 of part 17 of chapter I of title 50 of the U.S. Code of Federal Regulations is amended as follows:

1. By adding the Little Kern golden trout to the list, alphabetically, under "Fishes" as indicated below:

§ 17.11 Endangered and threatened wildlife.

Species		Range					
Common name	Scientific name	Population	Known distribution	Portion of range where threatened or endangered	Status	When listed	Special rules
Fishes							
Trout, Little kern golden.	*Salmo Aguabonita whitei.*	N/A	USA (California)	Entire	T	37	17.44(e)

2. § 17.44 is amended by adding a new paragraph (e) as follows:

§ 17.44 Special rules—fishes.

* * * * *

(e) Little Kern golden trout (*Salmo aguabonita whitei*).

(1) All provisions of § 17.31 apply to this species, except that it may be taken in accordance with applicable State law.

(2) Any violation of State law will also be a violation of the Act.

3. § 17.95(e) is amended by adding Critical Habitat of the Little Kern golden trout before that of the slender chub as follows:

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(e) *Fishes.*

* * * * *

LITTLE KERN GOLDEN TROUT

(*Salmo aguabonita whitei*)

California, Tulare County. Little Kern River, main channel and all streams tributary to the Little Kern River above barrier falls located on the Little Kern River one mile below the mouth of Trout Meadows Creek.



Final Critical Habitat for the Little Kern golden trout

NOTE.—The Service has determined that this document does not contain a major action requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: April 6, 1978.

LYNN A. GREENWALT,
Director, Fish and Wildlife Service.

[FR Doc. 78-9696 Filed 4-12-78; 8:45 am]

[4310-55]

PART 33—SPORT FISHING

Blackbeard Island and Savannah National Wildlife Refuges

AGENCY: Fish and Wildlife Service.

ACTION: Correction.

SUMMARY: These special regulations correct special regulations previously published in the FEDERAL REGISTER, Vol. 43, No. 17, on Wednesday, January 25; and Vol. 43, No. 52, on Thursday, March 16, 1978, and describe the conditions under which sport fishing will be permitted on Blackbeard Island and Savannah National Wildlife Refuges.

DATE: Effective April 13, 1978, for duration of calendar year 1978.

FOR FURTHER INFORMATION CONTACT: The Area Manager or Refuge Manager at the address or telephone number listed below:

Donald J. Hankla, Area Manager, U.S. Fish and Wildlife Service, 900 San Marco Boulevard, Jacksonville, Fla. 32207; telephone 904-791-2267.

John P. Davis, Refuge Manager, Savannah (and Blackbeard Island) National Wildlife Refuge, P.O. Box 8487, Savannah, Ga. 31402; telephone 912-232-4321, ext. 415.

SUPPLEMENTARY INFORMATION:

GENERAL

Sport fishing regulations were previously published in the FEDERAL REGISTER, Vol. 43, No. 17, pages 3365-3367, January 25, 1978; and Vol. 43, No. 52, page 10929, March 16, 1978, for Blackbeard Island and Savannah National

Wildlife Refuges. Errors were made in the initial regulations published on January 25, 1978, for Blackbeard Island and Savannah National Wildlife Refuges which incorrectly described fishing hours and use of boats and motors. A previous correction was published on March 16, 1978, under an inappropriate subsection (subsection 33.3 instead of 33.5). This publication correctly identifies those conditions under which sport fishing is permitted on Savannah and Blackbeard Island National Wildlife Refuges.

Sport fishing on portions of the Savannah and Blackbeard Island National Wildlife Refuges shall be in accordance with applicable State and Federal regulations, subject to additional special regulations and conditions as indicated. Portions of refuges which are open to sport fishing are designated by signs and/or delineated on maps. Special conditions applying to individual refuges and maps are available at refuge headquarters or from the Office of the Area Manager (address listed above).

§ 33.5 Special regulations: Sport fishing for individual wildlife refuge areas.

GEORGIA

BLACKBEARD ISLAND NATIONAL WILDLIFE REFUGE

Fresh water sport fishing on the Blackbeard Island National Wildlife Refuge, McIntosh County, Townsend, Ga. is permitted on only two areas totaling 350 acres. The sport fishing season extends from March 15 through October 25, 1978. No one will be allowed on the refuge before sunrise and all persons must be off the refuge no later than one-half hour after sunset. Boats with electric motors permitted. Gasoline powered motors prohibited. Use of live minnows as bait prohibited. Private boats may not be left on the refuge overnight.

GEORGIA AND SOUTH CAROLINA

SAVANNAH NATIONAL WILDLIFE REFUGE

Sport fishing on the Savannah National Wildlife Refuge, portions of Jasper County, S.C., and Chatham and Effingham Counties, Ga., is permitted only on designated impounded waters, tidal creeks, ditches, and canals in an area comprising 26,000 acres. The sport fishing season extends from March 15 through October 25, 1978, for all impounded waters. No one will be allowed on the refuge before sunrise and all persons must be off the refuge no later than one-half hour after sunset. Only electric motors are permitted on impounded waters. Tidal creeks may be fished from boats only from February 1 through October 25. Rod and reel, pole and line, artifical and live baits are permitted. All areas posted with "closed area" signs are closed to all activities including fishing. Private boats may not be left on the refuge overnight.

The provisions of these special regulations supplement the regulations set forth in title 50—Code of Federal Regulations, part 33, which govern sport fishing on wildlife refuge areas generally. The public is invited to offer suggestions and comments at any time.

NOTE.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949, and OMB Circular A-107.

SAM O. DRAKE, Jr.,
Acting Area Manager.

APRIL 4, 1978.

[FR Doc. 78-9816 Filed 4-12-78; 8:45 am]

[4310-55]

PART 33—SPORT FISHING

Opening of J. Clark Salyer National Wildlife Refuge, North Dakota, to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to sport fishing of J. Clark Salyer National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: May 6, 1978, through March 25, 1979.

FOR FURTHER INFORMATION CONTACT:

Jon M. Malcolm, J. Clark Salyer National Wildlife Refuge, Upham, N. Dak. 58789, telephone 701-768-3223.

SUPPLEMENTARY INFORMATION:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sport fishing is permitted on the J. Clark Salyer National Wildlife Refuge, North Dakota, only on areas designated by signs as being open to fishing from May 6, 1978, through December 14, 1978. These areas are delineated on maps available at the refuge headquarters and from the office of the Regional Director, P.O. Box 25486, Denver Federal Center, Denver, Colo. 80225. Winter ice fishing is open on all refuge waters from December 15, 1978, through March 25, 1979. Sport fishing shall be in accordance with all applicable State regulations subject to the following conditions:

1. Boat fishing is allowed only on areas designated as such from May 6, 1978, through September 30, 1978.

2. Fishing hours will be from dawn to 10 p.m. daily.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

JON M. MALCOLM,
Refuge Manager.

APRIL 7, 1978.

[FR Doc. 78-9861 Filed 4-12-78; 8:45 am]

[3510-22]

Title 50—Wildlife and Fisheries

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

PART 611—FOREIGN FISHING

Amendment

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Amendment § 611.92 of the Foreign Fishing Regulations.

SUMMARY: This amendment is intended to allow foreign nations greater area and gear flexibility in harvesting their 1978 allocations of Pacific cod. The amendment authorizes a directed hook-and-line fishery for Pacific cod in the Gulf of Alaska west of 157° W. longitude. The total foreign allocation of 16,980 metric tons of Pacific cod allowed under the 1978 preliminary management plan and implementing regulations remains unchanged. Any fish taken in this new fishery must be substracted from the total quantity which has already been allocated to foreign fishermen for 1978.

DATE: This amendment is to become effective on April 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Harry L. Rietze, Director, Alaska Region, National Marine Fisheries Service, Box 1668, Juneau, Alaska 99802; telephone 907-586-7221.

SUPPLEMENTARY INFORMATION: The foreign fishing regulations for 1978, (50 CFR 611, 42 FR 60682, November 28, 1977) reduced the total allowable level of foreign fishing (TALFF) for sablefish in the Gulf of Alaska. This reduction imposed economic stress on a small segment of the

foreign fishing fleet, which fishes exclusively with longline gear. Part 611 authorized the use of this type of gear only in the directed fishery for sablefish. Thus, when the TALFF for sablefish was reduced, these vessels had no alternative fishery available to them.

The North Pacific Fishery Management Council has since submitted to the Secretary a fishery management plan (FMP) for the Gulf of Alaska groundfish which will supersede the earlier 1978 preliminary fishery management plan (PMP). One of the features of the FMP is a provision which authorizes a foreign longline fishery directed at Pacific cod west of 157° W. long. in the Gulf of Alaska. The FMP would also allow an incidental catch of Pacific cod in that same area by foreign trawlers seeking other species such as pollock.

Allowing foreign fisherman to conduct a controlled longline (also known as setline) fishery using hooks as terminal gear will permit full utilization of the 1978 Pacific cod TALFF. Prohibited species which are hooked must be returned immediately to the sea with a minimum of injury.

This fishery, which will be permitted inside the 500-meter isoboth will be prohibited during the halibut season in order to avoid conflict between U.S. and foreign fixed gear. Consequently, during the time that U.S. and Canadian halibut fishermen are fishing for halibut in that area, the foreign longline fisherman must move seaward beyond the 500-meter isobath.

The Assistant Administrator for Fisheries has determined:

(a) That this amendment does not constitute a major Federal action requiring the preparation of an environmental impact statement;

(b) That this amendment does not require the preparation of an economic impact analysis under Executive Orders 11821 and 11949; and

(c) That advance notice of proposed rulemaking under the provisions of the Administrative Procedure Act: (1) is unnecessary because this action involves only a foreign affairs matter, (2) is impractical and contrary to the public interest, and (3) the parties in interest will receive personal service at the same time this amendment becomes effective.

Signed at Washington D.C., this 5th day of April 1978.

JACK W. GEHRINGER,
Deputy Director, National Marine Fisheries Service.

APRIL 7, 1978.

1. Section 611.92 is amended as follows:

§ 611.92 Bering Sea and Aleutian Islands Trawl and Herring Gillnet Fishery.

(a) *Purpose.* This section regulates foreign trawling for all species of fish in the Gulf of Alaska and directed foreign longlining for Pacific cod west of 157°00′ W. longitude in the Gulf of Alaska. The Gulf of Alaska includes that portion of the Pacific Ocean, exclusive of the Bering Sea, between 132°40′ W. longitude and 170°00′ W. longitude.

* * * * *

(b) * * *

"(2) Open areas. Except for the closed areas described in subparagraph (3) of this paragraph, the open areas for foreign fishing include:

(i) The Gulf of Alaska beyond 12 nautical miles from the baseline used to measure the U.S. territorial sea is open to trawling;

(ii) The Gulf of Alaska west of 157°00′ W. longitude beyond 12 nautical miles from the baseline used to measure the U.S. territorial sea is open to directed longlining for Pacific cod;

(iii) The Gulf of Alaska between 169°00′ W. longitude and 170°00′ W. longitude between 3 and 12 nautical miles from the baseline used to measure the territorial sea is open to trawling and to directed longlining for Pacific cod.

* * * * *

2. In § 611.92(b)(3) add new paragraph at end

(v) * * *

(vi) Foreign longline fishing is prohibited in waters west of 157° W. long. shoreward of the 500 meter isobath between the following dates and times (all hours are Pacific standard time):

From 3 p.m. May 14 to 6 a.m. June 1.
From 3 p.m. June 18 to 6 a.m. July 6.
From 3 p.m. July 24 to 6 a.m. August 11.
From 3 p.m. August 25 to 6 a.m. September 12.

3. In § 611.92(c) is revised. Renumber former subsection (c) to (d).

"(c) *Longline gear restrictions.* (i) Foreign longline gear must be anchored to the bottom; (ii) foreign longline gear may only employ hooks as terminal gear; (iii) foreign longlines shall be marked at each end in accordance with sec. 611.5(e).

4. Section 611.92(d) is revised as follows:

"(d) *Additional statistical reports, annual.* Each nation whose vessels engage in this fishery shall report, by May 30 of the following year, annual catch and effort statistics, as follows:

(1) *Trawl fisheries.* Effort in hours trawled by vessel class, by gear type, by month, by ½° (lat.) × 1° (long.) statistical area: Catch in metric tons to the nearest ⅒ of a metric ton, by vessel class, by gear type, by month, by ½° (lat.) × 1° (long.) statistical area, by the following species groupings: rock sole; flathead sole; yellowfin sole; arrowtooth flounder; other flounders; Pacific ocean perch; other rockfish; Pacific cod; sablefish; walleye (Alaska) pollock; Atka mackerel; any other species taken in excess of 1,000 metric tons; and other fishes.

(2) *Longline fisheries.* Effort in number of longline units fished, number of hooks per unit, duration of "soaking" time per set, number of sets by month, by ½° (lat.) × 1° (long.) statistical area; Catch in metric tons to the nearest ⅒ of a metric ton by month, by ½° (lat.) × 1° (long.) statistical area by the same species groupings under (1) above.

[FR Doc. 78-9785 Filed 4-12-78; 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.

[6714-01]

FEDERAL DEPOSIT INSURANCE CORPORATION

[12 CFR Part 344]

RECORDKEEPING AND CONFIRMATION REQUIREMENTS FOR SECURITIES TRANSACTIONS

Extension of Comment Period for Proposed Rulemaking

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Extension of comment period.

SUMMARY: This action extends the time for filing comments with respect to a proposed new Part 344 which establishes recordkeeping and confirmation requirements for certain securities transactions effected by insured State nonmember banks. The extension is from the current March 31, 1978, deadline to May 1, 1978. The American Bankers Association and the National Association of Mutual Savings Banks have asked for additional time to comment. The former association cites as a reason for requesting additional time the significance of the proposal for its industry and a need to finish a survey of its members.

DATE: Comments must be received on or before May 1, 1978.

ADDRESS: Interested persons are invited to submit written data, views, or arguments regarding the proposed regulations to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429. All written comments will be made available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT:

Gerald J. Gervino, Attorney, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429, 202-389-4422.

SUPPLEMENTARY INFORMATION: 1. On February 16, 1978, the FDIC issued a notice of proposed rulemaking, 43 FR 7441, with respect to a proposed new Part 344 of its regulations. The last date for filing comments was set at March 31, 1978.

2. On March 14, 1978, the American Bankers Association filed a request for an extension of the comment period to and including May 1, 1978. The association states that the regulation is significant for its industry and that it needs time for its members to assess its impact. On March 21, 1978, the National Association of Mutual Savings Banks requested an extension of the comment period for 30 days. This association stated that it needed additional time to study the proposal.

By order of the Board of Directors, April 7, 1978.

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

[FR Doc. 78-9874 Filed 4-12-78; 8:45 am]

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 21]

[Docket No. 17147; Notice 77-19B]

PARTS MANUFACTURER APPROVALS—EXPORT AIRWORTHINESS APPROVALS

Reopening of Comment Period

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice reopening comment period.

SUMMARY: This Notice reopens the period for submission of comments in response to certain proposals contained in Notice 77-19. Reopening the comment period will allow additional persons and organizations to submit their comments to the Docket. This action was requested by Avco Lycoming.

DATE: Comments must be received on or before May 15, 1978.

ADDRESS: Send comments on the proposals in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Docket No. 17147, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Raymond E. Ramakis, Regulatory Projects Branch, Safety Regulations Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-755-8716.

SUPPLEMENTARY INFORMATION

The Federal Aviation Administration (FAA) proposed in Notice 77-19, published in the FEDERAL REGISTER on September 1, 1977 (42 FR 43985), to amend certain provisions of Part 21 of the Federal Aviation Regulations (FARs) that are applicable to Parts Manufacturer Approvals (PMA) and Export Airworthiness Approvals. It was indicated in Notice 77-19 that communications received on or before November 1, 1977, would be considered by the Administrator before taking action on the proposed rules. Notice 77-19A (42 FR 61048; December 1, 1977) reopened the comment period until January 4, 1978.

With respect to PMA, Notice 77-19 proposed to amend § 21.303 of the FARs by revising the application and reporting requirements applicable to PMA, and by clarifying the means by which an applicant for a PMA can show that the design of the applicant's part is identical to the design of a part that is covered under a type certificate.

By letter dated February 7, 1978, Hogan and Hartson, on behalf of Avco Lycoming, requested that the comment period for Notice 77-19 be reopened for a period of 10 days. Hogan and Hartson stated that in the interest of fairness and to assist in the development of a complete record, Avco Lycoming requires the reopening of the comment period to respond, to the comments submitted by the United States Department of Justice (DOJ) and Superior Air Parts, Inc. (Superior).

The FAA believes that Avco Lycoming has shown a substantive interest in the proposals to amend § 21.303 of the FARs and that good cause exists for reopening the comment period for these proposals. The comments submitted by Superior and DOJ are extensive and detailed in nature and were not submitted until the final day for submission of comments. Therefore, many commentators may be unaware of those comments and may need more than 10 days to prepare a response. The FAA believes that 30 days is needed. The FAA further believes that reopening the comment period for 30 days is consistent with the public interest.

Therefore, the period for submission of comments in response to the proposals to amend § 21.303 of the FARs

that were contained in Notice 77-19, is hereby reopened and will close on May 15, 1978. All communications received on or before that date will be considered by the Administrator before taking action on those proposals.

It should be noted that Notice 77-19 contains proposals to amend §§ 21.321, 21.325, 21.327, 21.329, 21.331, 21.333, and 21.335 pertaining to the issuance of Export Airworthiness Approvals. Additional comments on these proposals are not solicited at this time. It is now expected that final action on these proposals will be taken separately from that on the proposals to amend § 21.303.

DRAFTING INFORMATION

The principal authors of this document are J. Zahringer, Flight Standards Service, and S. Podberesky, Office of the Chief Counsel.

(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) of the Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.45.)

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 April 6, 1978.

JAMES M. VINES,
Acting Director,
Flight Standards Service.

[FR Doc. 78-9849 Filed 4-12-78; 8:45 am]

[4910-13]

[14 CFR Part 39]

[Docket No. 17739]

AIRWORTHINESS DIRECTIVES

British Aircraft Corp. Viscount Models 744, 745D and 810

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, and replacement as necessary of the gland nut and the associated locking plate/locking screw of the main landing gear shock absorber struts on British Aircraft Corp., Viscount Models 744, 745D and 810 airplanes. The AD is prompted by reports of gland nuts becoming detached in service which have caused malfunctioning of the retraction/extension system as well as serious damage to associated main landing gear components.

DATES: Comments must be received on or before May 29, 1978.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24) Docket No. 17739, 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. 20070, telephone 703-435-9100. Copies of the service bulletins are 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, 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 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 upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the 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 gland nuts of the MLG shock absorber struts becoming detached in service on British Aircraft Corp. Viscount Series 744, 745D, and 810 Series airplanes. In the four known cases where gland nuts have become detached, malfunctioning of gear retraction/extension system as well as serious damage to associated landing gear components has resulted. Since this condition could exist or develop on other airplanes of the same type design, the proposed AD would require inspection, and replacement as necessary of the gland nuts and associated locking plate/locking screw on British Aircraft Corp. Viscount Series 744, 745D and 810 Series airplanes.

Drafting information: The principal authors of this document are F. J. Karnowski, Europe, Africa, and Middle East Region, F. 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 Viscount Series 744, 745D, and 810 Series airplanes certificated in all categories.

Compliance required as indicated.

The following parts are affected by this AD:

	700 Series		800 Series
	10" Oleos	14" Oleos	
Gland nut	70050-317	72450-69	81050-69
Locking plate.	.....	72450-71	81050-71
Locking screw.	70050-259	.....	.....

To ensure the security of the gland nut and locking plate/locking screw combination and prevent detachment of the gland nut of the main landing gear shock absorber struts, accomplish the following:

(a) Within the next 25 landings after the effective date of this AD and thereafter at intervals not to exceed 25 landings from the last inspection until the inspection required by paragraph (c) of this AD is performed, visually inspect the gland nut and locking plate/locking screw combination as installed for security and staisfactory locking in accordance with paragraph 2.2 of the "Accomplishment Instructions" of British Aircraft Corp. Preliminary Technical Leaflet (PTL) No. 299 (700 Series) or PTL No. 168 (800 Series), as applicable, both at Revision 3, dated January 12, 1977, or an FAA-approved equivalent.

(b) If, during any of the inspections required by paragraph (a) of this AD, the gland nut is found to be loose or not adequately locked, before further flight, remove the gland nut and inspect the thread form in accordance ith paragraph (c) of this AD.

(c) Within 500 landsings after the effective date of this AD, unless already accomplished within the last 2,500 landings, and thereafter at intervals not to exceed 3,000 landings, remove the gland nut and inspect the condition of the threads in accordance with the criteria established in paragraph 2.2.2 of British Aircraft Corp. PTL. No. 299 (700 Series) or PTL No. 168 (Series), as applicable, both at Revision 3, dated January 12, 1977, or an FAA-approved equivalent.

(d) If, during any inspection performed in accordance with paragraph (c) of this AD, the thread form of the gland nut is found unacceptable under the criteria referenced in paragraph (c) of this AD, before further flight, replace the gland nut with a serviceable part of the same part number found acceptable under those criteria.

(e) If, during any of the inspections required by this AD, a locking plate is found worn or fractured, before further flight, replace the locking plate with a serviceable part of the same part number. Replacement locking plates may be installed with the shock absorber strut intact by parting the plate as illustrated in Figure 1 of British Aircraft Corporation PTL No. 299 (700 Series) or PTL No. 168 (800 Series), as applicable, both at Revision 3, dated January 12, 1977, or 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 April 5, 1978.

JAMES M. VINES,
Acting Director,
Flight Standards Service.

[FR Doc. 78-9848 Filed 4-12-78; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 78-ASW-9]

TRANSITION AREA, DURANT, OKLA.

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Durant, Okla, transition area to provide additional controlled airspace for aircraft executing instrument approach procedures to the Eaker Field Airport. The additional airspace is required to accommodate higher performance aircraft utilizing the airport.

DATE: Comments must be received by May 15, 1978.

ADDRESSES: Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101.

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Tex.

An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

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: In Subpart G § 71.181 (43 FR 440) of FAR Part 71, the description of the Durant, Okla., transition area reflects the controlled airspace designed for Criteria I aircraft executing instrument approach procedures to the Eaker Field Airport. Criteria III aircraft operations are anticipated and require alteration of the transition area to provide the necessary additional controlled airspace for their protection.

COMMENTS INVITED

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received on or before May 15, 1978, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, or by calling 817-624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed above.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Durant, Okla., transition area. The FAA believes this action will enhance IFR operations at the Eaker Field Airport by providing additional controlled airspace for aircraft executing instrument approach procedures established for the airport. Subpart G of Part 71 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 440).

DRAFTING INFORMATION

The principal authors of this document are David Gonzalez, Airspace and Procedures Branch, and Robert C. Nelson, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the FAA proposed to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 440) by altering the Durant, Okla., transition area as follows:

DURANT, OKLA.

That airspace extending upward from 700 feet above the surface within a 8.5-mile radius of Eaker Field (latitude 33°56'30" N., longitude 96°24'00" W.), and within 3 miles each side of a 167° bearing from the Durant NDB (latitude 33°56'32" N., longitude 96°23'54" W.) extending from the 8.5-mile radius area to 9 miles SE of the NDB.

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

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 March 31, 1978.

PAUL K. BAKER,
Acting Director,
Southwest Region.

[FR Doc. 78-9707 Filed 4-12-78; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 78-ASW-10]

TRANSITION AREA, AFTON, OKLA.

Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This notice proposes to designate a transition area at Afton, Okla., to provide controlled airspace for aircraft executing proposed instrument approach procedures to the Shangri-La Airport, using the newly established nondirectional radio beacon (NDB) on the airport, and the Neosho, Mo., VHF omnidirectional range/tactical air navigation (VORTAC).

DATE: Comments must be received by May 15, 1978.

ADDRESSES: Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101.

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Tex.

An informal docket may be examined at the Office of the Chief, Air-

space and Procedures Branch, Air Traffic Division.

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: Subpart G 71.181 (43 FR 440) of FAR Part 71 contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting IFR activity. Designation of the transition area at Afton, Okla., will necessitate an amendment to this subpart.

COMMENTS INVITED

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received on or before May 15, 1978, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, or by calling 817-624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed above.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a transition area at Afton, Okla. The FAA believes this action will enhance IFR operations at the Shangri-La Airport by providing controlled airspace for aircraft executing proposed instrument approach procedures using the newly established NDB on the airport and the Neosho VORTAC.

Subpart G of Part 71 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 440).

DRAFTING INFORMATION

The principal authors of this document are David Gonzalez, Airspace and Procedures Branch, and Robert C. Nelson, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 440) by adding the Afton, Okla., transition area as follows:

AFTON, OKLA.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Shangri-La Airport, Afton, Okla. (latitude 36°34'45" N., longitude 94°51'40" W.); within 3.5 miles each side of a 176° bearing from the Shangri-La NDB (latitude 36°34'38" N., longitude 94°51'38" W.) extending from the 8.5-mile radius area to 11.5 miles south of the NDB.

(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 March 31, 1978.

PAUL J. BAKER,
Acting Director,
Southwest Region.

[FR Doc. 78-9708 Filed 4-12-78; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 78-ANW-03]

TRANSITION AREA

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposed to alter the 700-foot transition area airspace in the vicinity of Pasco, Wash. The alteration would result in an expansion of controlled airspace in that area. The alteration is needed because the present 700-foot transition area is inadequate to provide controlled airspace protection for aircraft complying with missed approach instructions in connection with a standard instrument approach to a nearby airport.

DATE: Comments must be received on or before April 28, 1978.

ADDRESSES: Send comments on the proposal, in triplicate, to: Chief, Operations, Procedures and Airspace Branch, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Wash. 98108. The official docket may be examined at the following location: Office of the Regional Counsel, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Wash. 98018.

FOR FURTHER INFORMATION CONTACT:

Dale C. Jepsen, Airspace Specialist, Operations, Procedures and Airspace Branch (ANW-533), Air Traffic Division, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Wash. 98108, telephone 206-767-2610.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Chief, Operations, Procedures and Airspace Branch, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Wash. 98108. All communications received on or before April 28, 1978, will be considered before action is taken on the proposed amendment. 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 official docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking by submitting a request to the Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, ANW-530, Northwest Region, FAA Building, Boeing Field, Seattle, Wash. 98108, or by calling 206-767-2610. 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 procedure.

THE PROPOSAL

The Federal Aviation Administration is considering an amendment to subpart G of part 71 of the Federal Aviation Regulations (14 CFR part 71) to alter the 700-foot transition area at Pasco, Wash. The present 700-foot transition area has been found to be inadequate to contain aircraft complying with missed approach instructions while executing a standard instrument approach at the Tri-Cities Airport. Accordingly, the Federal Aviation Administration proposes to amend subpart G of part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

SECTION 71.181 PASCO, WASH.

Is amended as follows:

"That airspace extending upward from 700 feet above the surface within 10.5 miles northwest and 6 miles southeast of the Pasco VOR 046 and 226 radials extending from 23 miles northeast to 12 miles southwest of the VOR; within 9.5 miles northwest and 7 miles southwest of the Pasco VOR 131° radial extending from the VOR to 30.5 miles southeast of the VOR; within 3 miles north and 7.5 miles south of the Pasco VOR 288 radial extending from 8 miles west of the VOR to 18 miles west of the VOR.

That airspace extending upward from 1,200 feet above the surface, southwest of Pasco, Wash., bounded on the north by the south edge of V-298, on the east by the west edge of V-112W and on the southwest by the northeast edge of V-4."

DRAFTING INFORMATION

The principal authors of this document are Dale C. Jepsen, Air Traffic Division, and Jonathan Howe, Regional Counsel, Northwest Region, Federal Aviation Administration.

This amendment is proposed under authority of section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

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

Issued in Seattle, Wash., on April 3, 1978.

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

[FR Doc. 78-9709 Filed 4-12-78; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 78-GL-4]

PROPOSED DESIGNATION OF TRANSITION AREA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: The nature of this Federal action is to designate additional controlled airspace near Mt. Comfort, Ind., to accommodate a new (VOR-A) instrument approach procedure into the Mt. Comfort Airport established pursuant to a request from the Mt. Comfort Airport officials to provide that facility with instrument approach capability. The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions, and other aircraft operating under visual conditions.

DATES: Comments must be received on or before July 13, 1978.

ADDRESSES: Send comments on the proposal to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 78-GL-4, 2300 East Devon Avenue, Des Plaines, Ill. 60018. A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Ill. 60018.

FOR FURTHER INFORMATION CONTACT:

Doyle Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Ill. 60018, telephone 202-694-4500, extension 456.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace in this area will be lowered from 1,200 feet above ground to 700 feet above ground. The development of the proposed instrument procedures necessitates the FAA to lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Regional Counsel, AGL-7, Great Lakes Region, Rules Docket No. 78-GL-4, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Ill. 60018. All communications received on or before July 13, 1978, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, 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 is considering an amendment to subpart C of part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish a 700-foot controlled airspace transition area near Mt. Comfort, Ind. Subpart C of part 71 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 440).

DRAFTING INFORMATION

The principal authors of this document are Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, and Joseph T. Brennan, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

According, the FAA proposes to amend subsection 71.181 of part 71 of the Federal Aviation Regulations as follows:

In section 71.181 (43 FR 440), the following transition area is added:

MT. COMFORT, IND.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Mount Comfort Airport (latitude 39°50'26" N., longitude 85°54'04"), excluding the portion within the Indianapolis Brookside transition area.

This amendment is proposed under the authority of section 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).

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 April 3, 1978.

JOHN M. CYROCKI,
Director,
Great Lakes Region.

[FR Doc. 78-9700 Filed 4-12-78; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Docket No. 78-SO-23]

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

Proposed Designation of Transition Area, Smithfield, N.C.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule will designate the Smithfield, N.C., transition area and will lower the base of controlled airspace in the vicinity of the Johnston County Airport from 1200 to 700 feet to accommodate Instrument Flight Rule (IFR) operations. A public use instrument approach procedure is being developed for the Johnston County Airport and the additional controlled airspace is required to protect aircraft conducting Instrument Flight Rule (IFR) operations.

DATES: Comments must be received on or before June 15, 1978.

ADDRESS: Send comments on the proposal to: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320.

FOR FURTHER INFORMATION CONTACT:

William F. Herring, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320; telephone 404-763-7646.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Federal Aviation Administration, Attention: Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before June 15, 1978, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rule Docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public, regulatory docket.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, 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 NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate the Smithfield, N.C., 700-foot transition area. This action will provide additional controlled airspace to accommodate aircraft performing IFR operations at Johnston County Airport. If the proposed designation acceptable, a nonfederal nondirectional beacon will be established to serve the Johnston County Airport.

DRAFTING INFORMATION

The principal authors of this document are William F. Herring, Airspace and Procedures Branch, Air Traffic Division, and Eddie L. Thomas, Office of Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend Subpart G, § 71.181 (43 FR 440) of Part 71 of the Federal Aviation Administration Regulations (14 CFR 71) by adding the following:

Smithfield, North Carolina

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Johnston County Airport (Lat. 35°32'26" N., Long 78°23'27" W.)

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

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

Issued in East Point, Ga., on April 4, 1978.

GEORGE R. LACILLE,
Acting Director, Southern Region.

[FR Doc. 78-9701 Filed 4-12-78; 8:45 am]

[4910-13]

[14 CFR Part 75]

[Airspace Docket No. 78-WA-1]

PROPOSED REVOCATION OF AREA HIGH ROUTES

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revoke certain area high routes which do not respond to area navigation user requirements. This action is consistent with FAA area navigation policy and is taken as a positive step to facilitate area navigation within the existing air traffic control environment by eliminating area navigation routes that are not required nor used by existing area navigation equipped aircraft operators. This action also involves in part routes outside the navigable airspace of the United States. Those area navigation routes proposed for revocation that are entirely within the navigable airspace of the United States are being handled by separate action contained in Airspace Docket No. 77-WA-23.

DATES: Comments must be received on or before June 9, 1978.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, Docket No. 78-WA-1, 800 Independence Avenue SW., Washington, D.C. 20591. The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Mr. John Watterson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: 202-426-8525.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Federal Aviation Ad-

ministration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue SW., Washington, D.C. 20591. All communications received on or before June 9, 1978, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, 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 docket 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 is considering an amendment to Subpart D of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to revoke approximately 90 area high routes that are not responsive to user requirements. In January 1977, the FAA issued an updated Area Navigation Policy Statement which included among other steps eliminating existing area navigation routes which do not respond to user requirements. The policy statement also listed other positive steps to be taken to facilitate area navigation in the existing ATC navigation environment for the near term area navigation users and this step should be considered in light of the other steps that are reflected in the policy statement.

User organizations have been solicited for their area navigation route requirements. Internal FAA surveys have consistently indicated little use is being made of the structured area navigation route system. Most area navigation equipped aircraft are using area navigation in the en route system on a random route basis as direct between two points with radar monitoring whenever traffic conditions permit such clearances by air traffic control.

This notice proposes to revoke those area navigation routes that lie in part outside the navigable airspace of the United States that are not identified as being required by any area navigation user. Those routes not requiring coordination under the provisions of Executive Order 10854 are being handled in a separate airspace docket (77-WA-25).

ICAO CONSIDERATIONS

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertains to the establishment of air navigation facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

DRAFTING INFORMATION

The principal authors of this document are Mr. John Watterson, Air Traffic Service, and Mr. Richard W. Danforth, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 75.400 of the Federal Aviation Regulations (14 CFR Part 75) as republished (43 FR 730) by revoking the following area high routes:

1. J808R New York, N.Y.—Sable Island, N.S.
2. J809R New York, N.Y.—Yarmouth, N.S.
3. J831R New York, N.Y.—CODDS.
4. J832R Philadelphia, Pa.—Boston, Mass.
5. J833R Bangor, Maine—New York, N.Y.
6. J944R Morro, Calif.—Dinty, Calif.
7. J946R Morro, Calif.—Ficky, Calif.
8. J947R Camel, Calif.—Gates, Calif.
9. J960R Dinty, Calif.—Paria, Utah.
10. J962R Ficky, Calif.—Paria, Utah.
11. J963R Gates, Calif.—Paria, Utah.
12. J965R Coaldale, Nev.—Alcoa, Calif.
13. J966R Alcoa, Calif.—Mina, Nev.

(Secs. 307(a), 313(a) and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a) and 1510; Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

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

Issued in Washington, D.C., on April 4, 1978.

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

[FR Doc. 78-9702 Filed 4-12-78; 8:45 am]

[6351-01]

COMMODITY FUTURES TRADING COMMISSION

[17 CFR Part 1]

GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

Positions Exceeding 25 Percent of the Open Interest in the Delivery Month of a Commodity Future

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission proposes to adopt a regulation requiring each contract market to limit the position of any one person in a maturing futures contract to not more than 25 percent of the open interest in that future, unless the contract market determines that the holding of such position is not a threat to orderly trading.

The purpose of this proposed rule is to further the orderly trading of liquidating futures. It establishes an early warning indicator of position concentration by placing an affirmative obligation on the contract markets to analyze major positions and to take action if such positions may adversely affect trading.

DATES: Comments must be received on or before July 12, 1978. The proposed effective date has not yet been determined.

ADDRESS: Comments on the proposal should be sent to the Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C., 20581, attention: Secretariat.

FOR FURTHER INFORMATION CONTACT:

Blake Imel, Office of Chief Economist, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, telephone 202-254-6124.

SUPPLEMENTARY INFORMATION: The Commission is concerned over the apparent lack of objective standards for identifying and preventing potentially disruptive situations in futures markets. The Commission has observed that the holding of a large percent of the open interest in a contract for future delivery by relatively few traders can result in market congestion or manipulation. While the Commission does not believe that position concentration is the only standard which is relevant to the identification and prevention of potential market problems, it does believe that it is a significant factor. In addition, the Commission feels that, if adopted, the current proposal could provide the experience necessary for the development of more comprehensive standards.

The Commission regularly monitors those positions which constitute the greatest share of the open interest and particular attention is given to this factor in the delivery month when its impact may be most significant. The obligation of contract markets to monitor position concentration is set forth in § 1.51 of the Commission regulations, 17 CFR 1.51 (1977), which requires each contract market to use due diligence in maintaining a continuing affirmative action program which must include:

(1) Surveillance of market activitiy for indication of possible congestion or other market situation conducive to possible price distortion * * *.

Commission Guideline No. 2 further amplifies regulation § 1.51 and provides that an adequate market surveillance program should include surveillance of, among other things, open interest and changes in open interest, concentration of positions among clearing members and whether there is any apparent concentration in the making or taking of delivery.[1]

A series of recent events involving concentration of positions which have threatened to disrupt orderly trading point to the need for more definite standards for monitoring position concentration. In one instance, the Commission and the contract market found it necessary to invoke their respective emergency powers to maintain an orderly market.[2] In certain other instances, where no emergency action was taken, the Commission is conducting investigations of possible price manipulation. Because of the frequency with which these situations may arise and their potential disruptive effect, the Commission proposes to establish a standard which would require contract markets to analyze any concentrations of positions constituting a major portion of the open interest and to determine the disruptive potential of those positions. Such a requirement would thus provide early warning of possible threats to orderly trading.

As proposed, regulation § 1.52 will prohibit a contract market from permitting any person to hold or control a position during the last 15 trading days of the delivery month if the position exceeds 25 percent of the previous day's open interest unless the contract market finds that the holding of that position is not likely to result in: (1) price manipulation or (2) market congestion. In effect, the regulation would place an affirmative duty on a contract market to take immediate action whenever a position exceeds the specified level of open interest, unless it can determine that the holding of such a position will not result in either of these adverse affects. Accordingly, the proposed regulation is in furtherance of the policy of self regulation by which contract markets are directly responsible for maintaining the orderly performance of their markets.[3]

The proposed rule does not require automatic divestiture of that portion of a position which exceeds 25 percent of the open interest. The proposed 25 percent figure serves only as a standard which would require the contract market to analyze the probable impact of the position on futures trading and require the contract market to reach a conclusion. If the contract market determines that maintenance of the position may result in price manipulation or market congestion, it must notify the holder and direct whatever action is necessary to prevent these conditions from occurring. Any such action ordered by the exchange would be for the purpose of preserving orderly markets and would not necessarily involve reduction of the position to 25 percent of all open contracts in the particular future. For instance, the exchange might find that the desirable course of action would involve liquidation at an absolute rate, rather than liquidation in proportion to open interest. On the other hand, if the contract market finds that the position is not likely to have the harmful effects, no further action is required. The proposed rule thus allows contract markets their current flexibility in dealing with problem situations.

All major positions[4] are covered by the proposed rule regardless of whether they constitute bona fide hedging as defined in § 1.3z of the Commission's regulations,[5] or are in commodities for which there are no limits on positions under Part 150 of the Commission's regulations.[6] For the purpose of determining whether a position held by a person equals or exceeds 25 percent of the open interest, the contract market shall include with the positions held by such person the positions held by any persons directly or indirectly controlled by such person. In addition, the positions of two or more persons acting pursuant to an expressed or implied agreement or understanding will be treated as if they were held by a single person. This is the same standard which is used for aggregating positions to determine whether a person has exceeded the limits on positions contained in Part 150 of the Commission's regulations which implement section 4a of the Act.[7]

The positions held by traders and the open interest at the close of trading on the previous business day are to be used in determining whether a position exceeds 25 percent of the open interest. The proposed rule specifies the use of the previous business day's figures since data on positions and open interest at the close of a trading day may not be readily available until the following afternoon. The analysis and findings required by the proposed regulation must be made by the contract market as soon as possible after the data become available so that persons who will be required to liquidate holdings may be promptly advised. In any event, if certain positions may not be maintained because of their potential adverse impact on the market, the holders of those positions must be so informed before trading commences the next day. Thus, for example, data

[1] Contract Market Rule Enforcement Program, Guideline No. 2, May 13, 1975, Comm. Fut. L. Rep., CCH ¶6430.

[2] In the matter of the December 1977 coffee "C" futures contract traded on the New York Coffee and Sugar Exchange, order pursuant to section 8a(9) of the Commodity Exchange Act, November 23, 1977.

[3] Section 5(d) of the Act, 7 U.S.C. 7(d) (1976), requires as a condition for designation that the governing board of each contract market provide for the prevention of manipulation of prices and the cornering of any commodity by the dealers or operators upon such contract market.

[4] For the purpose of this release, a position which exceeds 25 percent of the open interest in the maturing future is referred to as a "major position."

[5] 17 CFR 1.3z, as amended, 42 FR 42748 (August 24, 1977).

[6] 17 CFR Part 150 (1977). Part 150 of the regulations also places limits on daily trading.

[7] 7 U.S.C. 6a (1976).

concerning the open interest and positions held at the close of trading on Monday will be analayzed by the contract market on Tuesday. Holders of positions who will be required to liquidate any part of their positions or to take other action must receive notice from the contract market before the opening of trading on Wednesday.

The proposed regulation will generally apply to the last 15 days of trading of the delivery month of the futures contract. A contract market must, therefore, begin the required analysis on the 16th to last trading day (using data on positions held at the close of the 17th to the last day) so that any required liquidation can commence on the 15th to last trading day. The proposed rule also provides, however, that the Commission may specify a period other than the last 15 days of trading. This provision would allow the period to be extended, for example, if conditions exist which require special early monitoring.

The proposed rule does not, of course, relieve a contract market of its continuous responsiblity to monitor the market and take necessary action before the last 15 days of trading in a contract or where a position of less than 25 percent of the open interest may be disruptive. A contract market has a responsibility to maintain orderly markets at all times and in all market situations. The Commission has always maintained that a contract market should act to require traders, including hedgers, to reduce positions whenever such positions have the potential for endangering the orderliness of the market.

The Commission points out that, although the proposed rule places an affirmative obligation on contract markets, it also places all market participants on notice that contract markets will be required to monitor all concentration of positions in the maturing future and to take action in appropriate cases. In this connection, the regulation provides that a person holding a major position which the contract market has determined may result in price manipulation or market congestion must take such action in regard to that position as the contract market shall direct. Failure to do so would consititute a violation of the regulation. Further, if the person does not comply with the contract market's order, the contract market is required to take any additional action, such as liquidating part or all of the position of such person, which is necessary to prevent price manipulation or market congestion.

The Commission is considering including a provision in the rule which would allow persons who anticipate holding major positions during the last 15 days of trading to seek an advisory determination from a contract market. Such a provision would enable traders to seek guidance from the contract market so that, if it appears that a partial liquidation may become necessary, the position holder will have as much time as possible in which to execute offsetting trades. The Commission is seeking comment on whether the rendering of advice by contract markets upon request by person who holds or anticipates holding a major position during the last 15 trading days should be expressly provided for in the rule or whether it should be an informal procedure.

The Commission emphasizes that a determination by the exchange that the holding of a major position will not result in any of the specified adverse conditions does not affect the Commission's authority to invoke its emergency powers under section 8a(9) of the Act. In fact, it is more likely that the Commission may proceed under section 8a(9) where the contract market has failed to take necessary action. A Commission conclusion that emergency action must be taken to protect the markets after a contract market has determined that the positions in question will not adversely affect the market does not necessarily imply that the contract market has failed to use due diligence to protect the market. The Commission oversees trading on all contract markets and its conclusion that an emergency exists may be the result of its analysis of trading activities on different contract markets which are designated for the same or related commodities or of other market factors. Moreover, the standard contained in the proposed regulation to be used by contract markets in evaluating the impact of positions is different than that set forth in section 8a(9) upon which Commission emergency action would be based.

While the Commission is proposing comprehensive application of this rule to all contract markets, it has also considered the possibility of a more selective application of the rule to particular contract markets or market situations. For instance, the Commission has considered the differences among contract markets concerning such matters as the ease and cost of transporting the commodity, the number and location of delivery points, the general availability of the commodity for purposes of delivery and the liquidity of the cash market. In addition, the Commission has noted that there may be seasonal or cyclical patterns of the production of certain commodities which may have an important bearing on the susceptibility of different maturing contracts to manipulation or congestion. For that reason, the Commission is requesting comment on whether the rule should be applied comprehensively as proposed or whether it should be applied more selectively by prior announcement to specified contract markets or in specified market situations.

The Commission believes that adoption of this rule may in the long run permit a reduced reliance on fixed and absolute speculative position limits as a regulatory concept. Since this rule is stated as a proportion of open interest instead of an absolute number of contracts, it may be a more responsibe indicator or early warning signal of the potential disruptive effect any single position or group of positions could have on the market.

The Commission requests comment on the substance of his rule and, in addition to the points discussed above, (1) whether the 25 percent level of position concentration contained in this proposed rule is appropriate or whether a higher or lower level would be more appropriate, (2) whether the last 15 days of trading in a contract is the appropriate period for requiring determinations on major positions, and (3) when and in what manner the determination of the contract markets concerning the requirements of the proposed rule should be communicated to the Commission.

In consideration of the foregoing, the Commission hereby proposes to amend 17 CFR Part I by adding a new § 1.52 to read as follows:

§ 1.52 Positions exceeding 25 percent of the open interest in the delivery month of a commodity future.

(a) No contract market may permit any person to hold or control a position in excess of 25 percent of the open interest in any contract of sale of any commodity for future delivery during the last fifteen days during which such contract may be traded, or during such other period during contract expiration as the Commission may prescribe, unless such contract market determines that the holding or controlling of the position by such person is not likely to result in price manipulation or market congestion. For purpose of this paragraph—

(1) The position and open interest at the close of trading on the previous business day shall be used in calculating the percent of open interest which each position constitutes, and

(2) In determining whether any person has exceeded such amount of the open interest, the positions held by any persons directly or indirectly controlled by such person shall be included with the positions held by such person and, further, the positions held by two or more persons acting pursuant to an expressed or implied agreement or understanding shall be aggregated as if such positions were held by a single person.

(b) If a contract market is unable to make the determination required by paragraph (a) of this section, the con-

tract market shall notify the person holding or controlling the positions before trading commences on the following business day and direct that such person take such action as may be necessary to prevent price manipulation or market congestion.

(c) Any person who has received notice from the contract market in accordance with paragraph (b) of this section shall take such action as the contract market shall direct. If a person fails to comply with a contract market order issued in accordance with this section, the contract market shall take such additional action as is necessary to prevent price manipulation or market congestion.

(Secs. 5, 5a and 8a of the Act, 7 U.S.C. §§ 7, 7a and 12a (1976).)

Issued in Washington, D.C., on April 10, 1978 by the Commission.

WILLIAM T. BAGLEY,
Chairman.

[FR Doc. 78-9817 Filed 4-12-78; 8:45 am]

[8180-01]

SECURITIES AND EXCHANGE COMMISSION

[17CFR Part 230]

[Release No. 33-5920]

PRIVATE PLACEMENT EXEMPTIVE RULE

AGENCY: Securities and Exchange Commission.

ACTION: Extension of public comment period for proposed amendments to rule.

SUMMARY: The Commission extends the public comment period with respect to proposed amendments to its private placement exemptive rule until April 28, 1978. The date is being extended in response to certain interested members of the public who require more time to complete their consideration of the proposals in order to respond to the Commission's solicitation of comments.

DATES: Comments must be received on or before April 28, 1978.

ADDRESS: Comments should refer to File No. S7-730 and should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT:

Richard K. Wulff, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washingtom, D.C. 20549, 202-755-1240.

SUPPLEMENTARY INFORMATION: In Release No. 33-5913, March 6, 1978, 43 FR 10701, the Commission published for comment proposed amendments to Rule 146, 17 CFR 230.146 which would prohibit persons who receive compensation from the issuer in connection with an offering made in reliance upon the rule from also serving as offeree representatives, and to revise the disclosure requirements under the rule when an offering is for less than $500,000. The Commission stated that the pubic comment period would expire on April 7, 1978.

It has come to the Commission's attention that certain interested members of the public may require more time to complete their consideration of the proposals in order to respond to the Commission's solicitation of comments. The Commission has determined that it is appropriate in the public interest to allow additional time for the consideration of these proposals. Accordingly, the Commission hereby extends the period for public comment on the proposed amendments to Rule 146 from April 7, 1978 to April 28, 1978.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

APRIL 6, 1978.

[FR Doc. 78-9784 Filed 4-12-78; 8:45 am]

[4310-10]

DEPARTMENT OF THE INTERIOR

Office of Hearings and Appeals

[43 CFR Part 4]

SPECIAL RULES APPLICABLE TO SURFACE COAL MINING HEARINGS AND APPEALS

AGENCY: Office of Hearings and Appeals, Department of the Interior.

ACTION: Proposed rules.

SUMMARY: The regulations in this subpart set out the rules of procedure to govern adjudicatory proceedings before Administrative Law Judges and the Board of Surface Mining and Reclamation Appeals pursuant to the Surface Mining Control and Reclamation Act of 1977.

DATES: Comments must be received by May 23, 1978. Public hearings will be held starting at 9:30 a.m. in Washington, D.C., on May 10, 1978, and at 9:30 a.m. in Denver, Colo., on May 12, 1978.

ADDRESSES: Office of Hearings and Appeals, Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. The public hearings will be held at the Department of the Interior Auditorium, 18th and C Streets NW., Washington, D.C., and Conference Room 708, Colorado State Bank Building, 1600 Broadway, Denver, Colo.

FOR FURTHER INFORMATION CONTACT:

David B. Graham, Director, Office of Hearings and Appeals, Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203, 703-557-1500.

SUPPLEMENTARY INFORMATION: The Surface Mining Control and Reclamation Act of 1977 (the Act), 30 U.S.C. 1201-1328, required the Secretary of the Interior to publish initial environmental protection regulations that would be applicable to all coal mining operations regulated by the States until a State has an approved regulatory program or a Federal regulatory program has been implemented in the State. The Secretary published such regulations on December 13, 1977. The initial environmental protection regulations make numerous references to proceedings which shall be conducted in the Office of Hearings and Appeals pursuant to procedures set forth in 43 CFR Part 4. These proposed regulations have been developed to provide procedures for various proceedings required by the Act and the initial regulations. Following publication of the permanent substantive regulations on August 3, 1978, as required by section 501(b) of the Act, additional procedural regulations will be proposed to supplement these procedural rules.

The public is requested to comment on these proposed regulations. Full public participation will improve the quality of these regulations.

A brief discussion of the major parts in the proposed regulations follows:

Sections 4.1100-16 set forth the jurisdiction of the Board of Surface Mining and Reclamation Appeals (the Board) and contain certain general regulations governing practice before the Administrative Law Judges and the Board.

Sections 4.1120-29 outline the powers of the Administrative Law Judges and set forth generally the actions that may be taken by the Administrative Law Judges.

Sections 4.1130-42 contain rules to regulate discovery in proceedings under the Act before Administrative Law Judges.

Sections 4.1150-58 set out the procedure for obtaining review of a proposed assessment of a civil penalty.

Sections 4.1160-71 provide the method for obtaining review of section 521(a)(3) notices of violation or section 521(a)(2) or section 521(a)(3) orders of cessation or the modification, vacation, or termination of such notices or orders. These procedures apply to orders of cessation which are not subject to expedited review under § 4.1180 et seq. of these proposed regulations.

Sections 4.1180-86 contain regulations to provide for expedited review of certain section 521(a)(2) or section 521(a)(3) orders of cessation. Such expedited review is required by section 525(b) of the Act.

Sections 4.1190-96 encompass the procedures for review of an order to show cause why a permit for surface coal mining operations should not be suspended or revoked.

Sections 4.1200-05 set forth the rules governing formal review of alleged acts of discrimination. These rules are proposed to implement § 703 of the Act and 30 CFR Part 830.

Sections 4.1210-39 have been reserved for permit procedures which will be developed following completion of permanent substantive regulations governing the application process for permits for surface coal mining operations.

Sections 4.1240-59 have been reserved for procedures relating to performance bond release. Such procedures will be proposed following publication of permanent substantive regulations concerning performance bond release.

Sections 4.1260-66 set forth the procedures for applying for temporary relief in section 525 review proceedings under the Act. The procedure for seeking temporary relief from alleged discriminatory acts is covered in § 4.1203 of these proposed rules.

Sections 4.1270-76 establish procedures governing Board review of decisions or orders of Administrative Law Judges.

Sections 4.1280-86 provide procedures for appealing directly to the Board from a decision of the Director, Office of Surface Mining (OSM), granting or denying a small operator exemption pursuant to 30 CFR 710.12, or from any other written decision of an official of OSM which specifically grants the right of appeal to the Board.

Sections 4.1290-95 set forth regulations to govern the awarding of costs and expenses, including attorneys' fees, in administrative proceedings pursuant to section 525(e) of the Act.

General Provisions

Subject to the provisions of 43 CFR 4.21(c) and 4.5, the Board exercises the final decisionmaking authority of the Secretary with respect to the various proceedings under the Act outlined in § 4.1101. Except in the limited situation of appeals to the Board from decisions of OSM under § 4.1280, the Board acts only to review orders or decisions of Administrative Law Judges.

Section 4.1107 establishes the procedures for initiating a proceeding before an Administrative Law Judge. The Office of Hearings and Appeals has established hearings division field offices for the purposes of this Act. Nevertheless, these regulations require that documents that initiate any such proceedings, other than those involving expedited review proceedings under § 4.1180 and temporary relief proceedings under § 4.1260, must be filed with the main office of the Office of Hearings and Appeals in Arlington, Va. The Office felt that by allowing the Chief Administrative Law Judge to make case assignments, he would be able to oversee proceedings under the Act and be able to keep a particular field office from being inundated with cases. Because of the expeditious nature of proceedings under § 4.1180, the Office decided to have such proceedings initiated in the field office nearest the mine site. Section 4.1260 applications for temporary relief will be filed with the Administrative Law Judge to whom the case is assigned or with the field office of the Office of Hearings and Appeals nearest the mine site.

The street addresses for the field offices of the Office of Hearings and Appeals have not yet been determined. They will be published in the final rules. The cities in which the field offices will be located are: Charleston, W. Va.; Knoxville, Tenn.; Louisville, Ky.; and Pittsburgh, Pa. There are presently two field offices of the Office of Hearings and Appeals which will be handling cases arising in the western United States. They are located at: 6432 Federal Building, Salt Lake City, Utah 84138, and Suite 170, 2020 Hurley Way, Sacramento, Calif. 95825.

Section 4.1109 indicates that any party initiating a proceeding in the Office of Hearings and Appeals must serve the initiating documents on the Field Solicitor, Department of the Interior, for the region where the mine site is located.

The Office of the Solicitor, Division of Surface Mining, Department of the Interior, has established field offices in various cities to handle the legal work for the Office of Surface Mining. The street addresses of all the field offices will be published in the final rules.

Section 4.1110 governing intervention contains criteria to provide guidance for the Administrative Law Judge in determining whether intervention is appropriate in a particular case. These criteria are based upon the Act's requirement that adequate procedures be established for public participation in the enforcement of regulations, standards, reclamation plans, or programs established by the Secretary or any State under the Act. The Office contemplates that intervention will be liberally granted based upon these criteria.

Section 4.1116 is proposed to make clear the mandate of Congress as expressed in section 525(a)(1) of the Act that the filing of an application for review shall not operate as a stay of any such order or notice.

Discovery

The discovery sections have been proposed to allow the full range of discovery available under the *Federal Rules of Civil Procedure*. Consideration was given to merely adopting the *Federal Rules* on discovery with certain exceptions. However, a careful examination of the *Federal Rules* made it apparent that wholesale adoption of those rules would in many instances be inappropriate and confusing when applied to the administrative setting with its specialized procedures and terminology. For that reason, the approach taken was to develop specific discovery procedures for administrative proceedings under the Act and to pattern such rules after the discovery sections of the *Federal Rules*, where appropriate. The Office also relied upon the discovery provisions of other agencies including the Nuclear Regulatory Commission, 10 CFR 2.740-44.

Section 4.1142 provides that the special rules of discovery in §§ 4.1130-41 are to be supplemented by certain *Federal Rules* on discovery, to the extent the *Federal Rules* are not inconsistent with the special rules. The rationale for § 4.1142 is that it will allow the body of case law which has evolved under the *Federal Rules* on discovery to be applicable to discovery problems arising under this Act.

Civil Penalty Proceedings

The proposed regulations provide that any person charged with a civil penalty may file a petition with the main office of the Office of Hearings and Appeals for review of the proposed assessment of the penalty. The petition must be accompained by full payment of the proposed assessment. Section 518(c) of the Act provides that failure to make timely payment of the proposed assessment "shall result in a waiver of all legal rights to contest the violation or the amount of the penalty."

Section 4.1154 contains the procedure to obtain review of a decision of the Director, OSM, granting or denying a waiver of the civil penalty formula. This procedure was developed to implement 30 CFR 723.15.

Section 4.1156 establishes a summary procedure for dispensing with civil penalty cases where the person against whom the proposed civil penalty is assessed fails to comply timely with a prehearing order of an Administrative Law Judge or where such person fails to appear at a hearing.

Section 4.1157 provides that in establishing the amount of the civil penalty, the Administrative Law Judge must adhere to the point system and conversion table contained in 30 CFR Part 723. The section also provides, however, that the Administrative Law Judge may waive the use of the point system if he determines that waiver of the point system would further abatement of violations of the Act. The purpose of such a provision is to grant to

the trier of fact the same authority to waive the civil penalty formula and point system as is available to the Director, OSM, acting in his enforcement capacity. This provision is premised upon the concept that an Administrative Law Judge should be able to waive the civil penalty formula in appropriate cases.

REVIEW OF SECTION 521 NOTICES OF VIOLATION AND ORDERS OF CESSATION

The proposed regulations attempt to provide reasonable procedures for review of notices of violation and orders of cessation. Notices of violation are reviewable under §§ 4.1160–71. Orders of cessation are reviewable under §§ 4.1160–71 or under §§ 4.1180–86, depending upon the status of the order.

Section 525(b) of the Act provides that the Secretary shall issue a written decision within 30 days of receipt of an application for review of an order of cessation issued pursuant to section 521(a)(2) or 521(a)(3). As set forth in § 4.1180, expedited review of an order of cessation is available if temporary relief has not been granted under section 525(c) or 526(c) of the Act and if the order is unabated. If temporary relief has been granted or if the order has been abated, review will take place under §§ 4.1160–71.

Because of the severe time restraint imposed by Congress in section 525(b) of the Act, the Office was forced to adopt stringent procedures to comply with the mandate of Congress.

Since all parties will be under tremendous pressure in an expedited review situation, the proposed regulations require that a person qualifying for expedited review under § 4.1180 and intending to file an expedited application under § 4.1184 must notify the Field Solicitor, Department of the Interior, for the region in which the mine site is located, of such intention. Such notice will allow the Field Solicitor to take preliminary steps to prepare for the expedited proceeding.

The requirements of the § 4.1184 application, while detailed, are deemed necessary if an Administrative Law Judge is to meet the time requirements of the Act for rendering his decision. If the 30-day decision requirement is invoked and a hearing is not waived, the proposed regulations require that the Adminstrative Law Judge issue his decision within 30 days of receipt of the application. If the Administrative Law Judge's decision is not appealed to the Board, it becomes final for the Department. If a party seeks review of the Administrative Law Judge's decision, the Board must issue its decision within 30 days of receipt of the appeal.

Consideration was given to requiring the Administrative Law Judge's decision within 15 days of the date the application was received by the Office of Hearings and Appeals, and any Board decision within 30 days of such date. In fact, such an approach was adopted in § 4.1187(h), when all parties waive the opportunity for a hearing and the Administrative Law Judge determines that a hearing is not necessary.

In the ordinary situation in which a hearing will be held, the Office feels that 30 days for the Administrative Law Judge's decision and 30 days for the Board decision is consistent with the statutory language and is the most reasonable solution to a very difficult problem.

The Office is also considering requiring that evidence at the expedited hearing be developed, to the maximum extent feasible, through written submissions, including written direct testimony and written cross-examination. Such a system has been adopted by the Food and Drug Administration for formal evidentiary hearings, 21 CFR 2.154, 41 FR 51706 (1976), and was recommended by the Senate Government Affairs Committee, "Study on Federal Regulations," S. Doc. No. 95-72, July 1977. Senate Bill 2490, the Regulatory Procedures Reform Act, which proposes amendments to the Administrative Procedures Act (APA), would amend section 556(c) of the APA to provide for the introduction of evidence in written form, unless the oral presentation of testimony or oral cross-examination is necessary for a full and true disclosure of relevant evidentiary facts and the denial of such an opportunity would materially prejudice a party.

Section 4.1186 of the proposed regulations provides that a person qualifying to file an expedited application under § 4.1184 may waive his right to such review. If such a waiver is made, the person may file a § 4.1164 application and the procedures in § 4.1160 et seq. will apply, except that the final administrative decision will be issued within 120 days of the filing of the application. The Office believes that such a section is necessary in that some qualified applicants may not need the 30-day decision or may not want to undertake the filing of a § 4.1184 application. In such a situation the person may waive the requirement, yet may receive the final administrative decision on the application within a reasonable amount of time, i.e., 120 days.

A qualified applicant who files a § 4.1184 application and who requests a 30-day decision shall be entitled to such review unless his actions constitute a waiver under § 4.1187(i). This subsection is proposed as a means to encourage complete cooperation in the expedited proceeding by the applicant who initiates the proceeding. Even if there is a waiver under § 4.1187(i), the final administrative decision must be issued within 120 days of the filing of the application.

The Office is still considering the above alternatives and solicits comments regarding the system which should be adopted.

SUSPENSION OR REVOCATION PROCEEDINGS

The proposed regulations for suspension or revocation proceedings require that a permittee's answer to a show cause order issued by the Director, OSM, must be filed with the Office of Hearings and Appeals. At a hearing held by an Administrative Law Judge pursuant to such an order, OSM will have the burden of going forward to establish a prima facie case that a pattern of violations, as described in 30 CFR 722.16, exists or has existed and that such violations were caused by the unwarranted failure of the permittee or were willfully caused by the permittee. If the permittee fails to overcome the prima facie case and the Administrative Law Judge determines that a pattern of violations exists, the Administrative Law Judge must order the permit suspended or revoked.

OSM is also required to present evidence to establish a prima facie case for the terms of the revocation or the length and terms of the suspension.

REVIEW OF ALLEGED DISCRIMINATORY ACTS UNDER SECTION 703 OF THE ACT

The procedures for filing an application for review of discriminatory acts are set forth with specificity in 30 CFR 830.12. An informal conference is provided for in 30 CFR 830.12 in order to attempt to resolve problems on an informal basis, wherever possible, before resorting to formal adjudicatory proceedings in the Office of Hearings and Appeals.

While OSM is required to file the application with the Office of Hearings and Appeals within 7 days of its receipt, the Office of Hearings and Appeals does not become involved in the proceedings until one of the requests listed in § 4.1200(b) is made.

APPLICATIONS FOR TEMPORARY RELIEF

The Act specifically provides in section 525(c) that an applicant seeking review of a notice of violation or order of cessation issued under section 521 may request that the Secretary grant temporary relief from such notice or order. The proposed regulations outline the procedure for filing such a request and the specific contents of the request.

Where an application is filed requesting temporary relief from an order issued pursuant to section 521(a)(2) or section 521(a)(3) of the Act, Congress has stated in section 525(c) of the Act that the order or de-

cision on the request must be issued within 5 days of receipt of the application.

Section 4.1266 of the proposed regulations attempts to set forth procedures which will insure that an applicant desiring such expeditious relief is able to receive a decision on his request within the 5-day period. The proposed procedures are stringent and will necessitate strict adherence to the rules and cooperation of the parties to achieve the statutory time requirement.

Comments which will help the Office refine these procedures to satisfy the Congressional mandate are solicited.

Appeals to the Board From Decisions or Orders of Administrative Law Judges

The Office anticipates that the bulk of the civil penalty cases in which review is sought before the Board will be routine cases. Accordingly, § 4.1270 of the proposed regulations provides for a petition system in which the person seeking review files a petition with the Board and the Board determines whether to grant or deny the petition. If the petition is denied, the Board will issue an order indicating that the Administrative Law Judge's decision shall constitute the final administrative decision on the matter sought to be reviewed. If, on the other hand, the petition raises in the opinion of the Board a significant question of law, the Board will grant the petition and issue a decision in the case.

All other decisions of Administrative Law Judges are appealable to the Board under the proposed procedures in § 4.1271 et seq.

Appeals to the Board From Decisions of the Office of Surface Mining

The regulations on informal adjudicatory proceedings before the Board are proposed primarily to accommodate appeals from decisions of the Director of OSM on applications for small operator exemptions, filed pursuant to 30 CFR 710.12(h). In addition, these provisions are designed to allow OSM an opportunity to grant a right to informal administrative review of its written decisions in those instances deemed by the Director to be appropriate.

Award of Costs and Expenses

Section 525(e) of the Act provides for the awarding of costs and expenses, including reasonable attorneys' fees, in administrative proceedings under the Act in the discretion of the Secretary.

Under the proposed regulations, costs and expenses may be awarded in an administrative proceeding which results in a final order being issued by an Administrative Law Judge or by the Board.

The legislative history of the Act is clear that section 525(e) of the Act is intended to encourage public participation in the administrative process. Such a provision is designed to encourage citizens to bring good faith actions to insure that the Act is being properly enforced. It is the intention of the Office that these proposed rules not be interpreted to discourage good faith actions on the part of interested citizens.

The Office has utilized the legislative history of the Act, Federal statutes, and various court cases concerning the awarding of attorneys' fees in arriving at these proposed rules.

The Surface Mining Act and its legislative history appear to authorize awards of costs and expenses on the basis of two theories. One theory might be characterized as fee shifting, in which the person adjudged to have violated the law might be required to pay the cost and expenses of the party affected by the wrong. For example, if a permittee violated the Act to the detriment of a citizen, costs and expenses might be awarded against the permittee and in favor of the citizen. The second theory might be referred to as a Government compensation theory and would allow for Government payment to citizens for their participation in administrative proceedings where there has been a substantial contribution to a determination of the issues. In this situation, a citizen might intervene in or initiate a proceeding and substantially contribute and be compensated, even if the citizen were not the winning party.

While the proposed regulations do not specifically address these two theories, comments are invited concerning any addition or different language which will assist the Office in implementing section 525(e) of the Act.

The Department of the Interior has determined that this document does not constitute a major federal action requiring preparation of an environmental impact statement under section 102(2)(c) of the National Environmental Policy Act of 1969, 42 U.S.C. § 4332 (1970).

A public hearing will be held at the Department of the Interior Auditorium, 18th and C Streets NW., Washington, D.C., on May 10, 1978, at 9:30 a.m., and in Conference Room 708, Colorado State Bank Building, Denver, Colo., on May 12, 1978, at 9:30 a.m. The purpose of the hearing is to allow full public participation in the rulemaking process. Individuals making oral statements or submitting written comments should limit their statements to these proposed rules. Individuals are encouraged to submit statements in writing.

Drafting Information

Principal authors of these regulations are Bruce R. Harris, Office of Hearings and Appeals, and Marcus P. McGraw, Office of the Solicitor.

The regulations proposed for issuance as Subpart L of 43 CFR Part 4 are set forth below.

Dated: April 10, 1978.

David B. Graham,
Director,
Office of Hearings and Appeals.

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AUTHORITY: Sec. 201, Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1201 et seq.)

Subpart L—Special Rules Applicable to Surface Coal Mining Hearings and Appeals

GENERAL PROVISIONS

§ 4.1100 Definitions.

As used in the regulations in this subpart, the term—

(a) "Act" means the Surface Mining Control and Reclamation Act of 1977, 91 Stat. 445 et seq., 30 U.S.C. 1201 et seq.

(b) "Administrative Law Judge" means an administrative law judge in the Hearings Division of the Office of Hearings and Appeals appointed under 5 U.S.C. 3105 (1970).

(c) "Board" means the Board of Surface Mining and Reclamation Appeals in the Office of Hearings and Appeals.

(d) "Field Solicitor" means an attorney with the Office of the Solicitor, Division of Surface Mining, Department of the Interior, who is located in a Division of Surface Mining field office.

(e) "OHA" means the Office of Hearings and Appeals, Department of the Interior.

(f) "OSM" means the Office of surface Mining Reclamation and Enforcement, Department of the Interior.

§ 4.1101 Jurisdiction of the Board.

(a) The jurisdiction of the Board, as set forth in 43 CFR 4.1(4), and subject to 43 CFR 4.21(c) and 43 CFR 4.5, includes the authority to exercise the final decisionmaking power of the Secretary under the Act pertaining to—

(1) Applications for review of decisions by OSM regarding determinations concerning permits for surface coal mining operations pursuant to section 514 of the Act;

(2) Petitions for review of proposed assessments of civil penalties issued by OSM pursuant to section 518 of the Act;

(3) Applications for review of notices of violation and orders of cessation or modifications, vacations, or terminations thereof, issued pursuant to section 521(a)(2) or section 521(a)(3) of the Act;

(4) Proceedings for suspension or revocation of permits pursuant to section 521(a)(4) of the Act;

(5) Applications for review of alleged discriminatory acts filed pursuant to section 703 of the Act;

(6) Applications for temporary relief in appropriate cases;

(7) Petitions for award of costs and expenses under section 525(e) of the Act;

(8) Appeals from orders or decisions of Administrative Law Judges; and

(9) All other appeals and review procedures under the Act which are permitted by these regulations.

(b) In performing its functions under paragraph (a) of this section, the Board is authorized to: (1) order hearings; and (2) issue orders to secure the just and prompt determination of all proceedings.

§ 4.1102 Construction.

These rules shall be construed to achieve the just, timely, and inexpensive determination of all proceedings consistent with adequate consideration of the issues involved.

§ 4.1103 Eligibility to practice.

(a) An Administrative Law Judge or the Board may determine the eligibility of persons to practice before OHA in any proceeding under the Act pursuant to 43 CFR part 1.

(b) If an Administrative Law Judge or the Board determines that any person is not qualified to practice before OHA, the Administrative Law Judge or the Board shall disqualify the person and report the disqualification to the Director of OHA.

(c) Upon receipt of a report under paragraph (b) of this section, the Director of OHA may request the Solicitor to initiate a disciplinary proceeding under 43 CFR 1.6.

§ 4.1104 General rules relating to procedure and practice.

Proceedings in OHA under the Act are subject to the general rules relating to procedures and practice in subpart B of this part.

§ 4.1105 Parties.

(a) All persons indicated in the Act as parties to administrative review proceedings under the Act shall be considered statutory parties. Such statutory parties include—

(1) In a civil penalty proceeding under § 4.1150 of this part, OSM, as

represented by the Solicitor, any person against whom a proposed assessment is made and who files a petition, and any other person having an interest which is or may be adversely affected;

(2) In a review proceeding under § 4.1160 or § 4.1180 of this part, OSM, as represented by the Solicitor, and: (i) if a permittee files an application for review, the permittee; and (ii) if any other person having an interest which is or may be adversely affected files an application for review, the permittee and the person filing such application;

(3) In a proceeding to suspend or revoke a permit under § 4.1190 of this part, OSM, as represented by the Solicitor, and the permittee who is ordered to show cause; and

(4) In a discriminatory discharge proceeding under § 4.1200 of this part, OSM, as represented by the Solicitor, any employee or any authorized representative of employees who files an application for review, and the alleged dis- criminating party, except where an employee files an application under § 4.1201(c) of this part, only such applicant and the alleged discriminating party.

(b) Any other person claiming a right of participation as a party may seek leave to intervene in a proceeding by filing a petition to do so pursuant to § 4.1110 of this part.

(c) If any person has a right to participate as a party in a proceeding under the Act and fails to exercise that right by participating in each stage of the proceeding, that person may become a participant with the rights of a party by order of an Administrative Law Judge or the Board.

§ 4.1106 Hearing sites.

Unless the Act requires otherwise, hearings shall be held in a location established by the Administrative Law Judge; however, the Administrative Law Judge shall give due regard to the convenience of the parties of their representatives and witnesses.

§ 4.1107 Filing of documents.

(a) Except in expedited review proceedings under § 4.1180 of this part and temporary relief proceedings under § 4.1260 of this part, any initial pleadings or documents in a proceeding to be conducted or being conducted by an administrative Law Judge under these rules must be filed, by hand or by mail, with the Hearings Division, Office of Hearings and Appeals, Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203.

(b) Where a proceeding has been assigned to an Administrative Law Judge, the parties will be notified by the Chief Administrative Law Judge of the name and address of the Administrative Law Judge assigned to the case and thereafter all further documents shall be filed with the Administrative Law Judge, Office of Hearings and Appeals, at the address designated below.

(c) Administrative Law Judges will be assigned to field offices of OHA at the following addresses: (to be published in the final rules).

(d) Any notice of appeal or documents in a proceeding to be conducted or being conducted by the Board shall be filed with the Board of Surface Mining and Reclamation Appeals, 4015 Wilson Boulevard, Arlington, Va. 22203.

(e) Any person filing initial pleadings or documents with OHA shall furnish an original and one copy. Any person filing other documents with OHA shall furnish only an original.

(f) Any person who has initiated a proceeding under these rules shall file proof of service with OHA in the form of a return receipt where service is by registered or certified mail, or an acknowledgement by the party served or verified return where service is made personally. A certificate of service shall accompany all other documents filed by a party in any proceeding.

(g) The effective filing date for documents initiating proceedings other than expedited review proceedings under § 4.1180 of this part and temporary relief proceedings under § 4.1260 of this part shall be the date the document is received in the main office of OHA, Arlington, Va.

(h) The effective filing date for all other documents, including documents initiating an expedited proceeding under § 4.1180 of this part and temporary relief proceedings under § 4.1260 of this part, shall be the date the document is received by the Administrative Law Judge or in a proceeding before the Board the date the document is received by the Board.

§ 4.1108 Form of documents.

(a) Any document filed with OHA in any proceeding brought under the Act shall be captioned with: (1) the names of the parties; (2) the name of the mine to which the document relates; and (3) if review is being sought under section 525 of the Act, identification by number of any notice or order sought to be reviewed.

(b) After a docket number has been assigned to the proceeding by OHA, the caption shall contain such docket number.

(c) The caption may include other information appropriate for identification of the proceeding, including the permit number or OSM identification number.

(d) Each document shall contain a title that identifies the contents of the document following the caption.

(e) The original of any document filed with OHA shall be signed by the person submitting the document or by that person's attorney.

(f) The address and telephone number of the person filing the document or that person's attorney shall appear beneath the signature.

§ 4.1109 Service.

(a) Any party initiating a proceeding in OHA under the Act shall serve copies of the initiating documents on the Field Solicitor, Department of the Interior, for the region where the mine site is located and on any other statutory parties under § 4.1105 of this part. The addresses of the Field Solicitors are as follows: (to be published in final regulations). Any party or other person shall serve any other documents being filed subsequently with OHA on all other parties and all other persons participating in the proceeding.

(b) Copies of documents by which any proceeding is initiated shall be served on OSM and all other statutory parties personally or by registered or certified mail, return receipt requested. All subsequent documents shall be served personally or by first class mail.

(c) Service of copies of documents initiating a proceeding is complete at the time of personal service or, if service is made by mail, upon receipt. Service of all subsequent documents is complete at the time of personal service or, if service is by mail, upon mailing.

(d) Whenever an attorney has entered an appearance for a party in a proceeding before an Administrative Law Judge or the Board, service thereafter shall be made upon the attorney.

§ 4.1110 Intervention.

(a) Any person, including a State, or OSM may petition for leave to intervene at any stage of a proceeding in OHA under the Act.

(b) A petitioner for leave to intervene shall incorporate in the petition a statement setting forth the interest of the petitioner and a showing of why his interest is or may be adversely affected.

(c) The Administrative Law Judge or the Board shall grant intervention where the petitioner—

(1) Had a statutory right to initiate the proceeding in which he wishes to intervene; or

(2) Has a direct economic or personal stake in the outcome of the proceeding.

(d) If neither (c)(1) nor (c)(2) apply, the Administrative Law Judge or the Board shall consider the following in determining whether intervention is appropriate—

(1) The nature of the issues;

(2) The adequacy of representation of petitioner's interest which is provided by the existing parties to the proceeding;

(3) The ability of the petitioner to present relevant evidence and argument; and

(4) The effect of intervention on the agency's implementation of its statutory mandate.

§ 4.1111 Voluntary dismissal.

Any party who initiated a proceeding before OHA may withdraw by moving to dismiss at any stage of a proceeding and the Administrative Law Judge or the Board may grant such a motion.

§ 4.1112 Motions.

(a) Except in oral hearings on the record, or where the Administrative Law Judge otherwise directs, each motion shall: (1) be in writing; and (2) contain a concise statement of supporting grounds.

(b) Unless the Administrative Law Judge or the Board orders otherwise, any party to a proceeding in which a motion is filed under paragraph (a) of this section shall have 15 days from service of the motion to file a statement in response with appropriate supporting affidavits.

(c) Failure to make a timely motion or to file a statement in response may be construed as a waiver of objection.

(d) An Administrative Law Judge or the Board shall rule on all motions as expeditiously as possible.

§ 4.1113 Consolidation of proceedings.

When proceedings involving a common question of law or fact are pending before an Administrative Law Judge or the Board, such proceedings are subject to consolidation pursuant to a motion by a party or at the initiative of an Administrative Law Judge or the Board.

§ 4.1114 Advancement of proceedings.

(a) Except in expedited review proceedings under § 4.1180 of this part, and in temporary relief proceedings under § 4.1266 et seq. of this part, at any time after commencement of a proceeding, any party may move to advance the scheduling of a proceeding.

(b) Except as otherwise directed by the Administrative Law Judge or the Board, any party filing a motion under this section shall—

(1) Make the motion in writing;

(2) Describe the exigent circumstances justifying advancement;

(3) Describe the irreparable harm that would result if the motion is not granted; and

(4) Incorporate in the motion affidavits to support any representations of fact.

(c) Service of a motion under this section shall be accomplished by personal delivery or by telephonic or telegraphic communication followed by registered or certified mail, return-receipt requested. Service is complete upon mailing.

(d) Unless otherwise directed by the Administrative Law Judge or the Board, all parties to the proceeding in which the motion is filed shall have 5 days from the date of service of the motion to file a statement in response to the motion.

(e) Following the timely receipt by the Administrative Law Judge of statements in response to the motion, the Administrative Law Judge may schedule a hearing regarding the motion. If the motion is granted, the Administrative Law Judge may advance pleading schedules, prehearing conferences, and the hearing, as deemed appropriate; provided, a hearing on the merits shall not be scheduled with less than 5 working days notice to the parties, unless all parties consent to an earlier hearing.

(f) Following the timely receipt by the Board of statements in response to the motion, the Board may, if it deems such action to be appropriate, advance the appeal on its calendar and order such other advancement as may be appropriate, including an abbreviated schedule for briefing or oral argument.

§ 4.1115 Waiver of right to hearing.

Any person entitled to a hearing before an Administrative Law Judge under the Act may waive such right in writing. Where parties are directed by any rule in these regulations to file a responsive pleading on or before a specified time, any party who fails to file such responsive pleading by the time specified, may be deemed to have waived his right to a hearing. Unless all parties to a proceeding who are entitled to a hearing waive, or are deemed to have waived such right, a hearing will be held.

§ 4.1116 Status of notices of violation and orders of cessation pending review by the Office of Hearings and Appeals.

Except where temporary relief is granted pursuant to section 525(c) or section 526(c) of the Act, notices of violation and orders of cessation issued under the Act shall remain in effect during the pendency of review before an Administrative Law Judge or the Board.

EVIDENTIARY HEARINGS

§ 4.1120 Presiding officers.

An Administrative Law Judge in the Office of Hearings and Appeals shall preside over any hearing required by the Act to be conducted pursuant to 5 U.S.C. 554 (1970).

§ 4.1121 Powers of Administrative Law Judges.

(a) Under the regulations of this part, an Administrative Law Judge may—

(1) Administer oaths and affirmations;

(2) Issue subpoenas authorized by law;

(3) Issue appropriate orders relating to discovery;

(4) Rule on procedural requests or similar matters;

(5) Hold conferences for settlement or simplification of the issues;

(6) Regulate the course of the hearing;

(7) Rule on offers of proof and receive relevant evidence;

(8) Take other actions authorized by this part, by 5 U.S.C. 556 (1970), or by the Act; and

(9) Make or recommend decisions in accordance with 5 U.S.C. 557 (1970).

(b) An Administrative Law Judge may order a prehearing conference—

(1) To simplify and clarify issues;

(2) To receive stipulations and admissions;

(3) To explore the possibility of agreement disposing of any or all of the issues in dispute; and

(4) For such other purposes as may be appropriate.

(c) Except as otherwise provided in these regulations, the jurisdiction of an Administrative Law Judge shall terminate upon—

(1) The filing of a notice of appeal from an initial decision or other order dispositive of the proceeding;

(2) The issuance of an order of the Board granting a petition for review; or

(3) The expiration of the time period within which a petition for review or an appeal to the Board may be filed.

§ 4.1122 Conduct of Administrative Law Judges.

Administrative Law Judges shall adhere to the Code of Judicial Conduct.

§ 4.1123 Notice of hearing.

(a) An Administrative Law Judge shall give notice to the parties of the time, place and nature of any hearing.

(b) Except for expedited review proceedings and temporary relief proceedings where time is of the essence, notice given under this section shall be in writing.

(c) In an expedited proceeding when there is only opportunity to give oral notice, the Administrative Law Judge shall enter that fact contemporaneously on the record by a signed and dated memorandum describing the notice given.

§ 4.1124 Certification of interlocutory ruling.

Upon motion or upon the initiative of an Administrative Law Judge, the Judge may certify to the Board a ruling which does not finally dispose of the case only if the ruling presents a controlling question of law and an immediate appeal would materially advance ultimate disposition by the judge.

§ 4.1125 Summary decision.

(a) At any time after a proceeding has begun, a party may move for summary decision of the whole or part of a case.

(b) The moving party under this section shall verify any allegations of fact with supporting affidavits.

(c) An Administrative Law Judge may grant a motion under this section if the record, including the pleadings, depositions, answers to interrogatories, admissions and affidavits, shows that—

(1) There is no disputed issue as to any material fact; and

(2) The moving party is entitled to summary decision as a matter of law.

(d) If a motion for summary decision is not granted for the entire case or for all the relief requested and an evidentiary hearing is necessary, the Administrative Law Judge shall, if practicable, and upon examination of all relevant documents and evidence before him, ascertain what material facts are actually and in good faith controverted. He shall thereupon, issue an order specifying the facts that appear without substantial controversy and direct such further proceedings as deemed appropriate.

§ 4.1126 Proposed findings of fact and conclusions of law.

The Administrative Law Judge shall allow the parties to a proceeding an opportunity to submit proposed findings of fact and conclusions of law together with a supporting brief at a time designated by the Administrative Law Judge.

§ 4.1127 Initial orders and decisions.

An initial order or decision disposing of a case shall incorporate—

(a) Findings of fact and conclusions of law and the reasons or basis therefore, on all the material issues of fact, law, or discretion presented on the record; and

(b) An order granting or denying relief.

§ 4.1128 Effect of initial order or decision.

An initial order or decision under § 4.1127 of this part shall become final if that order or decision is not timely appealed to the Board under § 4.1270 or § 4.1271 of this part.

§ 4.1129 Certification of record.

Except in expedited review proceedings under § 4.1180 of this part, within 5 days after an initial decision has been rendered, the Administrative Law Judge shall certify the official record of the proceedings including all exhibits and transmit the official record for filing in the Office of Hearings and Appeals.

DISCOVERY

§ 4.1130 Discovery methods.

Parties may obtain discovery by one or more of the following methods—

(a) Depositions upon oral examination or upon written interrogatories;

(b) Written interrogatories;

(c) Production of documents or things or permission to enter upon land or other property, for inspection and other purposes; and

(d) Requests for admission.

§ 4.1131 Time for discovery.

Following the initiation of a proceeding, the parties may initiate discovery at any time as long as it does not interfere with the conduct of the hearing.

§ 4.1132 Scope of discovery.

(a) Unless otherwise limited by order of the Administrative Law Judge in accordance with these rules, the parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the proceeding, including the existence, description, nature, custody, condition, and location of any books, documents or other tangible things and the identity and location of persons having knowledge of any discoverable matter.

(b) It is not ground for objection that information sought will not be admissible at the hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

(c) A party may obtain discovery of documents and tangible things otherwise discoverable under paragraph (a) of this section and prepared in anticipation of or for the hearing by or for another party's representative (including his attorney, consultant, surety, indemnitor, insurer, or agent) only upon a showing that the party seeking discovery has substantial need of the materials in the preparation of his case and that he is unable without undue hardship to obtain the substantial equivalent of the materials by other means. In ordering discovery of such materials when the required showing has been made, the Administrative Law Judge shall protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the proceeding.

(d) Upon motion by a party or the person from whom discovery is sought, and for good cause shown the Administrative Law Judge may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following—

(1) The discovery not be had;

(2) The discovery may be had only on specified terms and conditions, including a designation of the time or place;

(3) The discovery may be had only by a method of discovery other than that selected by the party seeking discovery;

(4) Certain matters may not be inquired into, or that the scope of discovery be limited to certain matters;

(5) Discovery be conducted with no one present except persons designated by the Administrative Law Judge; or

(6) A trade secret or other confidential research, development or commercial information may not be disclosed or be disclosed only in a designated way.

§ 4.1133 Sequence and timing of discovery.

Unless the Administrative Law Judge upon motion, for the convenience of parties and witnesses and in the interests of justice, orders otherwise, methods of discovery may be used in any sequence and the fact that a party is conducting discovery, whether by deposition or otherwise, shall not operate to delay any other party's discovery.

§ 4.1134 Supplementation of responses.

A party who has responded to a request for discovery with a response that was complete when made is under no duty to supplement his response to include information thereafter acquired, except as follows—

(a) A party is under a duty to supplement timely his response with respect to any question directly addressed to—

(1) The identity and location of persons having knowledge of discoverable matters; and

(2) The identity of each person expected to be called as an expert witness at the hearing, the subject matter on which he is expected to testify and the substance of his testimony.

(b) A party is under a duty to amend timely a prior response if he obtains information upon the basis of which—

(1) He knows the response was incorrect when made; or

(2) He knows that the response though correct when made is no longer true and the circumstances are such that a failure to amend the response is in substance a knowing concealment.

(c) A duty to supplement responses may be imposed by order of the Administrative Law Judge or agreement of the parties.

§ 4.1135 Motion to compel discovery.

(a) If a deponent fails to answer a question propounded, or a party upon whom a request is made pursuant to § 4.1140 of this part, or a party upon whom answers to interrogatories are served fails to adequately respond or objects to the request, or any part thereof, or fails to permit inspection as requested, the discovering party

may move the Administrative Law Judge for an order compelling a response or inspection in accordance with the request.

(b) The motion shall set forth—

(1) The nature of the questions or request;

(2) The response or objection of the party upon whom the request was served; and

(3) Arguments in support of the motion.

(c) For purposes of this section, an evasive answer or incomplete answer or response shall be treated as a failure to answer or respond.

(d) Failure to answer or respond shall not be excused on the ground that the discovery sought is objectionable unless the person or party failing to answer or respond has applied for a protective order pursuant to § 4.1132(d) of this part.

(e) In ruling on a motion made pursuant to this section, the Administrative Law Judge may make such a protective order as he is authorized to make on a motion made pursuant to § 4.1132(d) of this part.

(f) This section does not preclude an independent request for issuance of a subpoena directed to a person not a party for production of documents and things.

§ 4.1136 Failure to comply with orders compelling discovery.

If a party or an officer, director or other agent of a party fails to obey an order to provide or permit discovery, the Administrative Law Judge before whom the action is pending may make such orders in regard to the failure as are just, including but not limited to the following—

(a) An order that the matters sought to be discovered or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order;

(b) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting him from introducing designated matters into evidence; or

(c) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgment by default against the disobedient party.

§ 4.1137 Depositions upon oral examination or upon written interrogatories.

(a) Any party desiring to take the testimony of any other party or other person by deposition upon oral examination or written interrogatories shall, without leave of the Administrative Law Judge, give reasonable notice in writing to every other party, to the person to be examined and to the Administrative Law Judge of—

(1) The proposed time and place of taking the deposition;

(2) The name and address of each person to be examined, if known, or if the name is not known, a general description sufficient to identify him or the particular group or class to which he belongs;

(3) The matter upon which each person will be examined; and

(4) The name or descriptive title and address of the officer before whom the deposition is to be taken.

(b) A deposition may be taken before any officer authorized to administer oaths by the laws of the United States or of the place where the examination is held.

(c) The actual taking of the deposition shall proceed as follows—

(1) The deposition shall be on the record;

(2) The officer before whom the deposition is to be taken shall put the witness on oath or affirmation;

(3) Examination and cross-examination shall proceed as at a hearing;

(4) All objections made at the time of the examination shall be noted by the officer upon the deposition;

(5) The officer shall not rule on objections to the evidence, but evidence objected to shall be taken subject to the objections.

(d) When the testimony is fully transcribed, the deposition shall be submitted to the deponent for examination and signature, unless examination and signature is waived by the deponent. The officer shall certify the deposition or, if the deposition is not signed by the deponent, shall certify the reasons for the failure to sign.

(e) Where the deposition is to be taken on written interrogatories, the party taking the deposition shall serve a copy of the interrogatories, showing each interrogatory separately and consecutively numbered, on every other party with a notice stating the name and address of the person who is to answer them, and the name, description, title, and address of the officer before whom they are to be taken. Within seven (7) days after service, any other party may serve cross-interrogatories. The interrogatories, cross-interrogatories, and answers shall be recorded and signed, and the deposition certified, as in the case of a deposition on oral examination.

(f) A deposition will not become a part of the record in the hearing unless received in evidence. If only part of a deposition is offered in evidence by a party, any other party may introduce any other parts. A party shall not be deemed to make a person his own witness for any purpose by taking his deposition.

(g) A deponent whose deposition is taken and the officer taking a deposition shall be entitled to the same fees as are paid for like services in the district courts of the United States, to be paid by the party at whose instance the deposition is taken.

(h) The deponent may be accompanied, represented, and advised by legal counsel.

§ 4.1138 Use of depositions.

At the hearing, any part or all of a deposition, so far as admissible, may be used against any party who was present or represented at the taking of the deposition, or who had reasonable notice thereof, in accordance with any of the following provisions—

(a) Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of a deponent as a witness;

(b) The deposition of a party or of anyone who at the time of taking the deposition was an officer, director, or managing agent or a person designated to testify on behalf of a public or private corporation, partnership, or association or governmental agency which is a party may be used by an adverse party for any purpose; or

(c) The deposition of a witness, whether or not a party, may be used by a party for any purpose if the Administrative Law Judge finds that—

(1) The witness is dead;

(2) The witness is at a distance greater than 100 miles from the place of hearing, or is outside the United States, unless it appears that the absence of the witness was procured by the party offering the deposition;

(3) The witness is unable to attend or testify because of age, illness, infirmity, or imprisonment;

(4) The party offering the deposition has been unable to procure the attendance of the witness; or

(5) Such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally at the hearing, to allow the deposition to be used.

§ 4.1139 Written interrogatories to parties.

(a) Any party may serve upon any other party written interrogatories to be answered in writing by the party served, or if the party served is a public or private corporation or a partnership or association or governmental agency, by any officer or agent, who shall furnish such information as is available to the party. A copy of the interrogatories, answers, and all related pleadings shall be served on the Administrative Law Judge and upon all parties to the proceedings.

(b) Each interrogatory shall be answered separately and fully in writing under oath or affirmation, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answer and objections shall be signed by the person

making them. The party upon whom the interrogatories were served shall serve a copy of the answers and objections upon all parties to the proceeding within 30 days after service of the interrogatories, or within such shorter or longer period as the Administrative Law Judge may allow.

(c) Interrogatories may relate to any matters which can be inquired into under § 4.1132 of this part. An interrogatory otherwise proper is not necessarily objectionable merely because an answer to the interrogatory involves an opinion or contention that relates to fact or the application of law to fact, but the Administrative Law Judge may order that such an interrogatory need not be answered until after designated discovery has been completed or until a prehearing conference or other later time.

§ 4.1140 Production of documents and things and entry upon land for inspection and other purposes.

(a) Any party may serve on any other party a request to—

(1) Produce and permit the party making the request, or a person acting on his behalf, to inspect and copy any designated documents, or to inspect and copy, test, or sample any tangible things within the scope of § 4.1132 of this part and which are in the possession, custody, or control of the party upon whom the request is served; or

(2) Permit entry upon designated land or other property in the possession or control of the party upon whom the request is served for the purpose of inspection and measuring, surveying, photographing, testing, or sampling the property (including the air, water, and soil) or any designated object or operation thereon, within the scope of § 4.1132 of this part.

(b) The request may be served on any party without leave of the Administrative Law Judge.

(c) The request shall—

(1) Set forth the items to be inspected either by individual item or by category;

(2) Describe each item or category with reasonable particularity; and

(3) Specify a reasonable time, place and manner of making the inspection and performing the related acts.

(d) The party upon whom the request is served shall serve on the party submitting the request a written response within 30 days after service of the request.

(e) The response shall state, with respect to each item or category—

(1) That inspection and related activities will be permitted as requested; or

(2) That objection is made in whole or in part, in which case the reasons for objection shall be stated.

§ 4.1141 Admissions.

(a) A party may serve upon any other party a written request for the admission, for purposes of the pending action only, of the genuineness and authenticity of any relevant document described in or attached to the request, or for the admission of the truth of any specified relevant matter of fact.

(b) Each matter of which an admission is requested is admitted unless, within 30 days after service of the request or such shorter or longer time as the Administrative Law Judge may allow, the party to whom the request is directed serves on the requesting party—

(1) A sworn statement denying specifically the relevant matters of which an admission is requested;

(2) A sworn statement setting forth in detail the reasons why he can neither truthfully admit nor deny them; or

(3) Written objections on the ground that some or all of the matters involved are privileged or irrelevant or that the request is otherwise improper in whole or in part.

(c) An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless he states that he has made reasonable inquiry and that the information known or readily obtainable by him is insufficient to enable him to admit or deny.

(d) The party who has requested the admissions may move to determine the sufficiency of the answers or objections. Unless the Administrative Law Judge determines that an objection is justified, he shall order that an answer be served. If the Administrative Law Judge determines that an answer does not comply with the requirements of this section, he may order either that the matter is admitted or that an amended answer be served. The Administrative Law Judge may, in lieu of these orders, determine that final disposition of the request be made at a prehearing conference or at a designated time prior to hearing.

(e) Any matter admitted under this section is conclusively established unless the Administrative Law Judge on motion permits withdrawal or amendment of the admission.

(f) Any admission made by a party under this section is for the purpose of the pending action only and is not an admission by him for any other purpose nor may it be used against him in any other proceeding.

§ 4.1142 The Federal Rules of Civil Procedure relating to discovery.

The above-listed special rules of discovery are to be supplemented by the Federal Rules of Civil Procedure relating to discovery contained in 28 U.S.C., Rules 26, 28, 29, 30, 31, 32, 33, 34, 36, and 37 (a)(1), (a)(2), (a)(3), (b)(2)(A), (b)(2)(B), (b)(2)(C), and (d) except that portion dealing with expenses, to the extent such Federal Rules are not inconsistent with the special rules.

PETITIONS FOR REVIEW OF PROPOSED ASSESSMENTS OF CIVIL PENALTIES

§ 4.1150 Who may file.

Any person charged with a civil penalty may file a petition for review of a proposed assessment of that penalty.

§ 4.1151 Time for filing.

(a) A petition for review of a proposed assessment of a civil penalty must be filed within 30 days of receipt of the proposed assessment; or

(b) If a timely request for a conference has been made pursuant to 30 CFR 723.17, a petition for review must be filed within 15 days from service of notice by the conference officer that the conference is deemed completed.

§ 4.1152 Contents of petition; payment required.

(a) The petition shall include—

(1) A short and plain statement indicating the reasons why either the amount of the penalty or the fact of the violation is being contested;

(2) If the amount of penalty is being contested based upon a misapplication of the civil penalty formula, a statement indicating how the civil penalty formula contained in 30 CFR 723.13 was misapplied, along with a proposed civil penalty utilizing the civil penalty formula;

(3) Identification by number of all violations being contested;

(4) The identifying number of the cashier's check, certified check, bank draft, personal check, or bank money order, accompanying the petition; and

(5) A request for a hearing site.

(b) The petition shall be accompanied by—

(1) Full payment of the proposed assessment in the form of a cashier's check, certified check, bank draft, personal check or bank money order made payable to—Office of the Secretary—Department of the Interior—to be placed in an escrow account pending final determination of the assessment; and

(2) On the face of the payment an identification by number of the violations for which payment is being tendered.

(c) Failure to make timely payment of the proposed assessment in full shall result in a waiver of all legal rights to contest the violation or the amount of the penalty.

§ 4.1153 Answer.

OSM shall have 30 days from receipt of a copy of the petition within which to file an answer to the petition with OHA.

§ 4.1154 Review of waiver determination.

(a) Within 10 days following the filing of a petition under this part, pe-

titioner may move the Administrative Law Judge to review the granting or denial of a waiver of the civil penalty formula pursuant to 30 CFR 723.15.

(b) The motion shall contain a statement indicating all alleged relevant facts related to the granting or denial of the waiver.

(c) Review of the granting or denial of the waiver shall be limited to the written determination of the Director of OSM, the motion and responses to the motion. The standard of review shall be abuse of discretion.

(d) If the Administrative Law Judge finds that the Director of OSM abused his discretion in granting or denying the waiver, the Administrative Law Judge shall hold the hearing on the petition for review of the proposed assessment and make a determination pursuant to § 4.1157 of this part.

§ 4.1155 Burden of proof in civil penalty proceedings.

In civil penalty proceedings OSM shall have the burden of going forward to establish a prima facie case as to the fact of violation and as to the amount of the penalty. The ultimate burden of persuasion in establishing the fact of violation and in establishing that the proposed assessment is appropriate shall rest with OSM.

§ 4.1156 Summary disposition.

(a) In a civil penalty proceeding where the person against whom the proposed civil penalty is assessed fails timely to comply with any prehearing order of an Administrative Law Judge, the Administrative Law Judge shall issue an order to show cause why—

(1) That person should not be deemed to have waived his right to a hearing; and

(2) The proceedings should not be dismissed and referred to the assessment officer.

(b) If the order to show cause is not satisfied as required, the Administrative Law Judge shall order the proceedings summarily dismissed and referred to the assessment officer who shall enter the assessment as the final order of the Department.

(c) Where the person against whom the proposed civil penalty is assessed fails to appear at a hearing, that person will be deemed to have waived his right to a hearing and the Administrative Law Judge may assume for purposes of the assessment—

(1) That each violation listed in the notice of violation or order occurred; and

(2) The truth of any facts alleged in such notice or order.

(d) In order to issue an initial decision assessing the appropriate penalty when the person against whom the proposed civil penalty is assessed fails to appear at the hearing, an Administrative Law Judge shall either conduct an ex parte hearing or require OSM to furnish proposed findings of fact and conclusions of law.

(e) Nothing in this section shall be construed to deprive the person against whom the penalty is assessed of his opportunity to have OSM prove the violations charged in open hearing with confrontation and cross-examination of witnesses, except where that person fails to comply with a prehearing order or fails to appear at the scheduled hearing.

§ 4.1157 Determination by Administrative Law Judge.

(a) The Administrative Law Judge shall incorporate in his decision concerning the civil penalty, findings of fact on each of the four criteria set forth in 30 CFR 723.12, and conclusions of law.

(b) If the Administrative Law Judge finds that—

(1) A violation occurred or that the fact of violation is uncontested, he shall establish the amount of the penalty, but in so doing, he shall adhere to the point system and conversion table contained in 30 CFR Part 723, except the Administrative Law Judge may waive the use of such point system where he determines that a waiver would further abatement of violations of the Act. However, the Administrative Law Judge shall not waive the use of the point system and reduce the proposed assessment on the basis of an argument that a reduction in the proposed assessment could be used to abate violations of the Act; or

(2) No violation occurred, he shall issue an order that the proposed assessment be returned to the petitioner.

(c) If the Administrative Law Judge makes a finding that no violation occurred or if the Administrative Law Judge reduces the amount of the civil penalty below that of the proposed assessment and a timely petition for review is not filed with the Board or the Board refuses to grant such a petition, OHA shall have 30 days from the expiration of the date for filing a petition with the Board if no petition is filed, or 30 days from the date the Board refuses to grant such a petition, within which to remit the appropriate amount to the person who made the payment, with interest at the rate of 6 percent, or at the prevailing Department of the Treasury rate, whichever is greater.

(d) If the Administrative Law Judge increases the amount of the civil penalty above that of the proposed assessment, the Administrative Law Judge shall order payment of the appropriate amount within 30 days of receipt of the decision.

§ 4.1158 Appeals.

Any party may petition the Board to review the decision of an Administrative Law Judge concerning a proposed assessment according to the procedures set forth in § 4.1270 of this part.

REVIEW OF SECTION 521 NOTICES OF VIOLATION AND ORDERS OF CESSATION

§ 4.1160 Scope.

These regulations govern applications for review of—

(a) Notices of violation or the modification, vacation, or termination of a notice of violation under section 521(a)(3) of the Act; and

(b) Orders of cessation which are not subject to expedited review under § 4.1180 of this part or the modification, vacation, or termination of an order of cessation under sections 521(a)(2) or 521 (a)(3).

§ 4.1161 Who may file.

A permittee issued a notice or order by the Secretary pursuant to the provisions of sections 521(a)(2) or 521(a)(3) of the Act or any person having an interest which is or may be adversely affected by a notice or order subject to review under § 4.1160 of this part may file an application for review.

§ 4.1162 Time for filing.

Any person filing an application for review under § 4.1160 of this part shall file that application within 30 days of the receipt of a notice or order or within 30 days of receipt of notice of modification, vacation, or termination of a notice or an order. Any person not served with a copy of the document shall file the application for review within 40 days of the date of issuance of the document.

§ 4.1163 Effect of failure to file.

Failure to file an application for review of a notice of violation or order of cessation shall not preclude challenging the fact of violation during a civil penalty proceeding.

§ 4.1164 Contents of application.

Any person filing an application for review shall incorporate in that application regarding each claim for relief—

(a) A statement of facts entitling that person to administrative relief;

(b) A specific request for relief;

(c) A copy of any notice or order sought to be reviewed;

(d) A statement as to whether the person requests or waives the opportunity for an evidentiary hearing; and

(e) Any other relevant information.

§ 4.1165 Answer.

(a) Where an application for review is filed by a permittee, OSM and any other person granted leave to intervene, pursuant to § 4.1110 of this part, shall file an answer within 20 days of service of a copy of such application.

(b) Where an application for review is filed by a person other than a permittee, the following shall file an answer within 20 days of service of a copy of such application—

(1) OSM;

(2) The permittee; or

(3) Any other person granted leave to intervene, pursuant to § 4.1110 of this part.

§ 4.1166 Contents of answer.

An answer to an application for review shall incorporate—

(a) A statement specifically admitting or denying the alleged facts stated by the applicant;

(b) A statement of any other relevant facts;

(c) A statement whether an evidentiary hearing is waived; and

(d) Any other relevant information.

§ 4.1167 Notice of hearing.

Pursuant to section 525(a)(2) of the Act, the permittee and other interested persons shall be given written notice of the time and place of the hearing at least 5 working days prior thereto.

§ 4.1168 Amendments to pleadings.

(a) An application for review may be amended once as a matter of right prior to the filing of an answer and thereafter by leave of the Administrative Law Judge upon proper motion.

(b) Upon receipt of an initial or amended application for review or subsequent to granting leave to amend, the Administrative Law Judge shall issue an order setting a time for filing an amended answer if the Judge determines that such an answer is appropriate.

§ 4.1169 Failure to state a claim.

Upon proper motion or after the issuance of an order to show cause by the Administrative Law Judge, an Administrative Law Judge may dismiss at any time an application for review which fails to state a claim upon which administrative relief may be granted.

§ 4.1170 Related notices or orders.

(a) An applicant for review shall file within 10 days of receipt, a copy of any subsequent notice or order which modifies, vacates, or terminates the notice or order sought to be reviewed.

(b) An applicant for review of a notice shall file within 10 days of receipt of a copy of an order of cessation for failure timely to abate the violation which is the subject of the notice under review.

(c) If an applicant for review desires to challenge any subsequent notice or order filed under this section, the applicant must file a separate application for review.

(d) Applications for review of related notices or orders are subject to consolidation.

§ 4.1171 Burden of proof in review of section 521 notices or orders.

(a) In review of § 521 notices of violation or orders of cessation or the modification, vacation, or termination thereof, including expedited review under § 4.1180 of this part, OSM shall have the burden of going forward to establish a prima facie case as to the validity of the notice, order, or modification, vacation, or termination thereof.

(b) The ultimate burden of persuasion shall rest with the applicant for review.

EXPEDITED REVIEW OF SECTION 521(a)(2) OR 521(a)(3) ORDERS OF CESSATION

§ 4.1180 Purpose.

The purpose of these regulations is to govern applications for review of unabated orders of cessation for which temporary relief has not been granted under § 525(c) or § 526(c) of the Act. If a person is qualified to receive a 30-day decision under these regulations, he may waive that right and file an application under § 4.1164, and the procedures in § 4.1160 et seq. of this part shall apply. If there is a waiver, the final administrative decision shall be issued within 120 days of the filing of the application.

§ 4.1181 Who may file.

(a) An application for review of an unabated order of cessation may be filed under this section, whenever temporary relief has not been granted under section 525(c) or section 526(c) of the Act, by—

(1) A permittee who has been issued an order of cessation under section 521 (a)(2) or (a)(3) of the Act; or

(2) Any person having an interest which is or may be adversely affected by the issuance of an order of cessation under section 521 (a)(2) or (a)(3) of the Act.

(b) A permittee or any person having an interest which is or may be adversely affected by a section 521 (a)(2) or (a)(3) order of cessation waives his right to expedited review upon being granted temporary relief pursuant to section 525(c) or section 526(c) of the Act.

§ 4.1182 Where to file.

The application shall be filed in the OHA field office nearest the mine site with a copy sent to the main OHA office in Arlington, Virginia.

§ 4.1183 Time for filing.

(a) Any person intending to file an application for review under this section shall notify the Field Solicitor, Department of the Interior, for the region in which the mine site is located, within 15 days of receipt of the order. Any person not served with a copy of the order shall file notice of intention to file an application for review within 20 days of the date of issuance of the order.

(b) Any person filing an application for review under § 4.1184 shall file the application within 30 days of receipt of the order. Any person not served with a copy of the order shall file an application for review within 40 days of the date of issuance of the order.

§ 4.1184 Contents of application.

(a) Any person filing an application for review under this section shall incorporate in that application regarding each claim for relief—

(1) A statement of facts, verified by affidavit, entitling that person to administrative relief;

(2) A specific request for relief;

(3) A supporting memorandum of law delineating each issue to be asserted by the applicant during the expedited proceeding;

(4) A copy of the order sought to be reviewed;

(5) A statement whether the person requests or waives the opportunity for an evidentiary hearing;

(6) The direct testimony of all applicant's witnesses in affidavit form;

(7) Copies of all exhibits and other documentary evidence that the applicant intends to introduce as evidence at the hearing;

(8) A statement whether the applicant desires to exercise his right to a written decision on the application within 30 days of receipt of the application pursuant to section 525(b) of the Act; and

(9) Any other relevant information.

(b) Failure to include a statement in the application invoking the 30-day decision requirement shall constitute a waiver of such requirement.

§ 4.1185 Computation of time for decision.

In computing the 30-day time period for administrative decision, intermediate Saturdays, Sundays, Federal legal holidays, and other nonbusiness days shall be excluded in the computation.

§ 4.1186 Procedure if 30-day decision requirement is waived.

If the person qualified to receive a 30-day decision waives that right, he may file a § 4.1164 application and the procedures in § 4.1160 et seq. of this part shall apply. If there is a waiver, the final administrative decision shall be issued within 120 days of the filing of the application.

§ 4.1187 Procedure if 30-day decision requirement is not waived.

If the applicant does not waive the 30-day decision requirement of section 525(b) of the Act, the following special rules shall apply—

(a) The applicant shall serve all known parties with a copy of the ap-

plication simultaneously with the filing of the application with OHA. If service is accomplished by mail, the applicant shall inform all known parties by telephone at the time of mailing that an application is being filed and shall inform the Administrative Law Judge by telephone that such notice has been given. However, no ex parte communication as to the merits of the proceeding may be conducted with the Administrative Law Judge.

(b) Any party desiring to file a response to the application for review shall file a written response within 5 working days of service of the application.

(c) If the applicant has requested a hearing, the Administrative Law Judge shall act immediately upon receipt of the application to notify the parties of the time and place of the hearing at least 5 working days prior to the hearing date.

(d) The Administrative Law Judge may require the parties to submit written proposed findings of fact and conclusions of law at the hearing which may be orally supplemented on the record at the hearing or where proposed findings of fact and conclusions of law have not been submitted at the hearing they may be orally presented for the record at the hearing.

(e) The Administrative Law Judge shall make an initial decision. He shall either rule from the bench on the application, orally stating the reasons for his decision or he shall issue a written decision. If the Administrative Law Judge makes an oral ruling, his approval of the record of the hearing shall constitute his written decision. The decision of the Administrative Law Judge must be issued within 30 days of the filing of the application.

(f) If any party desires to appeal to the Board, such party may—

(1) If the Administrative Law Judge makes an oral ruling, make an oral statement that the decision is being appealed and request that the Administrative Law Judge certify the record to the Board; or

(2) If the Administrative Law Judge issues a written decision after the close of the hearing, file a notice of appeal with the Administrative Law Judge and with the Board within 2 working days of receipt of the Administrative Law Judge's decision.

(g) If the decision of the Administrative Law Judge is appealed, the Board shall act immediately to issue an expedited briefing schedule, and the Board shall act expeditiously to review the record and issue its decision. The decision of the Board must be issued within 30 days of receipt of the appeal.

(h) If all parties waive the opportunity for a hearing and the Administrative Law Judge determines that a hearing is not necessary, but the applicant does not waive the 30-day decision requirement, the Administrative Law Judge shall issue an initial decision on the application within 15 days of receipt of the application. The decision shall contain findings of fact and an order disposing of the application. The decision shall be served upon all the parties and the parties shall have 2 working days from receipt of such decision within which to appeal to the Board. The Board shall issue its decision within 30 days of the date the application is filed with OHA.

(i) If at any time after the initiation of this expedited procedure, the applicant requests a delay or acts in a manner so as to frustrate the expeditious nature of this proceeding or fails to comply with any requirement of § 4.1184 or § 4.1187 of this part, such action shall constitute a waiver of the 30-day requirement of section 525(b) of the Act.

PROCEEDINGS FOR SUSPENSION OR REVOCATION OF PERMITS UNDER SECTION 521(a)(4) OF THE ACT

§ 4.1190 Initiation of proceedings.

A proceeding on a show cause order issued by the Director of OSM pursuant to section 521(a)(4) of the Act shall be initiated by the Director of OSM filing a copy of such an order with the main office of OHA at the same time the order is issued to the permittee.

§ 4.1191 Answer.

The permittee shall have 30 days from receipt of the order within which to file his answer with the main office of OHA.

§ 4.1192 Contents of answer.

The permittee's answer to a show cause order shall contain a statement setting forth—

(a) The reasons in detail why a pattern of violations, as described in 30 CFR 722.16, does not exist or has not existed, including all reasons for contesting—

(1) The fact of any of the violations alleged by OSM as constituting a pattern of violations;

(2) The willfulness of such violations; or

(3) Whether such violations were caused by the unwarranted failure of the permittee;

(b) All mitigating factors he believes exist in determining the terms of the revocation or the length and terms of the suspension;

(c) Any other alleged relevant facts; and

(d) Whether a hearing on the show cause order is desired.

§ 4.1193 Burden of proof in suspension or revocation proceedings.

In proceedings to suspend or revoke a permit, OSM shall have the burden of going forward to establish a prima facie case for suspension or revocation of the permit. The ultimate burden of persuasion shall rest with the permittee.

§ 4.1194 Determination by the Administrative Law Judge.

(a) Upon a determination by the Administrative Law Judge that a pattern of violations exists, pursuant to 30 CFR 722.16(c)(2) or 30 CFR 722.16(c)(3), the Administrative Law Judge shall order the permit either suspended or revoked.

(b) The decision of the Administrative Law Judge shall be issued within 20 days following the date the hearing record is closed by the Administrative Law Judge or within 20 days of receipt of the answer, if no hearing is requested by any party and the Administrative Law Judge determines that no hearing is necessary.

§ 4.1195 Summary disposition.

(a) In a proceeding under this section where the permittee fails to appear at a hearing, the permittee shall be deemed to have waived his right to a hearing and the Administrative Law Judge may assume for purposes of the proceeding that—

(1) Each violation listed in the order occurred;

(2) Such violations were caused by the permittee's unwarranted failure or were willfully caused; and

(3) A pattern of violations exists.

(b) In order to issue an initial decision concerning suspension or revocation of the permit when the permittee fails to appear at the hearing, the Administrative Law Judge shall either conduct an ex parte hearing or require OSM to furnish proposed findings of fact and conclusions of law.

§ 4.1196 Appeals.

Any party desiring to appeal the decision of the Administrative Law Judge shall have 5 days from receipt of the Administrative Law Judge's decision within which to file a notice of appeal with the Board. The Board shall act immediately to issue an expedited briefing schedule. The decision of the Board shall be issued within 60 days of the date the hearing record is closed by the Administrative Law Judge or, if no hearing is held, within 60 days of the date the answer is filed.

APPLICATIONS FOR REVIEW OF ALLEGED DISCRIMINATORY ACTS UNDER SECTION 703 OF THE ACT

§ 4.1200 Filing of the application for review with the Office of Hearings and Appeals.

(a) Pursuant to 30 CFR 830.13, within 7 days of receipt of an application for review of alleged discriminatory acts, OSM shall file a copy of the

application in the main office of OHA. OSM shall also file in the main office of OHA a copy of any answer submitted in response to the application for review.

(b) The application for review, as filed in the main office of OHA, shall be held in suspense until one of the following takes place—

(1) A request for temporary relief is filed pursuant to § 4.1203 of this part;

(2) A request is made by OSM for the scheduling of a hearing pursuant to 30 CFR 830.14(a);

(3) A request is made by the applicant for the scheduling of a hearing pursuant to 30 CFR 830.14(a);

(4) A request is made by the applicant for the scheduling of a hearing pursuant to 30 CFR 830.14(b); or

(5) A request is made by OSM that OHA close the case because OSM, the applicant, and the alleged discriminating person have entered into an agreement in resolution of the discriminatory acts and there has been compliance with such agreement.

§ 4.1201 Request for scheduling of a hearing.

(a) If OSM determines that a violation of section 703(a) of the Act has probably occurred and was not resolved at the informal conference, it shall file with the main office of OHA a request on behalf of the applicant that a hearing be scheduled. The request shall be filed within 10 days of the completion of the informal conference, or where no conference is held, within 10 days following the scheduled conference. Where OSM makes such a request, it shall represent the applicant in the administrative proceedings, unless the applicant desires to be represented by private counsel.

(b) If OSM declines to request that a hearing be scheduled and to represent the applicant, it shall within 10 days of the completion of the informal conference, or where no conference is held, within 10 days following the scheduled conference, notify the applicant of his right to request the scheduling of a hearing on his own behalf. An applicant shall file a request for the scheduling of a hearing in the main office of OHA within 30 days of service of such notice from OSM.

(c) If no request for the scheduling of a hearing has been made pursuant to paragraph (a) or (b) of this section and 60 days have elapsed from the filing of the application for review with OSM, the applicant may file on his own behalf a request for the scheduling of a hearing with the main office of OHA. Where such a request is made, the applicant shall proceed on his own behalf, but OSM may intervene pursuant to § 4.1110 of this part.

§ 4.1202 Response to request for the scheduling of a hearing.

(a) Any person served with a copy of the request for the scheduling of a hearing shall file a response with the main office of OHA within 20 days of service of such request.

(b) If the alleged discriminating person has not filed an answer to the application, such person must include with the response to the request for the scheduling of a hearing, a statement specifically admitting or denying the alleged facts set forth in the application.

§ 4.1203 Application for temporary relief from alleged discriminatory acts.

(a) On or after 10 days from the filing of an application for review under this part, any party may file an application for temporary relief from alleged discriminatory acts.

(b) The application shall be filed in the main office of OHA.

(c) The application shall include—

(1) A detailed written statement supported by affidavit setting forth the reasons why relief should be granted;

(2) A showing supported by affidavits of facts, that there is a substantial likelihood that findings and decision of the Administrative Law Judge in the matters to which the application relates will be favorable to the applicant;

(3) A description of any exigent circumstances justifying temporary relief; and

(4) A statement of the specific relief requested.

(d) All parties to the proceeding to which the application relates shall have 5 days from receipt of the application to file a written response.

(e) The Administrative Law Judge may convene a hearing on any issue raised by the application if he deems it appropriate.

(f) The Administrative Law Judge shall expeditiously issue an order or decision granting or denying such relief.

(g) If all parties consent, before or after the commencement of any hearing on the application for temporary relief, the Administrative Law Judge may order the hearing on the application for review of alleged discriminatory acts to be advanced and consolidated with the hearing on the application for temporary relief.

§ 4.1204 Determination by Administrative Law Judge.

Upon a finding of a violation of section 703 of the Act or 30 CFR 830.11, the Administrative Law Judge shall order the appropriate affirmative relief including, but not limited to, the rehiring or reinstatement of the applicant to his former position with appropriate compensation.

§ 4.1205 Appeals.

Any party aggrieved by a decision of an Administrative Law Judge concerning an application for review of alleged discriminatory acts may appeal to the Board under procedures set forth in § 4.1271 et seq. of this part.

APPLICATIONS FOR TEMPORARY RELIEF

§ 4.1260 Scope.

These regulations contain the procedures for seeking temporary relief in § 525 review proceedings under the Act. Procedures for seeking temporary relief from alleged discriminatory acts are covered in § 4.1203 of this part.

§ 4.1261 When to file.

An application for temporary relief may be filed by any party to a proceeding at any time prior to decision by an Administrative Law Judge.

§ 4.1262 Where to file.

The application shall be filed with the Administrative Law Judge to whom the case has been assigned. If no assigment has been made, the application shall be filed in the OHA field office nearest the mine site.

§ 4.1263 Contents of application.

The application shall include—

(a) A detailed written statement, supported by affidavit, setting forth the reasons why relief should be granted;

(b) A showing, supported by affidavits of fact, that there is a substantial likelihood that the findings and decision of the Administrative Law Judge in the matters to which the application relates will be favorable to the applicant;

(c) A statement, supported by affidavit, that the relief sought will not adversely affect the health or safety of the public or cause significant, imminent environmental harm to land, air, or water resources;

(d) If the application relates to an order of cessation issued pursuant to section 521(a)(2) or § 521(a)(3) of the Act, a statement of whether the requirement of section 525(c) of the Act for decision on the application within 5 days is waived; and

(e) A statement of the specific relief requested.

§ 4.1264 Response to application.

(a) Except as provided in § 4.1266(b), all parties to the proceeding to which the application relates shall have 5 days from the date of receipt of the application to file a written response.

(b) Except as provided in § 4.1266(b), the Administrative Law Judge may hold a hearing on any issue raised by the application if he deems it appropriate.

§ 4.1265 Determination on application concerning a notice of violation issued pursuant to section 521(a)(3) of the Act.

Where an application has been filed requesting temporary relief from a

notice of violation issued under § 521(a)(3) of the Act, the Administrative Law Judge shall expeditiously issue an order or decision granting or denying such relief.

§ 4.1266 Determination on application concerning an order of cessation issued pursuant to section 521(a)(2) or section 521(a)(3) of the Act.

(a) If the 5-day requirement of section 525(c) of the Act is waived, the Administrative Law Judge shall expeditiously conduct a hearing, unless all parties waive such right, and render a decision on the application.

(b) If there is no waiver of the 5-day requirement of section 525(c) of the Act, the following special rules shall apply—

(1) The applicant shall serve the Field Solicitor, Department of the Interior, in the region where the mine site is located and all other parties with a copy of the application simultaneously with the filing of the application with OHA. If service is accomplished by mail, the applicant shall inform the Field Solicitor and all other parties by telephone at the time of mailing that an application is being filed and what the contents of the application are.

(2) The Field Solicitor and all other parties may indicate their objection to the application by communicating such objection to the Administrative Law Judge and the applicant by telephone. However, no ex parte communication as to the merits of the proceeding may be conducted with the Administrative Law Judge. The Field Solicitor and all other parties shall simultaneously reduce their objections to writing. The written objections must be immediately filed with the Administrative Law Judge and immediately served upon the applicant.

(3) Upon receipt of communication that there is an objection to the request, the Administrative Law Judge shall immediately order a location, time, and date for the hearing by communicating such information to the Field Solicitor, all other parties, and the applicant by telephone. The Administrative Law Judge shall reduce such communications to writing in the form of a memorandum to the file.

(4) If a hearing is held—

(i) The Administrative Law Judge may require the parties to submit written proposed findings of fact and conclusions of law at the hearing which may be orally supplemented on record at the hearing or where written proposed findings of fact and conclusions of law have not been submitted at the hearing, they may be orally presented for the record at the hearing.

(ii) The Administrative Law Judge shall either rule from the bench on the application, orally stating the reasons for his decision or he shall within 24 hours of completion of the hearing issue a written decision. If the Administrative Law Judge makes an oral ruling, his approval of the record of the hearing shall constitute his written decision.

(5) The order or decision of the Administrative Law Judge shall be issued within 5 working days of the receipt of the application for temporary relief.

(6) If at any time after the initiation of this expedited procedure, the applicant requests a delay or acts in a manner so as to frustrate the expeditious nature of this proceeding or fails to supply the information required by § 4.1263 of this part, such action shall constitute a waiver of the 5-day requirement of section 525(c) of the Act.

APPEALS TO THE BOARD FROM DECISIONS OR ORDERS OF ADMINISTRATIVE LAW JUDGES

§ 4.1270 Petition for discretionary review of a proposed civil penalty.

(a) Any party may petition the Board to review an order or decision by an Administrative Law Judge disposing of a civil penalty proceeding under § 4.1150 of this part.

(b) A petition under this section shall be filed on or before 30 days from the date of receipt of the order or decision sought to be reviewed and the time for filing may not be extended.

(c) A petitioner under this section shall list the alleged errors of the Administrative Law Judge and shall attach a copy of the order or decision sought to be reviewed.

(d) Any party may file with the Board a response to the petition for review within 10 days of receipt of a copy of such petition.

(e) Not later than 30 days from the filing of a petition under this section, the Board shall grant or deny the petition in whole or in part.

(f) If the petition is granted, the rules in §§ 4.1273–77 of this part are applicable and the Board shall use the point system and conversion table contained in 30 CFR Part 723 in recalculating assessments. If the petition is denied, the decision of the Administrative Law Judge shall be final for the Department.

§ 4.1271 Notice of appeal.

(a) Any aggrieved party may file a notice of appeal from an order or decision of an Administrative Law Judge disposing of a proceeding under this subpart, except a civil penalty proceeding under § 4.1150 of this part.

(b) Except in an expedited review proceeding under § 4.1180 of this part, or in a suspension or revocation proceeding under § 4.1190 of this part, a notice of appeal shall be filed with the Board on or before 30 days from the date of receipt of the order or decision sought to be reviewed and the time for filing may not be extended.

§ 4.1272 Interlocutory appeals.

(a) If a party has sought certification under § 4.1124 of this part, that party may petition the Board for permission to appeal from an interlocutory ruling by an Administrative Law Judge.

(b) A petition under this section shall be in writing and not exceed 10 pages in length.

(c) If the correctness of the ruling sought to be reviewed involves a controlling issue of law the resolution of which will materially advance final disposition of the case, the Board may grant the petition.

(d) Upon granting a petition under this section, the Board may dispense with briefing or issue a briefing schedule.

(e) Unless the Board or the Administrative Law Judge orders otherwise, an interlocutory appeal shall not operate as a stay of further proceedings before the judge.

(f) In deciding an interlocutory appeal, the Board shall confine itself to the issue presented on appeal.

(g) The Board shall promptly decide appeals under this section.

(h) Upon affirmance, reversal or modification of the Administrative Law Judge's interlocutory ruling or order, the jurisdiction of the Board shall terminate, and the case shall be remanded promptly to the Administrative Law Judge for further proceedings.

§ 4.1273 Briefs.

(a) Unless the Board orders otherwise, an appellant's brief is due on or before 30 days after the date the Board agrees to exercise discretionary review authority pursuant to § 4.1270 of this part or a notice of appeal is filed.

(b) If any appellant fails to file a timely brief, an appeal under this part shall be subject to summary dismissal.

(c) An appellant shall state specifically the rulings to which there is an objection, the reasons for such objections, and the relief requested. The failure to specify a ruling as objectionable may be deemed by the Board as a waiver of objection.

(d) Unless the Board orders otherwise, within 20 days after service of appellant's brief, any other party to the proceeding may file a brief.

(e) If any argument is based upon the evidence of record and there is a failure to include specific record citations, when available, the Board need not consider the arguments.

(f) Further briefing may take place by permission of the Board.

(g) Unless the Board provides otherwise, appellant's brief shall not exceed 50 pages and an appellee's brief shall not exceed 25 pages.

§ 4.1274 Remand.

The Board may remand cases if further proceedings are required.

§ 4.1275 Final decisions.

The Board may adopt, affirm, modify, set aside, or reverse any finding of fact, conclusion of law, or order of the Administrative Law Judge.

§ 4.1276 Reconsideration.

(a) A party may move for reconsideration under § 4.21(c) of this part.

(b) The filing of a petition for reconsideration shall not stay the effect of any decision or order and shall not affect the finality of any decision or order for purposes of judicial review.

APPEALS TO THE BOARD FROM DECISIONS OF THE OFFICE OF SURFACE MINING

§ 4.1280 Scope.

This section is applicable to appeals from decisions of the Director of OSM concerning small operator exemptions under 30 CFR 710.12(h) and to other appeals which do not require formal adjudication under the procedures set forth in 5 U.S.C. § 554.

§ 4.1281 Who may appeal.

Any person who is or may be adversely affected by a written decision of the Director of OSM or his delegate may appeal to the Board where the decision specifically grants such right of appeal.

§ 4.1282 Appeals; how taken.

(a) A person appealing under this section shall file a written notice of appeal with the Board of Surface Mining and Reclamation Appeals, 4015 Wilson Boulevard, Arlington, Va. 22203.

(b) The notice of appeal shall be filed within 20 days from the date of receipt of the decision. If the person appealing has not been served with a copy of the decision, such appeal must be filed within 30 days of the date of the decision.

(c) The notice of appeal shall indicate that an appeal is intended and must identify the decision being appealed. The notice should include the serial number or other identification of the case and the date of the decision. The notice of appeal may include a statement of reasons for the appeal and any arguments the appellant desires to make.

(d) If the notice of appeal did not include a statement of reasons for the appeal, such a statement shall be filed with the Board within 20 days after the notice of appeal was filed. In any case, the appellant shall be permitted to file with the Board additional statements of reasons and written arguments or briefs within the 20-day period after filing the notice of appeal.

§ 4.1283 Service.

(a) The appellant shall serve personally or by certified mail, return receipt requested, a copy of the notice of appeal and a copy of any statement of reasons, written arguments, or other documents on each party within 15 days after filing the document. Proof of service shall be filed with the Board within 15 days after service.

(b) Failure to serve may subject the appeal to summary dismissal pursuant to § 4.1285 of this part.

§ 4.1284 Answer.

(a) Any party served with a notice of appeal who wishes to participate in the proceedings on appeal shall file an answer with the Board within 20 days after service of the notice of appeal or statement of reasons where such statement was not included in the notice of appeal.

(b) If additional reasons, written arguments or other documents are filed by the appellant, a party shall have 20 days after service thereof within which to answer. The answer shall state the reasons the party opposes or supports the appeal.

§ 4.1285 Summary dismissal.

An appeal shall be subject to summary dismissal, in the discretion of the Board, for failure to file or serve, upon all persons required to be served, a notice of appeal or a statement of reasons for appeal.

§ 4.1286 Request for hearing.

(a) Any party may request the Board to order a hearing before an Administrative Law Judge in order to present evidence on an issue of fact. Such a request shall be made in writing and filed with the Board within 20 days after the answer is due. Copies of the request shall be served in accordance with § 4.1283.

(b) The allowance of a request for a hearing is within the discretion of the Board, and the Board may, on its own motion, refer any case to an Administrative Law Judge for a hearing on an issue of fact. If a hearing is ordered, the Board shall specify the issues upon which the hearing is to be held.

PETITIONS FOR AWARD OF COSTS AND EXPENSES UNDER SECTION 525(e) OF THE ACT

§ 4.1290 Who may file.

(a) Any person may file a petition for award of costs and expenses including attorneys' fees reasonably incurred as a result of that person's participation in any administrative proceeding under the Act which results in—

(1) A final order being issued by an Administrative Law Judge; or

(2) A final order being issued by the Board.

§ 4.1291 Where to file; time for filing.

The petition for an award of costs and expenses including attorneys' fees must be filed with the Administrative Law Judge who issued the final order, or if the final order was issued by the Board, with the Board, within 45 days of receipt of such order. Failure to make a timely filing of the petition shall constitute a wavier of the right to such an award.

§ 4.1292 Contents of petition.

(a) A petition filed under this section shall include the name of the person from whom costs and expenses are sought and the following shall be submitted in support of the petition—

(1) An affidavit setting forth in detail all costs and expenses including attorneys' fees reasonably incurred for, or in connection with, the person's participation in the proceeding;

(2) Receipts or other evidence of such costs and expenses; and

(3) Where attorneys' fees are claimed, evidence concerning the hours expended on the case, the customary commercial rate of payment for such services, and the experience, reputation and ability of the individual or individuals performing the services.

§ 4.1293 Answer.

Any person served with a copy of the petition shall have 30 days from service of the petition within which to file an answer to such petition.

§ 4.1294 Who may receive an award.

Appropriate costs and expenses including attorneys' fees may be awarded—

(a) To any person—

(1) Who supplies the Secretary with information pursuant to 30 CFR 721.13, and who participates as a party in any administrative proceedings reviewing enforcement actions resulting therefrom, upon a finding that a violation of the Act, regulations or permit has occurred, or that an imminent hazard existed;

(2) Who files an application for review of alleged discriminatory acts, pursuant to 30 CFR 830, upon a finding of discriminatory discharge or other acts of discrimination;

(3) Who participates in an administrative proceeding upon a finding that that person made a substantial contribution to the full and fair determination of the issues.

(b) To a permittee—

(1) Who demonstrates that OSM issued an order of cessation pursuant to 30 CFR 722.11 or 30 CFR 722.13, a notice of violation pursuant to 30 CFR 722.12, or an order to show cause pursuant to 30 CFR 722.17, in bad faith and for the purpose of harassing or embarrassing the permittee; or

(2) Who demonstrates that any person applied for review pursuant to

section 525 of the Act or that any party participated in such a proceeding in bad faith and for the purpose of harassing or embarrassing the permittee.

(c) To the Government when it demonstrates that any person applied for review pursuant to section 525 of the Act or that any party participated in such a proceeding in bad faith and for the purpose of harassing or embarrassing the Government.

§ 4.1295 Appeals.

Any person aggrieved by a decision concerning the award of costs and expenses in an administrative proceeding under this Act may appeal such award to the Board under procedures set forth in § 4.1271 et seq. of this part, unless the Board has made the initial decision concerning such an award.

[FR Doc. 78-9851 Filed 4-12-78; 8:45 am]

[4110-07]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Child Support Enforcement Office

[45 CFR Parts 232 and 302]

NOTICE OF HEARING

AGENCY: Social Security Administration and Office of Child Support Enforcement, HEW.

ACTION: Announcement of hearing on regulations.

SUMMARY: HEW announces a public hearing to be held regarding the Department's regulation specifying standards under which State and local welfare agencies shall determine whether an applicant or recipient of Aid to Families with Dependent Children (AFDC) has good cause for refusing to cooperate in establishing paternity and securing child support.

DATE: Public Hearing to be held in Washington, D.C. May 5, 1978, 9 a.m. to 12 noon and 1:30 p.m. to 4:30 p.m., with registration at 8:30 a.m.

ADDRESSES: Hearing Location: Auditorium, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. Send written testimony and requests to speak to: Acting Commissioner of Social Security and Acting Director, Office of Child Support Enforcement, Department of Health, Education, and Welfare, P.O. Box 23526, Washington, D.C. 20024.

FOR FURTHER INFORMATION CONTACT:

Maria Candamil, Public Inquiries Specialist, Office of Child Support Enforcement; 202-472-6500.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On January 16, 1978, the Department published final regulations in the FEDERAL REGISTER (43 FR 2170) specifying standards under which State and local welfare agencies shall determine whether an applicant or recipient of Aid to Families with Dependent Children (AFDC) has good cause for refusing to cooperate in establishing paternity and securing child support.

The Notice which adopted this regulation solicited comments for an additional 90 day period ending June 15, 1978. This public input will provide the Department with the information upon which to base amendments to the good cause regulation. The public hearing is being held to insure the broadest possible public participation in this process.

The good cause regulations must satisfy several difficult competing interests. It is the Department's goal to maintain the integrity of the Child Support Enforcement program, protect children and their mothers, and avoid any undue administrative burden on State and local governments.

The Department believes that statements or testimony on the following issues would be particularly valuable:

Should applicants receive financial assistance pending the good cause determination? If so, should such assistance begin as soon as all other eligibility requirements are determined to be met, or should it begin only if a final determination is not made within the State's established time standard for determining eligibility? Should any such assistance be matched with Federal funds prior to the final determination? If aid is not paid pending the final good cause determination, what provisions should be made to assure prompt payment to the eligible children?

Should States be required to complete good cause investigations within a specified time in all cases? What would be an appropriate time period? 45 days? 90 days? If aid is not provided pending the good cause determination, what steps can be taken to protect applicants in cases where the determination is not made promptly? Would a right to a speedy fair hearing and decision be appropriate or adequate?

What degree of physical or emotional harm should be required? Is it possible or wise to develop a more precise definition of the physical or emotional harm?

Should the type of corroborative evidence required to substantiate applicants' claims be further defined or limited? If so, how?

How can the current notice requirements be improved? What elements are necessary to provide adequate notice of applicants' rights and obligations without unduly burdening applicants or the States with excessive or overly technical requirements?

What steps should State agencies be required to take to assist applicants in locating evidence to support the good cause claim? Under what circumstances should be assistance be provided?

The Department particularly welcomes testimony on how the good cause regulation is working in practice, although we recognize that such information may not be readily available due to the short time between its effective date and the public hearing. Experience with good cause claims prior to the effective date of the regulation would also be valuable testimony.

HEARING PROCEDURES

Public officials, representatives of civic and public interest organizations, representatives of State or local welfare and child support enforcement agencies, and the public may participate in the hearing by submitting written testimony or delivering an oral statement. Oral statements may be up to 15 minutes in length. The number of witnesses desiring to be heard may require adjustments to the amount of time allotted. Additional time will be reserved for questions. We will try to assure fair opportunity for proponents of all positions to present their views. The public and press are invited to attend.

Requests to speak at the hearing should be directed to me at the address provided above. Such requests must be received prior to the close of business, May 1, 1978. Requests must include the names, addresses and phone numbers of individuals or organizations seeking to make an oral presentation and an estimate of the time required to make the presentation. If available, one copy of the text of the presentation should be submitted at the hearing.

Persons wishing to present written testimony may do so by submitting three copies of the statement at the hearing. Alternatively, three copies of the statement may be mailed to the address provided above no later than the day of the hearing with a request that the statement be made part of the hearing record.

The hearing will be transcribed. The transciption and all written submissions will be available for public inspection.

Dated: April 5, 1978.

DON T. WORTMAN,
Acting Commissioner of Social Security, and Acting Director, Office of Child Support Enforcement.

[FR Doc. 78-9835 Filed 4-12-78; 8:45 am]

[7537-01]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

[45 CFR Part 1151]

PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

Nondiscrimination on the Basis of Handicap

APRIL 6, 1978.

AGENCY: National Endowment for the Arts.

ACTION: Proposed regulations.

SUMMARY: The following proposed regulations implement section 504 of the Rehabilitation Act of 1973 with regard to federal financial assistance administered by the National Endowment for the Arts. Section 504 provides that "no otherwise qualified handicapped individual * * * shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance." The proposed regulations define and forbid acts of discrimination against qualified handicapped persons in employment and in the operation of programs and activities receiving assistance from the Endowment. As employers, recipients must make reasonable accommodation to the handicaps of applicants and employees unless the accommodation would cause the employer undue hardship. As providers of services, recipients are required to make programs operated in existing facilities accessible to handicapped persons, to ensure that new facilities are constructed so as to be readily accessible to handicapped persons, and to operate their programs in a non-discriminatory manner.

DATE: Comments are invited from other federal agencies and the public. They must be received on or before September 1, 1978.

ADDRESS: Comments should be submitted in writing to Ms. Lani Lattin Duke, Special Constituencies Coordinator, National Endowment for the Arts, 2401 E Street NW, Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT:

Robert Wage, General Counsel, National Endowment for the Arts, 2401 E Street NW, Washington, DC 20506.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On April 28, 1976, the President issued Executive Order 11914 (41 FR 17871) to provide for consistent governmentwide enforcement of section 504 of the Rehabilitation Act of 1973, as amended (Pub. L. 93-112, 29 U.S.C. 706). Pursuant to the order, the Secretary of Health, Education, and Welfare was directed to coordinate the implementation of section 504 by all federal departments and agencies that extend financial assistance to any program or activity.

In addition to setting forth the responsibilities of DHEW, Executive Order 11914 directs other agencies to issue regulations consistent with DHEW standards and procedures, to furnish the Secretary with reports and information upon request, and to cooperate with DHEW in the implementation of section 504.

On June 24, 1977, the Department issued a proposed rule to carry out its responsibilities under the executive order by specifying procedures for the promulgation and enforcement of section 504 regulations by all agencies providing financial assistance, standards for determining who are handicapped individuals, and guidelines for determining what practices are discriminatory under section 504.

Final DHEW guidelines were signed by Secretary Califano on January 3, 1978, and became effective on January 13, 1978 (43 FR 2132). Pursuant to § 85.4(b) of the guidelines, federal agencies that extend federal financial assistance are required to issue a proposed rulemaking within 90 days of the publication of the guidelines in the FEDERAL REGISTER.

THE PROBLEM OF DISCRIMINATION

The National Endowment for the Arts recognizes that the problem of ending discrimination on the basis of handicap involves extremely complex issues. The diversity of types of handicaps, as well as the wide variety of programs and activities receiving Endowment financial assistance make the task of prescribing general rules of non-discriminatory treatment a difficult one. The goal throughout has been to draft regulations that preserve the essential elements of a strong and effective program for ending discrimination while avoiding the imposition of unnecessary or counterproductive administrative obligations on recipients.

In drafting a regulation to prohibit exclusion and discrimination, it became clear that different or special treatment of handicapped persons, because of their handicaps, may be necessary in a number of contexts in order to ensure equal opportunity. For example, it is meaningless to "admit" a handicapped person in a wheelchair to a program if the program is offered only on the third floor of a walk-up building.

Nor is one providing equal cultural opportunity to a blind person by admitting him or her to a museum but providing no means for the person to appreciate the museum's artifacts.

These problems have been compounded by the fact that ending discriminatory practices and providing equal access to programs may involve major burdens on some recipients. Although burdens and costs provide no basis for exemption from section 504 or this regulation, these factors have been taken into account in the regulations in prescribing the actions necessary to end discrimination and to bring handicapped persons into full participation in federally financed programs and activities. In connection with the cost of accessibility it should be pointed out that recent evidence indicates that the average cost of converting buildings for architectural accessibility actually is quite reasonable. For specific information regarding barrier-free access contact: ARTS, Box 2040, Grand Central Station, New York, N.Y. 10017.

SUMMARY OF PROPOSED RULE

Subpart A of the proposed regulations sets forth general definitions and uniform precedures for the enforcement of section 504.

Section 1151.3(e) defines the term "recipient." As indicated, recipient includes any state or its political subdivision, any instrumentality of a state or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which federal financial assistance is extended directly or through another recipient including any successor, assignee, or transferee of a recipient. It should be noted that the ultimate beneficiary of the assistance is excluded from the definition of recipient. This language points out the inapplicability of these regulations to assistance programs administered directly by the Federal Government to beneficiaries, e.g., fellowship award programs. However, it should be kept in mind that with respect to direct assistance programs the regulations may apply whenever the direct aid provided to an individual is extended on condition that the aid be spent in a particular program or activity, thereby benefiting the program or activity.

Subpart B contains the standards for determining who are "handicapped persons" within the meaning of section 504. A sentence has been included in the definition listing, for illustrative purposes, some of the diseases and impairments that are included in the term "physical or mental impairment."

The question of the application of section 504 to drug addiction and alcoholism was submitted for decision to the Attorney General. In an opinion dated April 12, 1977, the Attorney General concluded that drug addiction

and alcoholism are physical or mental impairments and thus are handicaps for the purpose of section 504 if they result in a substantial limitation to a "major life activity."

It cannot be emphasized too strongly that the statute and regulation apply only to discrimination against qualified handicapped persons, e.g., in connection with employment, persons qualified for the job in spite of a handicap. In other words, while an alcoholic or drug addict may not be denied services or disqualified from employment solely because of his or her condition, the behavioral manifestations of the condition, i.e., on the job intoxication, may be taken into account in determining whether he or she is qualified.

The general prohibitions against discrimination on the basis of handicap set forth in Subpart C incorporate basic principles determined to be inherent in section 504. First, section 504, like other nondiscrimination statutes, rohibits not only those practices that are overtly discriminatory, but also those that have the effect of discriminating. Thus, in some situations, identical treatment of handicapped and nonhandicapped persons is not only insufficient but is itself discriminatory. On the other hand, separate or different treatment can be permitted only where necessary to ensure equal opportunity and truly effective benefits and services. Federally assisted programs and activities must thus be provided in the most integrated setting appropriate to the needs of participating handicapped persons. General illustrative application of these basic principles to Endowment supported programs and activities are set forth in § 1151.18 of the proposed regulations.

Sections 1151.21–1151.23 of Subpart C concern "program accessibility," a term which summarizes the concept of prohibiting the exclusion of handicapped persons from federally funded programs because a recipient's facilities are inaccessible or unusable. It must be stressed that the concept of program accessibility does not require existing facilities to be totally barrier-free. Structural modifications of existing facilities need be undertaken only when other methods are inadequate to assure that a program is available to handicapped persons. Under § 1151.23 new facilities must be designed and constructed so as to be readily accessible to and usable by handicapped persons.

Section 1151.34 generally bans preemployment medical exams and inquiries concerning handicap. However, certain qualifications to this general prohibition should be noted. First, while employers may not, prior to employment, inquire about the existence of a specific handicap, e.g., epilepsy, they may ask about the applicant's ability to perform duties necessary to the job in question. Second, employers may make voluntary inquiries as to handicap if employers are subject to remedial or affirmative action obligations or if employers are undertaking voluntary action to increase their employment of handicapped persons. Third, employers may condition an offer of employment on the successful completion of a medical examination only if the examination follows the requirements of § 1151.34(b) and if no offer is withdrawn on the basis of medical conditions that are not job-related.

Subpart D contains the Endowment's system for enforcement of section 504. This system incorporates the enforcement and hearing procedures promulgated by the Endowment in connection with Title VI of the Civil Rights Act of 1964 (45 CFR 1110). Sections 1151.42 and 1151.43 concern self-evaluations, designation of a responsible employee, and adoption of a grievance procedure. These sections have been included in order to encourage recipients to resolve complaints internally and effect compliance without Federal intervention.

The regulation does not require that grievance procedures be exhausted before recourse is sought from the Endowment.

In consideration of the foregoing, it is hereby proposed to add Part 1151 to Title 45 of the Code of Federal Regulations to read as set forth below.

Dated: April 10, 1978.

ROBERT WADE,
General Counsel, National Endowment for the Arts.

Subpart A—General Provisions

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AUTHORITY: Executive Order 11914; sec. 504, Rehabilitation Act of 1973, as amended (Pub. L. 93-112) (29 U.S.C. 706).

Subpart A—General Provisions

§ 1151.1 Purpose.

The purpose of this part is to implement section 504 of the Rehabilitation Act of 1973, which is designed to eliminate discrimination on the basis of handicap in any program or activity receiving Federal financial assistance.

§ 1151.2 Application.

This part applies to each recipient of financial assistance from the National Endowment for the Arts and to each program or activity that receives or benefits from such assistance.

§ 1151.3 Definitions.

As used in this part, the term:

(a) "The Act" means the Rehabilitation Act of 1973, Pub. L. 93-112, as amended by the Rehabilitation Act Amendments of 1974, Pub. L. 93-516, 29 U.S.C. 794.

(b) "Section 504" means section 504 of the Act.

(c) "Endowment" means the National Endowment for the Arts.

(d) "Chairman" means the Chairman, National Endowment for the Arts.

(e) "Recipient" means any state or its political subdivision, any instrumentality of a state or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance.

(f) "Federal financial assistance" means any grant, loan, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which the Endowment provides or otherwise makes available assistance in the form of:

(1) Funds;

(2) Services of Federal personnel; or

(3) Real and personal property or any interest in or use of such property, including:

(i) Transfers of leases of such property for less than fair market value or for reduced consideration; and

(ii) Proceeds from a subsequent transfer or lease of such property if the Federal share of its fair market value is not returned to the Federal Government.

(g) "Facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property or interest in such property.

§ 1151.4 Notice.

(a) A recipient shall take appropriate initial and continuing steps to notify participants, beneficiaries, applicants, and employees, including those with impaired vision or hearing, and unions or professional organizations holding collective bargaining or professional agreements with the recipient that it does not discriminate on the basis of handicap in violation of section 504 and this part. Methods of initial and continuing notification may include the posting of notices, publication in print, audio, and visual media, placement of notices in a recipient's publication, and distribution of other written and verbal communications.

(b) If a recipient publishes or uses recruitment materials or publications containing general information that it makes available to participants, beneficiaries, applicants, or employees, it shall include in those materials or publications a statement of the policy described in paragraph (a) of this section. A recipient may meet the requirement of this paragraph either by including appropriate inserts in existing materials and publications or by revising and reprinting the materials and publications.

§ 1151.5 Effect of State or local law or other requirements and effect of employment opportunities.

(a) The obligation to comply with this part is not obviated or alleviated by the existence of any State or local law or other requirement that, on the basis of handicap, imposes prohibitions or limits upon the eligibility of qualified handicapped persons to receive services or to practice any occupation or profession.

(b) The obligation to comply with this part is not obviated or alleviated because employment opportunities in any occupation or profession are or may be more limited for handicapped persons than for nonhandicapped persons.

§§ 1151.6–1151.10 [Reserved]

Subpart B—Standards for Determining Who Are Handicapped Persons.

§ 1151.11 Handicapped person.

(a) "Handicapped person" means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

(b) As used in paragraph (a) of this section, the phrase:

(1) "Physical or mental impairment" means:

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(2) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) "Is regarded as having an impairment" means:

(i) Has a physical or mental impairment that does not substantially limit major life activities but that is treated by a recipient as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment;

(iii) Has none of the impairments defined in paragraph (b)(1) of this section but is treated by a recipient as having such an impairment.

§ 1151.12 Qualified handicapped person.

"Qualified handicapped person" means:

(a) With respect to employment, a handicapped person who, with reasonable accommodation, can perform the essential functions of the job in question; and

(b) With respect to services, a handicapped person who meets the essential eligibility requirements for the receipt of such services.

§§ 1151.13–1151.15 [Reserved]

Subpart C—Discrimination Prohibited

General

§ 1151.16 General prohibitions against discrimination.

(a) No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal financial assistance.

(b) The exclusion of nonhandicapped persons from the benefits of a program limited by Federal statute or executive order to handicapped persons or the exclusion of a specific class of handicapped persons from a program limited by Federal statute or executive order to a different class of handicapped persons is not prohibited by this part.

(c) Recipients shall administer programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons.

§ 1151.17 Specific discriminatory actions prohibited.

(a) A recipient, in providing any aid, benefit, service, or program either directly or through contractual, licensing, or other arrangements, shall not, on the basis of handicap:

(1) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, program, or service;

(2) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or services that is not equal to that afforded others;

(3) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective as that provided to others;

(4) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons unless such action is necessary to provide qualified handicapped persons with aid, benefits, or service that are as effective as those provided to others;

(5) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or service to beneficiaries of the recipient's program;

(6) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

(7) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service.

(b) Despite the existence of separate or different programs or activities provided in accordance with this part, a recipient may not deny a qualified handicapped person the opportunity to participate in such programs or activities that are not separate or different.

(c) A recipient may not, directly or through contractual or other arrangements, utilize criteria or methods of administration:

(1) That have the effect of subjecting qualified handicapped persons to discrimination on the basis of handicap;

(2) That have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the recipient's program with respect to handicapped persons; or

(3) That perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same State.

(d) As used in this section, the aid, benefit, or service provided under a program or activity receiving or benefiting from Federal financial assistance includes any aid, benefit, or service provided in or through a facility that has been constructed, expanded, altered, leased or rented, or otherwise acquired, in whole or in part, with Federal financial assistance.

§ 1151.18 Illustrative examples.

(a) The following examples will illustrate the application of the foregoing provisions to some of the activities funded by the National Endowment for the Arts.

(1) A museum exhibition catalogue or small press editions supported by the Endowment may be made accessible to the blind and the visually impaired through cassette tapes, records, discs, braille, readers, or simultaneous publications by a volunteer agency for the blind;

(2) A theatre performance supported by Federal funds may be made available to deaf and hearing impaired persons through the use of a sign language interpreter or by providing scripts in advance of the performance.

(3) A performing arts organization receiving Federal funds for a specific program offered in an inaccesssible facility may arrange to provide a reasonable opportunity for that program to be offered to the public at large in an alternative accessible space; e.g., a theatre offering four different plays a season may offer at least one performance of each play in an alternative accessible space.

(4) Recipients of Federal funds should make every effort to assure that they do not support organizations or individuals that discriminate;

(5) A handicapped person with experience and expertise equal to qualification standards established by a planning or advisory board may not be excluded from participation on the board on the basis of handicap. This is not to say that every planning or advisory board must include a handicapped person.

(b) Despite the existence of permissible separate or different programs, e.g., periodic performances in alternative accessible spaces, a physically handicapped person who wishes to be, and can be, escorted to a seat, may not be denied such access to an otherwise inaccessible theatre.

(c) State arts agencies are obligated to develop methods of administering Federal funds so as to ensure that handicapped persons are not subjected to discrimination on the basis of handicap either by sub-grantees or by the manner in which the funds are distributed.

(d) In the event Endowment funds are utilized to construct, expand, alter, lease or rent a facility, the benefits of the programs and activities provided in or through that facility must be conducted in accordance with these regulations, e.g., a museum receiving a grant to renovate an existing facility must assure that all museum programs and activities conducted in that facility are accessible to handicapped persons.

(e) In carrying out the mandate of section 504 and these implementing regulations recipients should make every effort to administer Endowment assisted programs and activities in a setting in which able-bodied and disabled persons are integrated, e.g., tours made available to the hearing impaired should be open to the public at large and everyone should be permitted to enjoy the benefits of a tactile experience in a museum.

§ 1151.19–1151.20 [Reserved]

PROGRAM ACCESSIBILITY

§ 1151.21 Discrimination prohibited.

No qualified handicapped person shall, because a recipient's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which this part applies.

§ 1151.22 Existing facilities.

(a) A recipient shall operate each program or activity to which this part applies so that the program or activity, when viewed in its entirety, is readily accessible to handicapped persons. This paragraph does not require a recipient to make each of its existing facilities or every part of a facility accessible to and usable by handicapped persons.

(b) A recipient may comply with the requirement of paragraph (a) of this section through alteration of existing facilities, the construction of new facilities, or any other methods that result in making its program or activity accessible to handicapped persons. A recipient is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with paragraph (a) of this section. In choosing among available methods for meeting the requirement of paragraph (a) of this section, a recipient shall give priority to those methods that offer programs and activities to handicapped persons in the most integrated setting appropriate.

(c) *Time period.* A recipient shall comply with the requirement of paragraph (a) of this section within eight months of the effective date of this part except that where structural changes are necessary to make programs or activities in existing facilities accessible such changes shall be made as soon as possible but in no event later than five years after the effective date of this part.

(d) *Transition plan.* In the event structural changes to facilities are necessary to meet the requirement of paragraph (a) of this section, a recipient shall develop, within two years of the effective date of this part, a transition plan setting forth the steps necessary to complete such changes. The plan shall be developed with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons. Upon request, the recipient shall make available for public inspection a copy of the transition plan. The plan shall, at a minimum:

(1) Identify physical obstacles in the recipient's facilities that limit the accessibility of its program or activity to handicapped persons;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve full program accessibility and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period; and

(4) Indicate the person responsible for implementation of the plan.

§ 1151.23 New construction.

(a) New facilities shall be designed and constructed to be readily accessible to and usable by handicapped persons. Alterations to existing facilities shall, to the maximum extent feasible, be designed and constructed to be readily accessible to and usable by handicapped persons.

(b) American National Standards Institute accessibility standards. Design, construction, or alteration of facilities in conformance with the "American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," published by the American National Standards Institute, Inc. (ANSI A 117.1-1961 (R 1971) (Copies obtainable at $2.75 each from American National Standards Institute, Inc., 1430 Broadway, New York, N.Y. 10018, single copies available free

from Architectural and Transportation Compliance Board, Washington, D.C. 20201, or the National Easter Seal Society, 2023 West Ogden Avenue, Chicago, Ill. 60612) shall constitute compliance with paragraph (a) of this section. Departures from the ANSI standards by the use of comparable standards shall be permitted when it is clearly evident that equivalent access to the facility or part of the facility is thereby provided.

§§ 1151.24–1151.30 [Reserved]

EMPLOYMENT

§ 1151.31 Discrimination prohibited.

(a) No qualified handicapped person shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity that receives or benefits from Federal financial assistance.

(b) A recipient shall make all decisions concerning employment under any program or activity to which this part applies in a manner which ensures that discrimination on the basis of handicap does not occur and may not limit, segregate, or classify applicants or employees in any way that adversely effects their opportunities or status because of handicap.

(c) A recipient may not participate in a contractual or other relationship that has the effect of subjecting qualified handicapped applicants or employees to discrimination prohibited by this subpart. The relationships referred to in this subparagraph include relationships with employment and referral agencies, with labor unions, with organizations providing or administering fringe benefits to employees of the recipients, and with organizations providing training and apprenticeship programs.

(d) The prohibition against discrimination in employment applies to the following activities:

(1) Recruitment, advertising, and the processing of applications for employment;

(2) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

(3) Rates of pay or any other form of compensation and changes in compensation;

(4) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(5) Leaves of absence, sick leave, or any other leave;

(6) Fringe benefits available by virtue of employment, whether or not administered by the recipient;

(7) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(8) Employer sponsored activities, including social or recreational programs; and

(9) Any other term, condition, or privilege of employment.

(e) A recipient's obligation to comply with this subpart is not affected by any inconsistent term of any collective bargaining agreement to which it is a party.

§ 1151.32 Reasonable accommodation.

(a) A recipient shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped applicant or employee unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of its program.

(b) Reasonable accommodation may include:

(1) Making facilities used by employees readily accessible to and usable by handicapped persons; and

(2) Job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, the provision of readers or interpreters, and other similar actions.

(c) In determining pursuant to paragraph (a) of this section whether an accommodation would impose an undue hardship on the operation of a recipient's program, factors to be considered include:

(1) The overall size of the recipient's program with respect to number of employees, number and type of facilities, and size of budget;

(2) The type of the recipient's operation, including the composition and structure of the recipient's workforce; and

(3) The nature and cost of the accommodation needed.

§ 1151.33 Employment criteria.

A recipient may not use employment tests or criteria that discriminate against handicapped persons and shall ensure that employment tests are adapted for use by persons who have handicaps that impair sensory, manual, or speaking skills.

§ 1151.34 Preemployment inquiries.

A recipient may not, except as provided below, conduct a preemployment medical examination, make preemployment inquiry as to whether the applicant is a handicapped person, or inquire as to the nature or severity of a handicap. A recipient may, however, make preemployment inquiry into an applicant's ability to perform job-related functions.

(a) When a recipient is taking remedial action to correct the effects of past discrimination pursuant to § 1151.6(a), when a recipient is taking voluntary action to overcome the effects of conditions that resulted in limited participation in its federally assisted program or activity pursuant to § 1151.6(b), or when a recipient is taking affirmative action pursuant to section 503 of the Act, the recipient may invite applicants for employment to indicate whether and to what extent they are handicapped, provided, that:

(1) The recipient states clearly on any written questionnaire used for this purpose or makes clear orally if no written questionnaire is used that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary or affirmative action efforts; and

(2) The recipient states clearly that the information is being requested on a voluntary basis, that it will be kept confidential as provided in paragraph (d) of this section, that refusal to provide it will not subject the applicant or employee to any adverse treatment, and that it will be used only in accordance with this part.

(b) Nothing in this section shall prohibit a recipient from conditioning an offer of employment on the results of a medical examination conducted prior to the employee's entrance on duty, provided, that:

(1) All entering employees are subjected to such an examination regardless of handicap; and

(2) The results of such an examination are used only in accordance with the requirements of this part.

(c) Information obtained in accordance with this section as to the medical condition or history of the applicant shall be collected and maintained on separate forms that shall be accorded confidentiality as medical records, except that:

(1) Supervisors and managers may be informed regarding restrictions on the work or duties of handicapped persons and regarding necessary accommodations;

(2) First-aid and safety personnel may be informed, where appropriate, if the condition might require emergency treatment; and

(3) Government officials investigating compliance with the Act shall be provided relevant information upon request.

§§ 1151.35–1151.40 [Reserved]

Subpart D—Enforcement

§ 1151.41 Assurances required.

(a) An applicant for Federal financial assistance for a program or activity to which this part applies shall submit an assurance, on a form specified by the Chairman, that the program will be operated in compliance with this part. An applicant may incorporate these assurances by reference in subsequent applications to the Endowment.

(b) *Duration of obligation.* (1) In the case of Federal financial assistance ex-

tended to provide personal property, the assurance will obligate the recipient for the period during which it retains ownership or possession of the property; (2) in all other cases the assurance will obligate the recipient for the period during which Federal financial assistance is extended.

(c) *Covenants.* Where property is purchased or improved with Federal financial assistance, the recipient shall agree to include a covenant running with the property assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

§ 1151.42 Self evaluation.

(a) A recipient shall within 1 year of the effective date of this part:

(1) Evaluate, with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons, its current policies and practices and the effects thereof that do not or may not meet the requirements of this part;

(2) Modify, after consultation with interested persons, including handicapped persons or organizations representing handicapped persons, any policies and practices that do not meet the requirements of this part; and

(3) Take, after consultation with interested persons, including handicapped persons or organizations representing handicapped persons, appropriate remedial steps to eliminate the effects of any discrimination that resulted from adherence to these policies and practices.

§ 1151.43 Designation of responsible employee and adoption of grievance procedures.

A recipient may designate a person to coordinate its efforts to comply with this part. Also, a recipient may adopt an internal grievance procedure in order to provide for the prompt and equitable resolution of complaints alleging any action prohibited by this part. Such procedures need not be established with respect to complaints from applicants for employment.

§ 1151.44 Endowment enforcement and compliance procedures.

The procedural provisions applicable to title VI of the Civil Rights Act of 1964 apply to this part. These procedures are found in section 1110.8–1110.11 of part 1110 of this title.

§§ 1151.45–1151.50 [Reserved]

[FR Doc. 78-9860 Filed 4-12-78; 8:45 am]

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Rhesus Macaque; Review of Status in Bangladesh

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Review of status of Bangladesh population of Rhesus macaque.

SUMMARY: Upon petition, the Service is reviewing the status of the Bangladesh population of the Rhesus macaque monkey (*Macaca mulatta*) to determine whether this population should be proposed as an Endangered or Threatened species. The petitioner provided sufficiently substantial evidence to warrant this review. Based upon evidence obtained during the review, the Service will determine whether or not the Bangladesh population of the Rhesus macaque should be proposed as an endangered or threatened species.

DATE: Any information regarding this species should be submitted on or before June 13, 1978.

ADDRESS: Comments and information should be submitted to the Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, 202-343-4646.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On September 19, 1977, the U.S. Fish and Wildlife Service was petitioned by Mr. Ken Green, Office of Zoological Research, National Zoological Park, Washington, D.C., to list the Bangladesh population of the Rhesus macaque as an endangered species pursuant to the Endangered Species Act of 1973, 16 U.S.C. 1531-1543. Mr. Green submitted substantial evidence to warrant this review in the form of a report which he authored entitled "Primates of Bangladesh: A Preliminary Survey of Population and Habitat." The report is based on data collected in Bangladesh by Mr. Green over a 5-month period in 1976, and is available for examination in the Office of Endangered Species, 1612 K Street NW., Washington, D.C. 20240. Basically, the report indicates that forest destruction and alteration of habitat by land clearing are the most serious problems for the species; there is little indication that Bangladesh will take any action to reduce its high rate of human population growth. In addition, despite a prohibition on the export of endemic primates from Bangladesh, the report indicates that significant numbers of Rhesus monkeys have been imported from there into the United States between 1972 and 1975.

The Service is seeking data, information, and comments from all interested and knowledgeable parties relative to this review. The Service also has contacted the Government of Bangladesh in order to obtain what information is available there. The information obtained from this review will be analyzed to determine if the Bangladesh population of the Rhesus macaque should be listed as an endangered or threatened species.

This notice was prepared by John L. Paradiso, Office of Endangered Species, 202-343-7814.

NOTE.—The Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: April 6, 1978.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Services.

[FR Doc. 78-9864 Filed 4-12-78; 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.

[3410-11]

DEPARTMENT OF AGRICULTURE

Forest Service

UPPER ROCK CREEK PLANNING UNIT

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for Upper Rock Creek Planning Unit, USDA-FS-R1(09)-FES-Adm-77-6.

The environmental statement concerns a proposed action to implement a revised Land Management Plan for the Upper Rock Creek Planning Unit of the Philipsburg Ranger District, Deerlodge National Forest, Granite County, Mont. This action divides the 215,666-acre unit into 16 management areas and provides general and specific guidance for the management of each.

This final environmental statement was transmitted to EPA on April 7, 1978.

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

USDA Forest Service, South Agriculture Building, Room 3210, 12th Street and Independence Avenue SW., Washington, D.C. 20013.
USDA Forest Service, Northern Region, Federal Building, Missoula, Mont. 59807.
USDA Forest Service, Deerlodge National Forest, Federal Building, P.O. Box 400, Butte, Mont. 59701.
USDA Forest Service, Deerlodge National Forest, Phil- ipsburg Ranger District, Philipsburg, Mont. 59858.

A limited number of single copies are available upon request to Forest Supervisor, Deerlodge National Forest, Federal Building, P.O. Box 400, Butte, Mont. 59701.

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

EINAR L. ROGET,
Associate Deputy Chief.

APRIL 7, 1978.

[FR Doc. 78-9821 Filed 4-12-78; 8:45 am]

[3410-11]

WESTERN SPRUCE BUDWORM

Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Western Spruce Budworm, Boise and Payette National Forests, Idaho. The Forest Service report number is USDA-FS-FES (Adm) R4-78-2.

This environmental statement presents an evaluation of the intensive entomological investigations on the western spruce budworm over the past two years. The 3,017,600-acre project area was divided into twelve biological units and includes land of all ownership. Five alternatives for management of timber resources are presented. The selected alternative is to apply silvicultural treatment on high rate of return grand fir lands and defer chemical treatment for further consideration.

This final environmental statement was transmitted to EPA on April 5, 1978.

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

USDA, Forest Service, South Agriculture Building, Room 3210, 12th Street and Independence Avenue SW., Washington, D.C. 20013.
Regional Planning & Budget Office, USDA, Forest Service, Federal Building, Room 4120, 324-25th Street, Ogden, Utah 84401.
Forest Supervisor, Boise National Forest, 1075 Park Boulevard, Boise, Idaho 83706.
Forest Supervisor, Payette National Forest, McCall, Idaho 83638.

A limited number of single copies are available upon request to Forest Supervisor Edward C. Maw, Boise National Forest, 1075 Park Boulevard, Boise, Idaho 83706; and Forest Supervisor William E. Sendt, Payette National Forest, P.O. Box 1026, McCall, Idaho 83638.

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

Dated: April 5, 1978.

VERN HAMRE,
Regional Forester.

[FR Doc. 78-9837 Filed 4-12-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket 30226]

KODIAK-WESTERN ALASKA AIRLINES, INC.

Order To Show Cause

APRIL 6, 1978.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 6th day of April, 1978.

On August 29, 1977, Kodiak-Western Alaska Airlines, Inc. (Kodiak-Western), filed a second amendment to its petition for increased subsidy filed December 16, 1976.[1] In the amendment, Kodiak-Western requested a further increase in its subsidy mail rate. The carrier projected a need of $571,931 for the year ended December 31, 1977, to cover its expected operating losses and to pay its net interest expense.

After analyzing Kodiak-Western's filings and reports the Board increased the temporary annual subsidy rate for the six-month period ending March 31, 1978, from $188,277 to $500,235.[2] The Board also directed Kodiak-Western to carefully examine all aspects of its operations and to submit a plan for restructuring its operations so as to reduce its subsidy need.

On January 17, 1978, the carrier submitted this plan. Kodiak-Western says that it has:

1. Eliminated several aircraft of questionable suitability;
2. Developed a new schedule which eliminates approximately 2,000 departures annually;
3. Prepared to eliminate personal who are no longer needed as a result of the retrenchment in service; and
4. Filed new tariffs with the Board which would increase revenues from its passenger, property, and charter operations.

Kodiak-Western estimates that, as a result of these actions, its system operating loss will be $271,951 for the year ending March 31, 1979, using the year ended September 30, 1977, as the base period for its projections. Kodiak-Western's reported operating loss for

[1] The Board responded to this petition with Orders 77-3-136, March 23, 1977, and 77-4-9, April 4, 1977, which granted Kodiak-Western a temporary increase in annual subsidy from $129,509 to $188,277.

[2] Orders 77-9-133, September 30, 1977, and 77-10-126, October 27, 1977.

this period was $716,682. The projected operating loss represents an improvement of $223,983 over the system operating loss of $495,934 experienced for the year ended June 30, 1977 (the base year for the current temporary rate) and an improvement of $444,531 over the year ended September 30, 1977, levels.

We have examined Kodiak-Western's filing and, consistently with longstanding practice, have allocated the operating results between scheduled and non-scheduled services. (See Appendix A.) We have also made certain adjustments to the company's projections which are explained in footnotes 1 and 3 of Appendix B. After adjustment the projected breakeven need for scheduled services is $279,783. To this amount an interest expense of $39,219 was added, representing a portion of interest expense reported for the year ended September 30, 1977 ($69,061) allocated to scheduled services.

On the basis of this analysis, we tentatively conclude that the temporary subsidy rate on and after April 1, 1978 (expressed in annual amounts) for Kodiak-Western's scheduled service should be $319,002, as indicated in Appendix B. We believe that the company has made progress in reversing its financial decline. Nevertheless, we intend to carefully monitor its progress. It will not be possible to set a final rate for Kodiak-Western until it becomes clear that its financial condition has stabilized.

We, therefore, find it reasonable and in the public interest to provide Kodiak-Western with a temporary subsidy rate of $319,002 annually effective April 1, 1978.

On the basis of the foregoing, we tentatively find and conclude that the fair and reasonable temporary rate of compensation to be paid to Kodiak-Western Alaska Airlines, Inc., for the transportation of mail by aircraft, the facilities used and useful for that purpose, and for associated services between the points between which it has been, is, or may hereafter be authorized to transport mail by its certificate of public convenience and necessity, is the sum of (a) the service mail rates as heretofore and hereafter established for the carrier by order of the Board, and (b) subsidy as follows: For each calendar month on and after April 1, 1978, in which miles designated by the Postmaster General for the transportation of mail are flown, an amount determined by multiplying the appropriate rates stated in Appendix C by the scheduled subsidy-eligible aircraft-miles flown during the month, or by the appropriate monthly base aircraft-miles, whichever is lower.

The scheduled revenue aircraft-miles flown shall be computed on the basis of the direct airport-to-airport mileage [3] between the points actually served on each revenue trip operated over Kodiak-Western's authorized subsidy-eligible routes pursuant to its flight schedules filed with the Board, including all revenue trips operated as extra sections.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, particularly sections 102, 204, and 406, and the regulations promulgated in 14 CFR 302,

It is ordered that: 1. Kodiak-Western Alaska Airlines, Inc., is directed to show cause why the Board should not fix, determine, and publish the aforesaid rate as the fair and reasonable temporary rate of compensation to be paid it for the transportation of mail by aircraft, the facilities used and useful for that purpose, and for associated services over the carrier's subsidy-eligible system pending the fixing of a final rate in this proceeding;

2. Further procedures with respect to the temporary rate proposed here shall be in accordance with the Board's Rules of Practice, particularly Rule 302, et seq., and, if there is any objection to the rate specified here, notice must be filed within eight days, and, if notice is filed, written answer and supporting documents must be filed within 15 days, after the date of service of this order;

3. If notice of objection is not filed within eight days, or if notice is filed and an answer is not filed within 15 days, after service of this order, or, if an answer timely filed raises no material issue of fact, all parties shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order fixing the temporary rate specified here;

4. If notice of objection and answer are filed presenting issues for hearing, issues regarding the establishment of the fair and reasonable rate shall be limited to those specifically raised by such answer except as otherwise provided in 14 CFR, section 302.307;

5. This proceeding shall remain open pending entry of an order fixing final rates retroactive to such date as the Board may determine, which final rates may be lower or higher than the temporary rate fixed here; and

6. This order shall be served upon all parties to this proceeding. This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Secretary.

APPENDIX A.—*Kodiak-Western Alaska Airlines, Inc., allocation of year ended Sept. 30, 1977, profit and loss between scheduled and nonscheduled service categories*

	Scheduled operations	Nonscheduled operations	System operations
Revenues			
Passenger [1]	$528,591		$528,591
Mail [1]	267,971		267,971
Freight [2] [1]	139,958		139,958
Charter, other, and transport-related [2] [1]		$917,410	917,410
Total operating revenues	936,520	917,410	1,853,930
Expenses			
Flying operations [2]	497,279	445,900	943,179
Flight equipment maintenance [3]	252,638	231,711	[3] 484,349
Flight equipment depreciation [2]	49,473	52,468	101,941
Ground property maintenance [4]	10,290	4,406	[3] 14,696
Traffic and administration [5]	609,925	244,635	854,560
Ground property depreciation [6]	18,797	8,048	26,845
Amortization [2] [1]	21,411	15,559	36,970
Other [7]		108,069	108,069
Total operating expenses	1,459,813	1,110,796	2,570,609
Breakeven need	523,293	193,386	716,679
Interest expense [8]	39,219	29,842	69,061
Total temporary need	562,512	223,228	785,740

[1] Source: CAB Form 41, Schedule P-1.1, year ended Sept. 30, 1977.
[2] Source: CAB Form 41, Schedule P-5.1, quarterly, allocated by available ton-miles by aircraft type.
[3] Includes application of underapplied maintenance burden from schedule P-6.
[4] Source: CAB Form 41, Schedule P-6, quarterly, allocated by departures.
[5] Source: CAB Form 41, Schedule P-6, quarterly, allocated on the same basis as in appendix A of order 77-9-133.
[6] Source: CAB Form 41, Schedule P-3, allocated by departures.
[7] Source: CAB Form 41, Schedule P-3. Recertification costs allocated to scheduled, M-404 costs allocated to non-scheduled, amortization of capital leases allocated by 0-300HP aircraft available ton-miles for quarters ended June 30 and September 30, 1977.
[8] Source: CAB Form 41, Schedule P-1.1, year ended September 30, 1977. Interest on long-term debt and capital leases added to other interest expense, allocated by the ratios of scheduled expenses and nonscheduled expenses, respectively, to system expenses.

[3] 14 CFR 247.1.

APPENDIX B.—*Kodiak-Western Alaska Airlines, Inc., computation of temporary subsidy rate based on year ended Sept. 30, 1977*

	Projected scheduled operations	Traffic and administration reductions [1]	Payroll reductions [2]	Schedule reductions [3]	Tariff changes [4]	Scheduled operations year ended Sept. 30, 1977
Revenues:						
Passenger	$624,896	$	$	$	$96,305	$528,591
Mail	267,971					267,971
Freight	153,953				13,995	139,958
Total operating revenues	1,046,820					936,520
Expenses:						
Flying operations	488,612		5,838	(14,503)		497,279
Flight equipment maintenance	191,616		(56,989)	(4,033)		252,638
Flight equipment depreciation	49,473					49,473
Ground property maintenance	10,290					10,290
Traffic and administration	546,404	(28,000)	(35,521)			609,925
Ground property depreciation	18,797					18,797
Amortization	21,411					21,411
Total operating expenses	1,326,603					1,459,813
Breakeven need	279,783					523,293
Interest expense	39,219					39,219
Total temporary need	319,002					562,512
Temporary subsidy rate	319,002					

[1]Representatives of Kodiak-Western have indicated to the staff that they have dispensed with the services of a consultant who, according to the Board's auditors, was receiving fees totaling approximately $28,000 annually. This amount is allocated entirely to scheduled operations.

[2]Source: Kodiak-Western's report to the Board of Jan. 17, 1978, appendix G, p. 1, allocated by available ton-miles.

[3]Computed from Kodiak-Western's report to the Board of Jan. 17, 1978, and from Kodiak-Western's form 41 reports. On the basis of our examination of appendix E, we tentatively conclude that to be consistent with other schedule changes there should be an additional 300 departures included (associated with Dillingham). We are considering, to the fullest practical extent, only savings in variable costs (flying operations expenses less rentals, plus direct maintenance expense) associated with the aircraft types which Kodiak-Western will actually be operating.

[4]Source: Kodiak-Western's report to the Board of Jan. 17, 1978, appendix G, p.1.

APPENDIX C.—*Computation of Kodiak-Western Alaska Airlines' rate per subsidy-eligible mile flown*

Month	Monthly subsidy rate	Daily base mileage	Subsidy-eligible aircraft miles	Subsidy rate per aircraft mile
April	$31,724	800	24,000	$1.3218333
May	21,498	1,000	31,000	0.6934839
June	20,805	1,000	30,000	0.6935000
July	21,498	1,000	31,000	0.6934839
August	21,498	1,000	31,000	0.6934839
September	20,805	1,000	30,000	0.6935000
October	21,498	1,000	31,000	0.6934839
November	31,724	800	24,000	1.3218333
December	32,781	800	24,800	1.3218145
January	32,781	800	24,800	1.3218145
February	29,609	800	22,400	1.3218304
March	32,781	800	24,800	1.3218145

[FR Doc. 78-9747 Filed 4-12-78; 8:45 am]

[6320-01]

[Dockets 28251; 32381]

HUGHES AIR CORP. ET AL.

Order Instituting Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 7th day of April, 1978.

Application of Hughes Air Corp. d.b.a., Hughes Airwest, for amendment of its certificate of Public Convenience and Necessity for Route 76F to authorize nonstop service between Spokane, Wash, and Vancouver, British Columbia, Canada, Docket 28251 and the Spokane-Vancouver Route Proceeding, Docket 32381.

On September 2, 1975, Hughes Airwest filed an application for nonstop Spokane-Vancouver authority.[1] On July 6, 1976, Airwest filed a motion in support of its application. In response to an answer of Western Air Lines, Airwest filed a motion to defer action on its motion for hearing and then filed an amended motion for hearing on August 26. On March 23, 1977, Airwest filed a motion for expedited determination of its application and motion for hearing.

By Order 77-4-115, April 22, 1977, we denied the motions of Airwest for hearing on this application.[2] We deter-

[1]The U.S. is authorized to designate an air carrier to serve this route by the Air Transport Agreement Between the United States and Canada, as amended, effective May 8, 1974. The route is a U.S.-flag monopoly.

[2]An application by Western for Spokane-Vancouver authority in Docket 29114 was dismissed by Order 76-8-5, August 2, 1976.

mined that, since the 1975 O&D traffic in the market was only 3,960 passengers, neither the needs of the market nor the maintenance of U.S.-Flag position in it justified an immediate hearing. In making this determination we cited the Board's limited hearing resources.

Both Airwest and the Spokane Parties[3] have petitioned for reconsideration of Order 77-4-115. They argue that our focus on the size of the local market ignores the benefits of the proposed service to travellers with destinations beyond gateway points; that Airwest's propsoal would offer first air service in the market and would be profitable; and that the designation of the route as exclusively for U.S. carriers should not prejudice the Board against Airwest's application.

By Order 77-8-95, August 19, 1977, we deferred disposition of these two petitions. Subsequently, Frontier Airlines filed a petition for lease to intervene, alleging that, should the Board grant it the Spokane authority for which it has applied in Docket 21448, it would be in a position to apply for the Spokane-Vancouver route as well.[4]

In view of recent improvements in our hearing capacity, we have decided to institute the *Spokane-Vancouver Route Proceeding*, Docket 32381, to consider the need for first nonstop authority in the Spokane-Vancouver market.

In accordance with the policy announced in our order instituting the *Chicago-Albany/Syracuse-Boston Competitive Service Investigation*, Order 77-12-50, the offer or failure to offer lower prices will be taken into account in determining whether the public convenience and necessity require the award of new authority, and, if so, which carrier[5] should be selected. We therefore expect the instituted case to include an examination of the need for and feasibility of various new price/quality options and related issues, as we explained in Order 77-12-50. We repeat, however, that traditional service benefits, including the benefits of city-pair competition, are important issues which will be weighed with price and price/quality considerations. Moreover, as more fully set out in Order 77-12-50, the parties and the judge should focus on whether any new authority should be permissive.

Accordingly, *It is ordered*, That:

1. The petitions for reconsideration of Order 77-4-115 filed by Hughes Airwest and the Spokane Parties be granted;

2. The motion for hearing of Hughes Airwest in Docket 28251 be granted;

3. The Spokane-Vancouver Route Proceeding, Docket 32381 be instituted under section 204 of the Act and set for hearing before an administrative law judge of the Board at a time and place to be designated later;

4. This investigation shall consider whether the public convenience and necessity require that nonstop authority be granted in the Spokane-Vancouver market; if so, which air carrier should be authorized; and whether this authority should be subject to any terms, conditions or limitations;

5. Any authority awarded in this investigation shall be ineligible for subsidy;

6. The application of Hughes Airwest in Docket 28251 be consolidated into the proceeding instituted by paragraph 3, above;

7. The petition for leave to intervene of Frontier Airlines be granted;

8. Frontier Airlines, Hughes Airwest, the City of Spokane, Spokane County and the Spokane Area Chamber of Commerce be made parties to this proceeding;

9. Applications, amendments to applications, motions to consolidate, and petitions for reconsideration of this order shall be filed within 20 days from the date of service of this order and answers shall be filed within 10 days thereafter;[6]

10. Hughes Airwest and all other carriers filing applications that they seek to have consolidated in the investigation instituted by paragraph 3 above shall file environmental evaluations pursuant to § 312.12 of the Board's regulations within 30 days of the date of service of this order.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-9891 Filed 4-12-78; 8:45 am]

[3]The City of Spokane, Spokane County and The Spokane Area Chamber of Commerce.

[4]Frontier was awarded Denver-Spokane authority, via Billings and Missoula, by Order 78-2-116, February 23, 1978. We will grant its petition.

[5]The bilateral allows only one carrier to be designated over this route.

[6]We delegate to the presiding Administrative Law Judge the authority to consolidate by order any new applications which conform to the scope of this proceeding.

[6320-01]

[Docket 32097]

PITTSBURGH/ORLANDO/DAYTONA BEACH 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 May 11, 1978, at 10 a.m. (local time) in the Conference Room, Lobby Floor, International Inn, 313 South Atlantic Avenue, Daytona Beach, Fla., before the undersigned.

For details of the issues involved in this proceeding, interested persons are referred to the Prehearing Conference Report, served on March 15, 1978, 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., April 7, 1978.

NAHUM LITT,
Chief Administrative Law Judge.

[FR Doc. 78-9889 Filed 4-12-78; 8:45 am]

[6320-01]

[Order 78-4-22; Dockets 31923; 31924]

SOUTHERN AIRWAYS INC.

Order to Show Cause and Granting Temporary Exemption

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 6th day of April 1978.

Application of Southern Airways, Inc., for amendment of its certificate of public convenience and necessity for Route 98, Docket 31923 and application of Southern Airways, Inc., for an exemption under section 416(b) of the Federal Aviation Act of 1958, as amended.

On December 28, 1977, Southern Airways filed an application accompanied by a petition for show-cause to amend its certificate for Route 98 to authorize it to overfly Charlotte, N.C., after providing the city with one daily round trip.[1] It also filed an application seeking an exemption for the same overflight authority to be effective immediately and to continue in effect until 60 days after final Board action on its certificate amendment request.

In support of its request, Southern states that, since Charlotte is an intermediate point on segment 1 of its Route 98, it is required to provide the city with two round-trip flights before overflying it. It asserts that Charlotte is receiving substantial air service from Delta Air Lines, Eastern Air Lines, Piedmont Aviation, and United Air Lines. It contends that because of Charlotte's geographic location it can serve the point only on circuitous flights and in a relatively few markets, most of which are being served by other carriers on a nonstop basis. It argues further that although elimination of the one round-trip flight at Charlotte would result in a decrease in its Charlotte-Greenville/Spartanburg and Charlotte-Atlanta service, sufficient multi-carrier service would continue in both markets. Gigven its low traffic levels at Charlotte, Southern

[1]Condition (4) of Southern's certificate for Route 98 permits the carrier to omit service to a point after scheduling two daily round trips on any segment.

alleges that the second flight at the point, which is costing it $123,000 annually, is not justified. Finally, Southern notes that since it receives no subsidy for operations over the Charlotte-Greenville/Spartanburg segment, grant of the requested relief would not affect the government's subsidy payment. Southern claims that grant of the requested amendment will enable it to operate a round-trip Charleston-Columbia-Greenville/Spartanburg-Memphis-St. Louis flight.

No answers have been filed.

We have decided (1) to issue an order to show cause why Southern's certificate for Route 98 should not be amended under section 401(g) so as to permit it to overfly Charlotte, N.C., after providing one daily round trip rather than two, and (2) to grant the exemption request pending completion request pending completion of the certificate procedures.

We tentatively conclude that the proposed amendment to Southern's certificate is required by the public convenience and necessity.[2] In support of our ultimate determination, we make the following tentative findings and conclusions.

Amendment of Southern's certificate to permit it to overfly Charlotte after providing the point with one daily round trip will better enable the carrier to adjust its service levels and patterns to meet the traffic demand at Charlotte and thereby achieve more economic operations.[3] Moreover, since there is alternative service in all of the major Charlotte markets which Southern is authorized to serve,[4] the proposed certificate amendment will not adversely affect the traveling public. Furthermore, amendment of the certificate will permit Southern to provide additional service to other points on its system without having to make additional uneconomic stops at Charlotte.

Interested persons will be given 30 days following the date of this order to show cause why the tentative findings and conclusions set forth above should not be made final. We expect such persons to support their objections, if any, with detailed answers, specifically setting forth the tentative findings and conclusions to which objections are taken. Such objections should be accompanied by arguments of fact or law and should be supported by legal precedent or detailed economic analysis. If an evidentiary hearing is requested, the objector should state in detail what he would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.

We also find, on the basis of the findings made above, that it would be in the public interest to exempt Southern from the terms and limitations of its certificate so as to authorize it to overfly Charlotte after providing the point with one daily round trip pending final action on its certificate amendment application in Docket 31923. We further find that the carrier's operations are affected by unusual circumstances arising from the geographic location of the point on its system and the limitation on its Charlotte authority resulting from its route structure. Accordingly, we find that enforcement of section 401 of the Act and the terms, conditions and limitations of Southern's certificate for Route 98, to the extent that they would otherwise prevent Southern from overflying Charlotte after providing one daily round trip, would be an undue burden on it by reason of the limited extent of, and unusual circumstances affecting, its operations in this instance and is not in the public interest.[5]

According, *It is ordered*, That:

1. All interested persons be directed to shown cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending the certificate of public convenience and necessity of Southern Airways, Inc., for Route 98 so as to permit the carrier to overfly Charlotte, N.C., after providing one daily round trip;

2. Any interest person having objections to the issuance of an order making final any of the proposed findings, conclusions, or the certificate amendment set forth in this order shall, within 30 days after the date of adoption, file with the Board and serve upon all persons listed in paragraph 7, a statement of objections together with a summary of testimony, statistical data and other evidence expected to be relied upon to support the stated objections; answers to objections shall be filed within 10 days of such date; [6]

3. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board;

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth in this order;

5. Southern Airways, Inc., be exempted temporarily from the provisions of section 401 of the Act and the terms, conditions, and limitations of its certificate of public convenience and necessity for Route 98 to the extent necessary to permit it to overfly Charlotte, N.C., after providing the point with one daily round trip;

6. The authority granted in paragraph 5 shall be effective on the date of this order and shall continue in effect until 60 days after final decision in Docket 31924;

7. A copy of this order will be served upon Delta Air Lines, Inc.; Eastern Air Lines, Inc.; Piedmont Aviation, Inc.; United Air Lines, Inc.; Mayor of Charlotte, N.C.; Airport Manager, Douglas Municipal Airport; North Carolina Department of Transportation; Governor, State of North Carolina; and the Postmaster General; and

8. The exemption authority granted in this order may be amended or revoked at any time in the discretion of the Board without hearing.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-9890 Filed 4-12-78; 8:45 am]

[2] We further find that Southern is a citizen of the United States within the meaning of the Act and is fit, willing, and able to perform properly the transportation under the amended certificate proposed and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

[3] Southern is incurring approximately $150,000 annually in aircraft operating expenses by providing a second daily round-trip flight at Charlotte, and yet the carrier averaged only 8 enplanements per flight at that point during 1976.

[4] In the Charlotte-Greenville/Spartanburg and Charlotte-Atlanta markets, where Southern will be reducing service, there will still be seven daily nonstop round trips and fourteen daily nonstop round trips by other carriers, respectively.

[5] We find that grant of the exemption authority will result in a reduction in the level of service by the carrier and will not result in a significant impact on the quality of the human environment.

[6] All motions and/or petitions for reconsideration shall be filed within the period allowed for filling objections and no further such motions, requests, or petitions for reconsideration of this order will be entertained.

[6335-01]

CIVIL RIGHTS COMMISSION

REGIONAL ADVISORY COMMITTEE

Correction

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a conference of the Washington, Alaska, Oregon, and Idaho Advisory Committees (SAC) of the Commission in (FR Doc. 78-8703) on page 13912 should have been listed in the FEDERAL REGISTER instead of Washington, Arkansas, Oregon, and Idaho.

The meeting place will remain the same, as for the date also.

Dated at Washington, D.C., April 10, 1978.

JOHN I. BINKLEY,
Advisory Committee Management, Officer.

[FR Doc. 78-9807 Filed 4-12-78; 8:45 am]

[6335-01]

INDIANA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Indiana Advisory Committee (SAC) of the Commission will convene at 7 p.m. and will end at 9 p.m. on April 30, 1978, at the Holiday Inn, North, 5601 State Road, Lafayette, Ind. 47906.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Ill. 60604.

The purpose of this meeting is to recharter report on Regional Conference, discuss Insurance Redlining Project and other pending projects.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., April 10, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-9808 Filed 4-12-78; 8:45 am]

[3510-25]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

MASSACHUSETTS INSTITUTE OF TECHNOLOGY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00058. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, Mass. 02139. Article: Particle and Droplet Size Distribution Analyzer Type ST1800 and accessories. Manufacturer: Malvern Instruments Ltd., United Kingdom. Intended use of article: The article is intended to be used to measure the droplet and particle size distribution both under burning and nonburning conditions in a research study on "reduction of Pollutant Formation in Coal Particle and Liquid Fuel Spray Flames." The overall objective of this research is to study the combustion of solid and liquid fuels with particular emphasis on No_x, particulate and heterocyclic hydrocarbon emission. This research involves the following parallel and sequential investigations: (1) Experiments with pulvertized coal particles and monosize droplet streams in high temperature laminar flow furnaces to determine the time resolved, evolution and chemical transformation of fuel-N compounds; (2) Monosize droplet stream pyrolysis and combustion studies in which optical diagnostics will be used to determine the temperature distribution around the reacting droplets in a quartz tube reactor; (3) Spray pyrolysis studies simulating conditions in the first stage of stage combustion systems in which the fuel N evolution, the reactions of nitrogenous compounds and those leading to the formation of carbonaceous solids will be studied in fuel rich environments.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides burning or non-burning distribution capability and a particle size range of one to 500 microns. The National Bureau of Standards advises in its memorandum dated March 9, 1978 that (1) the specification of the article described above is pertinent to the applicant's intended purposes and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-9804 Filed 4-12-78; 8:45 am]

[3510-25]

CHEMICAL INDUSTRY INSTITUTE OF TOXICOLOGY

Notice of Consolidated Decision on Applications for Duty-Free Entry of Cryo-Microtomes

The following is a consolidated decision on applications for duty-free entry of cryo-microtomes pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially § 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 78-00060. Applicant: Chemical Industry Institute of Toxicology, 3800 Electronics Drive, Raleigh, N.C. 27604. Article: LKB 2250-041/PMV Cryo Microtome, Type 450 MP and Accessories. Manufacturer: PMV, Palmstiernas Mekaniska Verkstad AB, Sweden. Intended use of article: The article is intended to be used for investigations of autoradiographic drug and chemical distribution of whole animals as well as fetal distribution of teratogenic compounds; histochemical studies of hormone and enzyme localization in cells and tissues of large specimens; metabolism studies of drugs and toxic or carcinogenic environmental agents; gross morphology and light microscopy examination of whole human organs and animals to measure tumor metastasis. Application received by Commissioner of Customs January 4, 1978. Advice submitted by the Department of Health, Education, and Welfare on March 2, 1978. Article ordered December 5, 1977.

Docket No. 78-00069. Applicant: Veterans Administration Hospital, 1310 24th Avenue South, Nashville, Tenn. 37203. Article: PMV Cryo Microtome, type 450 MP and Accessories. Manufacturer: PMV Palmstiernas, Sweden. Intended use of article: The article is intended to be used for investigations of autoradiographic drug and chemical distribution studies of whole animals as well as fetal distribution studies of teratogenic compounds; histochemical studies of hormone and enzyme localization in cells and tissues of large specimens; metabolism studies of drugs and toxic or carcinogenic environmental agents; gross morphology and light microscopy examination of whole human organs and animals to measure tumor metastasis. Application received by Commissioner of Customs November 30, 1977. Advice submitted by the Department of Health, Education, and Welfare on March 2, 1978. Article ordered November 2, 1977.

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

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

Reasons: Each foreign article provides capabilities for uniform cryo-sectioning of hard and soft tissue as large as 150 x 450 millimeters in the range of one to 999 microns. The Department of Health, Education, and Welfare advises in its respectively cited memoranda that (1) the capabilities described above are pertinent to the purposes for which each of the articles is intended to be used and (2) it knows of no domestic instrument or apparatus which provides the pertinent features of each foreign article.

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

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-9805 Filed 4-12-78; 8:45 am]

[3510-25]

DEPARTMENT OF ENERGY—RICHLAND, WASH.

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 310).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No.: 78-00064. Applicant: Department of Energy, P.O. Box 550, Richland, Wash. 99352. Article: 3 (Three) Radiation Calorimeters. Manufacturer: Whiteshell Nuclear Research Establishment, Canada. Intended use of article: The article is intended to be used for measurements of the radiation heating rate due to gamma rays and neutrons in the Fast Flux Test Facility Nuclear Reactor using signals from wires included with the calorimeter over approximately a year's duration. The experiments will be conducted to characterize the radiation environment within the Fast Test Reactor using a variety of supplementary methods.

Comments: No comments have been received with respect ot this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides the capability of withstanding submission in liquid sodium at 750° Fahrenheit (~400° centigrade). The National Bureau of Standards advises in its memorandum dated March 6, 1978 that (1) the capability of the article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-9806 Filed 4-12-78; 8:45 am]

[3510-25]

MICROCIRCUIT SUBCOMMITTEE OF THE SEMICONDUCTOR TECHNICAL ADVISORY COMMITTEE

Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Microcircuit Subcommittee of the Semiconductor Technical Advisory Committee will be held on Wednesday, May 3, 1978, at 9:30 a.m. in Room 1851, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Semiconductor Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Microcircuit Subcommittee was established on December 28, 1977, with the approval of the Assistant Secretary for Industry and Trade, pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to semiconductor products, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Microcircuit Subcommittee was formed to study microcircuit devices with the goal of making recommendations to the Department of Commerce relating to the appropriate parameters for controlling exports for reasons of national security.

The Subcommittee will meet only in Executive Session to discuss matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

Written statements may be submitted at any time before or after the meeting.

The Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Subcommittee during the meeting have been properly classified under Executive Order 11652. All Subcommittee members have appropriate security clearances.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone A/C 202-377-4196.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Semiconductor Technical Advisory Committee and of any subcommittees thereof was published in the FEDERAL REGISTER on March 2, 1977 (42 FR 12078).

Dated: April 10, 1978.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 78-9900 Filed 4-12-78; 8:45 am]

[3510-25]

COMPUTER PERIPHERALS, COMPONENTS AND RELATED TEST EQUIPMENT TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee will be held on Wednesday, May 3, 1978, at 9:30 a.m. in Room 5230, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. The meeting will continue May 4, in Room 6802, Main Commerce Building to its conclusion.

The Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404 (c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer peripherals, components and related test equipment, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee meeting agenda has six parts:

GENERAL SESSION

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Review of membership status and suggestion for new members.
4. Discussion of the list of critical technologies developed by the Department of Defense which are applicable to the Committee's scope of interest.
5. New business.
6. Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be presented at any time before or after the meeting.

With respect to agenda item (6), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under Executive Order 11652. All Committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Room 3012, Industry and Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-4196.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on February 8, 1977 (42 FR 7978).

Dated: April 10, 1978.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 78-9901 Filed 4-12-78; 8:45 am]

[3510-13]

National Bureau of Standards

ADVISORY COMMITTEE FOR INTERNATIONAL LEGAL METROLOGY

Open Meeting

The Advisory Committee for International Legal Metrology will meet from 9 a.m. to 5 p.m. on Tuesday, May 23, 1978, and from 9 a.m. to 5 p.m. on Wednesday, May 24, 1978. The meeting will be held in Lecture Room A, Administration Building, National Bureau of Standards, Gaithersburg, Md.

The Committee was established in March 1974 (39 FR 6136, Feb. 19, 1974), and last renewed in March 1978 (43 FR 13420, Mar. 30, 1978), to advise the Department through the Director, National Bureau of Standards (NBS), on technical and policy matters relating to NBS's assigned general responsibilities for the development of U.S. positions on technical issues arising in the International Organization of Legal Metrology (OIML). The Committee consists of approximately 40 members selected to ensure balanced representation among government, professional metrologists, national standards bodies, industry and trade associations, and consumers.

The agenda for the Committee meeting will include the following discussion items:

(1) Problem of quorum and voting procedures during meetings of the OIML International Conference and International committee;

(2) OIML Pilot and Reporting Secretariats:

(a) Approval of the withdrawal of some Reporting Secretariats;

(b) Establishment of some Reporting Secretariats and the allocation of responsibilities;

(c) Allocation of responsibility for some currently existing Reporting Secretariats;

(d) Approval of the work plan for OIML Pilot Secretariat 5, "Measurement of Volumes of Liquids," creation of new Reporting Secretariats, and allocation of responsibilities;

(e) Final approval of the work plan for OIML Pilot Secretariat 26, "Measuring Instruments Used in the Field of Public Health";

(f) Establishment of a new OIML Pilot Secretariat on "Teaching of Metrology";

(3) Revision of Recommendations adopted by the 3rd OIML International Conference in 1968;

Establishment of Developing Countries Council.

The meeting will be open to public observation; and a period will be set aside for oral comments or questions by the public which do not exceed ten minutes each. More extensive questions or comments should be submitted in writing before May 16. Other public statements regarding committee affairs may be submitted at any time before or after the meeting. Ap-

proximately 20 seats will be available for the public on a first-come first-served basis.

Copies of the minutes will be available on request 30 days after the meeting.

Inquiries may be addressed to the Committee Control Officer, Mr. David Edgerly, Office of International Standards, National Bureau of Standards, Washington, D.C. 20234, telephone 301-921-3662.

Dated: April 10, 1978.

ERNEST AMBLER,
Director,
National Bureau of Standards.

[FR Doc. 78-9819 Filed 4-12-78; 8:45 am]

[3510-22]

National Oceanic and Atmospheric Administration

TRAWL FISHERY OF THE GULF OF ALASKA

Revision to Preliminary Fishery Management Plan

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Revision to preliminary fishery management plan.

SUMMARY: This notice revises "Trawl Fisheries of the Gulf of Alaska", a preliminary fishery management plan originally published on February 11, 1977. The plan proposed conservation and management measures for foreign trawl fisheries in the Gulf of Alaska. The action provides for a directed foreign fishery for Pacific cod by longline gear under specific conditions.

EFFECTIVE DATE: April 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Harry L. Rietze, Regional Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, Telephone: 907-586-7221.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On February 11, 1977, a preliminary fishery management plan (PMP) entitled "Trawl Fishery of the Gulf of Alaska" was published by the Secretary of Commerce (42 FR 8782) to provide proposed conservation and management measures for foreign trawl fisheries in the Gulf of Alaska pursuant to section 201(g) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et. seq.). The PMP was implemented by foreign fishing regulations for 1977 (42 FR 8813) and for 1978 (42 FR 60682). The latter action also amended the PMP by, among other things, providing for a preliminary optimum yield of 40,600 metric tons of Pacific cod and an initial foreign fishing allocation of 16,980 metric tons of Pacific cod.

The North Pacific Fishery Management Council, in preparing its fishery management plan "Gulf of Alaska Groundfish Fishery during 1978" (FMP), recommended that a directed foreign fishery for Pacific cod be permitted only by longline gear in the area landward of the 500 meter depth contour and west of 157° W. longitude. The Council further recommended that such foreign longline fishing for Pacific cod be prohibited during the halibut season as established by the International Pacific Halibut Commission. The Secretary is presently reviewing the FMP. Representatives of the Japanese fishing industry have requested that longline fishing for Pacific cod be permitted as soon as possible in view of this specific recommendation of the North Pacific Fishery Management Council.

The Acting Assistant Administrator for Fisheries, under a delegation of authority from the Secretary, has determined that amendments to the PMP specifically relating to a directed Pacific cod fishery in the Gulf of Alaska are necessary and appropriate to the interest of conserving and managing the Pacific cod resource.

PURPOSE

The PMP was designed for foreign trawl fisheries harvesting mixed species of bottomfish, e.g., rockfishes, pollock. Pacific cod are taken incidentally while fishing primarily for other species. The purpose of the amendment is to provide that Pacific cod allocated to foreign nations may also be taken by fishing specifically for Pacific cod with longline gear landward of the 500 meter depth contour. Pacific cod are known to be more abundant in areas shallower than 500 meters.

Minimizing both potential adverse impacts upon the fishery resources associated with Pacific cod, e.g., halibut, and potential gear conflicts between domestic and foreign longline fishermen are important considerations. The use of hook and line gear only is expected to reduce the mortality of prohibited species to an acceptable level. The prohibition of foreign longlining in this area during the annual halibut seasons is designed to prevent gear conflict between U.S. halibut fishermen and foreign longliners.

IMPACT

This action involves no change in the preliminary optimum yield of Pacific cod nor increase in the total allowable level of foreign fishing upon that species in the Gulf of Alaska. It provides that foreign longline fisheries may harvest, as well as foreign trawl fisheries, the amount of Pacific cod already made available to foreign nations as a surplus. No significant adverse impact is anticipated to the groundfish resource or to domestic fishermen. This action is consistent with the fishery management policy for the Gulf of Alaska with regard to allowable foreign fishing expressed in section 8.5.A. of the PMP.

NEED FOR EFFECTIVE DATE

It is in the public interest to assist foreign fishermen to take fishery resources which have been allocated to foreign nations in accordance with the Act. It is considered impractical and contrary to the public interest to provide advance notice of this revision to the PMP. This revision is made effective April 10, 1978.

The Acting Deputy Assistant Administrator for Fisheries has approved this document pursuant to delegations of authority from the Secretary of Commerce.

Dated: April 7, 1978.

ROBERT W. SCHONING,
Acting Deputy Assistant Administrator for Fisheries National Marine Fisheries Service.

The preliminary fishery management plan is revised as follows:

1. Section 5.A. is revised by adding a new subparagraph as follows:

"(3) *Restrictions on foreign longlining.* (a) The area landward of the 500 meter depth contour shall be closed to foreign longlining except that a directed longline fishery for Pacific cod may be conducted landward of the 500 meter depth contour west of 157° W. Longitude.

(b) Any prohibited species caught while fishing in the area described in this subsection shall be immediately returned to the sea.

(c) The area landward of the 500 meter depth contour shall be closed to foreign longlining from 24 hours prior to 24 hours after the annual halibut seasons as established by the International Pacific Halibut Commission.

(d) No foreign fishing vessel may fish between three and twelve nautical miles from the baseline used to measure the territorial sea except between 169° W. longitude and 170° W. longitude.

(e) No foreign fishing vessel may fish for Pacific cod in the area described in this subsection with any longline gear except setlines (hook and line).

2. Section 9.B. is revised by deleting the subsection entitled "Open Season" and substituting the following: "Open Season. The season for foreign trawl fisheries in the Gulf of Alaska shall be consistent with the time-area closures in section 5.O."

3. Section 9.B. is revised by deleting ther subsection entitled "Gear restrictions" and substituting the following: "Gear restrictions. There are no spe-

cific trawl gear restrictions in the regulatory area under this subpart.

Restrictions on foreign longline fishery. Fishing for Pacific cod with longline gear shall be consistent with the restrictions in section 5.A.(3)."

4. Section 9.B. is revised by deleting the subsection entitled "Statistical reporting" and substituting the following: "Statistical reporting. (a) *Annual.* Each nation whose fishermen operate in the Region shall report by May 30 of the following year—annual catch and effort statistics as follows:

(1) *Trawl fisheries.* Effort in hours trawled, by vessel class, by gear type, by month, by ½° (lat.) x 1° (long.) statistical area; catch in metric tons, by vessel class, by gear type, by month, by ½° (lat.) x 1° (long.) statistical area, by the following species groupings:

Rock sole, flathead sole, arrowtooth flounder, other flounders, Pacific ocean perch, other rockfish, Pacific cod, sablefish (blackcod), walleye (Alaska) pollock, Atka mackerel, any other species taken in excess of 1,000 mt, other fishes.

(2) *Longline fisheries.* Effort in number of longline units, number of hooks per unit, duration of "soaking time" per set for longlines, number of sets, by month, by ½° (Lat.) x 1° (Long.) statistical area; catch by species in metric tons to the nearest .1 metric ton, by month, by ½° (Lat.) x 1° (Long.) statistical area."

[FR Doc. 78-9780 Filed 4-12-78; 8:45 am]

[3510-17]

Office of the Secretary

[Dept. Organization Order 10-8, Amdt. 3]

ASSISTANT SECRETARY FOR MARITIME AFFAIRS

Statement of Organization, Functions and Delegation of Authority

This order effective March 21, 1978 further amends the material appearing at 38 FR 19707 of July 23, 1973, 41 FR 41128 of September 21, 1976, 41 FR 43753 of October 4, 1976 and 43 FR 3603 of January 26, 1978.

Department Organization Order 10-8, dated July 5, 1973, is hereby further amended as shown below. The purpose of this amendment is to delegate to the Under Secretary the Secretary's authority to review actions taken by the Maritime Subsidy Board.

1. In SECTION 7. *Review and Finality of Actions by Maritime Subsidy Board,* in pen and ink, add the word "Under" in front of the word "Secretary" whenever it appears in this section.

2. Effective with the issuance of this amendment, all Department Orders, rules, notices, or other documents making reference to the authorities and procedures set forth in section 7. Of DOO 10-8 are hereby constructively amended to the same effect.

Effective date: March 21, 1978.

ELSA A. PORTER,
Assistant Secretary for Administration.

[FR Doc. 78-9868 Filed 4-12-78; 8:45 am]

[3510-17]

[Dept. Organization Order 35-1B, Amdt. 4]

BUREAU OF ECONOMIC ANALYSIS

Statement of Organization, Functions and Delegation of Authority

This order effective February 14, 1978 further amends the material appearing at 40 FR 58878 of December 19, 1975, 42 FR 1064 of January 5, 1977, 42 FR 60946 of November 30, 1977 and 43 FR 785 of January 4, 1978.

Department Organization Order 35-1B, dated October 24, 1975, is hereby further amended as shown below. The purpose of this amendment is to: (1) Transfer the functions of the Information Services Division to the Current Business Analysis Division and have that Division report to the Director, BEA, and (2) abolish the Information Services Division.

1. In SECTION 5. *Associate Director for National Analysis and Projections,* in pen and ink, delete paragraph .02 and renumber paragraphs .03 and .04 as .02 and .03, respectively.

2. In SECTION 8. *Support Divisions,* paragraph .03 is revised to read as follows:

".03 The *Current Business Analysis Division* shall prepare interpretations of the current business situation for publication in the *Survey of Current Business;* conduct analyses of short-term, cyclical, and long-term developments in business activity; participation in the planning of, and edit and review, all materials to be published in the Survey of Current Business and other publications of the Bureau; prepare for publication in the *Survey* a detailed and comprehensive set of data designed for use in the evaluation of the business situation; conduct all public information activities, including the preparation of nontechnical explanations of the substance of the Bureau's work; provide publication services in cooperation with Departmental offices, including research in the technologies of preparing manuscripts and data for publication; and provide reference services, including the maintenance of the Bureau's reference facility and coordination of the Bureau's functions under the Freedom of Information Act."

3. The organization chart, Exhibit 1, attached to this amendment supersedes the organization chart dated December 7, 1977. A copy of the organization chart is attached to the original of this document on file with the office of the Federal Register.

Effective date: February 14, 1978.

ELSA A. PORTER
Assistant Secretary for Administration.

Approved:

GUY W. CHAMBERLIN, JR.,
Assistant Secretary for Administration.

[FR Doc. 78-9873 Filed 4-12-78; 8:45 am]

[3510-17]

[Dept. Organization Order 30-2B]

NATIONAL BUREAU OF STANDARDS

Statement of Organization, Functions and Delegation of Authority

This order effective March 8, 1978 supersedes the material appearing at 41 FR 36058 of August 26, 1976 and 42 FR 16651 of March 29, 1977.

SEC. 1. *Purpose.* .01 This order prescribes the organization and assignment of functions within the National Bureau of Standards (NBS). The scope of authority and functions are set forth in Department Organization Order 30-2A.

.02 This revision effects a major reorganization which (1) establishes centers as second level components (Section 6.), (2) establishes laboratories as major line components (Sections 7., 8., and 10.), and (3) abolishes the Institutes (except Institute for Computer Sciences and Technology) (Section 11.).

SEC. 2. *Organization.* The organization structure and line of authority of NBS shall be as depicted in the attached organization chart (Exhibit 1). A copy of the organization chart is on file with the original of this document on file in the Office of the Federal Register.

SEC. 3. *Office of the Director.* .01 The Director shall determine the policies of NBS and direct the development and execution of its programs.

.02 The Deputy Director shall assist the Director in the direction of NBS and perform the functions of the Director in the latter's absence.

SEC. 4. *Staff Functions Reporting to the Director.* .01 The Legal Adviser shall, under the professional supervision of the Department's General Counsel and as provided in Department Organization Order 10-6, serve as the law office of, and have responsibility for all legal services at NBS.

.02 The EEO Program Coordinator shall prepare, develop, and monitor the Bureau's EEO Affirmative Action Plan and advise the Director and Personnel Officer of progress; develop policy recommendations for the Director on EEO issues having Bureauwide applications; assist MOU/EEO Coordinators in developing and implementing affirmative action in their MOU's; assist the Personnel Division in EEO

program development to insure adequate minority and female representation; serve as a liaison with women and minority organizations; and coordinate NBS/EEO reports to the Department and Civil Service Commission.

.03 The Public Affairs Officer shall serve as the public information spokesman for the National Bureau of Standards, report to the Director of NBS, and work with the NBS Executive Board in developing communications strategies for the Bureau and use the information resources of the Public Information Division in implementing those strategies.

SEC. 5. *Associate Director for Programs, Budget, and Finance.* The Associate Director for Programs, Budget, and Finance shall plan, develop, and evaluate Bureau-level programs and formulate and carry out policies and strategies for programmatic, budgetary, and financial matters; develop techniques for and coordinate the review of technical and overhead programs; serve as the Director's staff for Bureau-level programmatic, budget formulation and execution, and finance matters; develop and maintain mechanisms to monitor planned and actual use of resources by providing integrated, evaluated information on program progress, opportunities, and resources to the NBS Director; advise management on significant changes and deviations; recommend program, budget, finance, and accounting priorities to the NBS Director; serve as the focal point of intelligence and feedback for Bureau-level programmatic issues; coordinate the formulation of the NBS budget and other Bureau-wide information packages and critique documents developed by line units; administer the NBS systems of accounting, financial management, travel, and payments; analyze resource and program proposals and investment levels; recommend distributions of the Working Capital Fund and Director's Reserve of funds, positions, and equipment to the NBS Director; and, through the comptroller, who shall report directly to the NBS Director on these matters, provide certification of official accounting records and reports and the control of funds.

(a) The Program Office shall perform the functions of policy development, program analysis, and program development; sponsor, coordinate, and participate in issue studies and Bureau-wide information packages; develop analytical techniques for and coordinate the review of Bureau technical and overhead programs; generate strategies, guidelines, and formats for Bureau planning; articulate and document Bureau-level program plans and status for internal and external use; define alternatives for resource allocation and advise Bureau management on their implications.

(b) The Budget Office shall provide advice and assistance to line management in the preparation, review, justification, presentation, and execution of the Bureau's budget, including financial management and resource allocation monitoring on the Bureau's total resources; interpret regulations and develop budgetary policy and procedures for the budget process; provide assistance in integrating program planning with the budgetary process using as a principal vehicle the Program and Financial Plan; maintain external liaison on budgetary matters; assist in the solution of budget and financing problems; design procedures for the resource monitoring system and review the execution of these procedures; perform analyses and continuing reviews of status of funds in relation to fiscal plans; advise on appropriate use of resources; and review other agency orders for conformance to policy and regulations.

(c) The *Office of the Comptroller* shall manage a comprehensive accounting and finance program for the Bureau; administer the NBS system of accounting, payments, billings and collections, and financial reports; execute agreements for obtaining other agency funds; analyze and develop improved financial policies and practices; monitor the fiscal health of the NBS Working Capital Fund; monitor the overall fund controls and certify the official NBS accounting records and reports.

(d) The *Planning Office* shall perform long-range program planning functions; maintain user liaison mechanisms; analyze external trends, opportunities, and user needs as they relate to program priorities; and provide economic benefit analyses.

SEC. 6. *Director of Administrative and Information systems.* The *Director of Administrative and Information Systems* shall direct the management of Bureau-wide facilities and information and administrative systems including information and office services, procurement, technical and public information functions, Bureau-wide computing, personnel, and management consulting services, health, safety, and security functions, and physical plant, facilities, space management and instruments shops functions; shall decide on policies and plans and direct implementation actions to assure the responsiveness of these services to the needs of the technical programs.

(a) The *Public Information Division* shall serve as the focal point of Bureau communications with the public through interaction with the print and broadcast media, and by means of conferences, tours, and exhibits; advise on the public affairs impact and ramifications of program decisions; coordinate handling and dissemination of information for the public; and report administratively to the director of Administrative and Information Systems, while operating as needed under the programmatic guidance of the Director, NBS.

(b) The *Personnel Division* shall advise on personnel policy and utilization; administer recruitment, placement, classification, employee development, employee relations, labor relations and special programs activities; advise and assist operating officials and employees on these and other aspects of personnel management; and process employee security clearances.

(c) The *Management and Organization Division* shall provide consultative services to line management in organization, procedures, and management practices; maintain the directives system; and perform reports management and committee management functions.

(d) The *Center for Information Systems* shall provide computing and information processing services including operation of the central computing facility; design and maintain the automated administrative information systems; manage the publications program of NBS; provide library services; manage a network of administrative service centers and word processing centers for all Administrative and Information Systems Centers, and other organizational units in the bureau as requested; manage support services for small purchase procurements, grants administration, and contract liaison with the Department of Commerce; manage office support services including visual arts, duplication, and forms and records management; provide consultative and advisory services on computer networking and related telecommunications requirements; coordinate the overall management and utilization of computing resources within the Bureau and provide liaison with the Department's Office of ADP Management; and establish mechanisms to assure compliance with applicable Federal ADP Standards.

(e) The *Center for Facilities Management* shall manage and maintain NBS physical facilities including design and maintenance of the physical plant, roads, and utilities; provide for physical security, emergency planning, fire protection, and janitorial services; conduct the Bureau's energy conservation program; provide technical support services for NBS programs in the area of instruments design and fabrication; provide mail, messenger, communications, traffic and transportation services; furnish storeroom, property management, and warehousing services; provide logistical support for the Standard Reference Materials program; and manage the NBS occupational health and safety program.

SEC. 7. *National Measurement Laboratory.* The *National Measurement*

Laboratory shall provide the national system of physical and chemical and materials measurement; coordinate the system with measurement systems of other nations and furnish essential services leading to accurate and uniform physical and chemical measurement throughout the Nation's scientific community, industry, and commerce; shall conduct materials research leading to improved methods of measurement, standards, and data on the properties of materials needed by industry, commerce, educational institutions, and Government; provide advisory and research services to other Government agencies; develop, produce, and distribute Standard Reference Materials; provide calibration services; and collaborate with the National Engineering Laboratory in carrying out its responsibilities.

(a) The *Center for Aboslute Physical Quantities* shall develop and maintain the scientific competences and laboratory facilities necessary to preserve and continue to refine the base physical quantities upon which the Nation's measurement system is constructed; perform research, both experimental and theoretical, at the frontiers of physics in order to improve our mearurement capability and our quantitative understanding of basic physical processes that underlie measurement science; improve, maintain and transfer the meassurement base for time, frequency, electricity, temperature, mass and length; coordinate the National base standards with the Bureau International des Poids et Mesures and national laboratories; measure at the highest level of accuracy the fundamental constants of nature; work closely with other centers of NBS in the interdisciplinary development of measurement science; and maintain scientific exchange programs with other measurement laboratories, including a continuing cooperative program with the University of Colorado.

(b) The *Center for Radiation Research* shall develop and maintain the scientific competences and experimental facilities necessary to provide the Nation with a central basis for uniform physical measurements, measurement methodology, and measurement services in the areas of optical radiation, ultra-violet radiation, and ionizing radiation (x-ray, gamma rays, electrons, neutrons, radioactivity, etc.); provide government, industry, and the private sector with essential calibrations for field radiation measurements needed in such applied areas as nuclear power, health care, radiation processing, advanced laser development, and radiation protection for public safety; carry out research in order to develop improved radiation standards, new radiation measurement technology, and improved understanding of atomic and nuclear radiation processes; collect, compile, critically evaluate, and supplement the existing atomic and nuclear data base in order to meet the major demands of the Nation for such data; and participate in collaborative efforts with other Centers in the interdisciplinary applications of radiation.

(c) The *Center for Analytical Chemistry* shall carry out basic and applied research in analytical chemistry; develop and improve methods for the separation, analysis, and characterization of materials, including Standard Reference Materials; conduct fundamental investigations of the phenomena on which measurement of the composition and behavior of chemical systems is based; use these measurement methods to improve the accuracy of composition measurement and thereby the comparability among laboratories throughout the United States as well as ensuring measurement compatibility with other nations; use these techniques to assist in the solution of problems of national impact, e.g., in improving the accuracy of clinical analytical chemistry, air and water pollution analysis, and in providing advisory services in analytical chemistry to government agencies, scientific organizations, and industry; and participate in collaborative efforts with other Centers in the interdisciplinary applications of analytical chemistry.

(d) The *Center for Thermodynamics and Molecular Science* shall develop and maintain the scientific competences and experimental facilities necessary to provide the Nation with uniform measurements, measurement methodologies, and measurement services in the areas of thermodynamics and transport properties, chemical kinetics, surface science, and molecular spectroscopy; provide government, industry and the scientific community with essential standards and certified Standard Reference Materials needed to maintain the integrity of the measurement system; develop standards and techniques of measurement, conduct theoretical and experimental research, and provide consultative services in the fields of thermodynamics, kinetics, surface science, and molecular spectroscopy; measure, compile, critically evaluate, and disseminate thermodynamic spectroscopic data, chemical kinetic data, and data on photochemistry to the industrial, governmental, and technological communities nationally and internationally; and participate in collaborative efforts with other Centers in disciplinary developments involving thermodynamics, kinetics, surface science, and molecular spectroscopy.

(e) The *Center for Materials Science* shall characterize and conduct research on the structure of materials, key chemical reactions, and key physical and chemical properties which will lead to the safest, most efficient uses of materials, improve materials technologies, and encourage recycling; provide standards, measurement methods, data, concepts, and information concerning the properties and performance of metals, polymers, and inorganic materials, and disseminate this information to industry, Government, universities, and consumers; maintain and develop research reactor activities which provide precise information about these materials.

SEC. 8. *National Engineering Laboratory.* The *National Engineering Laboratory* shall provide technology and technical services to users in the public and private sectors to address National needs and to solve National problems in the public interest; conduct research in engineering and applied science in support of objectives in these efforts; build and maintain competence in the necessary disciplines required to carry out this research and technical service; develop engineering data and measurement capabilities; provide engineering measurement traceability services; develop test methods and propose engineering standards and code changes; develop and propose new engineering practices; develop and improve mechanisms to transfer results of its research to the ultimate user; and collaborate with the National Measurement Laboratory in conducting the National Engineering Laboratory's assigned responsibilities.

(a) The *Center for Applied Mathematics* shall conduct research, collaborate with and provide support to all Bureau activities and to other Federal agencies in selected fields of the mathematical and computer sciences important in science and engineering; undertake specialized computational support and services for high technology science and engineering programs; develop tools for mathematical work such as mathematical models, statistical models and computational methods, mathematical tables, handbooks, and manuals, and advise on their use; and provide training in disciplines related to these functions.

(b) The *Center for Electronics and Electrical Engineering* shall provide a focus in NBS for research, development, and applications in the field of electronic and electrical materials and engineering; maintain and develop competences in measurements and analytic methods, in fabrication processes, in performance evaluation, and in practical applications appropriate to a wide range of electrical and electronic materials, devices, instruments, and systems; identify technological barriers to the effective application of electrical and electronic technologies for the achievement of National goals;

conduct responsive applied research to yield the requisite practical data, measurement methods, theory, standards, technology, and technical services; and provide national reference standards and engineering measurement traceability and deliver the results for the benefit of the Government, industry, the scientific community, and the consumer, either directly or through effective intermediaries.

(c) The *Center for Mechanical Engineering and Process Technology* shall provide, within the National Engineering Laboratory, competence in mechanics, mechanical engineering, materials engineering, industrial engineering, mechanical engineering metrology, and automatic control technology; manage these competences to provide technology, standards, and measurement traceability services to strengthen the manufacturing industries, public utilities, and Government agencies for the purposes of increased productivity, improved international competitiveness, and efficiency in regulatory compliance.

(d) The *Center for Building Technology* shall perform analytical, laboratory and field research involving architecture, engineering, and physical and social sciences to produce performance criteria and methods of evaluation, and tests and measurements for codes and standards; serve building owners, occupants, designers, manufacturers, builders, regulatory authorities of State and local governments and Federal agencies with building programs; provide for demonstration, implementation and evaluation of improved building practices by means of cooperative programs with other research organizations, professional societies, standards-writing organizations, State and local governments and other Federal agencies; apply these methods and disciplines for the purposes of improving safety in building construction and use, energy conservation in buildings, establishment of sound technical bases for the solar heating and cooling of buildings, more useful and economical new buildings, and effective use of existing buildings.

(e) The *Center for Fire Research* shall perform and support research in all aspects of fire with the aim of providing scientific and technical knowledge applicable to the prevention and control of fires, including: (1) Basic and applied research for the purpose of arriving at an understanding of the fundamental processes underlying fires, including the physics and chemistry of combustion processes and products, early stages of fires and structural influences in fire behavior, fire-safe design concepts for buildings, and specific fire hazards, (2) research into the biological, physiological and psychological factors affecting human victims of fire, and the performance of individual members of fire services, including the psychological factors leading to arson and the prediction and cure of such behavior, and (3) operation tests, demonstration projects and fire investigations in support of such activities. The Center shall coordinate all activities carried out in NBS on behalf of the National Fire Prevention and Control Administration.

(f) The *Center for Consumer Product Technology* shall perform research and development toward establishing and advancing measurement techniques and test methodology to evaluate the safety, energy efficiency, and other performance characteristics of consumer products and law enforcement equipment; apply the disciplines of mechanical and electrical engineering, consumer and behavioral sciences, economics, and operations research to programs involving consumer product technology and product-user interactions; develop the technical and analytical bases for performance standards and characterizing product attributes; provide technical assistance, analyses, and evaluations related to consumer product technology to other agencies of Government; and produce descriptive literature and information for the public.

(g) The *Center for Field Methods* shall investigate the effectiveness of various incentives and mechanisms to stimulate increased development and use of technology by industry. These investigations shall be designed to provide an experimental basis for the formulation of Government policy in this area.

SEC. 9. *Office of the Director, NBS/Boulder Laboratories.* The *Office of the Director, NBS/Boulder Laboratories,* located in Boulder, Colorado, shall provide administrative support to the technical programs of the NBS/Boulder Laboratories. These laboratories shall conduct research comprising work on measurement science for the National Measurement Laboratory in time and frequency, quantum physics, thermodynamics, materials science and the development of essential technical data in quantum physics, thermodynamics, and materials science; and conduct programs for the National Engineering Laboratory in electromagnetics and fluid dynamics. The following administrative divisions are located in the Boulder Laboratories:

Supply Services Division;
Instrument Shops Division;
Plant Division; and
Administrative Services Division.

SEC. 10. *Institute for Computer Sciences and Technology.* The *Institute for Computer Sciences and Technology* shall conduct research and provide scientific and technical services to aid Federal agencies in the selection, acquisition, application and use of computer technology to improve effectiveness and economy in Government operations in accordance with Pub. L. 89-306 (40 U.S.C. 759), relevant Executive Orders and other directives. The Institute carries out this mission by managing the Federal Information Processing Standards Program, developing Federal ADP standards guidelines, and managing Federal participation in ADP voluntary standardization activities; providing scientific and technology advisory services and assistance to Federal agencies; providing the technical foundation for computer-related policies of the Federal Government; and assisting in the resolution of the issues of technology transfer and export of computers in international trade. The Organizational units of the Institute shall be as follows:

Systems and Software Division;
Computer Systems Engineering Division; and
Information Technology Division.

Effective date: March 8, 1978.

ELSA A. PORTER,
Assistant Secretary for Administration.

Approved:

GUY W. CHAMBERLIN, Jr.,
Acting Assistant Secretary for Administration.

[FR Doc. 78-9872 Filed 4-12-78; 8:45 am]

[3510-17]

[Dept. Organization Order 20-15]

OFFICE OF INTELLIGENCE LIAISON

Statement of Organization, Functions, and Delegation of Authority

SUBJECT: This order effective March 28, 1978, as issued by the Secretary of Commerce.

SECTION 1. *Purpose.* This order establishes and prescribes the functions of the Office of Intelligence Liaison.

SEC. 2. *Status and line of authority.* The Office of Intelligence Liaison (the "Office"), a Departmental office, shall be headed by a Director who shall report and be responsible to the Assistant Secretary for Administration.

SEC. 3. *Definitions.* Appendix A provides further information on the terminology and acronyms used in this order.

SEC. 4. *Functions.* .01 Pursuant to the authority vested in the Assistant Secretary for Administration by Department Organization Order 10-5, and subject to such policies and directives as the Assistant Secretary may prescribe, and as further provided for in the Memorandum of Understanding (MOU) of May 5, 1977, between the Department and the participating member agencies of the National Foreign Intelligence Board (NFIB):

(a) The Director, Office of Intelligence Liaison shall be the Foreign In-

telligence Control Officer (FICO) for the Department and as such will be responsible for the administration of all requirements for foreign intelligence products in the Department, and will control the receipt and dissemination of foreign intelligence materials within the Department.

(b) The Office shall serve as the focal point for foreign intelligence support within the Department, and establish policies and procedures for providing foreign intelligence support to officials and organization components throughout the Department. To implement these responsibilities, the Office shall perform the functions enumerated in paragraphs .02 through .07 of this section.

.02 *Foreign Intelligence Support, Requirements, and Tasking.* The Office shall:

(a) Provide day-to-day foreign intelligence support to the Secretary, the Under Secretary, and other key officials of the Department having policy or program responsibilities in the international area. This shall include the "tasking" of the Intelligence Community with special requests and requirements for support through briefings, the preparation of special analytical papers, or the collection of additional foreign intelligence information.

(b) Coordinate and serve as the channel for the levying of the Department's foreign intelligence requirements on the Intelligence Community. This function shall generally include but not be limited to significant and/or periodic collection or analytical tasking requirements as determined by the Director, Office of Intelligence Liaison and the affected Departmental offices and operating units. The performance of this function shall be consistent with, and in no way supersede, the authorities and responsibilities of such Departmental offices and operating units to conduct routine working relationships and contacts with the Intelligence Community.

(c) Make a continuing assessment of the Department's foreign intelligence needs.

(d) Provide the channel for Department requests for existing foreign intelligence reports and materials from the Intelligence Community, including memoranda, biographic reports, maps, and similar data.

(e) Prepare a daily Departmental foreign intelligence summary for key Department officials covering major international developments.

(f) Promote and facilitate relationships and working level contacts between Department analysts and desk officers who have responsibilities for international affairs matters, with their counterparts in the Intelligence Community to ensure that the Department is fully aware of and utilizing the capabilities of the foreign intelligence agencies to provide foreign intelligence support.

(g) Provide, as required, special foreign intelligence support for key Department officials traveling abroad.

.03 *Intelligence Registry, Screening and Dissemination.* The Office shall:

(a) Act as the only accredited initial receiving point and registry for foreign intelligence materials in the Main Commerce Building. This foreign intelligence registry shall serve as the control point for all foreign intelligence materials received at the Main Commerce Building.

(b) In coordination with the Office of Investigations and Security, (OIS), concur in the selection of foreign intelligence primary control centers and officers for Department facilities not located in the Main Commerce Building, which are to receive foreign intelligence reports and materials, and provide, as required, guidance and coordination of their activities.

(c) In coordination with OIS, concur in the selection of foreign intelligence secondary control centers and officers in the Department, which are to receive foreign intelligence reports and materials through the registry or a primary control center, and provide, as required, guidance and coordination of their activities.

(d) Be responsible for the procedures by which foreign intelligence reports and materials received by the Department are screened and disseminated to the appropriate Department organization components and officials.

.04 *Vault Storage and Classified Reading Room.* The Office, in accordance with the provisions of the MOU, shall:

(a) Provide vault storage for all Sensitive Compartmented Information (SCI) foreign intelligence reports and materials received at the Main Commerce Building from NFIB intelligence agencies.

(b) Maintain a classified reading room and reference library for appropriately cleared Department officials. This includes alerting appropriate Department officials to the receipt at the library of sensitive intelligence reports pertinent to their area of responsibility.

.05 *Advice, Liaison, and Representation.* The Office shall:

(a) Serve as the principal source of advice within the Department with respect to foreign intelligence support matters.

(b) Serve as the Department's principal point of liaison with the Intelligence Community on foreign intelligence matters.

(c) Represent the Department, or coordinate the representation of the Department, as required, on NFIB committees or subcommittees, and other interagency intelligence committees dealing with national foreign intelligence matters, as appropriate.

.06 *Compartmented Security Clearances.* The Office and OIS shall coordinate on SCI security clearance matters.

.07 *Miscellaneous.* The Office shall:

(a) Maintain a secure telephone service in the Main Commerce Building available for use by Department officials needing to carry on classified telephone conversations with other agencies.

(b) In conjunction with the Office of ADP Management and OIS, review and approve all existing uses and proposals for the use of any ADP equipment (including computers, word processing devices, and related equipment) in the processing of classified foreign intelligence.

Effective date: March 28, 1978.

ELSA A. PORTER,
Assistant Secretary for Administration.

APPENDIX A

LIST OF DEFINITIONS

1. *Memorandum of Understanding (MOU).* The interagency agreement of May 5, 1977, signed by the Department of Commerce, the Central Intelligence Agency (CIA), the State Department (Bureau of Intelligence and Research—INR), the Defense Intelligence Agency (DIA) and the National Security Agency (NSA) which establishes the procedures and conditions under which the "Intelligence Community" will provide foreign intelligence to the Department of Commerce and the procedures by which the Department will receive, process and store it.

2. *National Foreign Intelligence Board (NFIB).* Formerly called the United States Intelligence Board (USIB), it is the formal structure of the "Intelligence Community". It is composed of representatives from CIA, State/INR, DIA, NSA, FBI, Department of Energy and Treasury. The Chiefs of Intelligence for the three military services also sit on it as observers. It is chaired by the Director of Central Intelligence, and has some 12 committees and numerous subcommittees.

3. *Foreign intelligence.* (For the purposes of this order), information collected and/or produced by the NFIB agencies, relating to the capabilities, intentions and activities of foreign powers, organizations, or persons. Foreign intelligence materials include "Sensitive Compartmented Information" (SCI) and collateral classified intelligence from NFIB agencies.

4. *Foreign intelligence support.* (For purposes of this order), this includes the control of foreign intelligence; administration and coordination of foreign intelligence requirements; dissemination of advice and information on foreign intelligence matters; and other appropriate activities necessary for the full Departmental implementation of the MOU. It does not, however, include responsibility for the security of foreign intelligence which, in the Department, is assigned to OIS.

5. *Foreign intelligence registry.* The only point in the Main Commerce Building accredited, according to MOU criteria, for the initial reception, logging, and control of foreign intelligence materials.

6. *Primary control center.* A secretariat in Department offices geographically separate from the Main Commerce Building (which cannot be served in timely fashion by the foreign intelligence registry) approved, according to MOU criteria, for receipt of foreign intelligence materials directly from the NFIB agencies.

7. *Secondary control center.* A subsidiary secretariat for processing foreign intelligence materials. According to MOU criteria, a secondary control center may receive or send foreign intelligence materials only through a primary control center or the foreign intelligence registry.

8. *Sensitive Compartmented Information (SCI).* Special categories of classified intelligence, which require special security clearances for access, special handling and special storage facilities not normally covered by CONFIDENTIAL, SECRET and TOP SECRET classification procedures.

9. *Collateral intelligence.* All other TOP SECRET, SECRET and CONFIDENTIAL intelligence.

[FR Doc. 78-9871 Filed 4-12-78; 8:45 am]

[3510-17]

[Dept. Organization Order 20-8]

OFFICE OF PERSONNEL

Statement of Organization, Functions and Delegation of Authority

This order effective March 27, 1978 supersedes the material appearing at 41 FR 24208 of June 15, 1976.

SEC. 1. *Purpose.* .01 This order prescribes the functions and organization of the Office of Personnel.

.02 This revision reflects the abolishment of the Equal Employment Opportunity and Special Employment Programs Division, and clarifies the responsibilities of the other components of the Office. The responsibility for administering Special Employment Programs is assigned to the Career Management and Employment Services Division (paragraph 5.05), and responsibility for the collection and dissemination of EEO statistical data is assigned to the Program Evaluation and Systems Division (paragraph 5.03). Responsibility for the development of equal employment opportunity, policies and programs for positions in the Department is transferred to the Office of Civil Rights.

SEC. 2. *Status and line of authority.* The Office of Personnel, a Departmental Office, shall be headed by a Director who shall report and be responsible to the Assistant Secretary for Administration. The Director shall be assisted by a Deputy Director, who shall perform the functions of the Director during the latter's absence.

SEC. 3. *Delegation of authority.* In addition to the authority implicit in and essential to carrying out the functions assigned to the Office and related to the exercise of such functions, the Director, Office of Personnel:

a. Is delegated the authority vested in the Assistant Secretary for Administration to take final action on all matters pertaining to personnel programming and management, other than equal employment opportunity, including the direction, administration and of personnel matters;

b. Is authorized to redelegate such authority to appropriate officials of the Office of Personnel and of operating units of the Department, subject to such conditions in the exercise of such authority as may be prescribed; and

c. As Director of Personnel for the Department, shall be the adviser to, and serve as the representative of, the Assistant Secretary for Administration in all matters of personnel utilization, management and administration except for equal employment opportunity policies and programs.

SEC. 4. *Functions.* Pursuant to the authority vested in the Assistant Secretary for Administration by Department Organization Order 10-5, and subject to such policies and directives as the Assistant Secretary for Administration may prescribe, the Office shall:

a. Have Departmentwide staff responsibility for all matters, other than equal employment opportunity, related to personnel management and administration, including staffing controls, recruitment, employee utilization and development, job classification, pay administration, labor relations, training, employee benefits and services, personnel management evaluation, occupational health, and incentives programs;

b. Perform services in the functional areas enumerated in subparagraph a. above, and conduct equal employment opportunity programs and activities as required by the Office of the Secretary and other selected organizational units of the Department; and

c. Establish and maintain close working relationships with the U.S. Civil Service Commission and other Government agencies, as appropriate.

SEC. 5. *Organization.* Under the direction and supervision of the Director, the functions of the Office shall be organized and carried out as provided below.

.01 The *Deputy Director* shall be the principal operating aide to, and serve as the authorized alternate for the Director, shall carry out special assignments to support and assist the Director, and shall supervise the Policy Staff.

.02 The *Policy Staff* shall serve as the technical personnel management policy adviser to the Director, to other components of the Office, and to the Department's operating units. In conjunction with the division chiefs, the Staff shall plan the development and issuance of Department personnel policy, regulations, programs, and instructions; coordinate within the Office of Personnel the development of legislative proposals on personnel matters, and coordinate comments on proposed legislation, Civil Service Commission issuances, various Department orders and other issuances requiring clearance or concurrence of the Director of Personnel. It shall participate in personnel management evaluation activities; provide technical advice and assistance, as needed, on matters involving contracting for personal services; and shall be responsible for the personnel management aspects of the Freedom of Information Act and the Privacy Act within the Office of Personnel. The Staff shall plan, direct, and review the labor-management relations policies and programs of the Department, and shall provide technical advice, guidance and assistance to the Director, to other components of the Office, and to operating units on all aspects of labor-management relations.

.03 The *Program Evaluation and Systems Division* shall plan, schedule, and coordinate personnel management program evaluation surveys throughout all organizational units of the Department; monitor the issuance of reports of findings, providing evaluation and analysis of the effectiveness of personnel management programs; and shall coordinate the personnel management evaluation system within the Department and with the Civil Service Commission. The Division shall be responsible for the personnel management information system; for developing and maintaining surveillance of automated personnel systems in use throughout the operating units; for ensuring compliance with Civil Service Commission requirements for the Central Personnel Data File—and ultimate conversion to the Federal Personnel Management Information System; and shall serve as the control point for all Departmentwide personnel management forms, reports, statistical evaluations and analyses.

.04 The *Classification and Executive Assignments Division* shall plan and coordinate Departmentwide programs and activities in the areas of position classification, position management, pay administration, and the Executive Assignment System; administer and monitor the Department's Average Grade Control efforts including Vacancy Review and the Whitten and Maintainance Review Programs; maintain liaison with the Civil Service Commission on matters dealing with job evaluation, executive personnel and related program activities; formulate and issue policy guidance on matters peculiar to excepted positions, overseas allowances and differentials and hours of duty and flexitime; develop a variety of special salary schedules applicable to Department organizations throughout the country; and

participate in personnel management evaluation activities. The Division shall serve as the Department's review level on all classification appeals originating within the Department.

.05 The *Career Management and Employment Services Division* shall plan and develop career management programs and programs pertaining to staffing, employee utilization, employee relations, performance evaluation, and a variety of programs peculiar to the health and welfare of the work force, i.e., alcoholism and drug abuse. It shall provide staff assistance, policy guidance and interpretation to operating units on all matters pertaining to employment, recruitment, placement, employee relations and career-management programs; reduction in force, with particular emphasis on the mandatory and priority placement programs associated with the Department's saved grade program; maintain contacts with colleges, outside organizations, and other Federal agencies on matters pertaining to these programs; monitor a variety of employee services programs, serving as the Department's liaison between the Civil Service Commission and the operating unit Personnel Offices; and participate in personnel management evaluation activities. The Division shall administer the Department's Special Employment Programs, and coordinate such programs closely with the Civil Service Commission; provide staff guidance to Personnel Officers of the Department on the implementation, special funding and reporting requirements of these programs; and monitor or prepare the Department's narrative and statistical reports pertaining to these programs.

.06 The *Employee Development and Awards Division* shall plan, direct, and review Department programs for employee training and development, and shall monitor and coordinate the Executive Development Programs and the Executive Resources Boards for the Department. The Division shall plan and operate the Department's Management Training Center; provide staff assistance to operating units on interpretation and implementation of the Government Employees Training Act; and coordinate and approve Department nominations for special programs. The Division shall administer the Department's awards and recognition programs and provide staff assistance to operating unit Personnel Offices on all phases of the suggestions, awards and recognition programs; provide the Executive Secretary to the Incentive Awards Board; plan, schedule, and oversee the Department's annual and special awards and employee-recognition ceremonies as required; represent the Department with the Civil Service Commission on all matters of training, employee development and awards; and participate in personnel management evaluation activities.

.07 The *Medical Division* shall plan and coordinate Departmentwide policies and programs in employee health services, represent the Director of Personnel in maintaining professional medical liaison with the U.S. Public Health Service, U.S. Civil Service Commission and other appropriate agencies; and provide advice, assistance, and consultative services to operating units in employee health matters as requested. The Division shall be responsible for planning and administering the employee health service program for the Department's central health unit.

.08 The *Operations Division* shall plan, organize and administer a complete operating personnel management program responsive to the needs of the Office of the Secretary and other organizational units as specified by the Director of Personnel. The program shall include all activities relating to recruitment and placement, appointment, promotion, separation, employee relations, employee recognition and incentives, labor-management relations, job classification, employee training and development, and various employee services and benefits programs. The Division shall develop the Affirmative Action Plan and administer and coordinate the equal opportunity program for employment for all the organizational units serviced.

Effective date: March 27, 1978.

ELSA A. PORTER,
Assistant Secretary for Administration.

[FR Doc. 78-9870 Filed 4-12-78; 8:45 am]

[3510-17]

[Dept. Organization Order 15-3]

OFFICE OF PUBLIC AFFAIRS

Statement of Organization, Function and Delegation of Authority

SECTION 1. *Purpose.* .01 This order prescribes the responsibilities and functions of the Office of Public Affairs.

.02 This revision changes the title of the Office of Communications to the Office of Public Affairs, establishes the title of Director of Public Affairs, clarifies the authority and functions of the Director, and prescribes the organization and functions of the Office.

SEC. 2. *General.* The Office of Public Affairs (the "Office"), which is continued as a Departmental office, is headed by a Counsellor to the Secretary for Public Affairs who also serves as Director of Public Affairs. The Counsellor reports and is responsible to the Secretary; is the principal adviser to the Secretary on public affairs matters; and is responsible for the overall public information program of the Department. The Director serves as the primary liaison for the Department with other Government agencies, and provides functional supervision to the public information offices in the Department's operating units.

SEC. 3. *Functions.* The Office of Public Affairs shall:

a. Plan, develop and implement a coordinated public information program throughout the Department;

b. Prepare and issue press releases and radio-TV material on matters involving the Secretary or Under Secretary, and other officials in the Office of the Secretary, as appropriate;

c. Provide, or supervise the provision of, other public affairs services required by the Secretary, Under Secretary, and other officials of the Department, including the handling of news conferences, arranging for radio and television broadcasts, and arranging personal appearances; and

d. Review and approve for release all:

1. News items and related materials;
2. Speeches;
3. Publications;
4. Audiovisual materials for external use; and
5. Advertising or promotional programs for public affairs purposes produced in the Department.

e. Provide editorial and technical advice and assistance to the operating units with respect to the materials listed in subparagraph d., above;

f. Maintain liaison with the White House Office of the Press Secretary to the President and the counterpart offices in other Government agencies, to assure that the Department's public information activities are consistent and coordinated with those of the entire Executive Branch;

g. Provide liaison with outside public groups and organizations concerned with the Department's activities;

h. Advise and assist the Office of the Secretary, and other offices as appropriate, by providing information, analysis, and news services concerning press and radio/TV coverage of Department activities;

i. Authorize the scheduling of news conferences proposed by operating units and provide such staff assistance as may be appropriate;

j. Exercise functional supervision of the public information activities of operating units, whether performed by information staffs or otherwise;

k. Review and evaluate the effectiveness of public affairs functions in the operating units, and furnish the results of such evaluations to the Secretary and the head of the operating unit concerned;

l. Advise the heads of operating units concerning the selection of persons to fill all positions at GS-13 or above in public information offices in the operating units; provide clearance with respect to such individuals; and

m. Review and evaluate all Freedom of Information Act letters of appeal in accordance with section 5.04b. of DAO 205-12, and clear the proposed reply to each such appeal.

SEC. 4. *Organization.* Under the direction and supervision of the Director, the functions of the Office shall be organized and carried out as provided below.

.01 The *Deputy Director of Public Affairs* assists the Director in the performance of responsibilities and performs the duties of the Director in the latter's absence.

.02 The *Special Projects Division* is responsible for:

a. Coordinating media interviews, including developing briefing books, for the Secretary and Under Secretary.

b. Assisting in evaluating the Secretary's speech invitations and operating a Speakers Bureau to provide, where appropriate, spokespersons for the Department to groups and organizations which request them.

c. Preparing speech texts for the Under Secretary and, occasion, other Department officials.

d. Assigning, editing, and arranging for publication of articles relating to the Department.

e. Serving as point of contact within the Office for all Freedom of Information requests from the media. (Information copies of such requests will be furnished the Division by the FOIA facilities of the Department.)

f. Handling Presidential/Secretarial messages to organizations and individuals.

g. Providing public affairs liaison with the Secretarial Representatives.

h. Developing and implementing special public affairs projects, as assigned, which are not the responsibility of either the Print Media Division or the Audiovisual Division.

.03 The *Print Media Division* is responsible for printed material and for relationships with the press. The Division shall consist of:

a. The *Publications Standards and Development Branch,* which is responsible for:

1. Reviewing all proposed publications of the Department to insure their conformance to standards of quality, effectiveness, and necessity.

2. Developing guidelines for, and advising on, the editorial policy of the Department.

3. Providing specialized guidance to Departmental offices and operating units on publications projects.

4. Providing editorial assistance to Departmental offices and operating units in the preparation of publications.

b. The *News Room,* which is responsible for:

1. Providing liaison with and assistance to representatives of the press on a day-to-day basis.

2. Reviewing and approving for issuance press releases from operating units.

3. Preparing press releases, articles, and other materials on Department-level matters.

4. Advising and assisting the public information staffs in the operating units in preparation and distribution of releases and material.

.04 The *Audiovisual Division* is responsible for the overall coordination and control of both technical and editorial quality of audiovisual materials produced by the Department, and for the approval or disapproval of all aspects of audiovisual productions. The Division consists of:

a. An *Audiovisual Review Committee,* consisting of professionals from the Audiovisual Division and the operating units of the Department, which will:

1. Review, for technical and editorial quality, all proposed film productions, slide show productions or other audiovisual productions, including exhibits, that will be used for public viewing.

2. Recommend guidelines for developing, producing, procuring, and distributing audiovisual materials.

3. Screen all proposed productions to prevent duplication of similar material and assess the cost benefit of the material.

4. Assist the operating units with technical advice.

Staff support for the Committee will be furnished, as appropriate, by the Audiovisual Division.

b. An *Audiovisual Technical Staff,* which will:

c. Provide audiovisual serviees for the Secretary and Under Secretary, the Office, and other elements of the Office of the Secretary.

2. Provide advice and assistance to Departmental offices and operating units on the technical aspects of audiovisual production.

3. Review requests for major audiovisual equipment to insure quality, compatibility, and elimination of duplicate equipment and assist the operating units in determining the proper types of audiovisual equipment to meet specific needs.

4. Develop specifications and guidelines relative to purchase of audiovisual equipment.

5. Provide suitable audiovisual equipment to be used in conference rooms.

c. A *Broadcast Staff,* which will be responsible for:

1. Development and production of radio/TV news and features, including the Department's Spotmaster service.

2. Evaluating and determining what news or feature items will be disseminated to broadcasters.

3. Advising and assisting the Departmental offices and operating units in the use of the Department's radio facilities.

SEC. 5. *The Public Affairs Council.* The Public Affairs Council, headed by the Director of Public Affairs, shall consist of the head of the public information function in each operating unit. The Council shall:

.01 Serve as a coordinating mechanism for disseminating Department policy concerning public affairs matters.

.02 Advise the director with respect to public information problems and developments.

.03 As assigned, coordinate major public affairs projects affecting all elements of the Department.

.04 Represent the views of the heads of the operating units in discussions with the Director of Public Affairs.

ELSA A. PORTER,
Assistant Secretary for Administration.

[FR Doc. 78-9869 Filed 4-12-78; 8:45 am]

[3125-01]

COUNCIL ON ENVIRONMENTAL QUALITY

TSCA INTERAGENCY TESTING COMMITTEE

Meeting

This notice is intended to advise all interested persons of a scheduled meeting of the TSCA Interagency Testing Committee established under section 4(e) of the Toxic Substances Control Act for the purpose of making recommendations to the Administrator of the Environmental Protection Agency regarding priorities for issuance of requirements for testing chemical substances and mixtures.

The Committee has invited speakers to present information on fluorescent brightening agents to the TSCA Interagency Testing Committee. The meeting will be held on Thursday, April 27, at 9 a.m., Room 2010, New Executive Office Building, 726 Jackson Place NW., Washington, D.C. The portion of the meeting open to the public is expected to end approximately 12 noon, followed by a closed executive session. All interested persons are invited to attend.

Dated: April 12, 1978.

MARVIN E. STEPHENSON,
Chairperson, TSCA Interagency Testing Committee.

[FR Doc. 78-10067 Filed 4-12-78; 11:46 am]

[3810-70]

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE SCIENCE BOARD TASK FORCE ON SOVIET MISSILE DEFENSE

Advisory Committee Meeting

The Defense Science Board Task Force on Soviet Missile Defense will meet in closed session 1, 2, and 3 May 1978 at the Offices of the Institute for Defense Analyses, Arlington, Va.

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 will review Soviet activities in ballistic missile defense and related subjects and will provide recommendations for appropriate U.S. responses.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Task Force meeting concerns matters listed in section 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.

MAURICE W. ROCHE,
Director, Correspondence and Directives, DoD/WHS.

APRIL 7, 1978.

[FR Doc. 78-9818 Filed 4-12-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 77-006-LNG; FPC Docket Nos. CP77-330, et al.]

EL PASO EASTERN CO., ET AL.

View and Inspection of Proposed Project Site

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of view and inspection of proposed site of project facilities.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy gives notice of a visit to the proposed site of the LNG facilities which are the subject of applications in ERA Docket No. 77-006-LNG.

FOR FURTHER INFORMATION CONTACT:

Mr. Finn K. Neilsen, 2000 M Street NW., Room 6318, Washington, D.C. 20461, telephone 202-254-9730.

Mr. Martin S. Kaufman, Office of General Counsel, 12th and Pennsylvania Avenue NW., Room 5116, Washington, D.C. 20461, telephone 202-566-9380.

SUPPLEMENTARY INFORMATION: ERA hereby gives notice of a visit by the Administrator of ERA and members of his staff and other persons from DOE to the site of the terminal, storage and regasification facilities which applicant, El Paso LNG Terminal Co., proposes to construct on Matagorda Bay, near Port O'Connor and Port Lavaca, Tex., in its application in ERA Docket No. 77-006-LNG and to areas in the immediate vicinity of the proposed site of the facility, including the municipality of Port Lavaca, Tex. This visit will follow the oral argument in ERA Docket No. 77-006-LNG to be held in the Federal Building, Federal Tax Court, Room 7006, 515 Rusk Avenue, Houston, Tex., on April 17, 1978 (see 43 FR 11849, March 22, 1978).

The visit to the site of the proposed LNG facility will commence in Port Lavaca, Tex., on April 18, 1978, at 2 p.m. All parties and interested persons are invited to participate. The exact location will be announced later through the local media.

Issued in Washington, D.C., April 7, 1978.

DAVID J. BARDIN,
Administrator, Economic Regulatory Administration.

[FR Doc. 78-9825 Filed 4-12-78; 8:45 am]

[3128-01]

SOUTHERN CALIFORNIA GAS CO.

Extension of Comment Period on Environmental Assessment

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Extension of comment period on environmental assessment.

SUMMARY: At 43 FR 10434 (March 13, 1978) and 43 FR 10616 (March 14, 1978), the Economic Regulatory Administration (ERA) of the Department of Energy announced the availability of an environmental assessment of a proposed waiver of propane purchase and use limitations for the Southern California Gas Co. Comments regarding the environmental assessment and the need for an environmental impact statement were requested by April 3, 1978. Subsequently, ERA has received numerous requests for an extension of the comment period. In order to allow interested parties sufficient time in which to prepare and submit written comments, ERA is hereby extending the comment period to April 28, 1978. The comment procedures and contact persons remain as announced in the original notice at 43 FR 10434 (March 13, 1978).

Issued in Washington, D.C., April 7, 1978.

WILLIAM S. HEFFELFINGER,
Director, Administration.

[FR Doc. 78-9824 Filed 4-12-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Docket No. CP78-256]

ALGONQUIN LNG, INC. AND ALGONQUIN GAS TRANSMISSION CO.

Application

APRIL 5, 1978.

Take notice that on March 29, 1978, Algonquin LNG, Inc. (Algonquin LNG) and Algonquin Gas Transmission Co. (Algonquin Gas), 1284 Soldiers Field Road, Boston, Mass. 02135, (Applicants) filed in Docket No. CP78-256 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and storage of liquid and gaseous phase liquefied natural gas (LNG) for certain participating resale companies (Customers) for a term extending through May 31, 1979, all as more fully set forth in the application on file with the Commission and open to public inspection.

Algonquin LNG proposes to utilize its intrastate LNG storage facilities at Providence, R.I., to receive, store, and redeliver LNG of approximately 248,000 bbls. belonging to Customers. Algonquin Gas proposes to redeliver through its existing pipeline and on a basis which would not impair service to Algonquin Gas' other customers, regasified volumes to certain of the participating resale Customers.

The application states that Algonquin LNG has a 600,000 bbl. capacity LNG storage tank at Providence, R.I., and that the tank is currently being used and would continue to be used, in part, for the benefit of Providence Gas Company (Providence Gas); it is connected to and is effectively part of the local distribution system serving Providence and environs within the State of Rhode Island. The application further states that the tank is the intrastate phase, or Phase I phase, of Algonquin LNG's terminal facilities. It is stated that during the 1978-79 heating season, Algonquin LNG would have approximately 248,000 bbls. (after allowance for tank heel) of available capacity in its LNG storage tank over and above the 348,000 bbls. of capacity which has been dedicated to Providence Gas under a long-term arrangement to supply its intrastate local distribution system and that there is and would be liquefaction capacity and supplies of LNG in excess of LNG storage capacity during the 1978 summer.

It is indicated that Algonquin LNG has executed letter agreements with the Connecticut Gas Co. and Valley Gas Co. to store 120,000 and 30,000 bbls., respectively, of LNG in Algonquin LNG's Providence, R.I. facilities.

Applicants state that Customers subscribing to the LNG storage service proposed herein would be charged by Algonquin LNG at a rate of $4.50 per barrel ($1.30 per million Btu) to be paid in equal monthly installments over the period of service. Applicants further state that such installments would be determined by taking the total amount billed to a particular Customer and dividing that amount by the number of months between the date of the granting of the authorization requested by this application and May 31, 1979. The $4.50 per bbl. ($1.30 per million Btu) storage rate is the same as the rate which Algonquin LNG has employed for the similar service rendered for several years in the past, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 28, 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 Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-9790 Filed 4-12-78; 8:45 am]

[6740-02]

[Docket No. CP78-254]

NORTHWEST PIPELINE CORP.

Application

APRIL 5, 1978.

Take notice that on March 24, 1978, Northwest Pipeline Corp. (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP78-254 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 5,000 Mcf of natural gas per day for IGC Production Co. (IGC), a wholly-owned subsidiary of Intermountain Gas Co. (Intermountain), 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 5,000 Mcf of natural gas for IGC pursuant to a gas purchase, transportation and exchange agreement dated February 21, 1977. It is stated that IGC has acquired or otherwise controls certain natural gas reserves in the East Douglas Creek Field, Rio Blanco County, Colo., which it desires to make available to Intermountain. It is further stated that Applicant's gas transmission system is the only system available to transport gas from the East Douglas Creek Field to the market area served by Intermountain. Pursuant to the instant agreement, IGC would deliver to Applicant the volumes of natural gas presently or hereafter owned or controlled by IGC in the area covered by the agreement, it is said. It is indicated that IGC would deliver the subject volumes to Applicant at various points on Applicant's East Douglas Creek gathering system.

It is stated that Applicant has the option to purchase up to 25 percent of the volumes tendered by IGC pursuant to the agreement at various delivery points on Applicant's East Douglas Creek gathering system. Applicant indicates that it would then transport the remaining volumes, for IGC's account, through its East Douglas Creek gathering system and mainline transmission system and would redeliver thermally equivalent volumes, less compressor fuel, to Intermountain for IGC's account. Applicant's initial point of delivery to Intermountain would be in the vicinity of Pocatello, Idaho, where Applicant is presently authorized to sell and deliver volumes of natural gas to Intermountain, it is said.

Applicant estimates that initially, 4,320 Mcf per day of gas would be delivered by IGC to Applicant under the instant proposal, and that of the 4,320 Mcf, up to 25 percent or approximately 1,080 Mcf per day would be purchased by Applicant and the remaining volumes would be transported by Applicant.

Applicant states that for each Mcf of natural gas purchased from IGC pursuant to the Agreement, Applicant would pay a price based on the applicable national rate plus taxes, Btu and other adjustments. Additionally, Applicant would pay IGC a 1.10 cent per Mcf gathering charge for each Mcf of gas purchased by Applicant from IGC and delivered by IGC to Applicant at points on Applicant's East Douglas Creek gathering system, it is said.

It is further indicated that Applicant, for transporting gas for IGC as proposed herein, would charge IGC a two-part rate as follows:

(a) A gathering rate based on Applicant's cost-of-service for that portion of its East Douglas Creek gathering system which would be utilized in the transportation of IGC's gas. The initial gathering rate would be 18.69 cents per Mcf.

(b) A mainline transportation rate equal to Applicant's rolled-in transmission system cost-of-service for all volumes transported by Applicant for IGC's account. The initial mainline transportation rate would be 16.03 cents per Mcf, which is the rate utilized in settlement of Applicant's most recent general rate filing in Docket No. RP76-115.

Applicant states that in addition to the transportation charges, it proposes to retain a total of 6 percent of the volumes to be transported for IGC as compensation for compressor fuel usage, and that the 6 percent figure is based on a 2 percent compressor fuel usage for the transportation of natural gas utilizing Applicant's mainline transmission system and a 4 percent compressor fuel usage on the East Douglas Creek gathering system.

It is indicated that pursuant to a limited-term gas purchase contract dated February 21, 1977, between IGC and Applicant, IGC, a small producer certificate holder, on November 24, 1977, initiated the sale to Applicant of all of IGC's gas produced from the East Douglas Creek Field and would continue such sale until the necessary Commission authorization are received to effectuate the transportation service proposed herein.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 28, 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. 78-9791 Filed 4-12-78; 8:45 am]

[6740-02]

[Docket No. RM75-25]

CERTIFICATION OF PIPELINE TRANSPORTATION AGREEMENT

Granting Rehearing for Purposes of Further Consideration

MARCH 31, 1978.

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 F C on the date the DOE Act take 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) 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 these dockets would be continued before the FERC. The FERC takes action in these dockets in accordance with the above-mentioned authorities.

On February 1, 1978, the Commission issued Order No. 2, which modified section 2.79 of the Commission's General Policy and Interpretations, a statement of policy with respect to the transportation by jurisdictional pipelines of natural gas sold by certain producers from on-shore and the offshore non-Federal domain to nonresale industrial and commercial customers for high priority uses. Applications for clarification and rehearing of this order were filed by Tennessee Gas Pipeline Co., a Division of Tenneco, Inc., Aluminum Company of America, and the Industrial Users[1] on March 3, 1978.

The Commission finds: Good cause exists to grant rehearing in this proceeding for the purpose of further consideration.

The Commission orders: The applications for rehearing of our order of February 1, 1978, filed by Tennessee Gas Pipeline Co., a Division of Tenneco, Inc., Aluminum Company of America, and the Industrial Users, on March 3, 1978, is hereby granted solely for the purpose of affording further time for consideration. Since this order is not a final order on rehearing, no responses to the order will be entertained by the Commission in accordance with the terms of section 1.34(d) of the Commission's Rules of Practice and Procedure.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-9792 Filed 4-12-78; 8:45 am]

[6740-02]

[Docket No. CP78-259]

RMNG Gathering Co.

Application

APRIL 5, 1978.

Take notice that on March 27, 1978, RMNG Gathering Co. (Applicant), 420 Capitol Life Center, 1600 Sherman Street, Denver, Colo. 80203, filed in Docket No. CP78-259 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of up to 5,000 Mcf of natural gas per day with Northwest Pipeline Corp. (Northwest) and Rocky Mountain Natural Gas Co. (Rocky Mountain), all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that Northwest has entered into a gas purchase contract dated December 5, 1977, with Northwest Exploration Co. (Exploration), an affiliated company of Northwest, covering the great divide area of Moffat County, Colo., which is remote from Northwest's existing transmission system. Consequently, in order to make the volumes of natural gas to be purchased from the great divide area available to its transmission system at the least possible investment, Northwest has entered into a gas transportation and exchange agreement, dated January 27, 1978 with Rocky Mountain and Applicant, it is said.

Applicant indicates that, pursuant to the subject agreement, it would deliver to Rocky Mountain, during the terms of the agreement, all volumes of natural gas purchased by Northwest in the great divide area of Moffat County, Colo. It is stated that the volumes of natural gas to be delivered to Rocky Mountain, for exchange pursuant to the authorization sought herein, would be gathered by Northwest in the great divide area, transported to the facilities of Rocky Mountain and delivered at a mutually agreeable point on Rocky Mountain's big hole gathering system located in Moffat County, Colo. It is further stated that Rocky Mountain would transport the volumes of natural gas so delivered by Northwest through its big hole gathering system for subsequent delivery into Rocky Mountain's intrastate system for subsequent delivery into Rocky Mountain's intrastate utility system, and that Applicant would redeliver to Northwest thermally equivalent volumes of gas at an existing point of interconnection between the facilities of Applicant and Northwest, (Bar X Exchange Meter Station), located in Mesa County, Colo., where Applicant and Northwest are currently authorized to exchange gas. The volumes of gas so delivered and received for exchange would be balanced on a Btu basis and such balancing would, to the extent possible, be achieved monthly, it is said.

It is indicated that Northwest would reimburse Rocky Mountain for Rocky Mountain's transportation costs, including a reasonable rate of return, for all costs attributable to the transportation of Northwest's gas through Rocky Mountain's big hole pipeline, the initial transportation charge to be determined prior to the actual deliveries and to be determined in accor-

[1] General Electric Co., Glass Containers Corp., Lithium Corp. of America, Owen-Illinois, Inc., PTG Industries, Inc., and Reynolds Metals Co. are members of this group.

dance with the procedures normally used in the industry. The initial transportation charge would be 14.3 cents per Mcf, it is said.

Applicant states that Northwest proposes to construct approximately 5.78 miles of 4½-inch pipeline required to gather the exchange volumes pursuant to its budget-type authorization issued in Docket No. CP77-507.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 28, 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 157.70). 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 and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-9793 Filed 4-12-78; 8:45 am]

[6740-02]

[Docket Nos. CP77-194 and CP77-208]

TENNESSEE GAS PIPELINE CO. AND FLORIDA GAS TRANSMISSION CO.

Petition To Amend

APRIL 5, 1978.

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) of the DOE Act.

The joint regulations 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 March 24, 1978, Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Petitioner), P.O. Box 2511, Houston, Tex. 77001, filed in Docket No. CP77-194, et al., a petition to amend the order of March 28, 1977 (57 FPC ——), issued by the Federal Power Commission (FPC) in the instant dockets pursuant to section 7(c) of the Natural Gas Act and section 2.79 of the Commission General Policy and Interpretations (18 CFR 2.79) so as to authorize Petitioner to transport gas for Masonite Corp. (Masonite), an industrial customer served by Pennsylvania Southern Gas Co. (PSG) from a new source, all as more fully set forth in the application on file with the Commission and open to public inspection.

It is indicated that pursuant to the FPC order of March 28, 1977, Petitioner and Florida Gas Transmission Co. (Florida Gas) were authorized to transport up to 800 Mcf of natural gas per day for Masonite, which volumes were to be produced by T & B Resources (T&B) from a gas well known as S. & L.E. LeJune No. 2 located in Jefferson Davis Parish, La., and delivered to Florida Gas for delivery to Petitioner for transportation to PSG for the account of Masonite. Petitioner indicates that pursuant to the subject authorization and pursuant to a transportation contract dated December 27, 1976, between Petitioner, Masonite and PSG, which contract is on file in Petitioner's FERC Gas Tariff, Sixth Revised Volume No. 2 as Rate Schedule T-40, Petitioner has transported and delivered volumes for the account of Masonite to PSG for delivery to Masonite. It is indicated that the S. & L.E. LeJune No. 2 has ceased to produce gas.

Consequently, Petitioner requests that the Commission amend the order of March 28, 1977, to provide for the transportation of gas produced from the West Delta Farms Field in Lafourche Parish, La., for the account of Masonite. It is stated that Masonite has contracted to purchase gas for the remainder of the term of the transportation agreement from Mullins & Pritchard at a price of $2 per Mcf. It is stated that the subject gas sales and purchase contract provides for the delivery of a minimum average of 450 Mcf of natural gas per day, to be produced from a gas well known as Mabel G. Myers No. 1, located in Lafourche Parish, La. It is indicated that the Mabel G. Myers Well No. 1 and the lease on which it is located are not committed to the interstate gas market and Mullins & Pritchard are unwilling to make the gas produced from said lease and well available to the interstate market because of the price restrictions imposed by Order 770-A for wells drilled before 1973.

Petitioner stated that it and Masonite have entered into a new transportation contract dated March 22, 1978, which contract supersedes the December 27, 1976 (Rate Schedule T-40) contract and provides for a new receipt point. Petitioner states that it would receive gas for the account of Masonite at the interconnection of the facilities of Applicant and Mullins & Pritchard located at Applicant's Side Valve 524-A112 which is in Lafourche Parish, La., and transport and deliver up to 800 Mcf of gas per day (Maximum Daily Quantity) to PSG at existing Towanda Sales Meter Station Delivery Point to PSG located in Bradford County, Pa., at Petitioner's Main Line Valve No. 318-1.

Petitioner states that Masonite would pay Petitioner each month for the proposed transportation service a charge which consists of (a) a demand charge equal to $3.22 Multiplied by the Maximum Daily Quantity, and (b) a volume charge equal to 41.04 cents per Mcf multiplied by the total of the volumes transported during each month. In addition, Petitioner would receive each day, for its fuel and use requirements, a volume of natural gas equal to 7.9 percent of the volume of natural gas transported on each day.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or

before April 27, 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. 78-9794 Filed 4-12-78; 8:45 am]

[6740-02]

[Docket No. CP78-261]

UNITED GAS PIPE LINE CO.

Application

APRIL 5, 1978.

Take notice that on March 29, 1978, United Gas Pipe Line Co. (Applicant), P.O. Box 1478, Houston, Tex. 77001, filed in Docket No. CP78-261 an application pursuant to section 7(c) of the Natural Gas Act and section 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during the twelve-month period commencing June 1, 1978, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which would be purchased from producers or other similar sellers thereof, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally co-extensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant.

Applicant states that the total cost of the proposed facilities would not exceed $12,000,000 with the cost of any single onshore project not exceeding $1,500,000, and the cost of any single offshore project not exceeding $2,500,000. Applicant would finance the cost of the proposed project with funds on hand, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 28, 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. 78-9795 Filed 4-12-78; 8:45 am]

[3128-01]

OFFICE OF HEARINGS AND APPEALS

Creation of New Office

AGENCY: Department of Energy.

ACTION: Notice.

SUMMARY: Notice is hereby given of the creation of an Office of Hearings and Appeals within the Department of Energy.

EFFECTIVE DATE: March 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Melvin Goldstein, Director, Office of Hearings and Appeals, Department of Energy, 2000 M Street NW., Room 8002, Washington, D.C. 20461, 202-254-5134.

Michael Paige, Office of General Counsel, Department of Energy, 12th and Pennsylvania Avenue NW., Room 5136, Washington, D.C. 20461, 202-566-9565.

Effective March 30, 1978, there was formed within the Department of Energy (DOE) a new Office of Hearings and Appeals (OHA). The OHA is an independent office within the DOE, the Director of which reports to the Office of the Secretary, and is within the primary cognizance of the Deputy Secretary.

It is expected that, under procedures to be adopted, the OHA will as a general rule review and issue all final DOE orders of an adjudicatory nature in accordance with departmental procedures, other than those involving matters over which the Federal Energy Regulatory Commission exercises final jurisdiction, and will be responsible for considering and issuing decisions on appeals in accordance with departmental procedures from orders of a programmatic or regulatory nature issued by any other part of the DOE and requests for exception or exemption from any regulatory or mandatory requirements. The OHA has also assumed the functions previously carried out by the Office of Administrative Review, located within the Economic Regulatory Administration.

Issued in Washington, D.C., on April 10, 1978.

WILLIAM S. HEFFELFINGER,
Director of Administration.

[FR Doc. 78-9826 Filed 4-12-78; 8:45 am]

[3128-01]

SOLAR HEATING AND COOLING

Meeting

AGENCY: Department of Energy.

ACTION: Notice of meeting.

SUMMARY: The Department of Energy will sponsor a public meeting on May 11 and 12, 1978, to review its plans for developing a model code for solar heating and cooling of buildings and to receive oral and written comments on the impact of current solar codes and standards.

DATES: May 11 and 12, 1978, 10 a.m.

ADDRESS: National Guard Memorial Auditorium, 1 Massachusetts Avenue NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

David M. Pellish, Solar Heating and Cooling, Office of the Assistant Secretary, Conservation and Solar Applications, Department of Energy Building, 20 Massachusetts Avenue NW., Room 3205, Washington, D.C. 20545, 202-376-9600.

SUPPLEMENTARY INFORMATION: In order to protect consumers, stimu-

late the growth of the solar industry and assist the States and units of general purpose local government, the Department of Energy has been conducting programs designed to accelerate the development of standards and codes for solar heating and cooling systems in buildings. The Department of Energy now intends to support the development of a model code for solar heating and cooling of buildings through the combined efforts of a consortium of the major national building code organizations and professional societies, aided by representatives of industry, labor, consumers and the States and units of general purpose local government.

Preliminary assessments of current solar codes and standards have been conducted for the Department of Energy by the National Bureau of Standards, in cooperation with Department of Housing and Urban Development. Contributing to those studies were the major national building code organizations, architectural and engineering societies and the National Institute of Building Sciences. Their unanimous conclusion was that there is strong need for uniform code requirements for solar heating and cooling buildings among the States and localities which could protect consumers and aid the growth of the solar industry.

It was also determined that a model code could be developed by the concerted effort of the voluntary consensus standards setting organizations using solar codes and standards that are now available. Before proceeding with this undertaking, the Department of Energy wishes to learn about the experiences with current standards from all interested parties, including designers, manufacturers and installation contractors of solar systems in buildings, consumers and the general public.

On May 11 and 12, 1978, the Department of Energy will sponsor a meeting to review its plan for developing a model code for solar heating and cooling of buildings and to receive both oral and written comments on the impact of current solar codes and standards. The Department of Energy is particularly interested in receiving comments which identify the concerns of those affected by solar codes and standards and raise issues to which the Department's efforts should respond.

Among the current solar codes and standards that will be considered in the development of the model code for solar heating and cooling of buildings are the following:

1. HUD Intermediate Minimum Property Standards Supplement, Solar Heating and Domestic Hot Water Systems, 1977 Edition, U.S. Department of Housing and Urban Development.

2. Interim Performance Criteria for Solar Heating and Cooling Systems in Commercial Buildings, NBSIR 76-1187, November 1976, National Bureau of Standards.

3. Intermediate Standards for Solar Domestic Hot Water Systems/HUD Initiative, NBSIR 77-1272, July 1977, National Bureau of Standards.

4. Uniform Solar Energy Code, 1976 Edition, International Association of Plumbing and Mechanical Officials, 5032 Alhambra Avenue, Los Angeles, Calif. 90032.

5. Installation Standards—Solar, 1977 Edition; Sheet Metal and Air Conditioning Contractors' National Association, Inc., 8224 Old Courthouse Road, Tysons Corner, Vienna, Va. 22180.

Representatives of the solar industry, including manufacturers, distributors and installers, as well as professional societies and organizations of code officials involved in the development of standards and codes for solar heating and cooling of buildings are expected to attend this meeting. We especially hope that consumer groups will actively participate in this meeting. Other interested persons and organizations are also invited to attend this meeting.

Mr. Ronald D. Scott, Assistant Director for Heating and Cooling, Office of the Assistant Secretary for Conservation and Solar Applications will preside at the meeting. Those who are unable to attend are invited to submit their comments on the impact of current solar codes and standards or their recommendations for the proposed model code.

Issued in Washington, D.C., April 7, 1978.

WILLIAM S. HEFFELFINGER,
Director of Administration.

[FR Doc. 78-9823 Filed 4-12-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 880-7; PP 5G1563/T141]

ORYZALIN

Renewal and Establishment of Temporary Tolerances

On April 30, 1976, the Environmental Protection Agency (EPA) announced (41 FR 18140) renewal of temporary tolerances for residues of the herbicide oryzalin (3,5-dinitro-N^4,N^4-dipropylsulfanilamide) in or on the raw agricultural commodities and commodity groups (40 CFR 180.34) almond hulls, citrus fruits, figs, nuts, pistachios, pome fruits, small fruits, and stone fruits at 0.05 part per million (ppm). These tolerances were established March 21, 1975 (40 FR 12842) in response to a pesticide petition (PP 5G1563) submitted by Elanco Products Co., division of Eli Lilly & Co., P.O. Box 1750, Indianapolis, Ind. 46206. This renewal expired April 26, 1977.

The petitioner request a 1-year renewal of the temporary tolerances and also requested that tolerances be established for residues of oryzalin in or on avocados, dates, kiwis, olives, persimmons, and pomegranates at 0.05 ppm. The renewal and establishment of these temporary tolerances would permit continued testing to obtain additional data and the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit that was renewed 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. A nitrosamine compound, which is a suspect carcinogen, appears in the formulations as an impurity. However, no detectable residues of the compound are present in the raw agricultural commodities. Thus, it was determined that a renewal of the temporary tolerances would protect the public health. Therefore, the temporary tolerances which expired on April 26, 1977, have been renewed and additional temporary tolerances have been established as requested 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. Elanco Products Co. 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.

These temporary tolerances expire November 9, 1978. Residues not in excess of 0.05 ppm remaining in or on almond hulls, avocados, citrus fruits, dates, figs, kiwis, nuts, olives, persimmons, pistachios, pome fruits, pomegranates, small fruits, and stone fruits 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 tolerances. These temporary tolerances 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.

(Sec. 408(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j)).)

Dated: April 7, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-9777 Filed 4-12-78; 8:45 am]

[6560-01]

PESTICIDE PROGRAMS

[FRL 880-6; PPs 6G1802, 6G1836, 7G1906, 7G1923, 7G1934, & 7G1946/T138]

Notice of Establishment of Temporary Tolerances

Six pesticide petitions were submitted to the Environmental Protection Agency (EPA) requesting the establishment of temporary tolerances for pesticide residues on raw agricultural commodities. The temporary tolerances have been established and their expiration dates are as follows:

PP6G1802. Elanco Products Co., division of Eli Lilly & Co., Inc., P.O. Box 1750, Indianapolis, Ind. 46206. 0.1 part per million (ppm) for residues of the herbicide oryzalin (3,5-dinitro-N^4,N^4-dipropylsulfanilamide) in or on wheat. November 9, 1977 to November 9, 1978. (A nitrosamine compound, which is a suspect carcinogen, appears in the formulation as an impurity. However, no residues of the compound are present at detectable levels in the raw agricultural commodity.)

PP6G1836. Amchem Products, Inc., Brookside Avenue, Ambler, Pa. 19002. 0.3 ppm for residues of the growth regulator 2-(*m*-chlorophenoxy) propionic acid in or on pineapples (fresh fruit only). November 2, 1977 to November 2, 1979.

PP7G1906. Rohm & Haas Co., Inc., Independence Mall, West, Philadelphia, Pa. 19105. 0.1 ppm for combined residues of the herbicide sodium salt of 5-(2-chloro-4-(trifluoromethyl)-phenoxy)-2-nitrobenzoic acid and its metabolite, the corresponding acid, in or on soybeans and 0.01 ppm in the liver and kidney of cattle, goats, hogs, horses, and sheep; in the fat, meat, and meat byproducts of poultry; in milk; and in eggs. January 1, 1978 to January 1, 1979.

PP7G1923. American Cyanamid Co., Agricultural Division, P.O. Box 400, Princeton, N.J. 08540. 0.1 ppm for combined residues of the herbicide (N-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine) and its metabolite (4-[(1-ethylpropyl) amino]-2-methyl-3,5-dinitrobenzyl alcohol in or on peas. February 1, 1978 to February 1, 1979. (A nitrosamine compound, which is a suspect carcinogen, appears in the formulation as an impurity. However, no residues of the compound at detectable levels are present in the raw agricultural commodity.)

PP7G1934. Sandoz, Inc., P.O. Box 1489, Homestead, Fla. 33030. 0.1 ppm for residues of the herbicide norflurazon (4-chloro-5-(methylamino)-2-(α,α,α-trifluoro-*m*-tolyl)-3(2H-pyridazinone) in or on almonds, almond hulls, apples, citrus crops, grapes, and pears. November 9, 1977 to November 9, 1979.

PP7G1946. Ciba-Geigy Corp., Agricultural Division, P.O. Box 11411, Greensboro, N.C. 27409. 0.1 ppm for residues of the insecticide O,O-diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate in or on wheat grain at 0.1 ppm and at 5 ppm in or on wheat forage. November 10, 1977 to November 10, 1978.

Establishment of these temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with an experimental use permit that was issued under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (86 Stat. 973, 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

An evaluation of the scientific data reported and other relevant material showed that the requested tolerances were adequate to cover residues resulting from the proposed experimental uses, and it was determined that the temporary tolerances would protect the public health. The temporary tolerances were established for the pesticides 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. The firms must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firms 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.

Residues not in excess of 5 ppm from 0,0-diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate remaining in or on wheat forage; 0.3 ppm from 2-(*m*-chlorophenoxy) propionic acid remaining in or on pineapples; 0.1 ppm from oryzalin remaining in or on wheat; 0.1 ppm from sodium salt of 5-(2-chloro-4-(trifluoromethyl)-phenoxy)-2-nitrobenzoic acid in the liver and kidney of cattle, goats, hogs, horses, and sheep, in the fat, meat, and meat byproducts of poultry, in milk, and in eggs; 0.1 ppm from *N*-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine in or on peas; 0.1 ppm from norflurazon in or on almonds, almond hulls, apples, citrus crops, grapes, and pears; and 0.1 ppm from 0,0-diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate in or on wheat grain 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 permits and temporary tolerances. These temporary tolerances may be revoked if the experimental use permits are revoked or if any scientific data or experience with these pesticides indicate such revocation is necessary to protect the public health.

Inquiries concerning this notice may be directed to 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.

(Sec. 408(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j)).)

Dated: April 5, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-9776 Filed 4-12-78; 8:45 am]

[6560-01]

[FRL 880-8; OPP-30124C]

PESTICIDE PROGRAMS

Notice of Approval of Applications to Register Pesticide Products Containing New Active Ingredient

On December 21, 1976, notice was given (41 FR 55570) that 3M Company, 3M Center, Building 223-6SE, St. Paul, Minn. 55101, had filed an application with the Environmental Protection Agency (EPA) to register the pesticide product EMBARK 2-S PLANT GROWTH REGULATOR (EPA File Symbol 7182-T), containing 28 percent of the active ingredient diethanolamine salt of mefluidide [N-[2,4-dimethyl-5-[[(trifluoromethyl)sulfonyl]amino]phenyl]acetamide], which was not previously registered at the time of submission.

By administrative error, another application from 3M Company to register the pesticide product EMBARK 4-S PLANT REGULATOR (EPA File Symbol 7182-I), which contained 52 percent of the same active ingredient, was inadvertently published on January 31, 1977 (42 FR 5752) as a Notice of Receipt of Application for Pesticide Registration. A related document correcting that error is also published in this issue of the FEDERAL REGISTER.

These applications were approved February 27, 1978 and were assigned EPA Registration Numbers 7182-7 for EMBARK 2-S and 7182-8 for

EMBARK 4-S. Both products are classified for general use for the control of various species of turf grasses and broadleaf vegetation. Copies of the approved labels and the list of data references used to support registrations are available for public inspection in the office of the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20460. The data and other scientific information used to support registration, except for the material specifically protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), will be available for public inspection in accordance with section 3(c)(2) of FIFRA. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), EPA, 401 M Street SW., Washington, D.C. 20460. Such requests should: (1) identify the product by name and registration number and (2) specify the data of information desired.

Dated: April 4, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator, for Pesticide Programs.

[FR Doc. 78-9778 Filed 4-12-78; 8:45 am]

[6560-01]

[FRL 881-1; OPP-301248]

PESTICIDE PROGRAMS

Notice of Receipt of Applications to Register Pesticide Products Containing New Active Ingredients; Correction

In FR Doc. 76-37351 appearing at page 55570 in the issue of December 21, 1976, the following product is added to the list of applications:

EPA File Symbol 7182-I. 3M Company, 3M Center, Building 223-6SE, St. Paul, Minn. 55101. EMBARK 4-S PLANT REGULATOR. Active Ingredient: Diethanolamine salt of mefluidide [N-[2,4-dimethyl-5-[[(trifluoromethyl)sulfonyl]amino]phenyl]-acetamide] 52 percent. Application proposes that this product be classified for general use for regulating the growth of various species of turf grasses and broadleaf vegetation.

By administrative error, the notice of application to register a pesticide product containing a new active ingredient in the case of EMBARK 4-S PLANT REGULATOR was inadvertently published on January 31, 1977 (42 FR 5752) as a Notice of Receipt of Application for Pesticide Registration under section 3(c)(1)(D) of the amended Federal Insecticide, Fungicide and Rodenticide Act (FIFRA).

A related document is also published in this issue of the FEDERAL REGISTER.

Dated: April 4, 1978.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc. 78-9779 Filed 4-12-78; 8:45 am]

[6560-01]

[FRL 880-5; OPP—33000/535 and 536]

RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ["Interim Policy Statement"]. On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" [41 FR 3339]. This document described the changes in the Agency's procedures for implementing section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement which were effected by the enactment of the amendments to FIFRA on November 28, 1975 [Pub. L. 94-140], and the regulations governing the registration and re-registration of pesticides which became effective on August 4, 1975 [40 CFR Part 162].

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room 209, East Tower, 401 M Street SW., Washington, D.C. 20460. In the case of applications subject to the Section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, are being used to support an application described in this notice, (c) desires to assert a claim under section 3(c)(1)(D) for such use of his data and wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, or (d) wishes to assert confidential status under section 10 for his data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Product Control Branch, Registration Division (WH-567), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

Specific questions concerning applications made to the Agency should be addressed to the designated Product Manager (PM), Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone as follows:

PM 11, 12, & 13—202/755-9315 PM 15, 16, & 17—202/426-9425.
PM 21 & 22—202/426-2454 PM 23—202/755-1397.
PM 24—202/755-2196 PM 25—202/426-2632.
PM 31—202/426-2635 PM 32—202/426-9486.
PM 33—202/755-9041 PM 34—202/426-9490.

The Interim Policy Statement requires that claims for compensation be filed on or before June 13, 1978. EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under section 10 of FIFRA, as amended, should be made within 30 days subsequent to publication of this notice. Registration will be delayed pending resolution of section 10 claims.

Dated: April 7, 1978.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

APPLICATIONS RECEIVED (OPP-33000/535)

EPA File Symbol 1016-TO. Union Carbide Corp., P.O. Box 17610, Jacksonville, Fla. 32216. STANDAK SULFOCARB PESTICIDE 75% WETTABLE POWDER. Active Ingredients: Sulfocarb [2 Methyl-2-(methylsulfonyl)propanal *O*-[(methylamino)carbonyl]oxime 75%. Method of Support: Application proceeds under 2(a) of interim policy. PM12

EPA File Symbol 1016-TO. Union Carbide Corp. STANDAK SULFOCARB PESTI-

CIDE 75% WETTABLE POWDER. Active Ingredients: Sulfocarb [2-Methyl-2-(methylsulfonyl)propanal *O*-[(methylamino)carbonyl]oxime 75%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: New use pattern on tobacco. PM12

EPA Reg. No. 1021-657. McLaughlin Gormley King Co., 1715 SE. Fifth Street, Minneapolis, Minn. 55427. PYROCIDE PRESSURIZED WATER-BASE PLANT AND PET SPRAY 6079. Active Ingredients: Pyrethrins 2.334%; Petroleum distillate 9.336%. Method of Support: Application proceeds under 2(a) of interim policy. PM17

EPA Reg. No. 1109-1. Cities Service Co., Minerals Group, P.O. Box 50360, Atlanta, Ga. 30302. COPPER SULFATE LARGE CRYSTALS. Active Ingredients: Copper Sulfate (Pentahydrate) 99%; Copper Expressed as Metallic 25.2%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added uses. PM24

EPA Reg. No. 1109-19. Cities Service Co. COPPER SULFATE MEDIUM CRYSTALS. Active Ingredients: Copper Sulfate (Pentahydrate) 99%; Copper Expressed as Metallic 25.2%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added uses. PM24

EPA Reg. No. 1109-20. Cities Service Co. COPPER SULFATE GRANULAR CRYSTALS. Active Ingredients: Copper Sulfate (Pentahydrate) 99%; Copper Expressed as Metallic 25.2%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added uses. PM24

EPA Reg. No. 1109-27. Cities Service Co. COPPER SULFATE LARGE BRIKS. Active Ingredients: Copper Sulfate (Pentahydrate) 99%; Copper Expressed as Metallic 25.2%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added uses. PM24

EPA File Symbol 1663-EA. Grant Labs., A Division of Leisure Enterprises, Inc., 6020 Adeline Street, Oakland, Calif. 94608. GRANT'S ANT CONTROL-JEL. Active Ingredients: 2-(1-Methylethoxy) phenol methylcarbamate 1.70%. Method of Support: Application proceeds under 2(b) of interim policy. New Application. PM12

EPA File Symbol 1663-ET. Grant Labs. GRANT'S ANT TRAP WITH BAYGON. Active Ingredients: 2-(1-Methylethoxy) phenol methylcarbamate 1.70%. Method of Support: Application proceeds under 2(b) of interim policy. New application. PM12

EPA File Symbol 1663-EI. Grant Labs. GRANT'S ROACH TRAP. Active Ingredients: 2-(1-Methylethoxy) phenol methylcarbamate 1.70%. Method of Support: Application proceeds under 2(b) of interim policy. New application. PM12

EPA File Symbol 1663-EO. Grant Labs. GRANT'S ANT CONTROL. Active Ingredients: 2-(1-Methylethoxy) phenol methylcarbamate 1.70%. Method of Support: Application proceeds under 2(b) of interim policy. New application. PM12

EPA Reg. No. 1685-50. The State Chemical Manufacturing Co., Main Office and Plant, Cleveland, Ohio 44114. STATE DEK BRAND PLEASANTLY SCENTED INSECTICIDE. Active Ingredients: Pyrethrins 0.30%; piperonyl Butoxide, Technical 1.50%; Petroleum Distillate 1.20%. Method of Support: Application proceeds under 2(a) of interim policy. Amendment. PM17

EPA File Symbol 1965-IL. R. T. Vanderbilt Co., Inc., 30 Winfield St., Norwalk, Conn. 06855. VANCIDE PA-57. Active Ingredients: Trans-1,2-bis(n-propylsulfonyl) ethene 57.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM22

EPA Reg. No. 2224-50. Mobil Chemical Co., P.O. Box 26683, Richmond, Va. 23261. U.S. Pat. No. 3,652,645. MODOWN HERBICIDE 80% WETTABLE POWDER. Active Ingredients: Bifenox-(Methyl 5-(2,4 dichloro phenoxy)-2-nitrobenzoate) 80%. Method of Support: Application proceeds under 2(b) of interim policy. Post-emergence use on pine seedlings. PM25

EPA Reg. No. 3125-111. Chemagro, Agricultural Division, Mobay Chemical Corp., Box 4913, Kansas City, Mo. 64120. METASYSTOX-R SPRAY CONCENTRATE SYSTEMIC INSECTICIDE. Active Ingredients: *S*-[2-(Ethylsulfinyl)ethyl] *O,O*-dimethyl Phosphorothioate 25%; Aromatic Petroleum Distillate 14%. Method of Support: Application proceeds under 2(b) of interim policy. PM16

EPA Reg. No. 3125-234. Chemagro, Mesurol 2% BAIT MOLLUSCICIDE. Active Ingredients: 3,5-Dimethyl-4-(methylthio)phenol methylcarbamate 2%. Method of Support: Application proceeds under 2(b) of interim policy. Amendment. PM12

EPA Reg. No. 3125-234. Chemagro, MESUROL 2% BAIT MOLLUSCICIDE. Active Ingredients: 3,5-Dimethyl-4-(methylthio)phenol methylcarbamate 2%. Method of Support: Application proceeds under 2(b) of interim policy. Amendment. PM12

EPA Reg. No. 3125-277. Chemagro, SENCOR 50% WETTABLE POWDER HERBICIDE. Active Ingredients: 4-Amino-6-(1, 1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4*H*)-one 50%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: New use. PM25

EPA Reg. No. 3125-288. Chemagro, MESUROL 75% WETTABLE POWDER INSECTICIDE. Active Ingredients: 3,5-Dimethyl-4-(methylthio)phenol methylcarbamate 75%. Method of Support: Application proceeds under 2(b) of interim policy. Amendment. PM12

EPA File Symbol 3125-GRE. Chemagro, METASYSTOX-R 4, EMULSIFIABLE SYSTEMIC INSECTICIDE. Active Ingredients: *S*-[2-(Ethylsulfinyl)ethyl] *O,O*-dimethyl phosphorothioate 45%. Method of Support: Application proceeds under 2(b) of interim policy. Reason for publishing: Added claim to label. PM16

EPA Reg. No. 3125-314. Chemagro, SENCOR 4 FLOWABLE HERBICIDE. Active Ingredients: 4-Amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4*H*)-one 41%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: New use. PM25

EPA File Symbol 3286-UT. Ferd Staffel Co., Inc., San Antonio, Tex. 78298. PYROCIDE DUST. Active Ingredients: Pyrethrins 0.20%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 4482-RL. Epic Chemicals Inc., 89 Coffey Street, Brooklyn, N.Y., 11231. DICAL DISINFECTANT SANITIZER. Active Ingredients: Didecyl dimethyl ammonium chloride 7.5%; Isopropanol: 3.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 4581-174. Agchem Division, Pennwalt Corp., P.O. Box C, King of Prussia, Pa. 19406. HYDROTHOL 191. Active Ingredients: Mono(N,N-dimethylalkylamine) salt of endothall 53.0%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added uses. PM24

EPA Reg. No. 4581-204. Agchem Division. Pennwalt Corp. AQUATHOL "K". Active Ingredients: Dipotassium salt of endothall 40.3%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added uses. PM24

EPA Reg. No. 4816-381. Fairfield American Corp., 100 Niagara Street, Middleport, N.Y. 14105. SYNTHRIN AQUEOUS PRESSURIZED SPRAY INSECTICIDE 0.50. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.500%; Related compounds 0.068%; Aromatic petroleum hydrocarbons 0.664%. Method of Support: Application proceeds under 2(b) of interim policy. Amendment: New use pattern. PM17

EPA File Symbol 4876-LI. "AG" Supply Co., Hopkinsville, Ky. 42240. CHLORDANE-8 TERMITE CONTROL. Active Ingredients: Technical Chlordane 72%; Aromatic Petroleum Derivative Solvent 21%. Method of Support: Application proceeds under 2(b) of interim policy. PM15

APPLICATIONS RECEIVED (OPP-33000/536)

EPA File Symbol 5535-RNU. J. & L. Adikes, Inc., 182-12 93rd Avenue, Jamaica, N.Y. 11423. GRO-WELL CHLORDANE TERMITE CONTROL. Active Ingredients: Technical Chlordane 46.00%; Petroleum Distillates 49.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM15

EPA File Symbol 5736-AU. DuBois Chemicals, Division of Chemed Corp., DuBois Tower, Cincinnati, Ohio 45202. FSD-40. Active Ingredients: Didecyl dimethyl ammonium chloride 7.5%; Isopropanol 3.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 5813-RO. Clorox Co., P.O. Box 24305, Oakland, Calif. 94623. CLOROX CLEANSER. Active Ingredients: Trisodium Phosphate 16.20%; Sodium dodecyl benzene sulfonate 1.80%; Sodium hypochlorite 0.45%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 7152-EL. Seaboard Industries, 185 Van Winkle Avenue, Hawthorne, N.J. 07507. ALGI-SEA L. Active Ingredients: Alkyl (C14, 60%; C12, 25%; C16, 15%) Dimethyl Benzyl Ammonium Chloride 9.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM24

EPA File Symbol 7152-EA. Seaboard Industries. SEA ALGIBAN 10 NF. Active Ingredients: Poly[oxyethylene(dimethyliminio) ethylene(dimethyliminio) ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 7152-ET. Seaboard Industries. SEA ALGIBAN XNF. Active Ingredients: Poly[oxyethylene(dimethyliminio) ethylene(dimethyliminio) ethylene dichloride] 30.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 7152-EI. Seaboard Industries. SEA ALGIBAN NF. Active Ingredients: Poly[oxyethylene(dimethyliminio) ethylene(dimethyliminio) ethylene dichlo-

ride] 6.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 7152-EO. Seaboard Industries. SEA ALGIBAN SUPER NF. Active Ingredients: Poly[oxyethylene(dimethyliminio) ethylene(dimethyliminio) ethylene dichloride] 60.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 7152-GN. Seaboard Industries. SEA ALGIBAN Active Ingredients: Poly[oxyethylene(dimethyl-iminio) ethylene(dimethyliminio) ethylene dichloride] 40.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA Reg. No. 7885-25. Zoe Chemical Co., Inc., 1861 Falmouth Avenue, New Hyde Park, N.Y. 11040. JAYGOL ROSE AND FLORAL SPRAY BOMB. Active Ingredients: Pyrethrins .056%; Petroleum distillate 0.224%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA Reg. No. 7969-45. BASF Wyandotte Corp., 100 Cherry Hill Road, P.O. Box 181, Parsippany, N.J. 07054. BASAGRAN. Active Ingredients: Sodium salt of bentazon 42.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM25

EPA File Symbol 8329-RE. Clarke Outdoor Spraying Co., Inc., 7N570 Garden Avenue, Roselle, Ill. 60172. CLARKE GRANULAR LARVICIDE. Active Ingredients: Chlorpyrifos [O,O-diethyl-O-(3,5,6-trichloro-2-pyridyl)phosphorothioate] 1%. Method of Support: Application proceeds under 2(b) of interim policy. Application for new registration. PM12

EPA File Symbol 8591-GG. The Mogul Corp., P.O. Box 200, Chagrin Falls, Ohio 44022. MOGUL PC1313. Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene-(dimethyliminio) ethylene dichloride] 60.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 8996-A. Sierra Chemical Co., 1490 East Second Street, Reno, Nev. 89502. LIQUEFIED CHLORINE GAS. Active Ingredients: Chlorine 99.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA Reg. No. 9538-5. Sellers Chemical Corp., P.O. Box 23523, Harahan, La. 70183. FLO-MO 810 SUCKER TOBACCO SUCKER CONTROL AGENT. Active Ingredients: Fatty Alcohols (C6-0.4%, C8-45.1%, C10-54.5%) 85%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Adding use on Burley Tobacco. PM25

EPA Reg. No. 9538-6. Sellers Chemical Corp. FLOR-MO 10 TOBACCO SUCKER CONTROL AGENT. Active Ingredients: n-Decanol (Fatty Alcohol C10) 79.0%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Adding use on Burley Tobacco. PM25

EPA File Symbol 9594-RT. Interncontinental Chemical Corp., P.O. Box 15318, Sacramento, Calif. 95813. 233 WASH AND SURFACE SANITIZER. Active Ingredients: Sodium dichloro-s-triazine-trione dihydrate (provides 19.1% available chlorine) 34%. Method of Support: Application proceeds under 2(b) of interim policy. New Application. PM34

EPA File Symbol 9807-LL. Texas Department of Corrections, One Circle Drive, Sugar Land, Tex. 77478. DOUBLE-D. Active Ingredients: Octyl Decyl Dimethyl Ammonium Chloride 3.750%; Dioctyl Dimethyl Ammonium Chloride 1.875%; Didecyl Dimethyl Ammonium Chloride 1.875%; Alkyl (C14, 50%; C12, 40%; C16 10%) Benzyl Dimethyl Ammonium Chloride 5.000%; Tetrasodium Ethylenediamine Tetraacetate 3.420%; Isopropyl Alcohol 3.000%; Ethyl Alcohol 1.000%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

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[6560-01]

[FRL 856-7]

CALIFORNIA STATE MOTOR VEHICLE POLLUTION CONTROL STANDARDS

Waiver of Federal Preemption

I. Introduction

By this decision, issued under section 209(b) of the Clean Air Act, as amended (hereinafter the "Act"),[1] I am granting the State of California a waiver of Federal preemption to adopt and enforce the California exhaust emission standards and accompanying enforcement procedures applicable to 1983 and subsequent model year light-duty trucks and medium-duty vehicles and the exhaust emission standards under the 100,000 mile optional certification procedure applicable to 1981 and 1982 model year light-duty trucks and medium-duty vehicles.[2] Under section 209(b) of the Act, the Administrator is required to grant the State of California a waiver of Federal preemption, after opportunity for a public hearing, if the State determines that the State standards will be, in the aggregate, at least as protective of public health and welfare as the applicable Federal standards.[3] A waiver cannot be granted if he finds that the determination of the State of California is arbitrary and capricious, that the State does not need such State standards to meet compelling and extraordinary conditions, or that such State standards and accompanying enforcement procedures are not consistent with section 202(a) of the Act. State standards and enforcement procedures are deemed not to be consistent with section 202(a) if there is inadequate lead time to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within that time frame, or if the Federal and California certification and test procedures are inconsistent. For the reasons given below, I have concluded that I cannot make the findings required for the denial of the waiver under section 209(b) of the Act in the case of these California standards.

However, this waiver decision does not include the waiver requests concerning limitations on allowable maintenance during the certification of 1981 and subsequent model year gasoline-powered light-duty trucks and medium-duty vehicles adopted by the CARB on May 26, 1977, or certification requirements covering the carburetor idle air/fuel mixture adjustment mechanism. As mentioned above, these waiver requests will be the subject of a waiver decision to be published in the Federal Register in the near future.

II. Discussion

Public Health and Welfare. Under one of the criteria of section 209(b) of the Act, I cannot grant a waiver if I find that California's determination that its "standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards" is arbitrary and capricious. On September 30, 1977, the

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[1] 42 U.S.C. § 7543(b), as amended by Pub. L. No. 95-95, 91 Stat. 755 (1977).

[2] As defined by California, the medium-duty vehicle class is a subset of the heavy-duty vehicle category, and is any motor vehicle (except a passenger car) with a gross vehicle weight rating (GVWR) of between 6000 and 8500 pounds. See generally 42 FR 2337 (January 11, 1977).

The enforcement procedures subject to consideration in today's decision include not only the applicable California certification procedures, but also, California's compliance testing and inspection program with respect to 1983 and subsequent model year light-duty trucks and medium-duty vehicles, conducted under sections 2100 et seq. of title 13 of the California Administrative Code, and "California New Motor Vehicle Compliance Test Procedures," adopted on June 24, 1976, last amended June 30, 1977. These procedures, as applicable to 1978 through 1982 model year light-duty trucks and medium-duty vehicles, were the subject of a waiver decision which has been recently published in the Federal Register. See 43 FR 9344 (March 7, 1978). I believe that the findings previously made in that decision with regard to California's compliance and inspection testing program are also applicable to today's decision. See *id.*

[3] Public hearings were held on May 16-19 and August 3-4, 1977, pursuant to notices published by the Environmental Protection Agency (EPA) in the Federal Register, see 42 FR 19372 (April 13, 1977); 42 FR 36009 (July 13, 1977), to consider the questions that pertain to today's decision. On September 30, the California Air Resources Board (CARB) found that the standards under consideration in today's decision were, in the aggregate, at least as protective of public health and welfare as the applicable Federal standards. See State of California, Air Resources Board, Resolution 77-48, September 30, 1977. This determination, as well as other questions concerning these standards, were considered at a public hearing held on October 13, 1977, pursuant to notice published by EPA in the Federal Register. See 42 FR 45942 (September 13, 1977). A decision on the other outstanding waiver requests considered during these hearings will be published in the Federal Register in the near future.

CARB determined that the standards under consideration in this decision[4] were, in the aggregate, at least as protective of public health and welfare as the applicable Federal standards.[5] It is clear that the numerical value of each California standard is no greater than that of the comparable Federal standard, making them at least as stringent as the applicable Federal standards.[6] As a result, the California standards are deemed under the Act to be at least as protective of public health and welfare as the Federal standards.[7] Thus, I cannot find that California's determination in this matter is arbitrary and capricious.

[4]The California exhaust emission standards under consideration in this decision are as follows (expressed in grams per vehicle mile):

Model year	Model type*	Equivalent inertia weight (lbs.)**	Hydrocarbons (HC)***	Carbon monoxide (CO)	Oxides of nitrogen (NO_x)****
1981	LDT, MDV.	0-3999	0.39 (0.41)	9.0	1.0 (1.5)
	LDT, MDV.	4000-5999	0.50 (0.50)	9.0	1.5 (2.0)
	MDV	6000 and larger.	0.60 (0.60)	9.0	2.0 (2.3)
1982	LDT, MDV.	0-3999	0.39 (0.41)	9.0	1.0 (1.5)
	LDT, MDV.	4000-5999	0.50 (0.50)	9.0	1.5 (2.0)
	MDV	6000 and larger.	0.60 (0.60)	9.0	2.0 (2.3)
1983 and subsequent.	LDT, MDV.	0-3999	0.39 (0.41)	9.0	0.4 (1.0)
	LDT, MDV.	4000-5999	0.50 (0.50)	9.0	1.0 (1.5)
	MDV	6000 and larger.	0.60 (0.60)	9.0	1.5 (2.0)

*"LDT" refers to light-duty trucks.
"MDV" refers to medium-duty vehicles.

**Equivalent inertia weight is determined in accordance with 40 CFR § 86.129-79(a) as incorporated in the provisions of the "California Exhaust Emission Standards and Test Procedures for 1980 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," as amended September 30, 1977. *See* 42 FR 32906, 32966, 32967 (June 28, 1977).

***The hydrocarbon standard is expressed either as a non-methane or a total hydrocarbon standard. Hydrocarbon standards in parentheses apply to total hydrocarbon emissions which may not be corrected by a methane content correction factor. The requirements for the demonstration of compliance with this standard are set forth in subparagraph 3(a) of the "California Exhaust Emission Standards and Test Procedures for 1980 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," as amended September 30, 1977.

****Oxides of nitrogen standards in parentheses are applicable to engine families which are certified under the optional 100,000 mile certification procedure set forth in paragraph 6 of the "California Exhaust Emission Standards and Test Procedures for 1980 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," as amended September 30, 1977.

[5] *See* supra note 3.

[6] The 1979 and subsequent model year Federal light-duty truck standards are 1.7 grams HC, 18 grams CO and 2.3 grams NO_x per vehicle mile. *See* 41 FR 56316 (December 28, 1976). The EPA definition of light-duty truck, however, does not include vehicles which have an actual curb weight of greater than 6000 pounds or which have a basic vehicle frontal area in excess of 46 square feet. Thus, some vehicles within the CARB medium-duty vehicle class will be heavy-duty vehicles for Federal purposes. For these vehicles the applicable Federal standards are as follows:

Engine type	Test procedures and instrumentation	Emission standards* (grams per brake horsepower hour) HC	CO	HC+ NO_x
Primary standards applicable to 1979 and later**:				
Gasoline and diesel.	New	1.5	25	10
				5
Optional standards applicable to 1979 model year only:				
Diesel	Current	1.5	25	10
Gasoline and diesel.	do		25	5
Gasoline	do	1.0	25	9.5

*A manufacturer may elect to certify any heavy-duty vehicle 10,000 pounds GVWR or less as a light-duty truck to the light-duty truck standards, in which case the heavy-duty emission standards shall not apply.

**For 1980 and later model years, small volume manufacturers may elect to use current test procedures and certify to the appropriate 1979 model year optional standards.

See 42 FR 45132 (September 8, 1977). The Clean Air Act Amendments of 1977 require that I promulgate regulations applicable to emissions of HC, CO and NO_x from heavy-duty vehicles and engines manufactured during the 1979 and subsequent model years as well as to emissions of particulate matter from heavy-duty vehicles manufactured during and after model year 1981 or, if practicable, during any earlier model year. *See* 42 U.S.C. § 7521(a)(3). If such regulations include standards more stringent than the corresponding California standards, I may then have to reconsider whether this California waiver should remain in effect. In the event that the Federal standard for any pollutant for any model year becomes more stringent than the corresponding California standard as a result of the promulgation of these regulations and the waiver remains in effect, the Federal certificate of conformity issued on the basis of compliance with the corresponding California standards will cover only those vehicles introduced into commerce for sale in the State of California and possibly in States which have adopted California standards pursuant to section 177 of the Act. Whether the certificate would apply in those States, and under precisely what circumstances, are issues not before me now.

[7] 42 U.S.C. § 7543(b)(2), as added by Pub. L. No. 95-95, 91 Stat. 755 (1977).

[8] Arguments raised by the Ford Motor Co. and the American Motors Corp. concerning this issue have been previously dismissed. See 43 FR 1829 (January 12, 1978).

Certification and test procedures. Under section 209(b), I also cannot grant a waiver if I find that the California certification and test procedures are in conflict with the corresponding Federal procedures.[8] This situation may arise where (1) a manufacturer elects the 100,000 mile optional certification procedure during the certification of 1981 and subsequent model year light-duty trucks or medium-duty vehicles and such procedure does not satisfy the applicable Federal requirements for this vehicle, or (2) the Federal and California certification procedures require a single engine to go through both vehicle and engine dynamometer certification testing in order to meet the applicable Federal and California requirements.[9] In the event that a manufacturer should elect the 100,000 mile optional certification procedure, I have decided that EPA will accept the data used to successfully certify any vehicle under this procedure for Federal certification purposes. With respect to the second situation, I have decided that EPA will accept the data used to successfully certify any vehicle under the California test procedures as demonstrating that the engine in that vehicle complies with applicable Federal standards, and the appropriate Federal certificate of conformity will be issued on this basis.

Lead time and technology. Under section 209(b), I also cannot grant a waiver if I find that California standards and accompanying enforcement procedures are not "consistent with section 202(a)." Section 202(a) states that standards promulgated under its authority "shall take effect after such period as the Administrator finds necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period." In order for California standards to be consistent with section 202(a), it is not required that the requisite technology be developed at present, but rather that the available lead time appear to be sufficient to permit the development and application of that technology.[10]

The Ford Motor Co., General Motors Corp., and Chrysler Corp. all testified that the requisite technology

[9] As has been mentioned above, the Clean Air Act Amendments of 1977 require that I promulgate regulations applicable to emissions of HC, CO and NO_x from heavy-duty vehicles and engines manufactured during the 1979 and subsequent model years. See supra note 6. As a result, in the event that the Federal standard for any pollutant for any model year should become more stringent than the corresponding California standard and the waiver remains in effect, the Federal certificate of conformity issued on the basis of compliance with the corresponding California standards will cover only those vehicles introduced into commerce for sale in the State of California and possibly in States which have adopted California standards pursuant to section 177 of the Act. As stated in footnote six above, whether the Federal certificate of conformity would apply in those States, and under precisely what circumstances, are issues not before me now.

[10] See 41 FR 44209, 44210 (October 7, 1976).

was not currently available to meet the 1983 0.4 grams of oxides of nitrogen (NO_x) standard.[11] Ford stated, however, that its testimony should not be interpreted as an indication that it believed that this standard was not attainable.[12] American Motors Corp. and Volkswagen of America claimed that the light-duty truck standards were not technologically feasible.[13] The Motor and Equipment Manufacturers Association (MEMA) contended that the CARB had not made the requisite findings as to the feasibility of the 100,000 mile optional certification procedure.[14]

On the other hand, Ford submitted data on 20 test passenger cars and three light-duty trucks which had met emission levels equivalent to 0.41 HC/ 3.4 carbon monoxide (CO)/0.4 NO_x grams per vehicle mile at low mileages and on two additional test cars which, at low mileages, had met emissions levels below 0.41 HC/9.0 CO/0.4 NO_x grams per vehicle mile.[15] General Motors stated that it would probably be able to certify light-duty vehicles to a 0.4 NO_x standard when it takes effect.[16]

Finally, the CARB noted that

> * * * emission control hardware similar to that feasible for passenger cars can be used for trucks to achieve exhaust emission levels which are comparable to those which can be achieved by passenger cars.[17]

Hence, the CARB concluded that these standards were technologically justified.[18] The CARB also presented information indicating that a fuel injection/three-way catalyst system can be used to certify light-duty trucks to a 1.0 NOx standard and may be used to certify to a 0.4 NOx standard.[19]

In light of the above discussion, as well as the judgment of my technical staff and the ongoing development efforts of the manufacturers,[20] I cannot conclude that the requisite technology cannot be developed and applied within the available lead time in order to achieve compliance with the California standards.

Cost of compliance. With respect to the cost of compliance with the 1983 and subsequent model year standards, and the 1981 and 1982 standards under the 100,000 mile optional certification procedure, the CARB testified that the cost of meeting these standards was not excessive.[21] In this regard the CARB submitted information summarizing the comments which it has received on the costs associated with these standards.[22] The MEMA stated that "* * * the competitive impact of the 100,000-mile certification option would be devastating * * *."[23] Ford and Chrysler stated that the costs and fuel economy penalty with regard to these standards did not justify the granting of a waiver.[24] Chrysler further stated that the costs associated with the use of a three-way catalyst emission control system were approximately 300 to 350 dollars per vehicle.[25] General Motors and American Motors could not quantify the costs associated with these standards at the present time.[26] International Harvester requested that a waiver for these standards be denied on the grounds of cost until such time as the Federal standards require similar technology to that used to meet these standards.[27]

Even though some of the above information may be correct, I do not believe that the costs of compliance are so excessive as to warrant a denial of a waiver on these grounds, given the intent of Congress in adopting section 209 of the Act.[28]

Objections to granting the waiver. Ford and others claimed[29] that these standards may result in a restricted vehicle offering incapable of meeting basic market demand in California contrary to *International Harvester* v. *Ruckelshaus.*[30] I cannot agree. While the information presented on this issue does indicate that California's emission standards may limit the number of models of light-duty trucks and medium-duty vehicles which may be sold in California in the future, it is not sufficient to require a finding that the variety of models would not satisfy basic demand in California for these vehicles.[31]

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[11] See Transcript of Public Hearing on California Waiver Request (August 4, 1977), Volume II, at 300, 302-304, 306, 308, 322, 331, 341, 346-348, 350, 352, 355, 368-369, 380-384, 386, 390, 392-393 (hereinafter "Tr. of August 1977 Hearing"); Transcript of Public Hearing on California Waiver Requests (October 13, 1977), at 130, 192 (herinafter "Tr. of October 1977 Hearing"); Memorandum from John P. Eppel and Helen O. Petrauskas, Ford Motor Co., to B. R. Jackson, Director, MSED, EPA, September 9, 1977, at 15-23; Letter from D. A. Jensen, Ford Motor Co., to Benjamin R. Jackson, Director, MSED, EPA, July 29, 1977, at Attachments III, IV, V; see also Letter from R. M. Wagner, Chrysler Corp., to Benjamin R. Jackson, Director, MSED, EPA, August 25, 1977. Ford did state, however, that there would not be a lead time problem with meeting this standard if its development program proceeds successfully as scheduled. See Tr. of August 1977 Hearing at 318.

[12] See Tr. August 1977 Hearing, supra note 11, at 302.

[13] See Statement by William C. Jones, "Statements by American Motors Corp. in Response to the California Air Resources Board Proposed Changes in the Emissions Standards and Test Procedures for 1982 and Later Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles," Presented to the CARB, January 25, 1977; Tr. of October 1977 Hearing, supra note 11, at 158-160; Letter from J. Kennebeck, Volkswagen of America, Inc., to Director, MSED, EPA, October 21, 1977, at Enclosure-4.

[14] See Tr. of August 1977 Hearing, supra note 11, at 280, 290.

[15] See Letter from D. A. Jensen to Benjamin R. Jackson, supra note 11, at Attachment III; Letter from E. E. Weaver, Ford Motor Co., to Benjamin R. Jackson, Director, MSED, EPA, August 25, 1977. Ford stated that its total product line could meet a 0.41 HC/ 3.4 CO/ 1.0 NO_x set of standards in the early 1980's if its three-way catalyst development program was successful. It also stated that the technology utilized to meet this set of standards may have the capability of meeting a 0.4 NO_x standard at some undetermined future date. See Tr. of August 1977 Hearing, supra note 11, at 303.

[16] See Tr. of August 1977 Hearing, supra note 11, at 382-383.

[17] State of California, Air Resources Board, Staff Report No. 76-22-2(a), November 23, 1976, at 5 (hereinafter "CARB November Staff Report"). Although the CARB contended that the 1979 and subsequent model year passenger car standards discussed in Staff Report No. 76-2-2(a) were technologically feasible, this reference to these standards in no way indicates my affirmance of the CARB's contention. See id. at 21.

[18] See Tr. of August 1977 Hearing, supra note 11, at 266-267, 270-275; Tr. of October 1977 Hearing, supra note 11, at 45; CARB November Staff Report, supra note 17, at 21-26; State of California, Air Resources Board, Staff Report No. 77-13-2, June 22, 1977, at 6-11, 13-14; Letter from Thomas C. Austin, CARB, to Ben Jackson, Director, MSED, EPA, August 31, 1977, at Attachment V, IX, X; Letter from Thomas C. Austin, CARB, to Benjamin R. Jackson, Director, MSED, EPA, November 1, 1977.

[19] See Letter from Thomas C. Austin to Benjamin R. Jackson, supra note 18.

[20] See Memorandum from Eric O. Stork, former Deputy Assistant Administrator for Mobile Source Air Pollution Control, EPA, to Norman D. Shutler, Deputy Assistant Administrator for Mobile Source and Noise Enforcement, January 13, 1978; Tr. of August 1977 Hearing, supra note 11, at 305-307, 314-316, 318-323, 339-340, 368-369, 390, 393, 405; Letter from D. A. Jensen to Benjamin R. Jackson, supra note 11.

[21] See Tr. of August 1977 Hearing, supra note 11, at 274-275.

[22] See CARB November Staff Report, supra note 17, at 12, 13, 16, 17, 24, 31, 32.

[23] See Tr. of August 1977 Hearing, supra note 11, at 248.

[24] See id. at 300, 308, 341-343, 355, 360-362. Ford further stated that the exact nature of these costs could not be ascertained at the present time. Ford indicated, though, that PROCO engine vehicles experience 20 percent better fuel economy than those vehicles equipped with a conventional engine. See id. at 332. Data from the PROCO engine research program indicated that vehicles with engines would suffer a five to ten percent fuel economy penalty in meeting a 0.4 NOx standard over that in meeting a 1.0 NOx standard. See id.

[25] See id. at 358-359.

[26] See id. at 388-389, 403.

[27] See letter from W. J. Martin, International Harvester Co., to Director, MSED, EPA, July 27, 1977.

[28] See Memorandum from Eric O. Stork to Norman D. Shutler, supra note 20, at 1-2, 20, 23.

[29] See Tr. of August 1877 Hearing, supra note 11, at 300, 308, 341, 343-344, 352-354; Tr. of October 1977 Hearing, supra note 11, at 75, 159; Letter from Michael W. Grice, Chrysler Corp., to Benjamin R. Jackson, Director, MSED, Epa, October 28, 1977.

[30] 478 F.2d 615 (D.C. Cir. 1973).

[31] See supra notes 11-20. I am not deciding here that the "basic demand" test of *Inter-*

Footnotes continued on next page

General Motors, Ford and others contended, among other things, that California may not need these particular standards and that these standards might not have a net beneficial health effect.[32] However, for the reasons stated in a previous waiver decision, these arguments are not grounds for denying California a waiver.[33] Such arguments all fall within the EPA practice of leaving the decision on controversial matters of public policy to California's judgment.

III. Finding and Decision

Having given due consideration to the record of the public hearings of May 16-19, August 3-4 and October 13, 1977, all material submitted for this record, and other relevant information, I find that I cannot make the determinations required for a denial of the waiver under section 209(b) of the act, and therefore I hereby waive application of section 209(a) of the act to the State of California with respect to the following sections of Title 13 of the California Administrative Code:

Section 1960, adopted November 23, 1976, as amended September 30, 1977, and "California Exhaust Emission Standards and Test Procedures for 1980 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," adopted on November 23, 1976, as amended September 30, 1977, with respect to the 1983 and subsequent model year light-duty truck and medium-duty vehicle standards, and the 1981 and 1982 light-duty truck and medium-duty vehicle standards applicable under the 100,000 mile optional California certification procedure, and

Sections 2100 et seq., adopted June 24, 1976, as amended June 30, 1977, and "California New Motor Vehicle Compliance Test Procedures," adopted June 24, 1976, last amended June 30, 1977, with respect to 1983 and subsequent model year light-duty trucks and medium-duty vehicles.

As stated above, this decision does not include the California certification requirements covering the carburetor idle air/fuel mixture adjustment mechanism and limitations on allowable maintenance incorporated by reference in section 1960 of Title 13 of the California Administrative Code under the "California Exhaust Emission Standards and Test Procedures for 1980 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles."

A copy of the above standards and procedures, as well as the record of these hearings and those documents used in arriving at this decision, is available for public inspection during normal working hours (8 a.m. to 4:30 p.m.) at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460. Copies of the standards and test procedures are also available upon request from the California Air Resources Board, 1102 Q Street, Sacramento, Calif. 95812.

Dated: April 7, 1978.

Douglas M. Costle,
Administrator.

[FR Doc. 78-9896 Filed 4-12-78; 8:45 am]

[6570-06]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Proposed Memorandum of Understanding with Federal Communication's Commission

Notice is hereby given that the period for comment in the matter of the proposed memorandum of understanding between the EEOC and the FCC has been extended to May 2, 1978. The details of the proposed memorandum of understanding were published in the Federal Register, Tuesday, March 28, 1978, 43 FR 12936.

Dated: April 6, 1978.

Eleanor Holmes Norton,
Equal Employment Opportunity Commission.
Charles D. Ferris,
Federal Communications Commission.

[FR Doc. 78-9833 Filed 4-12-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

AMATEUR RADIO SERVICE

Amateur Station Call Sign Assignment System

March 30, 1978.

Effective March 24, 1978, section 97.51 of the Amateur Radio Service regulations requires amateur station call signs to be issued systematically, with details of the system to be made public. The following system will be effective until further notice.

Which Past Policies and Rules Have Been Eliminated?

(a) All prior call sign policies and procedures, written or unwritten, are cancelled and are hereby replaced.

(b) No requests for specific call signs will be honored.

What Will Happen to Existing Stations?

(c) All amateurs may continue to hold their existing primary station call signs unless they request a change, even if they are moving to new call sign areas.

(d) Section 97.40 of the Commission's Rules permits only one primary station per operator. Although this is not a new limitation, licensees may have received more than one primary call sign due to processing erros. Any such licensees must choose one of the primary call signs for their sole primary station, and submit the other license for cancellation by October 1, 1978.

(e) No new secondary or special event station licenses will be issued. Existing licenses will not be renewed or modified, but may continue to operate until their expiration dates. We will permit a holder to transfer an existing secondary station call sign to the primary station anytime prior to expiration. The secondary station license will be cancelled at that time.

How Will Future Call Signs Be Assigned?

(f) (1) Initial assignment of call sign digits will conform to Table A in the contiguous 48 states and the District of Columbia:

Table A

Digit:	*Location*
1.....	Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut.

Footnotes continued from last page

national Harvester is applicable in the context of a California waiver. Any determination in this matter would be guided by the interpretation of the applicability of *International Harvester* in a California waiver situation as set forth in a previous waiver decision. See 41 Fed. Reg. 44209, 44212, 44213 (October 7, 1976).

[32] See Tr. of August 1977 Hearing, supra note 11, at 299-302, 308, 333-336, 338-339, 344-345, 365-367, 370-372, 374, 376-379, 391, 409-410, 414-415; Tr. of October 1977 Hearing, supra note 11, at 74-75, 110-119, 131, 158, 169-172, 206, 213, 223-224. Information on this question has been presented. See id.; Tr. of August 1977 Hearing, supra note 11, at 262-264; Weinstock, Bernard and Tai Yup Chang, "The Relationship Between Vehicle NOx Emissions and Air Quality," Presented at the California Air Resources Board Photochemical/Transport Workshop at the University of California, Los Angeles, Calif., January 6-7, 1977; Weinstock, Bernard, and Tai Yup Chang, "The Relationship Between Vehicle NOx Emissions and Air Quality," Progress Report on the NO_2 Problem, June 7, 1977; Glasson, William A., "Smog Chamber Simulation of Los Angeles Pollutant Transport," GMR-2325, EV No. 32, Presented to the California Air Resources Board, Los Angeles, Calif., January 6, 1977; Memorandum from John P. Eppel and Helen O. Petrauskas to B. R. Jackson, supra note 11, at 8-11; State of California, Air Resources Board, "Control Strategies for Oxidant and Nitrogen Dioxide," January 25, 1977; CARB November Staff Report, supra note 17, at 1-5, 28-30; Letter from T. M. Fisher, General Motors Corp. to Mr. James McNab III, EPA, November 10, 1977.

[33] See 41 FR 44209, 44210 (October 7, 1976).

TABLE A—Continued

2	New York, New Jersey.
3	Pennsylvania, Delaware, Maryland, District of Columbia.
4	Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Tennessee, Kentucky.
5	Mississippi, Louisiana, Arkansas, Oklahoma, Texas, New Mexico.
6	California.
7	Oregon, Washington, Idaho, Montana, Wyoming, Arizona, Nevada, Utah.
8	Michigan, Ohio, West Virginia.
9	Illinois, Indiana, Wisconsin.
10	Colorado, Nebraska, North Dakota, South Dakota, Minnesota, Iowa, Missouri.

(2) Initial assignment of call sign prefixes will conform to Table B outside the contiguous 48 states:

TABLE B

Prefix	*Location*
AH1, KH1, NH1, WH1	Baker, Canton, Enderbury, Howland Islands.
AH2, KH2, NH2, WH2	Guam.
AH3, KH3, NH3, WH3	Johnston Island.
AH4, KH4, NH4, WH4	Midway Island.
AH5K, KH5K, NH5K, WH5K	Kingman Reef.
AH5, KH5, NH5, WH5	(Except K suffix) Palmyra, Jarvis Islands.
AH6, KH6, NH6, WH6	Hawaii.
AH7, KH7, NH7, WH7	Kure Island.
AH8, KH8, NH8, WH8	American Samoa.
AH9, KH9, NH9, WH9	Wake, Wilkes, Peale Islands.
AL7, KL7, NL7, WL7	Alaska.
KP1, NP1, WP1	Navassa Island.
KP2, NP2, WP2	Virgin Island.
KP3, NP3, WP3	Rancador Key, Quita Sueno Bank, Serrana Bank, Serranilla Bank.
KP4, NP4, WP4	Puerto Rico.

The digit or prefix from the Tables will be determined by the location of the licensee's bona fide mailing address. When the mailing address is modified, the station will automatically retain the current call sign even if the new address no longer conforms to the digit or prefix for that location. However, a licensee may request a new systematically assigned call sign conforming to the Tables. Counterpart call signs will not be issued.

Although some call sign prefixes in Table B may not be assigned for lack of a bone fide mailing address, the entries are provided for future reference, and to enable amateurs to have a distinct identifier when operating a portable station from these locations.

WHAT TYPES OF CALL SIGNS WILL BE AVAILABLE?

(g) Amateur call sign blocks will be categorized into five major groups.

For the contiguous United States:

(1) Group A contains all 1 x 2, most 2 x 1, and most "A" prefixed 2 x 2 call signs;

(2) Group B contains most "K", "N", and "W" prefixed 2 x 2 call signs;

(3) Group C contains all 1 x 3 call signs;

(4) Group D contains most "K" and "W" prefixed 2 x 3 call signs; and

(5) Group X contains "WC", "WK", "WM", "WR", and "WT" prefixed 2 x 3 call signs.

For the noncontinguous United States:

(1) Group A contains "AH", "KH", "NH", "WH", "AL7", "KL7", "NL7", "KP", "NP", and "WP" prefixed 2 x 1 call signs;

(2) Group B contains "AH", "AL7", and "KP" prefixed 2 x 2 call signs;

(3) Group C contains "KH", "NH", "WH", "KL7", "NL7", "WL7", "NP", and "WP" prefixed 2 x 2 call signs;

(4) Group D contains "KH", "WH", "KL7", "WL7", "KP", and "WP" prefixed 2 x 3 call signs; and

(5) Group X contains "WC", "WK", "WM", "WR", and "WT" prefixed 2 x 3 call signs.

(See Appendix attached to this release which lists all Groups and the call sign blocks which are contained within each Group.)

WHO IS ELIGIBLE TO REQUEST A NEW CALL SIGN MARCH 24?

(h) To apportion workload to a manageable level and to gain experience in implementing the new system, we will accept requests for call sign changes only from the following four groups:

(1) Newly licensed operators;

(2) Amateur Extra Class licensees;

(3) Licensees who upgrade their operator privileges; and

(4) Licensees who change their mailing addresses to new call sign areas.

In future phases, we anticipate permitting Advanced Class licensees to request Group B or Group C call signs, and General and Technician Class, Group C call signs.

WHAT ABOUT AMATEUR EXTRA CLASS LICENSEES?

(i) Amateur Extra Class licensees holding Group B call signs may request Group A call signs; Amateur Extra Class licensees holding Group C call signs may request Group B or Group A call signs; and Amateur Extra Class licensees holding Group D call signs may request Group C, Group B, or Group A call signs.

(j) Amateur Extra Class licensees who now hold Group A 2 x 2 call signs beginning with "AA" may request a change within Group A. Such requests must be submitted by October 1, 1978. A 2 x 1 call sign will be issued in exchange for the 2 x 2 "AA" call sign.

WHAT ABOUT LICENSEES WHO UPGRADE?

(k) A licensee who upgrades his license to a higher operator class may request a new call sign according to the following. If no request is made, his station will retain its present call sign.

(1) Upgrades to Amateur Extra:

(a) Now holding Group B may request Group A;

(b) Now holding Group C may request Group A, or Group B; and

(c) Now holding Group D may request Group A, or Group B; or Group C.

(2) Upgrades to Advanced:

(a) Now holding Group C may request Group B; and

(b) Now holding Group D may request Group C or Group B.

(3) Upgrades to General and Technician Class now holding Group D may request Group C.

WHAT ABOUT NEWLY LICENSED OPERATORS?

(l) Newly licensed operators who do not presently have a station call sign will have no choice of format. Their stations will automatically be assigned call signs per Table C.

TABLE C

(1) Amateur Extra Class operators receive Group A call signs;

(2) Advanced Class operators receive Group B call signs;

(3) General Class operators receive Group C call signs;

(4) Technician Class operators receive Group C call signs; and

(5) Novice Class operators receive Group D call signs;

WHAT ABOUT A LICENSEE MOVING TO A NEW CALL SIGN AREA?

(m) A licensee who changes his permanent mailing address to a new call sign area may request a call sign change. In these cases, a station will be assigned a call sign from the same Group (A, B, C, or D) as the call sign now held. The only exceptions are the following:

(1) Advanced Class operators holding Group A may request only Group B; and

(2) General or Technician Class operators holding Group A or Group B may request only Group C.

WHAT ABOUT LICENSEES WHO RENEW?

(n) Upon renewal, the station will retain the same call sign, unless the licensee qualifies for and requests a call sign change.

WHICH CALL SIGNS WILL BE ASSIGNED?

(o) Call sign assignments will begin as follows:

	Contiguous U.S.	Non-contiguous U.S.
Group:		
A	Block 4	Block 1.
B	Block 1	Do.
C	Block 2	Do.
D	Block 1	Block 2.

(p) Available call sign suffixes will be assigned in alphabetical sequence; for 2x3 and 1x3 call signs, this would involve the sequences AAA, AAB,

AAC, and so on, through ZZZ; for 2x2 and 1x2 call signs, the sequences AA through ZZ, for 2x1 call signs, the sequence A through Z

(q) When all assignments have been made from a particular block, the next assignment will be made from the next consecutive block within the group. Periodically, the licensee data base will be scanned to recover the unassigned call signs from prior blocks. These will be added to the lists of call signs available for immediate assignment.

How Do Amateurs Apply For Call Sign Changes?

(r) Licensees must request a call sign Group for which they are eligible on FCC Form 610, Item 13. The only request which may be made is for a particular Group. No request will be honored for specific call signs, call sign blocks, prefixes, or suffixes within a block. If a group preference is not indicated in Item 13 or the applicant is not eligible for the group he requests, the group will be assigned systematically according to Table C.

SAMPLE ENTRY ON FORM 610

13A.	13B. SPECIAL CALL SIGN *(If previously held, give date it expired)*
☒ REQUEST FOR SPECIAL CALL SIGN *(see instruction 13A)*	GROUP A

(s) When a licensee's permanent station location is changed, a Form 610 must be filed giving the new location. (Station location is no longer used in determining the selection of call sign digits; therefore, a change of station location may not be used as the basis for requesting a change of call sign.)

(t) Applicants requesting exchange of secondary call signs for primary call signs must attach a written request to their Forms 610.

GROUP A

AMATEUR RADIO SERVICE – CALL SIGN ASSIGNMENT ORDER

Block No.	CONTIGUOUS USA	PACIFIC AREA	ALASKA AREA	ATLANTIC AREA
1.	K # ##	AH # #	AL 7 #	KP # #
2.	N # ##	KH # #	KL 7 #	NP # #
3.	W # ##	NH # #	NL 7 #	WP # #
4.	AA # #	WH # #	WL 7 #	GROUP B
5.	AB # #	GROUP B	GROUP B	
6.	AC # #			
7.	AD # #			
8.	AE # #			
9.	AF # #			
10.	AG # #			
11.	AI # #			
12.	AJ # #			
13.	AK # #			
14.	KA # #			
15.	KB # #			
16.	KC # #			
17.	KD # #			
18.	KE # #			
19.	KF # #			
20.	KG # #			
21.	KI # #			
22.	KJ # #			
23.	KK # #			
24.	KM # #			
25.	KN # #			
26.	KO # #			
27.	KQ # #			
28.	KR # #			
29.	KS # #			
30.	KT # #			
31.	KU # #			
32.	KV # #			
33.	KW # #			
34.	KX # #			
35.	KY # #			
36.	KZ # #			
37.	NA # #			
38.	NB # #			
39.	NC # #			
40.	ND # #			
41.	NE # #			
42.	NF # #			
43.	NG # #			
44.	NI # #			
45.	NJ # #			
46.	NK # #			
47.	NM # #			
48.	NN # #			
49.	NO # #			
50.	NQ # #			

Block No.	CONTIGUOUS USA
51.	NR # #
52.	NS # #
53.	NT # #
54.	NU # #
55.	NV # #
56.	NW # #
57.	NX # #
58.	NY # #
59.	NZ # #
60.	WA # #
61.	WB # #
62.	WC # #
63.	WD # #
64.	WE # #
65.	WF # #
66.	WG # #
67.	WI # #
68.	WJ # #
69.	WK # #
70.	WM # #
71.	WN # #
72.	WO # #
73.	WQ # #
74.	WR # #
75.	WS # #
76.	WT # #
77.	WU # #
78.	WV # #
79.	WW # #
80.	WX # #
81.	WY # #
82.	WZ # #
83.	AA # ##
84.	AB # ##
85.	AC # ##
86.	AD # ##
87.	AE # ##
88.	AF # ##
89.	AG # ##
90.	AI # ##
91.	AJ # ##
92.	AK # ##
93.	GROUP B

GROUP B

AMATEUR RADIO SERVICE – CALL SIGN ASSIGNMENT ORDER

Block No.	CONTIGUOUS USA	PACIFIC AREA	ALASKA AREA	ATLANTIC AREA
1.	KA 1 ##	AH # ##	AL 7 ##	KP # ##
2.	KB # ##	GROUP C	GROUP C	GROUP C
3.	KC # ## (EXCEPT KC6)			
4.	KD # ##			
5.	KE # ##			
6.	KF # ##			
7.	KG # ## (EXCEPT KG4, KG6R, KG6S)			
8.	KI # ##			
9.	KJ # ##			
10.	KK # ##			
11.	KM # ##			
12.	KN # ##			
13.	KO # ##			
14.	KQ # ##			
15.	KR # ## (EXCEPT KR6)			
16.	KS # ##			
17.	KT # ##			
18.	KU # ##			
19.	KV # ##			
20.	KW # ##			
21.	KX # ## (EXCEPT KX6)			
22.	KY # ##			
23.	KZ # ## (EXCEPT KZ5)			
24.	NA # ##			
25.	NB # ##			
26.	NC # ##			
27.	ND # ##			
28.	NE # ##			
29.	NF # ##			
30.	NG # ##			
31.	NI # ##			
32.	NJ # ##			
33.	NK # ##			
34.	NM # ##			
35.	NN # ##			
36.	NO # ##			
37.	NQ # ##			
38.	NR # ##			
39.	NS # ##			
40.	NT # ##			
41.	NU # ##			
42.	NV # ##			
43.	NW # ##			
44.	NX # ##			
45.	NY # ##			
46.	NZ # ##			
47.	WA # ##			
48.	WB # ##			
49.	WC # ##			
50.	WD # ##			

Block No.	CONTIGUOUS USA
51.	WE # ##
52.	WF # ##
53.	WG # ##
54.	WI # ##
55.	WJ # ##
56.	WK # ##
57.	WM # ##
58.	WN # ##
59.	WO # ##
60.	WQ # ##
61.	WR # ##
62.	WS # ##
63.	WT # ##
64.	WU # ##
65.	WV # ##
66.	WW # ##
67.	WX # ##
68.	WY # ##
69.	WZ # ##
70	GROUP C

GROUP C

AMATEUR RADIO SERVICE – CALL SIGN ASSIGNMENT ORDER

Block No.	CONTIGUOUS USA	PACIFIC AREA	ALASKA AREA	ATLANTIC AREA
1.	K # zzz	KH # zz	KL 7 zz	NP # zz
2.	N # zzz	NH # zz	NL 7 zz	WP # zz
3.	W # zzz	WH # zz	WL 7 zz	GROUP D
4.	GROUP D	GROUP D	GROUP D	

GROUP D

AMATEUR RADIO SERVICE – CALL SIGN ASSIGNMENT ORDER

Block No.	CONTIGUOUS USA	PACIFIC AREA	ALASKA AREA	ATLANTIC AREA
1.	KA # zzz	KH # zzz	KL7 zzz	KP # zzz
2.	KB # zzz	WH # zzz	WL7 zzz	WP # zzz
3.	KC # zzz (*)			
4.	KD # zzz			
5.	KE # zzz	*EXCEPT KC4AAA-AAF, KC4USA-USZ		
6.	KF # zzz			
7.	KG # zzz			
8.	KI # zzz			
9.	KJ # zzz			
10.	KK # zzz			
11.	KM # zzz			
12.	KN # zzz			
13.	KO # zzz			
14.	KQ # zzz			
15.	KR # zzz			
16.	KS # zzz			
17.	KT # zzz			
18.	KU # zzz			
19.	KV # zzz			
20.	KW # zzz			
21.	KX # zzz			
22.	KY # zzz			
23.	KZ # zzz			
24.	WA # zzz			
25.	WB # zzz			
26.	WD # zzz			
27.	WE # zzz			
28.	WF # zzz			
29.	WG # zzz			
30.	WI # zzz			
31.	WJ # zzz			
32.	WN # zzz			
33.	WO # zzz			
34.	WQ # zzz			
35.	WS # zzz			
36.	WU # zzz			
37.	WV # zzz			
38.	WW # zzz			
39.	WX # zzz			
40.	WY # zzz			
41.	WZ # zzz			

GROUP X.—*Amateur radio service—call sign assignment order*

	All Areas
Races	WT # ¢¢¢
Club	WK # ¢¢¢
Military recreation	WM # ¢¢¢
Repeaters	WR # ¢¢¢
Temporary licenses	WT # ¢¢¢

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-9717 Filed 4-12-78; 8:45 am]

[6712-01]

[Report No. I-454]

COMMON CARRIER SERVICES INFORMATION

International and Satellite Radio Applications Accepted for Filing

APRIL 10, 1978.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications if, upon further examination, it is determined they are defective and not in conformance with the Commission's Rules, Regulations and its Policies. Final action will not be taken on any of these applications earlier than 31 days following the date of this notice. Section 309(d)(1). Effective March 6, 1978, all applications accepted for filing will be assigned Call Signs. However, these assignments are for administrative purposes only and do not in any way prejudice Commission actions.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

SATELLITE COMMUNICATIONS SERVICES

CORRECTION

Report No. I-453 dated April 3, 1978. Entries for the following file numbers, 440-441-442-443-DSE-TC-78 and 444-DSE-TC-(5)-78, should have read as follows: Applications for Consent of Transfer of Control from: American Television & Communications, Inc. (old) to: American Television & Communications, Inc. (new).

For American Television & Communications, Inc. applications 382-DSE-P/L-78, Englewood, Col., 436-DSE-P/L-78, Cannon City, Colo., and 459-DSE-P/L-78, Henderson, Tenn., the following informative should have been printed:

INFORMATIVE

In the pending application file No. 447-DSE-AL-(11)-78, Commission consent is requested to the assignment of the applicant's various earth station authorizations to a new entity resulting from American Television & Communications, Inc.'s merger with Time Television & Communications, Inc. It is contemplated that the requested authorization would be included as part of that assignment.

TN-472-DSE-AL-78 Western Tele-Communications, Inc., Memphis, Tenn. (WE95). Application for Consent to Assignment of License from: Western Tele-Communications, Inc. to: Memphis CATV, Inc.

TN-474-DSE-ML-78 Memphis CATV, Inc., Memphis, Tenn. (WE95). Modification of license to change status of this facility from Common Carrier to Private.

PA-475-DSE-MP-L-78 Radio Broadcasting Co., Philadelphia, Pa. (WE22). Modification of construction permit and license to cover construction to change location of the antenna to: Lat. 40°02'16" N., Long. 75°14'14" W.

404-DSE-P/L-78 RCA Alaska Communications, Inc., Shishmaref, Alaska. Amendment to application for transportable earth station to specify operations at Shishmaref, Alaska. Coordinates: Lat. 66°15'21" N., Long. 122°04'10" W. All other particulars as specified in Report No. I-350 of May 23, 1977.

INFORMATIVE

Applicant also requests a waiver of applicable rules to permit immediate operation of these facilities.

3-SSA-78 Harris Corp., Application for a developmental construction permit and license for 16 receive-only earth stations. Rec. freq: 3700-4200 MHz.

INFORMATIVE

This application proposes 16 receive-only earth stations at various locations throughout the 48 contiguous states as part of a developmental program to test the feasibility of such earth stations to distribute narrow band information.

000464-DSE-P/L-78, KH30, Santa Fe Cablevision Co. Application for authority to construct and operate new earth station. Service: Domestic fixed satellite. Class of station: Fixed earth station. Location: Santa Fe, Santa Fe, N. Mex. 35°40'9" N. Lat., 105°57'2" W. Long. Particulars of operation: 3700.000-4200.000 MHz, 36000F9, DBW. Antennas: 4.5 meters Andrew model ESA5-4HP.

000466-DSE-P/L-78, KH31, Twin City Cablevision. Inc. Application for authority to construct and operate new earth station. Service: Domestic fixed satellite. Class of station: Fixed earth station. Location: Centralia, Lewis, Wash. 46°42'0" N. Lat., 122°57'11" W. Long. Particulars of operation: 3700.000-4200.000 MHz, 36000F9, DBW. Antennas: 4.5 meters Andrew model ESA5-4.

000473-DSE-P/L-78, KH34, Community TCI of Kansas, Inc. Application for authority to construct and operate new earth station. Service: Domestic fixed satellite. Class of station: Fixed earth station. Location: Leavenworth, Leavenworth, Kans. 39°16'52" N. Lat., 94°54'45" W. Long. Particulars of operation: 3700.000-4200.000 MHz, 36000F9, DBW. Antennas: 5 meters Scientific Atlanta model 8008.

000465-DSE-P/L-78, WH30, Greater Star Link Corp. Application for authority to construct and operate new earth station. Service: Domestic fixed satellite. Class of station: Fixed earth station. Location: Detroit, Royal Oak, Mich. 42°27'13" N. Lat., 83°9'55" W. Long. Particulars of operation: 3700.000-4200.000 MHz, 36000F9, DBW. Antennas: 10 meters Scientific Atlanta model 8002A. This is a major application within the meaning of section 1.1305 of the rules on environmental processing.

000463-DSE-P/L-78, WH31, UA--Columbia of Westchester, Inc. Application for authority to construct and operate new earth station. Service: Domestic fixed satellite. Class of station: Fixed earth station. Location: Alpine, Bergin, N.J. 40°47'40" N. Lat., 73°55'27" W. Long. Particulars of operation: 3700.000-4200.000 MHz, 36000F9, DBW. Antennas: 10 meters Andrew model

ESA10-46. This is a major application within the meaning of section 1.1305 of the rules on environmental processing.

000470-DSE-P/L-78, WH32, Cablevision Industries, Inc. Application for authority to construct and operate new earth station. Service: Domestic fixed satellite. Class of station: Fixed earth station. Location: Wurtsboro, Sullivan, N.Y. 41°36'47" N. Lat., 74°25'30" W. Long. Particulars of operation: 3700.000-4200.000 MHz, 36000F9, DBW. Antennas: 4.3 meters AFC model CH-14M.

000471-DSE-P/L-78, KG97, Bossier City Cable Television, Inc. Application for authority to construct and operate new earth station. Service: Domestic fixed satellite. Class of station: Fixed earth station. Location: Bossier Parish, Bossier City, La. 32°31'33" N. Lat., 93°43'06" W. Long. Particulars of operation: 3700.000-4200.000 MHz, 36000F9, DBW. Antennas: 4.5 meters Andrew model ESA5-4HP.

[FR Doc. 78-9855 Filed 4-12-78; 8:45 am]

[6712-01]

[Report No. 905]

COMMON CARRIER SERVICES INFORMATION

Applications Accepted for Filing

APRIL 10, 1978.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's rules and regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period (see § 309(c) of the Communications Act), applications filed under part 68, applications filed under part 63 relative to small projects, or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning radio and section 214 applications within 30 days of the date of this notice and within 20 days for part 68 applications.

In order for an application filed under part 21 of the Commission's rules (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under part 21, the cut-off date for filing a mutually exclusive application is the close of business one business day preceding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is subsequently amended by a major change will be considered as a newly filed application for purposes of the cut-off rule. (See § 1.227(b) (3) and 21.30(b) of the Commission's rules.)

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

Applications accepted for filing:

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

20850-CD-P-78 Southern Message Service, Inc. (KLF528). C.P. for additional facilities to operate on 152.15 MHz to be located on Knoe Road, 0.4 miles North Highway 80, Monroe, LA.

20941-CD-P-78 S. F. McNeill d.b.a. Communication Specialists Co. (KIY749). C.P. to change antenna system and replace transmitter operating on 152.15 MHz located at 3330 Wrightsville Avenue, Wilmington, N.C.

21013-CD-P-(2)-78 George Metroyanis d.b.a Mobile Radio Communications of Gary (KSD311). C.P. to change antenna system operating on 454.025 and 454.100 MHz located at 30th and Connecticut Avenue, Gary, Ind.

21055-CD-P-78 T.A.S.I., Inc. (new). C.P. for a new 1-way signaling station to operate on 43.58 MHz to be located at 1 Indianapolis Square, Indianapolis, Ind.

21061-CD-P-(3)-78 General Communications Service, Inc. (KOH280). C.P. for additional facilities to operate on 2129.6 MHz, Control at location No. 365 north 6th Avenue, Phoenix; and for additional facilities to operate on 43.58 MHz, Base and 2179.6 MHz, Repeater at a new site described as location No. 3: Shaw Butte 1.5 miles north of Phoenix, Ariz.

21075-CD-P-(2)-78 General Communications Service, Inc. (KKG565). C.P. to change antenna system and relocate facilities operating on 152.12 MHz, Base and 459.05 MHz, Repeater from location No. 6 to a new site described as location No. 7: 1 mile north northwest of Midkiff, Tex.

21080-CD-P-78 Collins Radio Communications Corp. (KUO574). C.P. for additional facilities to operate on 152.09 MHz, to be located at a new site described as location No. 2: North Pumpkin Butte, 41 miles south soughwest of Gillette, Wyo.

20833-CD-P-78 Bruce Telephone Co. Inc. (KWT904). C.P. for additional facilities to operate on 152.81 MHz located ¾ mile north of Bruce, Miss.

20933-CD-P-(2)-78 King Communications, Inc. (KQD310). C.P. for additional facilities to operate on 454.275 MHz at location No 1: 1795 Tittabawasee Road, Saginaw; and 152.15 MHz at a new site described as location No. 4: 2100 Gordonville Road, Midland, Mich.

21008-CD-P-78 Edward C. Smith d.b.a. Answerite Professional Telephone Service (new). C.P. for a new 1-way signaling station to operate on 35.22 MHz to be located at Citizens Building, Franklin Street, Tampa, Fla.

21123-CD-AL-(2)-78 Robert H. Larson d.b.a. Oregon Mobile Radio, Consent to Assignment of License from Robert H. Larson d.b.a. Oregon Mobile Radio, assignor to Oregon Mobile Radio, Inc., assignee. Stations: KOP311 and KWU267, Medford, Oreg.

21124-CD-P-78 Radio Contact Corp. (KWU329). C.P. for additional facilities to operate on 158.70 MHz to be located at a new site described as location No. 2: Cheyenne Mountain, 8 miles south southwest of Colorado Springs, Colo.

21125-CD-TC-(4)-78 Pass Word, Inc. Consent to transfer of control from Jennings B. Bacon, transferor to Seattle First National Bank, Executor of the estate of Jennings B. Bacon, transferee. Stations: KMM697, KOA271, and KRS678, Spokane; and KUC918, Baldy Hill, Wash.

21127-CD-AL-78 Radio Telephone of Mississippi, Inc. consent to assignment of license from Radio Telephone of Mississippi, Inc., assignor to Mahaffey Message Relay, Inc., assignee. Station: KU0624, Tunica, Miss.

21128-CD-P-78 Future Communications, Inc. (new). C.P. for a new 1-way signaling station to operate on 152.24 MHz to be located on Route 47, ½ mile south of Illinois River, Morris, Ill.

21129-CD-P-78 Future Communications, Inc. (new). C.P. for a new station to operate on 454.125 MHz to be located on Route 47, ½ mile south of Illinois River, Morris, Ill.

21130-CD-MP—78 Airsignal of Nevada, Inc. (KWT989). C.P. for additional facilities to operate on 72.28 MHz, Control at location No. 2: First National Bank Building, 300 East Carson Street, Las Vegas, Nev.

21131-CD-P-78 Frank C. Escue d.b.a. Telpage (KWT896). C.P. for additional facilities to operate on 43.22 MHz at a new site described as location No. 2: 114½ Vine Street, Radcliffe, Ky.

21132-CD-AL-78 Inter-County Telephone Co. Consent to assignment of license from Inter-County Telephone Co., assignor to Missouri Telephone Co., assignee. Station: KDN398, Pattonsburg, Mo.

21133-CD-P-(2)-78 Roseville Telephone Co. (new). C.P. for a new station to operate on 454.375 and 454.475 MHz to be located at 7656 Old Auburn Road, Citrus Heights, Calif.

21134-CD-AL-78 Lakeland Telephone Co. Consent to assignment of license from Lakeland Telephone Co., assignor to Missouri Telephone Co., assignee. Station: KDN394, Columbia, Mo.

21135-CD-AL-(3)-78 Simon Rubinsky d.b.a. No'mis Paging Service. Consent to assignment of license from Simon Rubinsky d.b.a. No'mis Paging Service, assignor to No'mis Communications Inc., assignee. Stations: KRS640 and KWB382, Brownsville, Tex.; KWU362, Edinburg, Tex.

21137-CD-P-(2)-78 Empire Paging Corp. (KRS674). C.P. for additional facilities to operate on 454.150 MHz at a new site described as location No. 23: Mt. Kipp (Jersey Central Power & Light Tower), Glen Gardner; and 454.150 MHz at a new site described as location No. 24: Lake Wildwood Road, 2.1 miles southeast of Hamburg, Hardston Township, N.J.

21138-CD-P-78 Empire Paging Corp. (KWU265). C.P. for additional facilities to operate on 152.24 MHz to be located at a new site described as location No. 2: 5 miles northwest of Manahakin, Stafford Township, N.J.

21139-CD-P-(4)-78 Empire Paging Corp. (KAA209). C.P. for additional facilities to operate on 152.24 MHz at a new site described as location No. 4: East Side of Adirondack Drive, 300 feet south of Midvale Avenue, Selden; same facilities at new location No. 6: Bangs Avenue near Freeway, Neptune Township; same facilities at new location No. 7: off Sweetman Lane, Millstone Township; and same facilities at new site described as location No. 8: Zion Mountain Road, Neshanic, N.J.

21141-CD-P-78 Goshen Telephone Co. (KUS294). C.P. to relocate facilities operating on 152.72 MHz to be located at intersection of Three Knotch Road and Mt. Zion Cementary Road, 6 miles from Goshen, Ala.

21142-CD-P-78 Alco Telephone Answering Service of Greenville, Mississippi, Inc. (KUC907). C.P. to change antenna system operating on 158.70 MHz to be located at 218 Washington, Greenville, Miss.

21143-CD-P-78 Goshen Telephone Co. (KDS431). C.P. to relocate facilities operating on 152.84 MHz to be located at intersection of Three Knotch Road and Mt. Zion Cementary Road, 6 miles from Goshen, Ala.

21144-CD-TC-(2)-78 Area Wide Paging Systems, Inc. consent to transfer of control from John Kocevar; Rita Kocevar, transferor to Graphic Scanning corp., transferee. Stations: KWU399 and KWU446, Cleveland, Ohio.

CORRECTION

20817-CD-P-78 Southwestern Bell Telephone Co. (KKV690). Correct PN No. 904 dated April 3, 1978, to read: Major amendment to file number 21732—CD-P-7-77 to change antenna system and relocate facilities operating on 35.62 MHz at location No. 1 to be located at 1100 Milan Street, Houston, Tex.

INFORMATIVE

20786-CD-P-(18)-78 Digital Paging System, Inc. (new). Granted request by attorney of Digital Paging System, Inc., for waiver of FCC rule section 21.30 and further extend to May 14, 1978, the date for filing petitions to deny or comments on its developmental application for authority to establish a multi-city system.

RURAL RADIO SERVICE

60130-CR-P/L-78 Aurora Ortez Ranch (new), Villenueva, N. Mex. Correct file number to read: 60190-CR-P/L-78. All other particulars remain as reported on PN No. 903, dated March 27, 1978.

POINT TO POINT MICROWAVE RADIO SERVICE

NJ—1809-CF-P-78 American Telephone & Telegraph Co. (WBB230), 1.0 miles southwest of Freehold (Monmouth), N.J. Lat 40°15'03" N., Long. 74°17'28" W. C.P. to add frequency 3870V MHz toward Monmouth Junction, N.J.

NJ—1810-CF-P-78 Same (KYS56), 2.2 miles northwest of Monmouth Junction (Middlesex) N.J. Lat. 40°23'37" N., Long. 74°35'05" W. C.P. to add frequency 3910V MHz toward Freehold, N.J.

AL—1822-CF-P-78 South Central Bell Telephone Co. (KJA25), 1.0 miles northeast of Troy (Pike), Ala. Lat. 31°49'12" N., Long. 85°57'39" W. C.P. to change frequencies 6286.2V and 6404.8V MHz to 6256.5H and 6375.2H MHz toward Rutledge, Ala.

AL—1823-CF-P-78 Same (KJN20), 1.8 miles north of Rutledge (Crenshaw), Ala. Lat. 31°45'26" N., Long. 86°18'39" W. C.P. to change frequencies 6034.2V, 6152.8V MHz to 5945.2H and 6123.1H MHz toward Troy, Ala., change 6034.2H, 6152.8H MHz to 5945.2V and 6063.8V MHz toward Boykin, Ala.

AL—1824-CF-P-78 Same (KJN21), Boykin 7.5 miles east south east of McKenzie (Covington), Ala., Lat. 31°30'54" N., Long. 86°35'24" W. C.P. to change frequencies 6286.2H, 6404.8H MHz to 6197.2V and 6315.9V MHz toward Rutledge, Ala., and change 6286.2H, 6404.8H MHz to 6197.2V and 6315.9V MHz toward Evergreen, Ala.

AL—1825-CF-P-78 Same (KJN22), 1.0 miles northeast of Evergreen (Conecuh), Ala. Lat. 31°28'48" N., Long. 86°56'24" W. C.P. to change frequencies 6034.2V, 6152.8V MHz to 5945.2H and 6063.8H MHz toward Boykin, Ala., change 6034.2H, 6152.8H MHz to 5945.2V and 6063.8V MHz toward Brewton, Ala.

AL—1826-CF-P-78 Same (KJN24), 6.5 miles northwest of Brewton (Escambia), Ala. Lat. 31°09'26" N., Long. 87°09'16" W. C.P. to change frequencies 6286.2H, 6404.8H, MHz to 6197.2V and 6315.9V MHz toward Evergreen, Ala., change 6286.2H, 6404.8H MHz to 6197.2V and 6315.9V MHz toward Flomaton, Ala.

AL—1827-CF-P-78 Same (KJG73), 1.2 miles west of Flomaton (Escambia), Ala. Lat. 30°59'53" N., Long. 87°17'23" W. C.P. to change frequencies 6034.2H, 6152.8H MHz to 5945.2V and 6063.8V MHz toward Brewton, Ala., change 6034.2V, 6152.8V MHz to 5945.2H and 6063.8H MHz toward Atmore, Ala.

AL—1828-CF-P-78 South Central Bell Telephone Co. (KJG72), 1.1 miles southwest of Atmore (Escambia), Ala. Lat. 31°00'41" N., Long. 87°30'27" W. C.P. to change frequencies 6286.2V, 6404.8V MHz to 6197.2H and 6315.9H MHz toward Flomaton, Ala., change 6286.2V, 6404.8V MHz to 6197.2H and 6315.9H MHz toward Bay Minette, Ala.

AL—1829-CF-P-78 Same (KJG71), West 14th Street, Bay Minette (Baldwin), Ala. Lat. 30°53'33" N., Long. 87°47'36" W. C.P. to change frequencies 6034.2V, 6152.8V MHz to 5945.2H and 6063.8H MHz toward Atmore, Ala., change 6034.2H, 6152.8H MHz to 5945.2V and 6063.8V MHz toward Mobile, Ala.

AL—1830-CF-P-78 Same (KJA85), 100 North Franklin Street, Mobile (Mobile), Ala. Lat. 30°41'31" N., Long. 88°02'50" W. C.P to change frequencies 6286.2H, 6404.8H MHz to 6197.2V and 6315.9V MHz toward Bay Minette, Ala.

IL—1778-CF-MP-78 N-Triple-C Inc. (W0H60), 1.5 miles northwest of Glendale, Ill. Construction permit to change 6286.2H, 6345.54, and 6404.8H MHz from H to V towards Chicago, Ill, on azimuth 91.1°.

WA—1792-CF-P-78 American Television & Communications Corp., (KPR33), Mission Ridge, 11 miles south southwest of Wenatchee, Wash., Lat. 47°16'27" N., Long. 120°24'18" W. C.P. add 6197.2H, 6226.9V, 6286.2V, 6375.2H MHz toward new point of communication Quincy, Wash., via power split on azimuth 95.8°.

MAJOR AMENDMENT

FL—3704-CF-P-77 Midwest Corp. (new), Fort Lauderdale, Fla., Lat. 26°07'48" N., Long. 80°10'36" W. Construction permit for new station on frequency 6301.0V MHz toward Miami, Fla., on azimuth 181.7°

NOTE.—Midwest Corp., a common carrier, proposes to adopt this application (3704-CF-P-77) which was filed by American Television & Communications Corp. (ATC), on September 14, 1977. See public notice dated September 9, 1977.

CORRECTIONS

WI—1556 and 1557 CF-P-78 Wisconsin Telephone Co., Osborn and Green Bay, Wis. (KSO86 and KSO87). Delete mentioning of antennas. All other particulars remain the same as reported on public notice No. 901 dated March 13, 1978.

[FR Doc. 78-9857 Filed 4-12-78; 8:45 am]

[6712-01]

FM BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Adopted: April 5, 1978.

Released: April 6, 1978.

By the Chief, Broadcast Bureau: Notice is given, pursuant to § 1.573(d) of the Commission's rules, that the FM broadcast applications listed in the attached appendix will be considered as ready and available for processing on May 18, 1978. Since the listed applications for Henderson, Nev., are timely filed and mutually exclusive with the earlier filed and cut-off application of Henderson Radio, Inc., File No. BPH-10,379, no other applications may be filed. Rather, the purpose of this notice is to establish a date by which the parties to the forthcoming comparative hearing may compute the deadlines for filing amendments as a matter of right under § 1.522(a)(2) of the rules and pleadings to specify issues pursuant to § 1.584.

Any party in interest desiring to file a petition to deny a listed application must do so no later than the close of business on May 17, 1978. See § 309(d)(1) of the Communications Act of 1934, as amended, and § 1.580(i) of the Commission's Rules.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

BPH-10,650 (new), Henderson, Nev., Pittman Broadcasting Co. Req: 100.5 MHz; Channel No. 263, ERP: 100 kW (H&V); HAAT: 2 ft.

BPH-10,658 (new), Henderson, Nev., Pargo Broadcasting Corp., Req: 100.5 MHz; Channel No. 263, ERP: 100 kW (H&V); HAAT: 1159 ft.

BPH-10,659 (new), Henderson, Nev., SAS, Inc. Req: 100.5 MHz; Channel No. 263, ERP: 100 kW (H), 88.2 kW (V); HAAT: 1210 ft.

[FR Doc. 78-9856 Filed 4-12-78; 8:45 am]

[6712-01]

[Gen. Docket No. 78-126]

CLEMENT C. GAINES

Suspension of Radiotelegraph First Class Operator License

Adopted: April 3, 1978.

Released: April 7, 1978.

1. The Chief, Field Operations Bureau has under consideration the proposed suspension of the Radiotelegraph First Class Operator License, T1-3-730, issued to Clement C. Gaines, of the above captioned address. The license will expire on May 17, 1978.

2. Based on allegations contained in an Order adopted by the Chief, Field Operations Bureau on January 4, 1978, it appears that on March 23, 1977, Gaines in his capacity as Radio Officer of the vessel JOHN B. WATERMAN, failed to provide the Federal Communications Commission Inspector with the vessel's Radiotelegraph Logs required to be kept in accordance with Section 83.184(a) of the Commission's Rules,[1] and made available to an authorized representative of the Commission upon request in accordance with Section 83.115(b) of the Commission's Rules.[2]

3. It appears further that Gaines received an order from Captain Sabas, the Master on board the vessel JOHN B. WATERMAN at the time of inspection on March 23, 1977, directing Gaines to cooperate with the FCC Inspectors by making the logs available. Gaines was further instructed to remain on board and render any other assistance required by the FCC Inspectors for the annual inspection for the Cargo Ship Safety Radiotelegraphy Certificate. Radio Officer Gaines failed to carry out either of these direct orders of the Master in violation of Section 13.64 of the Rules.[3]

4. An Official Notice of Violation was subsequently sent Gaines dated April 6, 1977, followed by a Warning Notice dated April 27, 1977, and sent to Gaines in light of his failure to respond to the prior Official Notice of Violation. Gaines responded by letter dated April 28, 1977 denying and/or offering explanation for his actions.

5. On January 5, 1978, the Chief, Field Operations Bureau under delegated authority, released an Order proposing the suspension of Gaines' Radiotelegraph First Class Operator License. Gaines appeared at the Commission's Baltimore Field Office on March 28, 1978, and requested a hearing. The request places the proposed suspension in abeyance until the conclusion of this proceeding.[4]

6. Accordingly, It is ordered, That the matter of the suspension of the Radiotelegraph First Class Operator Permit, issued to Clement C. Gaines T1-3-730, is hereby designated for hearing at a time and place to be specified by a further Order of the Commission upon the following issues:

a. To determine whether Clement C. Gaines failed to maintain and make available to an authorized representative of the Commission on request station logs which were required to be maintained and made available in violation of Section 83.184(a) and 83.115(b) of the Commission's Rules;

b. To determine whether Clement C. Gaines failed to obey and carry out the lawful Order of the Master of the vessel JOHN B. WATERMAN in violation of Section 13.64 of the Commission's Rules.

c. To determine in light of the evidence adduced under the preceeding issues, whether the operating authority authorized by the Radiotelegraph First Class Operator License issued to Gaines, or any time filed renewal therefor, should be suspended for a period of one year.

7. It is further ordered, That, to avail himself of the opportunity to be heard, the applicant, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, shall within 20 days of the mailing of this ORDER, file with the Commission in triplicate a written appearance stating an intent to appear on a date fixed for hearing to present evidence on the issues specified in this Order.

8. It is further ordered, That, the Secretary shall send a copy of this Order by Certified Mail, Return Receipt Requested, to Clement C. Gaines at the address given above.

FEDERAL COMMUNICATIONS COMMISSION,
C. PHYLL HORNE,
Chief, Field Operations Bureau.

[FR Doc. 78-9853 Filed 4-12-78; 8:45 am]

[1] § 83.184(a) *Maintenance of station log.* Each station on board ship subject to this part which is required, under the provisions of this part pertaining to the particular class of station, to keep a radio station log, shall in addition, comply with the applicable provisions of paragraphs (b) and (c) of this section; the station licensee and the licensed radio operator (when a licensed radio operator is required) in charge of the station shall be responsible for compliance with this section.

[2] § 83.115(b) *Retention of radio station logs.* Station logs shall be made available to an authorized representative of the Commission upon request.

[3] § 13.64 *Obedience to lawful orders.* All licensed radio operators shall obey and carry out the lawful orders of the master or person lawfully in charge of the ship or aircraft on which they are employed.

[4] Gaines' license will expire on May 17, 1978. A timely filed renewal application will permit Gaines to continue to operate subsequent to expiration and until final determination of this proceeding. (See Section 1.62) In view thereof, an issue will be added to include appropriate consideration in this proceeding of any timely filed renewal application.

[6712-01]

[SS Docket Nos. 78-127 and 78-128]

SUPERIOR HOMES, INC., AND XYZ REDDI MIX CONCRETE, INC.

Memorandum Opinion and Order

Adopted: April 3, 1978.

Released: April 7, 1978.

By the Chief, Safety and Special Radio Services Bureau:

1. The Chief, Safety and Special Radio Services Bureau (the Bureau) has before him for consideration the above-captioned applications, all filed February 13, 1978, of Superior Homes, Inc. (Superior) and XYZ Reddi Mix Concrete, Inc. (XYZ) for authorizations in the Business Radio Service. Superior's applications seek authority to modify its licensed Business Radio Service facilities by changing the operating frequencies and increasing the number of mobile units. XYZ seeks authorizations for new facilities in the Business Radio Service. Also before the Bureau in connection with its consideration of the above-captioned applications are written and oral statements furnished to the Commission's Houston, Texas, District Office by Superior, XYZ and Robert E. Moorman of Aldine Communications, Inc. (Aldine), as well as a Superior letter submitted to the Bureau which explains the corporate relationship between Superior and XYZ.

2. Superior is licensed by the Commission to operate stations in the Business Radio Service on the frequencies 490.8375/493.8375 MHz at specified locations in the Houston, Texas area using specified call signs. XYZ is unlicensed. An investigation conducted during February 1978 by the Commission's District Office in Houston established that XYZ was operating on the frequencies and using the call signs assigned by the Commission to Superior, and that the antenna used for those transmissions was located on the premises of XYZ. The same investigation disclosed that Superior, rather than using the frequencies and call signs assigned to it by the Commission, was instead using the frequencies (490.1375/493.1375 MHz) and the call signs assigned by the Commission to Cummings Service Company (Cummings), then a licensee in the Business Radio Service at Spring, Texas.

3. According to Superior's March 22, 1978, letter to the Bureau, Donald A. Hall is the sole owner of Superior and owns 80 per cent of the stock of XYZ. Superior and XYZ are, therefore, under substantially common control. Cummings is evidently unrelated to Superior or XYZ. Cummings' authorized control point was located at the home of Terry McRoberts, who advised the Commission's Houston office that Cummings was no longer operating its radio facilities and the equipment had been sold to Moorman of Aldine. Cummings licenses were subsequently surrendered to the Commission by McRoberts for cancellation.

4. In an oral statement to engineers from the Commission's Houston office, Mr. G. D. Robbins, a Superior employee, stated that Moorman of Aldine,

which is the radio equipment supplier to Superior and XYZ, had installed on Superior's premises, transmitters for use on Cummings' licensed frequency and had instructed Superior to use the call sign WEA-513, which had been assigned by the Commission to Cummings. According to Mr. Robbins' oral statement, Moorman advised Superior that the latter's use of the frequencies and call signs licensed to Cummings would be entirely legal because Superior's above-captioned applications to use those frequencies was pending before the Commission. (In fact, Superior's applications were not received at the Commission until the very day when the Commission's Houston engineers inspected Superior radio facilities.) Mr. Robbins also stated to the Houston engineers that both Superior and XYZ had assumed that the radio operations of XYZ on frequencies licensed to Superior was legal because both corporations were owned by the same individual.

5. XYZ has provided a written statement to the Commission's Houston office in which it admits the violations for which it was cited but states that it had assumed it was operating lawfully. Superior's written statement to the Houston office advises only that operation on the facilities licensed to Cummings has been discontinued. Moorman's written statement to the Houston office admits some, but not all, of the numerous violations of our Rules for which he was cited. However, he specifically admits the involvement of himself and Aldine in (a) XYZ's use of the frequencies/call signs licensed to Superior and (b) Superior's use of the frequencies/call signs then licensed to Cummings. Moorman adds, inter alia, that Superior's licensed system had been rendered unusable by interference; that Mr. Hall, Superior's President, had given Moorman an ultimatum with respect to making the radio system operable; that Moorman was faced with losing his largest account; and that he had "* * * a payroll to meet."

6. It is clear from the foregoing facts that serious questions exist as to the character qualifications of both Superior and XYZ to receive the authorizations which they here respectively seek. As the Bureau cannot make the requisite finding, pursuant to section 309(a) of the Communications Act of 1934, as amended (the Act), that a grant of any of the above-captioned applications would serve the public interest, convenience and necessity, the applications filed by Superior and XYZ must, in accordance with section 309(e) of the Act, be designated for evidentiary hearing. In view of the statements made to the Commission by both Mr. Robbins of Superior and Moorman of Aldine, the Bureau deems it essential that such hearing probe as well the respective roles of Moorman and Aldine in the actions of Superior and XYZ which have placed the applicants in their present posture before the Commission. For this reason, both Moorman and Aldine are being made parties to the proceeding.

7. *Accordingly, it is ordered,* That in accordance with the provisions of section 309(e) of the Communications Act of 1934, as amended (47 U.S.C. 309(e)), the above-captioned applications of Superior Homes, Inc., File Nos. 26443/26444/26445-IB-28TV, and of XYZ Reddi Mix Concrete, Inc., File Nos. 26455/26456/26457-IB-28TV, are, pursuant to authority delegated in sections 0.131(a) and 0.331 of the Commission's Rules, designated for hearing in a consolidated proceeding at Houston, Tex., at a time to be specified at a later date, on the following issues:

(a) To determine if Superior Homes, Inc. has willfully violated the Communications Act of 1934, as amended, and the Commission's Rules by operating without Commission authorization radio facilities on frequencies not licensed to it; and/or by using without Commission authorization call signs not assigned to it; and/or by modifying without Commission authorization radio facilities not licensed to it; and/or by assuming, without the Commission's prior consent, operating control of the radio facilities licensed to Cummings Service Co.

(b) To determine if Superior Homes, Inc. has willfully violated the Communications Act of 1934, as amended, and the Commission's Rules by transferring, without the Commission's prior consent, operating control of radio facilities licensed to it by the Commission to XYZ Reddi Mix Concrete, Inc.; and/or by permitting XYZ Reddi Mix Concrete, Inc. to modify without Commission authorization the radio facilities licensed to Superior Homes, Inc.; and/or by failing to notify the Commission of the discontinuance of operation of the radio facilities authorized to it.

(c) To determine if XYZ Reddi Mix Concrete, Inc. has willfully violated the Communications Act of 1934, as amended, and the Commission's Rules by assuming, without the Commission's prior consent, operating control of the radio facilities licensed to Superior Homes, Inc.; and/or by operating without Commission authorization radio facilities on frequencies licensed to Superior Homes, Inc.; and/or by using without Commission authorization call signs assigned to Superior Homes, Inc.; and/or by modifying without Commission authorization the radio facilities licensed to Superior Homes, Inc.

(d) To determine, in light of the evidence adduced pursuant to issues (a), (b), and (c) hereinabove, whether Superior Homes, Inc. possesses the requisite character qualifications to receive a grant of the applications filed by it which are in part the subject of this proceeding.

(e) To determine, in light of the evidence adduced pursuant to issues (a), (b), and (c) hereinabove, whether XYZ Reddi Mix Concrete, Inc. possesses the requisite character qualifications to receive a grant of the applications filed by it which are in part the subject of this proceeding.

(f) To determine, in light of the evidence adduced pursuant to the foregoing issues, what disposition of each of the above-captioned applications will best serve the public interest, convenience and necessity.

8. *It is further ordered,* That Superior Homes, Inc., XYZ Reddi Mix Concrete, Inc., Robert E. Moorman, Aldine Communications, Inc. and the Chief, Safety and Special Radio Services Bureau are made parties in this proceeding.

9. *It is further ordered,* That the burden of proceeding with the introduction of evidence and the burden of proof on the issues specified in paragraph 7 hereinabove are, pursuant to section 309(e) of the Communications Act of 1934, as amended, and section 1.254 of the Commission's Rules, upon Superior Homes, Inc. and XYZ Reddi Mix Concrete, Inc.

10. *It is further ordered,* That each of the parties named in paragraph 8 hereinabove, in order to avail itself of the opportunity to be heard, shall within 20 days of the mailing of the notice of designation by the Secretary of the Commission, file with the Commission, in triplicate, a written notice of appearance that it will appear on the date to be fixed for hearing and present evidence on the issues specified in this Order, as prescribed in section 1.221 of the Commission's Rules.

11. *It is further ordered,* That the Secretary of the Commission shall serve a copy of this Order, by certified mail, return receipt requested, upon each of the parties (except the Bureau) named in paragraph 8 hereinabove.

FEDERAL COMMUNICATIONS COMMISSION,
CHARLES A. HIGGINBOTHAM,
Chief, Safety and Special Radio Services Bureau.

[FR Doc. 78-9584 Filed 4-12-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 101]

EXPORT ENTERPRISES, INC.

Order of Revocation

The bond issued in favor of Export Enterprises, Inc., 306 Bourse Bldg., Philadelphia, Pa. 19106, FMC-101, was cancelled effective March 25, 1978.

By letter dated February 24, 1978, the licensee was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 101 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before March 25, 1978.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule

510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

Export Enterprises, Inc., has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised) section 5.01(d) dated August 8, 1977:

It is ordered, That Independent Ocean Freight Forwarder License No. 101 be and is hereby revoked effective March 25, 1978.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon Export Enterprises, Inc.

ROBERT M. SKALL
Deputy Director, Bureau of Certification and Licensing.

[FR Doc. 78-9867 Filed 4-12-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

FIRST BANCGROUP-ALABAMA, INC.

Acquisition of Bank

First Bancgroup-Alabama, Inc., Mobile, Ala., has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 100 percent of the voting shares of the successor by merger to Eastern Shore National Bank, Daphne, Ala. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. 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 May 3, 1978.

Board of Governors of the Federal Reserve System, April 6, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-9828 Filed 4-12-78; 8:45 am]

[6210-01]

KEYSTONE BANCSHARES, INC.

Formation of Bank Holding Company

Keystone Bancshares, Inc., Monona, Iowa, has applied for the Board's approval under § 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 Peoples State Bank, Elkader, Iowa. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than May 3, 1978.

Board of Governors of the Federal Reserve System, April 6, 1978.

CATHY E. MINEHAN,
Assistant Secretary of the Board.

[FR Doc. 78-9829 Filed 4-12-78; 8:45 am]

[6210-01]

REPUBLIC OF TEXAS CORP.

Acquisition of Bank

Republic of Texas Corp., Dallas, Tex., has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the First National Bank in Mineral Wells, Mineral Wells, Tex. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. 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 May 4, 1978.

Board of Governors of the Federal Reserve System, April 7, 1978.

CATHY E. MINEHAN,
Assistant Secretary of the Board.

[FR Doc. 78-9830 Filed 4-12-78; 8:45 am]

[1610-01]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on April 6, 1978. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed ICC request are invited from all interested persons, organizations, public interest groups and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before May 1, 1978, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

INTERSTATE COMMERCE COMMISSION

The ICC request clearance of a new, voluntary, single-time questionnaire "Ex Parte MC-98, New Procedures in Motor Carrier Restructuring Procedures Shipper Survey," Form ECMC-33, which is a survey of shippers of small shipments. The information obtained by the questionnaire will be used as a basic for decisions on policy for modification of regulation of rates on shipments under the 500 pound weight. The ICC estimates that respondents will be approximately 500 traffic managers selected in a random sample from a universe of 30,000 and that reporting time will average 2 hours per response.

NORMAN F. HEYL,
Regulatory Reports, Review Officer.

[FR Doc.78-9875 Filed 4-12-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

AMOCO PRODUCTION CO., ET AL.

List of Restricted Joint Bidders

Pursuant to the authority vested in the Director of the Bureau of Land Management by the provisions of 43 CFR 3302.3-2(a), the following companies shall be restricted from bidding jointly with any other company on this same list at Outer Continental Shelf oil and gas lease sales held during the bidding period of May 1, 1978, through October 31, 1978:

Amoco Production Co., BP Alaska Exploration Inc., Chevron U.S.A. Inc., Exxon Corp., Gulf Oil Corp., Mobil Oil Corp., Shell Oil Co., Standard Oil Co. of California, Texaco Inc.

GEORGE L. TURCOTT,
Acting Director, Bureau of Land Management.

[FR Doc. 78-9781 Filed 4-12-78; 8:45 am]

[4310-84]

[Oil and Gas Lease Sale No. 45]

OUTER CONTINENTAL SHELF GULF OF MEXICO

Withdrawal of Tract

On March 20, 1978, at 43 FR 11605 announcement was published for oil and gas lease sale No. 45 on Outer Continental Shelf lands off Louisiana and Texas. The sale is scheduled to take place April 25, 1978, in New Orleans. A correction notice was published March 24, 1978, at 43 FR 12389, dealing with certain printing errors made in the March 20, 1978, publication. Both of those notices are hereby amended to delete the following tract:

Tract 45-104—Bids on this tract will not be considered.

GEORGE L. TURCOTT,
Associate Director,
Bureau of Land Management.

Approved:

HEATHER L. ROSS,
Deputy Assistant Secretary
of the Interior.

APRIL 7, 1978.

[FR Doc. 78-9782 Filed 4-12-78; 8:45 am]

[4310-84]

[Serial No. AR 035844]

ARIZONA

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

The U.S. Army Corps of Engineers filed application Serial No. AR 035844 on April 28, 1966, for a withdrawal in relation to the following described lands:

GILA AND SALT RIVER MERIDIAN, ARIZ.

T. 10 N., R. 12 W.,
sec. 6, Lots 4, 5, 12, 13, 14.
T. 11 N., R. 12 W.,
Sec. 13, NE¼SE¼;
Sec. 14, N½SW¼, NW¼SE¼;
Sec. 15, SE¼SW¼;
Sec. 20, S½SW¼;
Sec. 21, W½NE¼;
Sec. 23, E½NE¼;
Sec. 29, NW¼, N½SE¼, SE¼SE¼;
Sec. 31, Lot 4, SE¼SW¼, S½SE¼;
Sec. 32, W½E½, S½SW¼.
T. 12 N., R. 12 W.,
Sec. 17, W½SW¼;
Sec. 18, Lots 2, 3, 4, SW¼NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 19, Lot 1, NE¼NW¼.
T. 10 N., R. 13 W.,
Sec. 1, Lots 1, 2, 3, S½NE¼, SE¼NW¼, SW¼SW¼, E½SW¼, N½SE¼;
Sec. 10, NE¼NE¼, S½N½;
Sec. 11, NW¼NE¼, S½NE¼, NW¼;
Sec. 12, NW¼.
T. 11 N., R. 13 W.,
Sec. 22, N½SW¼.
T. 12 N., R. 13 W.,
Sec. 12, S½SW¼;
Sec. 13, NE¼, N½NW¼, SE¼NW¼, N½SE¼.

The areas described aggregate approximately 3,488.62 acres in Yuma and Mohave Counties, Ariz.

The applicant desires that the land be reserved for construction and operation of the Alamo Dam and Reservoir on the Bill Williams River. The lands are needed on a permanent basis for the purposes of flood control, conservation, and recreation. The project has been officially designated as the Alamo Reservoir-Bill Williams River, Ariz., Colorado River Basin.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on May 12, 1966, Volume No. 31, Page No. 7014, Document No. 66-5162.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, Arizona State Office, 2400 Valley Bank Center, Phoenix, Ariz. 85073, on or before May 15, 1978. Notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual sec. 2351.16B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before May 15, 1978.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining and mineral leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Arizona State Office, 2400 Valley Bank Center, Phoenix, Ariz. 85073.

Dated: April 4, 1978.

MILDRED C. KOZLOW,
Acting Chief, Branch of
Lands and Minerals Operations.

[FR Doc. 78-9811 Filed 4-12-78; 8:45 am]

[4310-84]

[23734 J and K]

COLORADO

Notice of R/W Application for Pipeline Northwest Pipeline Corp.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Northwest Pipeline Corp., 315 East 200 South, Salt Lake City, Utah 84111, has applied for a right-of-way for a 4½" O.D. natural gas pipeline for the East Douglas Creek Gathering System approximately 3.5 miles long, across the following Public Lands:

SIXTH PRINCIPAL MERIDIAN, RIO BLANCO COUNTY, COLO.

T. 2 S., R. 103 W.,
Sec. 1: SW¼NW¼N½SW¼;
Sec. 2: Lots 1, 2, and 3, SE¼NE¼, SE¼SW¼, S½SE¼, SE¼NW¼.
T. 1 S., R. 103 W.,
Sec. 34: SE¼SW¼, N½SE¼, SW¼SE¼;
Sec. 35: NW¼SW¼, S½SW¼.

The above-named gathering system will enable the applicant to collect natural gas in the area through which the pipeline will pass and to convey it to the applicants' customers.

The purposes for this notice are: (1) to inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports, necessary for determining whether or not the application should be approved and if approved, under what terms and conditions; (2) to give all interested parties the opportunity to comment on the application; (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on Northwest Pipeline Corp.

Any comment, claim, or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202, as promptly as possible after publication of this notice.

JOHN R. BERNICK,
Acting Leader, Craig Team,
Branch of Adjudication.

[FR Doc. 78-9812 Filed 4-12-78; 8:45 am]

[4310-84]

[W-62839]

WYOMING

Application

APRIL 3, 1978.

Notice is hereby given that pursuant to sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Co. of Colorado Springs, Colo., filed an application for a right-of-way to construct a 4½ inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYO.

T. 15 N., R. 92 W.,
Secs. 22, 27, and 28.

The proposed pipeline will transport natural gas from the Sinclair-Hamilton Federal No. 22-1 well located in the NE¼SE¼ of section 22, T. 15 N., R. 92 W., Carbon County, Wyo., to a point of connection with Colorado Interstate Gas Co.'s existing pipeline in the NE¼SW¼ of section 28, T. 15 N., R. 92 W., Carbon County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyo. 82301.

WILLIAM S. GILMER,
Acting Chief, Bureau of Lands and Minerals Operations.

[FR Doc. 78-9813 Filed 4-12-78; 8:45 am]

[4310-84]

WORLAND DISTRICT GRAZING ADVISORY BOARD

Wyoming Public Meeting

MARCH 28, 1978.

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Worland District Grazing Advisory Board to be held at 10 a.m., May 25, 1978, in the Hospitality Room of the Stockgrower's State Bank, Worland, Wyo.

The purpose of the Advisory Board is to offer advice and make recommendations to the District Manager concerning the development of allotment management plans (AMP's) and the use of range-betterment funds.

The purpose of this meeting will be: (1) to elect a chairman and vice-chairman; (2) to discuss the status of existing AMP's and future proposals; (3) consider the use of range improvement funds and range improvement projects for fiscal years 1978 and 1979; and (4) review the present status of NRDC suit (*Natural Resources Defense Council, Inc.* v. *Rogers Morton, et al.*).

The meeting will be open to the public. However, facilities and space to accommodate members of the public are limited and persons will be accommodated on a first-come, first-served basis. Any members of the public may file with the Board a written statement concerning the matters to be discussed.

Persons wishing further information concerning the meeting may contact John Kwiatkowski, District Manager, Bureau of Land Management, 1700 Robertson, Worland, Wyo., phone 307-347-6151.

Minutes of the meeting will be available at the Worland District Office for public inspection 30 days after the meeting.

PAUL M. ANDREWS,
Acting District Manager.

[FR Doc. 78-9814 Filed 4-12-78; 8:45 am]

[4310-84]

[U-39861]

UTAH

Notice of Application

APRIL 5, 1978.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. has applied for a cathodic protection station right-of-way across the following lands:

SALT LAKE MERIDIAN, UTAH

T. 22 S., R. 22 E.,
Sec. 26, SW¼SE¼;
Sec. 35, NW¼NE¼.

The needed right-of-way is for protection of applicant's gas gathering system located in Grand County, Utah.

The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the Moab District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah, 84532.

PAUL L. HOWARD,
State Director.

[FR Doc. 78-9822 Filed 4-12-78; 8:45 am]

[4310-84]

[SAC 075323]

PARTIAL TERMINATION OF PROPOSED WITHDRAWAL AND RESERVATION OF LAND

APRIL 6, 1978.

Notice of a Bureau of Reclamation, U.S. Department of the Interior, application Sacramento 075323 for withdrawal and reservation of lands for the Whiskeytown-Shasta-Trinity National Recreation Area was published as FR Doc. 63-4052 on page 3787 of the issue of April 18, 1963. The applicant has cancelled its application for the following described land:

MOUNT DIABLO MERIDIAN

T. 36 N., R. 7 W.,
Sec. 32, S½NW¼SW¼.

The area described aggregates 20 acres.

Therefore, pursuant to the regulations contained in 43 CFR Part 2350, such lands at 10 a.m. on May 16, 1978, will be relieved of the segregative effect of the above-mentioned application.

JOAN B. RUSSELL,
Chief, Lands Section, Branch of Lands and Minerals Operations.

[FR Doc. 78-9838 Filed 4-12-78; 8:45 am]

[4310-84]

[SAC 075323]

OPPORTUNITY FOR PUBLIC HEARING AND REPUBLICATION OF NOTICE OF PROPOSED WITHDRAWAL

APRIL 6, 1978.

The Bureau of Reclamation, United States Department of the Interior, filed application Serial No. SAC 075323 on March 29, 1963, for a withdrawal in relation to the following described lands:

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 33 N., R. 8 W.,
Sec. 18, E½NE¼NE¼.

The proposed withdrawal aggregates approximately 20 acres.

The applicant desires the land for Trinity Reservoir and road construction purposes as a part of the overall Central Valley Project, Calif.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on April 18, 1963, page 3787 FR Doc. 63-4052.

Pursuant to Section 204(h) of the Federal Land Policy and Management Act of 1976, 90 stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed

withdrawal must file a written request for a hearing to the undersigned, Bureau of Land Management, E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, Calif. 95825, on or before May 16, 1978. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before May 16, 1978.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with Section 204(g) of the Federal Land Policy and Manangement Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications in connection with the pending withdrawal application should be addressed to the undersigned.

JOAN B. RUSSELL,
Chief, Lands Section, Branch of Lands and Minerals Operations.

[FR Doc. 78-9839 Filed 4-12-78; 8:45 am]

[4310-84]

[Colorado 26299-A]

NORTHWEST PIPELINE CORP.

R/W Application for Pipeline

APRIL 6, 1978.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 USC 185), Northwest Pipeline Corp. 315 East 200 South, Salt Lake City, Utah 84111, has applied for a right-of-way for a Sales Meter Station Site, R/W 77581 for the Mountain Fuel Gathering System of approximately 0.1 acre on the following Public Land:

SIXTH PRINCIPAL MERIDIAN, MOFFAT COUNTY, COLO.

T. 12 N., R. 95 W.
Section 14: Lot 4

The above-named gathering system will enable the applicant to collect natural gas and to convey it to the applicant's customers. The purposes for this notice are: (1) to inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports, necessary for determining whether or not the application should be approved and if approved, under what terms and conditions; (2) to give all interested parties the opportunity to comment on the application; (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on Northwest Pipeline Corp.

Any comment, claim, or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202, as promptly as possible after publication of this notice.

HELEN S. BRUSS,
Acting Leader, Craig Team, Branch of Adjudication.

[FR Doc.78-9840 Filed 4-12-78; 8:45 am]

[4310-84]

[W-62916]

WYOMING

Application

APRIL 5, 1978.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. of Salt Lake City, Utah filed an application for a right-of-way to construct an 8⅝ inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 24 N., R. 111 W.,
Secs. 25, 32, 33, 34, 35 and 36.

The proposed pipeline will begin at a point of connection with Northwest Pipeline Corp.'s proposed Lateral A-2 pipeline located in the N½SW¼ of section 32, and will end at a point of connection with Northwest Pipeline Corp.'s proposed Lateral A-3 pipeline located in the SW¼SE¼ of section 25, all within T. 24 N., R. 111 W., Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-9841 Filed 4-12-78; 8:45 am]

[4310-84]

[Wyoming 57834]

WYOMING

Application

APRIL 6, 1978.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as ameded (30 U.S.C. 185), Inexco Oil Co. filed an application for a right-of-way for a 4-inch pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 36 N., R. 69 W.,
Sec. 19, NE¼NE¼.

The pipeline will transport natural gas within the Mikes Draw and Well Draw area to a natural gas processing plant located in section 10, T. 35 N., R. 70 W., Converse County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 951 Union Boulevard, Casper, Wyo. 82601.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-9842 Filed 4-2-78; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

IMPORTER OF CONTROLLED SUBSTANCES

Notice of Registration

By Notice dated February 2, 1978, and published in the FEDERAL REGISTER on February 8, 1978; (43 FR 5439), Knauf & Tesch Co., Chilton, Wis. 53014, made application to the Drug Enforcement Administration to be registered as an importer of marihuana, a basic class of controlled substance listed in schedule I for the importa-

tion of seed only, to be rendered nonviable for use in feed.

No comments or objections have been received. Also, the criteria of Section 1002(a)(2)(B) of the CSA has been met in that there are no registered domestic manufacturers of marihuana seed. Therefore, pursuant to Section 1008, Title III of the Comprehensive Drug Abuse Prevention and Control Act of 1970, and in accordance with 21 CFR 1311.42, the above firm is granted registration as an importer of marihuana, as specified above.

Dated: April 4, 1978.

PETER B. BENSINGER,
Administrator,
Drug Enforcement Administration.

[FR Doc. 78-9834 Filed 4-12-78; 8:45 am]

[4510-30]

NATIONAL COMMISSION FOR MANPOWER POLICY

Meeting

Change of Date and Location

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770) the National Commission for Manpower Policy (NCMP) announced in a notice published in the FEDERAL REGISTER on March 31, 1978 (43 FR 13649) a formal meeting of the NCMP.

Notice is hereby given that the meeting of the NCMP scheduled for April 28, 1978, in the East Room of the Mayflower Hotel, Washington, D.C., has been rescheduled for May 5, 1978, at the Howard Johnson Motor Lodge, 2646 Jefferson Davis Highway, Arlington, Va. (The meeting room location will be posted in the lobby of the hotel on the day of the meeting).

Except for the above changes, the notice published in the FEDERAL REGISTER on March 31, 1978 (43 FR 13649) remains unchanged.

Dated: April 10, 1978.

ISABEL V. SAWHILL,
Director, National Commission, for Manpower Policy.

[FR Doc. 78-9865 Filed 4-12-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-461-A]

ILLINOIS POWER CO.

Receipt of Additional Antitrust Information; Time for Submission of Views on Antitrust Matters

Illinois Power Co., pursuant to section 103 of the Atomic Energy Act of 1954, as amended, filed on January 31, 1978, an Application for Amendment to Construction Permit for the Clinton Power Station, Unit 1 which contained "Information Requested by the Attorney General for Antitrust Review" required by 10 CFR part 50, appendix L, as well as general and financial information required by 10 CFR 50.33. This information adds Soyland Power Cooperative, Inc., and Western Illinois Power Cooperative, Inc., as co-owners of the Clinton Power Station, Unit 1.

The information was filed by Illinois Power Co. in connection with their application for a construction permit and operating license for the Clinton Power Station, Unit 1, a boiling water reactor located on the applicant's site in Harp Township, DeWitt County, Ill.

The original antitrust portion of the application was submitted for Units 1 and 2 on October 26, 1973, and Notice of Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicant's Environmental Report; Time for Submission of Views on Antitrust Matters was published in the FEDERAL REGISTER on December 7, 1973 (38 FR 33788). The Notice of Hearing was published in the FEDERAL REGISTER on December 7, 1973 (38 FR 33789).

Copies of the above documents and other related material are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Local Public Document Room located at the Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Ill. 61727.

Information in connection with the antitrust review of this application can be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

Any person who wishes to have his views on the antitrust matters with respect to Soyland Power Cooperative, Inc., and Western Illinois Power Cooperative, Inc., presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission on or before May 30, 1978.

Dated at Bethesda, Md., this 2d day of March 1978.

For the Nuclear Regulatory Commission.

D. ALLISON,
Acting Chief, Light Water Reactors Branch No. 1, Division of Project Management.

[FR Doc. 78-8492 Filed 3-29-78; 8:45 am]

[4910-58]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 78-15]

ACCIDENT REPORT; STATISTICAL REPORT; SAFETY RECOMMENDATIONS

Availability

The National Transportation Safety Board has recently made available to the public copies of the following documents:

Aircraft Accident Report NTSB-AAR-78-4: Johnson and Johnson, Inc., Grumman Gulfstream II, N500J, Hot Springs, Va., September 26, 1976.—The corporate jet crashed at 1038 e.d.t., while making an instrument landing system approach (ILS) to Ingalls Field Airport at Hot Springs. The aircraft was destroyed by impact and fire. Three crewmembers and eight passengers were killed in the crash.

While en route, the flight requested and received the Hot Springs weather which was indefinite ceiling—100 feet, sky obscured, visibility—⅛ mile in fog. About 1033, N500J was cleared for the ILS approach to runway 24 at Hot Springs. At 1036, N500J reported out of 5,000 feet which was the last known transmission from the aircraft. The accident site was located about 750 feet from the threshold of runway 24 and about 500 feet below the runway touchdown zone elevation of 3,766 feet.

The Safety Board could not determine the probable cause of the aircraft's descent below decision height and impact with terrain 500 feet below the elevation of the runway. The Board considered the possibility of inflight deployment of ground spoilers, altimeter error, and abnormal right engine instrument indications which could have distracted the crew.

All three possibilities, however, either were contradicted or insufficiently supported by the evidence available.

Annual Review of Aircraft Accident Data, U.S. Air Carrier Operations 1976 (Report No. NTSB-ARC-78-1).—This publication presents the record of aviation accidents in all operations of U.S. air carriers for calendar year 1976. It includes an analysis by class of carrier and type of service in which the 1976 performances were compared with 5-year base-period averages. Scheduled passenger services of the certificated route carriers for the past 5 years (1972 through 1976) were compared with the previous 5-year period (1967 through 1971) for types of accidents and phases of operation. Statistical tables, which summarize the accidents, fatalities, and accident rates; causal tables; and briefs of accidents are presented in the appendixes.

Aviation Safety Recommendations A-78-18 through 20.—Last November

26, a Piper single-engine aircraft, en route from Sunnyvale, Calif., to Las Vegas, Nev., crashed 10 nautical miles southwest of Independence, Calif. The pilot and three passengers were killed. The crash site was in a box canyon where three other fatal accidents had occurred within the previous 18 months.

As a result of its investigation, the Safety Board on April 6 issued the following "Class I—Urgent Action" recommendations to the Federal Aviation Administration:

Depict the exact location of the Center Basin Canyon on the appropriate sectional chart and label it in a manner that conveys its hazardous nature. (A-78-18)

Depict alternative mountain pass routes north and south of the Kings River Route on the appropriate sectional chart. (A-78-19)

Depict on all applicable sectional charts the altitude of mountain passes in a manner that avoids confusion with the critical elevation information. This altitude information should be presented in a manner that may be easily associated with the depiction of mountain pass routes. (A-78-20)

NOTE.—The above notice summarizes Safety Board documents recently released.

Single copies of accident reports may be obtained from the Safety Board without charge; multiple copies may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

The Board's safety recommendation letters in their entirety are available to the general public; single copies are obtainable without charge.

All requests to the Board for copies must be in writing, identified by the report or recommendation number and the date of publication of this notice in the FEDERAL REGISTER. Address requests to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2171 (40 U.S.C. 1903, 1906)).)

MARGARET L. FISHER,
Federal Register Liaison Officer.

APRIL 7, 1978.

[FR Doc. 78-9527 Filed 4-12-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 10189 (812-4265)]

BERKSHIRE CAPITAL FUND, INC., AND BERKSHIRE EQUITY SALES, INC.

Filing of Application for an Order Granting Exemption

APRIL 8, 1978.

Notice is hereby given that Berkshire Capital Fund, Inc. (the "Fund"), 700 South Street, Pittsfield, Mass. 01201, a diversified, open-end management investment company registered under the Investment Company Act of 1940 ("Act"), and Berkshire Equity Sales, Inc. ("Equity Sales"), principal underwriter of the Fund's shares (hereinafter collectively referred to with the Fund as "Applicants"), filed an application on January 30, 1978, and an amendment thereto on March 16, 1978, pursuant to section 6(c) of the Act for an order of the Commission exempting Applicants, to the extent specified therein, from the provisions of section 22(d) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application states that the Fund was incorporated under the laws of the Commonwealth of Massachusetts and, at December 31, 1977, that it had total net assets of $5,343,620.09. The Fund's investment objective is capital appreciation, consistent, however, with preservation of principal and reasonable income. Equity Sales and the Fund's investment adviser, Berkshire Management & Research Corp., are wholly-owned subsidiaries of Berkshire Life Insurance Co. ("Berkshire Life"). The application states that Berkshire Life is a mutual life insurance company organized under the laws of the Commonwealth of Massachusetts, and that at December 31, 1976, Berkshire Life had total assets of approximately $361,543,000 and insurance in force of approximately $1,796,993,000.

Applicants state that Equity Sales distributes shares of the Fund under a contract which provides that the shares be sold to the public at the public offering price specified from time to time in the current prospectus of the Fund, and that the public offering price of shares of the Fund is the net asset value per share next determined plus a maximum sales charge of 8½ percent of the per share offering price for purchases of less than $10,000, which charge is reduced in the case of certain larger purchases and eliminated under certain circumstances. Applicants state further that in the conduct of its conventional life insurance business, Berkshire Life issues and sells various insurance policies, including a wide range of term insurance policies and other policies which combine certain aspects of both term insurance and ordinary life insurance, and that, in most cases, the benefits paid under life insurance policies are made in a lump sum, although installment payment options are also available. Applicants further state that Berkshire Life makes available both individual and group annuity contracts (but not variable annuities); that some of those contracts are employed to fund tax qualified employee benefit plans which include both corporate pension and profit-sharing plans and Keogh plans for self-employed individuals; and that, although some lump sum distributions are made with respect to these employee benefit plans, most distributions are made on an installment basis. Applicants propose to permit funds derived from: (1) death claims paid from life insurance policies, (2) matured life insurance policies, and (3) matured annuity policies, issued by Berkshire Life, to be applied to the purchase of shares of the Fund at a sales charge equal to one-half the rate otherwise applicable, provided such funds are so applied within the first 60 days after the date that the proceeds of such policies are received. Applicants represent that shares of the Fund are currently sold principally through registered representatives licensed to sell Berkshire Life insurance policies; however, there is no requirement that the shares of the Fund be purchased only by policyholders of Berkshire Life or that any life insurance or annuities be acquired in connection with the purchase of shares of the Fund.

Section 22(d) of the Act provides, in part, that no registered investment company or principal underwriter shall sell any redeemable security issued by such company to any person except at a current offering price described in the company's prospectus.

Applicants assert that the purchaser of shares of the Fund who wishes to apply the insurance and annuity proceeds specified above to make the purchase is situated differently from other prospective purchasers of shares of the Fund. They state that the premiums paid on such policies include a sales expense component which in almost every case will have been larger than the sales charge applicable to purchases of shares of the Fund. Applicants also assert that somewhat less selling effort and expense is involved in applying the proceeds of such insurance to the purchase of shares of the fund than in making sale of such shares to a new customer. Applicants claim that this is so because in most cases the registered representative will be the person who initially sold the insurance product and will enjoy an ongoing business relationship with the customer, who will have investment funds available and will be familiar with the Berkshire organization. Applicants submit that imposing the full sales charge would in effect substantially increase the sales expenses for, and thus would discriminate unfairly against, this group of prospective purchasers. Applicants believe that one-half of the normal sales charge appropriately reflects the selling effort and expense involved. They submit that

the exemption they seek is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Section 6(c) of the Act provides, in part, that the Commission, by order upon application, may conditionally or unconditionally exempt any class or classes of persons, securities, or transactions, from any provision of the Act or the rules promulgated thereunder, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than April 27, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-9796 Filed 4-12-78; 8:45 am]

[8010-01]

[Rel. No. 10193; (812-4283)]

E. F. HUTTON & CO., INC., ET AL.

Filing of Application for an Order of Exemption

APRIL 6, 1978.

Notice is hereby given that E. F. Hutton & Co., Inc., Shearson Hayden Stone Inc., and Thomson McKinnon Securities Inc. ("Applicants"), One Battery Park Plaza, New York, N.Y. 10004, registered broker-dealers, have filed an application on March 14, 1978, pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") for an order of the Commission exempting the Applicants and their co-underwriters in a proposed offering of Common Shares of Dreyfus Mergers and Acquisitions Fund, Inc. ("Company"), a registered, closed-end diversified management investment company, from section 30(f) of the Act, which incorporates section 16 of the Securities Exchange Act of 1934 ("Exchange Act"), with respect to their transactions incidental to the distribution of the Company's shares. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants are the prospective representatives ("Representatives") of a group of underwriters ("Underwriters") being formed in connection with the proposed public offering.

Common Shares of the Company are to be purchased by the Underwriters pursuant to an underwriting agreement ("Underwriting Agreement"), to be entered into between the Company and the Underwriters, represented by the Representatives. It is intended that the several Underwriters will make a public offering of all the Company's Common Shares which such Underwriters are to purchase under the Underwriting Agreement, at the price therein specified, as soon on or after the effective date of the Company's Registration Statement on Form S-4 ("Registration Statement") as the Representatives deem advisable, and such shares are initially to be offered to the public at the per share public offering prices and subject to the underwriting discounts to be specified in the prospectus constituting a part of the Registration Statement at the time the Registration Statement becomes effective under the Securities Act of 1933. Although 3,000,000 shares have been included for registration in the Registration Statement, the actual number of shares which may be the subject of the proposed public offering may be increased in accordance with the terms of the Underwriting Agreement.

The underwriting commitment of any one or more of the Underwriters, including the Applicants, may exceed 10 percent of the aggregate number of Common Shares of the Company to be outstanding after the purchase by the several Underwriters pursuant to the Underwriting Agreement or upon the completion of the initial public offering or at some interim time. In addition to purchases from the Company and sales of Common Shares to customers, there may be the usual transactions of purchases or sales incident to a distribution, such as stabilizing purchases, purchases to cover over-allotments or other short positions created in connection with such distribution, and sales of Common Shares purchased in stabilization. Since section 30(f) of the Act subjects every person who is directly or indirectly the beneficial owner of more than 10 percent of any class of outstanding securities of the Company to the same duties and liabilities as those imposed by section 16 of the Exchange Act with respect to transactions in the securities of the Company, any Underwriter or Underwriters owning more than 10 percent of the Common Shares of the Company would become subject to the filing requirements of section 16(a) of the Exchange Act and, upon resale of the shares purchased by them to their customers, subject to the obligations imposed by section 16(b) of the Exchange Act.

Rule 16b-2 under the Exchange Act exempts certain transactions in connection with a distribution of securities from the operation of section 16(b) of the Exchange Act. Applicants state that the purpose of the purchase of the shares by the Underwriters will be for resale in connection with the initial distribution of Common Shares of the Company. Applicants also state that all such purchases and sales will be transactions effected in connected with a distribution of a substantial block of securities within the purpose and spirit of Rule 16b-2 under the Exchange Act. Nevertheless, the Underwriters may fail to meet the requirement for exemption from section 16(b) stated in Rule 16b-2(a)(3), i.e., that the aggregate participation of persons not within the purview of section 16(b) of the Exchange Act must be at least equal to the participation of persons receiving the exemption under Rule 16b-2, because one or more of the Underwriters who, pursuant to the Underwriting Agreement, may purchase more than 10 percent of the shares of the Company, may be obligated to purchase more than 50 percent of the shares of the Company being offered.

The Dreyfus Corp., the Company's proposed investment adviser, proposes to acquire shares prior to public sale in order to provide the minimum capital required by the Act. There are no public security holders of the Company. Applicants state that no director, officer, or employee of any Underwriter is a director, officer, or employee of the Company or The Dreyfus Corp. Applicants also state that there is no inside information concerning the Company in existence and, therefore, no possibility of any Underwriter using inside information.

Applicants submit that the requested exemption from the provisions of section 30(f) of the Act is necessary or appropriate in the public interest and

consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act. Applicants further contend that the transactions sought to be exempted cannot lend themselves to the practices section 16(b) of the Exchange Act and section 30(f) of the Act were enacted to prevent.

Section 6(c) of the Act provides, in part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from any provision or provisions of the Act or any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than April 26, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attoryney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-9797 Filed 4-12-78; 8:45 am]

[8010-01]

[Rel. No. 10190; (812-4236)]

FEDERATED MASTER TRUST

Filing of Application for Order of Exemption

APRIL 5, 1978.

Notice is hereby given that Federated Master Trust ("Applicant"), 421 Seventh Avenue, Pittsburgh, Pa. 15219, registered under the Investment Company Act of 1940 (the "Act"), as a diversified, open-end, management investment company, filed an application on November 23, 1977, and amendments thereto on March 13, 1978, and March 16, 1978, requesting an order of the Commission, pursuant to section 6(c) of the Act, exempting Applicant from the provisions of section 2(a)(41) of the Act and rules 2a-4 and 22c-1 thereunder, to the extent necessary to permit Applicant to value its assets in the manner set forth in the application, which generally would be the amortized cost method of valuation. The amendment to the application filed on March 16, 1978, requested an order granting the application on a temporary basis. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that: (1) it registered under the Act on November 20, 1977; (2) it is a "money market" fund designed as an investment vehicle for investors with temporary cash balances or cash reserves; and (3) its investment objective is to provide current income consistent with stability of principal. It also states that Federal Cash Management Corporation, a wholly-owned subsidiary of Federated Investors, Inc., acts as its investment adviser, and that Federated Research Corporation, another wholly-owned subsidiary of Federated Investors, Inc., acts as sub-investment adviser. According to the application, as of March 15, 1978, Applicant had net assets of $123,000,000 and virtually all of its investors were bank trust departments.

Applicant further states that: (1) its portfolio may be invested in a variety of money market instruments including U.S. Government securities, prime commercial paper (including variable amount demand master notes), instruments of larger banks and savings and loan associations, and other money market instruments maturing in one year or less; (2) it anticipates that, generally, a substantial portion of its assets will be invested in commercial paper, including variable amount demand master notes and U.S. Government securities; and (3) it will generally invest in excess of 25 percent of the value of its assets in commercial paper issued by finance companies.

According to the application, these policies will be followed by Applicant: (1) as a matter of fundamental policy, investments are made only in instruments having a remaining maturity of one year or less; (2) the average dollar-weighted portfolio maturity of Applicant's portfolio will be 120 days or less; (3) portfolio securities will not be sold prior to maturity unless such sale or other disposition is mandated by redemption requirements, changes in creditworthiness of issuers, or other extraordinary circumstances not presently foreseen; (4) the instruments in the portfolio of Applicant will be valued at "amortized cost"; and (5) redemption may, at the option of Applicant, be made in kind. Applicant states that these policies evolved because two qualities are necessary to attract investments from bank trust departments and other institutional investors: (1) absolute stability of principal, and (2) steady flow of investment income. According to the application, by utilizing high quality money market instruments of short maturities priced at amortized cost, it will be possible for Applicant to provide these features. Applicant states that money market funds which trade their portfolio securities and use a "mark-to-market" valuation technique have not attracted substantial investments from bank trust departments and other institutional investors.

Applicant asserts that, given the nature of its policies and operations, there will be a negligible discrepancy between prices obtained by amortized cost and those obtained through market valuation using matrices or other mechanical devices, and that the trustees of Applicant have determined in good faith that, in view of the characteristics of Applicant, its use of the amortized cost method of valuation is appropriate and preferable to the use of other methods. Applicant further asserts that, while institutional investors are not concerned with theoretical differences which might occur between yield achieved through pricing to a market and yield computed by using amortized cost, they are adamant that the yield not exhibit volatility which may occur through use of "mark-to-market" valuation methods.

As here pertinent, section 2(a)(41) of the Act defines "value" to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities, fair value as determined in good faith by the board of directors.

Rule 22c-1 adopted under the Act provides, in part, that no registered investment company issuing any redeemable security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption

or of an order to purchase or sell such security. Rule 2a-4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 further provides that portfolio securities for which market quotations are readily available shall be valued at current market value, and other securities shall be valued at fair value as determined in good faith by the board of directors.

Section 6(c) of the Act provides, in part, that the Commission may upon application, exempt any person, security or transaction, or any class or classes of persons, securities, or transactions, from any provisions or provisions of the Act or the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the pruposes fairly intended by the policy and provisions of the Act.

Applicant has requested an order of the Commission pursuant to section 6(c) of the Act exempting it from the provisions of section 2(a)(41) of the Act and rules 2a-4 and 22c-1 thereunder to the extent that the use of the amortized cost valuation method as employed by Applicant may otherwise be deemed not fully to comply with the requirements of section 2(a)(41) and rules 2a-4 and 22c-1.

Applicant states that its request for exemption is made based upon its existing management policies, and has agreed that the order it seeks may be conditioned upon the following:

1. That it will continue its fundamental investment policy that investments will be made only in instruments having a remaining maturity of one year or less; that its portfolio will be managed so that the average maturity of all instruments in the portfolio (on a dollar-weighted basis) will be 120 days or less, and so that redemption of shares of Applicant in the largest foreseeable volume may be made without the necessity of disposing of portfolio instruments. In accomplishing these policies, Applicant will typically maintain overnight liquidity through investments such as repurchase agreements, and will schedule maturity dates of the instruments which it purchases in consideration of sufficient regular and systematic cash availability.

2. That it will not sell instruments in its portfolio prior to maturity unless such sale is mandated by redemption requirements, changes in creditworthiness of issuers, or other extraordinary circumstances not presently foreseen by Applicant, and that such policy will be disclosed in its prospectus.

3. That shares of beneficial interest of Appliant will be offered only to institutional investors, with a required minimum initial purchase of $50,000.

4. That Applicant will describe in its prospectus its policies and practices set forth in the application and the concept and impact upon reported yield and net asset value of valuation of instruments using the amortized cost method as compared to the market-to-market period.

5. That its Executive Committee shall continuously review this method of valuation and recommend changes to the Trustees which may be necessary to assure that the portfolio instruments of the Applicant are valued at their fair value, as determined by its Trustees in good faith. In its review, the Executive Committee shall consider the relevant factors which may affect the value of portfolio instruments. These shall include such things as maturity, yield, stability, special circumstances of trading markets, the creditworthiness of the issuers whose instruments are owned (as indicated by dissemination of unfavorable financial data, change in their ratings by the leading agencies, suspension of trading in securities or default in the payment of principal or interest), and economic, social and political factors which may cause unusually large and precipitous changes in prevailing levels of short-term market interest rates. Any one or more of these factors may indicate the need to change the method of valuation of a portfolio instrument. If such a change is indicated, the Trustees will revise the method of valuation in order to approximate more closely market values.

6. That is will continue its fundamental investment policy of limiting investments in commercial paper to investment grade issues rated A-1 by Standard & Poor's Corp., Prime 1 by Moody's Investors Services, Inc., or F-1 by Fitch Investors Services, Inc., or, if not rated, issued by a corporation having an outstanding debt security rated Aa or better by Moody's or AA or better by Standard & Poor's, and that it will continue its fundamental policy of limiting its investments in banks and savings and loan associations to those which at the date of investment have capital, surplus and undivided profits as of the date of their most recently published financial statements in excess of $100,000,000.

7. That it continue to maintain a redemption policy, pursuant to rule 18f-1 under the Act, enabling it to redeem its securities in kind, and that such policy will be implemented if management determines that a material adverse effect would be experienced by the remaining investors of Applicant if a redemption request was satisfied wholly or partly in cash.

Applicant submits that the exemptions it seeks are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

II

As noted above, Applicant has requested that the exemptions it requests be granted on a temporary basis. It states that virtually all of its investors are bank trust departments which have emphasized that the amortized cost method of valuation was a critical factor in their decisions to invest in Applicant. According to the application, at presently only money market instruments with remaining maturities of 60 days or less are purchased by Applicant, thereby enabling Applicant to value its securities at amortized cost value in keeping with the interpretation set forth by the Commission in Investment Company Act Release No. 9786 (May 31, 1977) ("Release No. 9786"). Release No. 9786 stated the Commission's views that: (1) it is inconsistent generally with the provisions of section 2(a)(41) of the Act and rule 2a-4 thereunder for "money market" funds to value their assets on an amortized cost basis, ignoring market factors; (2) it is inconsistent with the provisions of rule 2a-4 for such funds to "round off" calculations of their net asset values per share to the nearest one cent on a share value of $1; and (3) generally, absent circumstances dictating otherwise, the Commission would not object if the board of directors of a "money market" fund determined the fair value of debt securities with remaining maturities of 60 days or less to be their amortized cost value.

Applicant states that presently there is a de minimis difference in yield between short-term and long-term maturity instruments, and that such condition permits it to remain competitive although it invests in instruments with remaining maturities of 60 days or less. Applicant asserts, however, that this condition is a short-lived aberration, and that on a historical basis it can be expected that yields of longer term instruments will substantially exceed the yields of shorter term instruments in which Applicant presently invests. It further asserts that, absent the ability to invest in instruments with remaining maturities in excess of 60 days and to continue to employ the amortized cost method of valuation, the competitive disadvantage at which it will be placed virtually assures that present investors will redeem their shares and invest in higher yielding alternative investments.

Notices of other applications for exemptions similar to that of Applicant have been issued (Investment Company Act Release Nos. 9967, 9983, 9992, 9998, 9999, 10000, 10007, and 10161). Such notices gave interested persons an opportunity to request a hearing on the respective matters, and stated, in each case, that an order disposing of that application would be issued as of course (following expiration of the various periods specified in the notices) unless the Commission should thereafter order a hearing thereon, either upon request or upon the Commission's own motion. Certain communications have been received by the Commission which raise questions as to whether hearings should be ordered in the eight matters referred to above, and the Commission has under consideration the question of whether to

order hearings on any or all of those applications.

By orders dated November 28, 1977, and March 17, 1978 (Investment Company Act Release Nos. 10027 and 10161), the Commission has granted, on a temporary basis, the eight applications referred to above, subject to the conditions contained in the applications, which were summarized in the notices thereof.

Applicant has requested that its application also be granted on a temporary basis to avoid a competitive disadvantage.

The matter having been considered, it is found that it is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act to issue an interim order temporarily granting the application described herein, subject to the conditions to which Applicant has agreed and which are summarized above, pending final disposition of the matter. Accordingly, *it is ordered*, Pursuant to section 6(c) of the Act, that the requested exemptions from section 2(a)(41) of the Act and rules 2a-4 and 22c-1 thereunder be, and hereby are, granted, on a temporary basis and subject to the conditions which Applicant has agreed may be imposed upon such order, as set forth in the application and summarized herein, effective forthwith.

It is further ordered, That such temporary exemption shall continue to be in effect until there is issued an order disposing of the application in its entirety, including any court review of a Commission order in the matter, and shall thereafter cease to be in effect.

Notice is further given that any interested person may, not later than April 28, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-9798 Filed 4-12-78; 8:45 am]

[8010-01]

[Rel. No. 10194; (812-4224)]

GENERAL AMERICAN LIFE INSURANCE CO. AND GENERAL AMERICAN SEPARATE ACCOUNT NO. 2

Notice of Application for an Order of Exemption

APRIL 6, 1978.

Notice is hereby given that General American Life Insurance Co. ("General American"), 700 Market Street, St. Louis, Mo. 63101, a mututal life insurance company organized under the laws of the State of Missouri; and General American Separate Account No. 2, a separate account of General American registered under the Investment Company Act of 1940 ("Act"), as an open-end diversified management investment company, (herein after collectively referred to as "Applicants"), filed an application on November 16, 1977, and amendments thereto on February 24, and April 4, 1978, pursuant to section 6(c) of the Act for an order exempting Applicants from the provisions of sections 22(e), 27(c)(1) and 27(d) of the Act to the extent necessary to permit compliance by Applicants with certain provisions of the Education Code of the State of Texas. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

Separate Account No. 2 was established pursuant to the insurance laws of the State of Missouri on October 22, 1970. Among the variable annuity contracts offered by Separate Account No. 2 and General American is a Group Tax Sheltered Annuity Contract ("Contract(s)") which participates in Separate Account No. 2 and which is designed to fund benefits provided by annuity purchase plans adopted by public school systems and certain tax-exempt organizations for their employees and qualifying for tax-deferred treatment under section 403(b) of the Internal Revenue Code of 1954 as amended. General American serves as investment adviser to and principal underwriter for Separate Account No. 2.

In 1967, the State of Texas directed the governing boards of all Texas institutions of higher education to make available to certain employees an Optional Retirement Program ("Program"), codified as Subchapter G of Chapter 51 of the Texas Education Code. The statue provides as the funding media for the Program fixed or variable annuity contracts purchased from any insurance or annuity company qualified to do business in Texas. In 1973, the Texas legislature made two amendments in the Program legislation, which amendments became effective on June 14, 1973. The statutory definition of the Program was amended to provide that the benefits of such annuities are to be available only upon termination of employment in the Texas public institutions of higher education, retirement, death or total disability of the participant. The other amendment added a new § 51.358 to Subchapter G which also provides that the benefits of such annuities will be available only if the participant dies, terminates his employment due to total disability, accepts retirement, or terminates employment in the Texas public institutions of higher education.

Because of uncertainty regarding the effect of these amendments, the University of Texas System ("System") requested the opinion of the Attorney General of Texas with respect to several questions concerning such amendments. The Attorney General rendered an opinion dated February 18, 1975, in response to the System's letter. The Attorney General interpreted § 51.358 to prohibit provisions in a variable annuity contract issued in connection with the Program on or after June 14, 1973, which provide for making available the redemption value of such contract prior to the occurrence of one of the conditions specified in the statute, i.e., termination of employment, retirement, death or total disability. Moreover, the opinion further stated that the prohibitions of § 51.358 were impliedly in effect upon the establishment of the Program (in 1967) and that notwithstanding any language which may be contained in existing contracts, a participant in the Program has never had the right to redeem his annuity contract otherwise than in accordance with the limitations described above. The opinion did not affect the right of a participant to transfer the redemption value of his annuity contract from one carrier to another; accordingly, the granting of the relief requested in the application would not affect such right.

SECTIONS 27(c)(1), 22(e) AND 27(d)

Section 27(c)(1) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate

unless such certificate is a redeemable security. Section 2(a)(32) of the Act defines "redeemable security" to mean any security under the terms of which the holder upon its presentation to the issuer or to a person designated by the issuer is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof.

Section 22(e) of the Act provides that no registered investment company shall suspend the right of redemption or postpone the date of payment or satisfaction upon redemption of any redeemable security in accordance with its terms for more than seven days after the tender of such security to the company or its agent designated for that purpose for redemption except in certain prescribed circumstances.

Section 27(d) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless the certificate provides that the holder thereof may surrender the certificate at any time within the first eighteen months after the issuance of the certificate and receive in payment thereof, in cash, the sum of (1) the value of his account, and (2) an amount, from such underwriter or depositor, equal to that part of the excess paid for sales loading which is over 15 per centum of the gross payments made by the certificate holder.

Applicants request exemptions from the provisions of sections 22(e), 27(c)(1) and 27(d) of the Act to the extent necessary to permit compliance with § 51.358 as it pertains to (i) redemption values under Contracts issued to participants in the Program subsequent to the date of such exemptive order and (ii) redemption values under Contracts issued prior thereto but attributable to payments made subsequent to the date of such order.

Applicants assert that if such exemptions are not granted, persons participating in the Program effectively will be denied an opportunity to select as a funding medium for their retirement benefits one of two funding media (the other being fixed annuity contracts) specifically provided in the Texas statute for such purpose. Additionally, participants will be unable to obtain the State's matching contributions for the purchase of an equity-based retirement vehicle. In this respect, the Attorney General's opinion indicated that these matching contributions will encourage participation in the retirement plan but that unrestricted withdrawals prior to retirement might be detrimental to an effective retirement vehicle. In view of the foregoing, Applicants assert that the Commission should grant the requested exemptions because: (1) the limited restriction on redemption would be voluntarily assumed by participants, i.e., eligible employees are not required to participate in the Program; (2) the restrictions were not formulated nor suggested by Applicants; and (3) participants' relinquishment of the full right of redemption is a reasonable requirement in exchange for the benefits bestowed by the matching contributions of the State of Texas.

Applicants will ensure that appropriate disclosure is made to persons who consider participation in the Program, informing them of the restriction on the availability of redemption values under Contracts to be issued to them. This disclosure will take the form of an appropriate reference in each Prospectus to the restrictions on redemption of these Contracts, as well as requiring each participant, as a part of the determination that the sale of these Contracts is suitable for that participant, to sign a statement indicating that he/she is aware that these restrictions will be placed on his/her Contract when it is issued. In addition, General American will review all sales literature that is to be used in conjunction with the sales of these contracts for the existence of material representations that are inconsistent with the restrictions to be placed on these contracts and will instruct the salespeople involved in soliciting in this market specifically to bring this restriction to the attention of the potential participants.

Section 6(c) authorizes the Commission to exempt any person, security or transaction or any class or classes of persons, securities or transactions, from the provisions of the Act and Rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than April 28, 1978, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following April 28, 1978, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-9799 Filed 4-12-78; 8:45 am]

[4710-10]

DEPARTMENT OF STATE

ADVISORY COMMITTEE TO THE UNITED STATES NATIONAL SECTION OF THE INTERNAL COMMISSION FOR THE CONSERVATION OF ATLANTIC TUNAS

Meeting

Notice is hereby given, pursuant to the provisions of Pub. L. 92-463, that a meeting of the Advisory Committee to the United States National Section of the International Commission for the Conservation of Atlantic Tunas will be held on April 26, 1978, in the penthouse of Page Building No. 1, 2001 Wisconsin Avenue NW., Washington, D.C. at 9 a.m.

The meeting will be open to the public and the public may participate in the discussions subject to the instructions of the Committee Chairman. Subjects to be discussed include: Review of NMFS Atlantic Bluefin Tuna Research Programs, including contracts; Key Technical Issues Concerning Yellowfin, Skipjack, Albacore and Bigeye Tunas; U.S. Scientific Contributions to the 1978 ICCAT Meeting; Discussion of the Memorandum of November 23, 1977, Concerning the Organization of Atlantic Bluefin Tuna and Billfish Research Programs; Role of the U.S. Advisory Committee and Interaction with the U.S. Commissioners and NMFS: Development of Fishery Management Strategy for Atlantic Bluefin Tuna; Review of Functions of the Northeast Regional Office as they relate to the research programs in the Southeast Fisheries Center, NMFS: Report on Bilateral Discussions and Their Impact on Foreign Fishing for Atlantic Bluefin Tuna in the Gulf of Mexico and Northwest Atlantic; Proposed 1978 Regulations for the U.S. Atlantic Bluefin Tuna Fishery; and Other Business.

Requests for further information on the meeting should be directed to Brian Hallman, OES/OFA/FA, Room

3214, Department of State. He may be reached by telephone on 202-632-1073.

Dated: April 7, 1978.

JOHN D. NEGROPONTE,
Deputy Assistant, Secretary for Oceans and Fisheries Affairs.

[FR Doc. 78-9831 Filed 4-12-78; 8:45 am]

[4710-07]

SHIPPING COORDINATING COMMITTEE

Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 9:30 a.m. on Tuesday, May 9, 1978 in Room 8236 of the Department of Transportation, 400 Seventh Street SW., Washington, D.C.

The purpose of this meeting is to prepare U.S. positions for the fortieth session of the Council and the fifteenth session of the Committee on Technical Cooperation of the Intergovernmental Maritime Consultative Organization (IMCO), to be held in London May 22-26 and May 18, 1978, respectively.

Agenda items to be considered by the Council include, inter alia, the following topics:

Reports of the Maritime Safety Committee (MSC), Marine Environmental Protection Committee (MEPC), Legal Committee, Facilitation Committee, and Technical Cooperation Committee;

Report on the outcome of the International Conference on Tanker Safety and Pollution Prevention, 1978;

Report on the outcome of the Conference of Contracting Governments to amend the Annex to the convention on Facilitation of International Maritime Traffic, 1965;

Administrative and financial arrangements in connection with the INMARSAT Preparatory Committee's meetings as set forth in Resolution 2 of the International Conference on the Establishment of an International Maritime Satellite System; and

Financial, administrative, and personnel matters.

Agenda items to be considered by the Committee on Technical Cooperation include, inter alia, the following topics:

Reports on the Technical cooperation program, activities of Regional and Inter-regional Advisors, and other programs;

Marine Safety Corps; and

Report to the Council.

Requests for further information on the SHC meeting should be directed to Captain R. A. Biller, U.S. Coast Guard (G-AIA/83), Washington, D.C. 20590, telephone 202-426-2280.

The Chairman will entertain comments from the public as time permits.

Dated: April 7, 1978.

RICHARD K. BANK,
Chairman,
Shipping Coordinating Committee.

[FR Doc. 78-9832 Filed 4-12-78; 8:45 am]

[4910-60]

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

EXEMPTION APPLICATIONS

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of Applications for Exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Operations of the Materials Transportation Bureau has received the applications described herein.

DATES: Comments by May 15, 1978.

ADDRESSED TO: Dockets Section, Office of Hazardous Materials Operations, Department of Transportation, Washington, D.C. 20590. Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION:

Complete copies of the applications are available for inspection and copying at the Public Docket Room, Office of Hazardous Materials Operations, Department of Transportation, Room 6500, Trans Point Building, 2100 Second Street SW., Washington, D.C.

Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

NEW APPLICATION

Application No.	Applicant	Regulation(s) affected	Nature of application
7943-N	Swimming Pool Chemicals Manufacturers Association, Seal Beach, Calif.	49 CFR 173.263, 173.272, 173.277.	To authorize shipment of corrosive liquids in fiberboard boxes complying with DOT specification 12B except for handholes. (Mode 1.)
7944-N	Dow Chemical U.S.A., Midland, Mich.	46 CFR Part 64, 49 CFR 173.119, 173.125, 173.245, 173.263.	To authorize shipment of certain flammable, combustible, and corrosive liquids in non-DOT portable marine tanks. (Modes 1, 3.)
7946-N	Westinghouse Electric Corp., Horseheads, N.Y.	49 CFR 173.302	To authorize shipment of certain non-liquefied compressed gases in electronic tubes having a volume of not over 45 in^3 and charged to a pressure of not more than 95 lb/in^2g. (Modes 1, 2, 3, 4, 5.)
7947-N	Air Products & Chemicals Inc., Allentown, Pa.	49 CFR 179.101-1	To authorize shipment of certain methylamines in DOT 112A340W tank cars with increased safety relief valve settings. (Mode 1.)
7948-N	Clark Tank and Manufacturing Co., Long Beach, Calif.	49 CFR 173.119(a)(17), 173.245(a)(30), (31).	To authorize shipment of flammable and corrosive waste materials in non-DOT ASME cargo tanks with bottom outlets. (Mode 1.)
7949-N	Riegel Textile Corp., Ware Shoals, S.C.	49 CFR 173.245	To authorize shipment of a corrosive liquid in a non-DOT specification rubber tank. (Mode 1.)
7950-N	Martin Marietta Corp., Charlotte, N.C.	49 CFR 173.154(a)(9)	To authorize shipment of dinitrophenol with not less than 10 pct. water, classed as a flammable solid, net weight not over 350 lbs., in DOT 21C400 drums. (Mode 1.)
7951-N	Avoset Food Corp., Oakland, Calif.	49 CFR 173.306(b)(1)	To authorize shipment of aerosol foodstuffs in non-DOT inside containers or DOT 2P containers having pressure not exceeding 175 lb/in^2g at 130° F. (Modes 1, 2, 3.)
7952-N	Albright & Wilson, Norwood, N.J.	49 CFR 173.270	To authorize shipment of phosphorus tribromide in non-DOT lead-lined metal barrels. (Modes 1, 2, 3.)
7953-N	Pennwalt Corp., Buffalo, N.Y.	49 CFR 173.157(a)(5), (b)(3).	To authorize shipment of benzoyl peroxide wet with at least 20 pct. or 30 pct. water in inner containers with a net weight not to exceed 25 lbs. (Modes 1, 3.)
7954-N	Air Products & Chemicals Inc., Allentown, Pa.	49 CFR 173.301(d)	To authorize shipment of a fluorine-nitrogen compressed gas mixture in tube trailers where the individual cylinders are manifolded. (Mode 1.)
7955-N	Allied Chemical Corp., Morristown, N.J.	49 CFR 173.201(c)	To authorize a one time shipment of sulfur hexafluoride in DOT 3AA cylinders which are overdue for retesting. (Mode 1.)
7956-N	RAMTA-Israel Aircraft Industries, Beer-Sheva, Israel.	49 CFR 173.353	To authorize shipment of methyl bromide in non-DOT ISO portable tanks. (Modes 1, 2, 3.)

NEW APPLICATION—Continued

Application No.	Applicant	Regulation(s) affected	Nature of application
7957-N	Process Engineering Inc., Plaistow, N.H.	49 CFR 173.315(a)(1)	To authorize the manufacture, marking and selling of non-DOT cargo tanks built to DOT specification MC-331 except the material of construction is aluminum for shipments of liquefied carbon dioxide. (Mode 1.)
7958-N	Westinghouse Electric Corp., Abingdon, Va.	49 CFR 173.186, 173.200	To authorize shipment of waste paper and rags wet with various flammable, corrosive or poisonous liquids in DOT 21P fiber drums with polyethylene liners. (Mode 1.)
7959-N	Woods Hole, Martha's Vineyard & Nantucket Steamship Authority, Woods Hole, Mass.	49 CFR 172.101	To authorize transportation of vehicles containing compressed gases in cylinders on board vehicle/passenger vessels. (Mode 3.)
7960-N	Sta-Rite Industries, Delavan, Wis.	49 CFR 172.400, 173.302(a)(1).	To authorize shipment of unlabeled non-DOT specification tanks charged with air to a pressure of not more than 40 lb/in²g. at 70° F. (Modes 1, 2, 3.)
7961-N	Union Carbide Corp., Bound Brook, N.J.	49 CFR 173.119(a)(14)	To authorize shipment of propylene oxide in DOT 114A340W or higher pressure rated 114A class tank cars. (Mode 2.)
7962-N	DuBois Chemicals, Cincinnati, Ohio.	49 CFR 173.256	To authorize shipment of a liquid cleaning compound containing not more than 14 pct. hydrofluoric acid by weight in a DOT 37M/2U composite container. (Modes 1, 2.)
7963-N	Stauffer Chemical Co., Westport, Conn.	49 CFR 173.360	To authorize shipment of perchloromethyl mercaptan in portable tanks constructed to DOT 51 specifications except that the material of construction is monel. (Mode 1.)
7964-N	Ameribrom Inc., New York, N.Y.	49 CFR 173.252(a)(4)	To authorize shipment of bromine in non-DOT specification portable tanks. (Modes 1, 3.)
7965-N	Ameribrom Inc., New York, N.Y.	49 CFR 173.252(a)(4)	To authorize shipment of bromine in non-DOT specification ISO portable tanks. (Modes 1,3.)
7967-N	Bob & Pat Wagner Air Shows, West Carrollton, Ohio.	49 CFR 175.3, 175.35	To authorize transportation of M-18 smoke grenades, flash roman candles and shower of sparks affixed to the aircraft for air shows and exhibitions. (Mode 4.)

This notice of receipt of applications for new exemptions is published in accordance with section 107 of the Hazardous Materials Transportation Act.

(49 CFR U.S.C. 1806; 49 CFR 1.53(e).)

Issued in Washington, D.C., on April 6, 1978.

J. R. GROTHE,
Chief, Exemptions Branch, Office of Hazardous Materials Operations.

[FR Doc. 78-9786 Filed 4-12-78; 8:45 am]

[4910-60]

EXEMPTION APPLICATIONS

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of Applications for Renewal of Exemption or Application to Become a Party to an Exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Operations of the Materials Transportation Bureau has received the applications described herein. Normally, the modes of transportation woud be identified and the nature of application would be described. However, this notice is abbreviated to expedite docketing and public notice. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments by May 1, 1978.

ADDRESSED TO: Dockets Section, Office of Hazardous Materials Operations, Department of Transportation, Washington, D.C. 20590. Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION:

Complete copies of the applications are available for inspection and copying at the Public Docket Room, Office of Hazardous Materials Operations, Department of Transportation, Room 6500, Trans Point Building, 2100 Second Street, SW., Washington, D.C.

Application No.	Applicant	Renewal of an Exemption
2981-X	Hercules Inc., Wilmington, Del.	2981
3307-X	Apache Powder Co., Benson, Ariz.	3307
3307-X	Hercules Inc., Wilmington, Del.	3307
4460-X	Ethyl Corp., Baton Rouge, La.	4460
4575-X	Union Carbide Corp., Bound Brook, N.J.	4575
5136-X	Air Products and Chemicals, Inc., Allentown, Pa.	5136

Application No.	Applicant	Renewal of an Exemption
5243-X	Austin Powder Co., Cleveland, Ohio.	5243
5243-X	Atlas Powder Co., Dallas, Tex.	5243
5372-X	Dow Chemical Co., Freeport, Tex.	5372
5495-X	Chemetron Corp., Chicago, Ill.	5495
5634-X	Matson Navigation Co., San Francisco, Calif.	5634
5736-X	Phillips Petroleum Co., Bartlesville, Okla.	5736
5749-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	5749
6009-X	Stauffer Chemical Co., Westport, Conn.	6009
6064-X	Martin Marietta Chemicals, Charlotte, N.C.	6064
6126-X	Rhodia Inc., Monmouth Junction, N.J.	6126
6197-X	Boston Gas Co., Malden, Mass.	6197
6197-X	New Jersey Natural Gas Co., Asbury Park, N.J.	6197
6197-X	Philadelphia Gas Works, Philadelphia, Pa.	6197
6325-X	Atlas Powder Co., Dallas, Tex.	6325
6614-X	Georgia-Pacific Corp., Newport Beach, Calif.	6614
6671-X	Merck Chemical Manufacturing Div., Rahway, N.J.	6671
6801-X	Phillips Petroleum Co., Bartlesville, Okla.	6801
6861-X	Teledyne McCormick Selph, Hollister, Calif.	6861
6895-X	Westinghouse Electric Corp., Bloomfield, N.J.	6895
6921-X	Airco Industrial Gases, Murray Hill, N.J.	6921
6921-X	Air Products and Chemicals, Inc., Allentown, N.J.	6921
6963-X	I.S.C. Chemicals Limited, Avonmouth, Bristol, England.	6963
7010-X	Dow Chemical Co., Midland, Mich.	7010
7032-X	Polaroid Corp., Needham Heights, Mass.	7032
7040-X	Polaroid Corp., Needham Heights, Mass.	7040
7052-X	Power Conversion, Inc., Mt. Vernon, N.Y.	7052
7073-X	Ethyl Corp., Baton Rouge, La.	7073
7235-X	Luxfer USA Limited, Riverside, Calif.	7235
7277-X	Structural Composites Industries Inc., Azusa, Calif.	7277
7409-X	Puerto Rico Marine Management, Inc., Elizabeth, N.J.	7409
7438-X	Ethyl Corp., Baton Rouge, La.	7438
7476-X	Thompson Tank & Manufacturing Co., Inc., Long Beach, Calif.	7476
7576-X	Ugine Kuhlmann of America, Inc., Paramus, N.J.	7576
7598-X	Pratt & Whitney Aircraft Group, East Hartford, Conn.	7598
7607-X	Century Systems Corp., Arkansas City, Kan.	7607
7674-X	U.S. Department of the Army, Washington, D.C.	7674
7695-X	W. P. Butterfield (Engineers) Ltd., Shipley, West Yorkshire, England.	7695
7708-X	HTL Advanced Technology, Monrovia, Calif.	7708
7720-X	Williams, Dimond & Co., San Francisco, Calif.	7720
7724-X	Weather Modification, Inc., Bowman, N. Dak.	7724
7686-X	Art Scholl Aviation, Riverside, Calif.	7686

Application No.	Applicant	Parties to an exemption
3121-P	Vicksburg Co., Vicksburg, Miss.	3121
4248-P	Ashland Chemical Co., Columbus, Ohio.	4248
5883—P	Nalco Chemical Co., Oak Brook, Ill.	5883
6253—P	Rhodia Inc., New York, N.Y.	6253
6392—P	Petrolite Corp., Tulsa, Okla.	6392
6563—P	Pressure-Pak Corp., Paducah, Ky.	6563
6806—P	Cabot Corp., Pampa, Tex.	6806
6806—P	Analytical Instrument Development, Inc., Avondale, Pa.	6806
6820—P	Hill Brothers Chemical Co., Phoenix, Ariz.	6820
6998—P	Rockwell International, Raleigh, N.C.	6998
7052—P	Ray-O-Vac Div., Madison, Wis.	7052
7052—P	U.S. Department of Energy, Washington, D.C.	7052
7052—P	U.S. Department of the Army, Washington, D.C.	7052
7060—P	Pacific Aero Inc., San Jose, Calif.	7060
7423—P	Reade Manufacturing Co., Inc., Lakehurst, N.J.	7423
7597—P	Hanshaw Manufacturing Co., Inc., Jonesboro, Ark.	7597
7597—P	Southland Agricultural Chemicals, Montgomery, Ala.	7597
7597—P	Cotton States Chemical Co., Inc., West Monroe, La.	7597
7607—P	U.S. Department of Health, Education, and Welfare, Rockville, Md.	7607
7837—P	United States Navigation Inc., New York, N.Y.	7837
7876—P	Ashland Chemical Co., Columbus, Ohio.	7876

This notice of receipt of applications for renewal of exemptions and party to an exemption is published in accordance with section 107 of the Hazardous Materials Transportation Act (49 CFR U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C., on April 6, 1978.

J. R. GROTHE,
Chief, Exemptions Branch, Office of Hazardous Materials Operations.

[FR Doc. 78-9787 Filed 4-12-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Volume No. 79]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

NOTICE

APRIL 3, 1978.

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use a such authority to provide all or part of the service proposed), and shall specify with particularly the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protest not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if not representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(e)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 3252 (Sub-No. 100F), filed February 27, 1978. Applicant: MERRILL TRANSPORT CO., a corporation, 1037 Forest Avenue Portland, ME 04104. Applicant's representative Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, MA 02043. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

(1) *Iron and steel articles and materials* from Augusta, ME, to points in the United States located east of the States of NM, CO, WY, and MT, including TX, and

(2) *steel* from Bethlehem, Philadephia, Pittsburgh, and Homestead, PA, Kearny, Camden, and Saddle Brook, NJ, and Sparrows Point, MD, to Augusta, ME.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Portland, ME, or Boston, MA.

No. MC 28060 (Sub-No. 39F), filed February 27, 1978. Applicant: WILLERS, INC., d.b.a. WILLERS TRUCK SERVICE, 1400 North Cliff Avenue, Sioux Falls, SD 57101. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Road NE., Atlanta, GA 30326. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, in the transportation of: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* (except hides and commodities in bulk) from: facilities owned or utilized by Geo. A. Hormel & Co. at or near Huron and Mitchell, SD, to: points in IA, MN, and NE and (2) *materials, equipment, and supplies* utilized by meat packinghouses destined to and for use by meat packinghouses from points in IA, MN, and NE to Huron and Mitchell, SD. (Hearing site: Minneapolis-St. Paul, MN).

No MC 30844 (Sub-No. 599F), filed February 9, 1978. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, IA 50704. Applicant's representative: John P. Rhodes (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix 1 to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from Waterloo and Independence, IA, to points in GA, TN, and Garner, NC.

NOTE.—Common control may be involved. If a hearing is deemed necessary the applicant requests it be held at St. Paul, MN.

No. MC 31389 (Sub-No. 241F), filed February 27, 1978. Applicant: McLEAN TRUCKING CO., a corporation, 617 Waughtown Street, Winston-Salem, NC 27107. Applicant's representative: David F. Eshelman, P.O. Box 213, Winston-Salem, NC 27102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite of the Black Forest Clock Co., located at or near Amherst, VA, as an off-route point in conjunction with applicant's regular route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, DC.

No. MC 41951 (Sub-No. 33F), filed March 29, 1978. Applicant: WHEATLEY TRUCKING, INC., P.O. Box 458, Cambridge, MD 21613. Applicant's representative: Daniel B. Johnson, 4304 East-West Highway, Washington, DC 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Hallwood, VA, to points in IN, IL, and WI. Restricted to traffic originating at the named origin and destined to the named destination States. (Hearing site: Salisbury, MD).

No. MC 51146 (Sub-No. 582F), filed March 1, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Applicant's representative: James C. Hardman, 33 North La Salle Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers* from Racine, WI, and Danville, IL, to points in NJ, MD, CT, MA, and RI. (Hearing site: Chicago, IL).

No. MC 56637 (Sub-No. 14F), filed February 23, 1978. Applicant: R.C.A. TRUCK LINES, INC., P.O. Box 1027, Cartersville, GA 30121. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes transporting: *General commodities* (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment):

(1) Between Chattanooga, TN, and Huntsville, AL: From Chattanooga, TN, over U.S. Hwy 72 to Huntsville, AL, and return over the same route, serving no intermediate points.

(2) Between Huntsville, AL, and Corinth, MS: From Huntsville, AL, and over U.S. Hwy 72 to Corinth, MS, and return over the same route, serving all intermediate points, and serving the Tennessee Valley Authority Yellow Creek Nuclear Plant in Tishomingo County, MS, as an off-route point.

(3) Between Huntsville, AL, and Florence, AL: From Huntsville, AL, over Alt U.S Hwy 72 to its intersection with U.S. Hwy 43, then over U.S. 43 to Florence, AL, and return over the same route, serving all intermediate points on the described route and all points in Colbert County, AL, not on the described route as off-route points.

(4) Between Decatur, AL, and Rome, GA: From Decatur, AL, over U.S. 31 to Cullman, AL, then over U.S. Hwy 278 to Gadsden, AL, then over U.S. Hwy 411 to Rome, GA (also from Gadsden, AL, over U.S. Hwy 411 to Centre, AL, then over AL Hwy 9 to the AL-GA state line, then over GA Hwy 20 to Rome, GA), and return over the same route, serving all intermediate points.

(5) Between Chattanooga, TN, and Birmingham, AL: From Chattanooga, TN, over U.S. Hwy 11 (also over Interstate Hwy 59) to Birmingham, AL, and return over the same route, serving all intermediate points between Gadsden, AL, and Birmingham, AL, including Gadsden, AL.

(6) Between Gadsden, AL, and Oxford, AL: From Gadsden, AL, over U.S. Hwy 431 to Oxford, AL, and return over the same route, serving all intermediate points.

(7) Between Atlanta, GA, and Birmingham, AL: From Atlanta, GA, over Interstate Hwy 20 to Birmingham, AL, and return over the same route, serving Oxford, AL, as an intermediate point for purposes of joinder only.

(8) Between Cullman, AL, and Birmingham, AL: From Cullman, AL, over Interstate Hwy 65 to Birmingham, AL, and return over the same route, serving no intermediate points. (Hearing site: Chattanooga, TN, and Huntsville, AL).

No. MC 56640 (Sub-No. 42F), filed February 22, 1978. Applicant: DELTA LINES, INC., 333 Hegenberger Road, Oakland, CA 94621. Applicant's representative: Russell R. Sage, Suite 400, Overlook Building, 6121 Lincolnia Road, P.O. Box 11278, Alexandria, VA 22312. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) between Grants Pass, OR, and Crescent City, CA, as follows: From Grants Pass over U.S. Hwy 199 to its junction with U.S. Hwy 101, then over U.S. Hwy 101 to Crescent City, and return over the same route, serving no intermediate points.

NOTE.—Common control may be involved. If a hearing is deemed necesary, applicant

requests that it be held at Eureka, CA, and/or Grants Pass, OR.

No. MC 59223 (Sub-No. 11F), filed March 8, 1978. Applicant: NEW DEAL DELIVERY SERVICE, INC., 206 West 37th Street, New York, NY 10018. Applicant's representative: Arthur Piken, One Lefrak City Plaza, Flushing, NY 11368, Suite 1515. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General department store merchandise:*

(1) Between Keasbey, NJ, and Cherry Hill, NJ;

(2) Between Keasbey, NJ, and Cherry Hill, NJ, on the one hand, and, on the other, Nanuet, NY; East Brunswick, Cherry Hill, Livingston, Menlo Park, Monmouth (Eatontown), Morristown, Newark, Paramus, Plainfield, Princeton, Willowbrook, Deptford, Ocean County Mall (Toms River), Quaker Bridge Mall (Lawrenceville and Rockaway, NJ; Springfield, Oxford Valley (Langhorne), Lehigh Valley Mall (Whitehall) and Montgomeryville, PA, and Wilmington, DE.

Restricted to the transportation of goods moving on for and in behalf of Bamberger's, a division of R. H. Macy & Co., Inc. (Hearing site: New York City, NY.)

No. MC 59241 (Sub-No. 6F), filed February 24, 1978. Applicant: JOHN GIBBONS, INC., 650 Eddystone Avenue, Eddystone, PA 19013. Applicant's representative: Maxwell A. Howell, 1100 Investment Building, 1511 K Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Reels, skids and pallets* and materials and supplies used in the manufacture thereof, between Baltimore, MD, on the one hand, and, on the other, points in the Commonwealth of Pennsylvania.

NOTE.—If a hearing is deemed necessary applicant requests that it be held in Washington, DC. Common control may be involved.

No. MC 63417 (Sub-No. 132F), filed March 1, 1978. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, VA 24034. Applicant's representative: William E. Bain, P.O. Box 13447, Roanoke, VA 24034. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes transporting: *Glass containers, corrugated boxes, caps, covers, and tops* from Brockway, PA, to NC counties of Rockingham, Stokes, Caswell, Guilford, Alamance, and Forsyth and VA counties of Pittsylvania, Henry, and Halifax. (Hearing sites: Roanoke, VA, or Pittsburgh, PA.)

No. MC 73165 (Sub-No. 433F), filed March 1, 1978. Applicant: EAGLE MOTOR LINES, INC., 830 North 33d Street, Birmingham, AL 35202. Applicant's representative: R. Cameron Rollins, 830 North 33d Street, Birmingham, AL 35202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic pipe, plastic pipe fittings,* and *conduit, connections, valves,* and *Materials* and *supplies* used in the installation thereof. From Geneva County, AL to points in the United States (except Alaska and Hawaii), and (2) *Materials* and *supplies* used in the manufacture of commodities named in (1) above from points in the United States (except Alaska and Hawaii) to Geneva County, AL.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, GA.

No. MC 78400 (Sub-No. 59F), filed February 22, 1978. Applicant: BEAUFORT TRANSFER CO., a Corp., Box 151, Gerald MO 63037. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis MO 63101. Applicant hereby applies for authority to engage in operation, in interstate commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of: (1) *Books, periodicals, pamphlets and printed matter, and materials, equipment and supplies* used in the production thereof (except in bulk) (a) between Owensville MO and Frederick MD and, (b) between Owensville MO on the one hand, and on the other, Baltimore MD, Washington DC, Pauline KS, and Camp Hill and Philadelphia PA and, (2) Paper from points in AL, NC, OH, TX, WI, LA, MI, and MN to Owensville MO and Frederick MD.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at St. Louis, or Jefferson City, MO.

No. MC 81412 (Sub-No. 33F), filed February 27, 1978. Applicant: VALLEY TRANSFER AND STORAGE CO., INC., P.O. Box 2101, Bethlehem, PA 18001. Applicant's representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel transmission poles and parts* and *accessories* therefor from the facilities of Meyer Industries, a Division of International Telephone and Telegraph Corp., in the borough of West Hazleton and the township of Hazle, Luzerne County, Pa. to points in the United States (except Pennsylvania, Hawaii, and Alaska).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Washington, DC or Philadelphia, PA. Common control may be involved.

No. MC 82492 (Sub-No. 180F), filed March 9, 1978. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, MI 49003. Applicant's representative: William C. Harris (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles* distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk): (1) From Cherokee and Des Moines, IA, and Lincoln, NE, to points in IN, KY, MI, OH, those points in NY in and west of Allegany, Livingston, and Monroe Counties, and those points in PA located on and west of U.S. Hwy 219; (2) From Carroll, Denison, Fort Dodge, Iowa Falls, and Sioux City, IA, and Omaha, NE, to points in KY, those points in NY in and west of Allegany, Livingston, and Monroe Counties, and those points in PA located on and west of U.S. Hwy 219; (3) From Fort Dodge, IA, to points in OH located south of U.S. Hwy 224. RESTRICTION: Restricted to traffic originating at the facilities of Farmland Foods, Inc. at the named origins and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Omaha, NE or Chicago, IL.

No. MC 82492 (Sub-No. 181F), filed March 8, 1978. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, MI 49003. Applicant's representative: William C. Harris (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Toilet preparations, household and industrial cleaning products, brooms, brushes, mops, insect repellents, grooming aids, food products, clothes hangers, medicated sprays and promotional materials* (except commodities in bulk): From the facilities of The Fuller Brush Co. at Great Bend, KS, to points in IL, IN, IA, KY, MI, MN, MO, NE, ND, OH, SD, WI, points in that part of NY in and west of Broome, Cortland, Onondaga, and Oswego Counties, and those in that part of Pennsylvania on and west of U.S. Hwy 219. Restricted to the transportation of traffic originating at the named origin and destined to the named destinations. (2) *Materials, supplies, and machinery* used or useful in the manufacture and distribution of the commodities described in part (1) above. From points in IL, IN, IA, KY, MI, MN, MO, NE, ND, OH, SD, WI, points in that part of NY in and west of Broome, Cortland, Onondaga, and Oswego Counties, and those in that

part of PA on and west of U.S. Hwy 219, to the facilities of The Fuller Brush Co. at Great Bend, KS. RESTRICTION: Restricted to the transportation of traffic originating at the named origins and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, IL or Washington, DC.

No. MC 83539 (Sub-No. 484F), filed March 9, 1978. Applicant: C & H TRANSPORTATION CO., INC., 9757 Military Parkway, P.O. Box 270535, Dallas, TX 75227. Applicant's representative: Mr. Thomas E. James (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Lumber, lumber products, wood products and millwork.* From points in AZ, UT, and CO on and south of U.S. Hwy 50 to points in IL, IN, IA, KS, MI, MN, MO, NB, OH, WI, KY, TN, and TX, and from Eagle, CO to all points in TN and KY.

NOTE.—Hearing site: (1) Phoenix, AZ or (2) Dallas, TX, common control may be involved.

No. MC 100449 (Sub-No. 92F), filed March 1, 1978. Applicant: MALLINGER TRUCK LINE, INC., Rural Route No. 4, Fort Dodge, IA 50501. Applicant's representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses* as defined in sections A and C of appendix I to the reports in *Descriptions in Motor Carrier Certificates* 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of Wisconsin Beef Industries at Eau Claire, WI to points in AR, CO, IL, IA, KS, MN, MO, NE, ND, NM, OK, SD, and TX, restricted to traffic originating at the named origin and destined to points in the named destination states.

NOTE.—If a hearing is deemed necessary, applicant requests that the hearing is held at Minneapolis, MN.

No. MC 100666 (Sub-No. 384F), filed March 8, 1978. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Applicant's representative: Wilburn L. Williamson, 230 National Foundation Life Building, 3535 NW. 58th Street, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: (1) *Ground waste paper, liquid adhesives and machinery and equipment* used in manufacture and distribution thereof, from Monroe, OH to points in the United States, including AK, but (excluding HI) and; (2) *machinery, materials, equipment and supplies* used in the manufacture and distribution of commodities named in (1), above from points in the United States, including AK, but (excluding HI) to Monroe, OH and Houston, TX.

NOTE.—(Hearing site: Houston, TX.)

No. MC 100666 (Sub-No. 386F), filed March 8, 1978. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Building, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Expanded plastic products* (except in bulk), from the facilities of The Dow Chemical Co. at or near Magnolia, AR; Peverly, MO; and Hanging Rock, OH, to points in the United States, on and east of U.S. Hwy 85.

NOTE.—(Hearing site: (1) Washington, DC, (2) Chicago, IL.)

MC 104123 (Sub-No. 81F), filed February 8, 1978. Applicant: JOHN SCHUTT, JR., INC., 665 River Road (Route 265), North Tonawanda, NY 14120. Applicant's representative: Paul F. Sullivan, 711 Washington Building, Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Farm machinery and equipment and parts and accessories* thereof from ports of entry on the U.S.-Canada boundary in MI and NY to points in the United States (except AK and HI); (b) *farm machinery, and equipment, material and supplies* (except commodities in bulk) used in the manufacture of the commodities named in (a) above from the destination area described in (a) above to the said ports of entry, restricted in each instance to traffic moving in foreign commerce and to traffic originating at or destined to facilities or (or used by) White Farm Equipment, Ltd., Brantford and Hagersville, Ontario, Canada.

NOTE.—Applicant presently holds size-and-weight and self-propelled articles (15,000 lbs. or more) authority between points in Allegany, Cattaraugus, Chautaugua, Erie, Genessee, Monroe, Orleans, Niagara, and Wyoming Counties, NY on the one hand, and on the other, points in DE, MD, the lower peninsula of MI, NJ, NY, OH, PA, and WV, with certain designated restrictions. Applicant also holds certain authority from the Ontario Transport Board. (Hearing Site: Buffalo, NY.)

No. MC 106674 (Sub-No. 302F), filed February 23, 1978. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Applicant's representative: Linda J. Sundy, P.O. Box 123, Remington, IN 47977. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wardrobes, chests and related items* from the facilities of Woodlawn Products Corp. at or near Elkhart, IN to points in the United States (excluding AK and HI) and *materials, equipment and supplies* used or useful in the manufacture, sale or distribution of wardrobes and chests from points in the United States (excluding AK and HI), to Elkhart, IN.

NOTE.—If a hearing is deemed necessary, applicant request it be held in either Chicago, IL or Indianapolis, IN.

No. MC 108119 (Sub-No. 80F), filed February 23, 1978. Applicant: E. L. MURPHY TRUCKING CO., a corporation, P.O. Box 43010, St. Paul, MN 55164. Applicant's representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal and metal articles* (except in bulk), between the facilities of Vincent Brass and Aluminum Co., at or near St. Louis, MO, on the one hand, and, on the other, points in the United States (except AK and HI).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis or St. Paul, MN or Washington, DC. Common control may be involved.

No. MC 108119 (Sub-No. 81F), filed February 24, 1978. Applicant: E. L. MURPHY TRUCKING CO., a corporation, P.O. Box 43010, St. Paul, MN 55164. Applicant's representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Motor graders, and attachments, accessories and parts* for motor graders, between points in Lexington County, SC, on the one hand, and, on the other, points in the United States in and west of MN, IA, MO, AR and LA; and (2) *Materials, equipment and supplies* used in the manufacture, sale and/or distribution of the commodities in (1) above from points in the United States (except AK and HI) to points in Lexington County, SC.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Columbia, SC or Atlanta, GA. Common control may be involved.

No. MC 108341 (Sub-No. 89F), filed February 27, 1978. Applicant: MOSS TRUCKING COMPANY, INC., 3027 N. Tryon Street, P.O. Box 8409, Charlotte, NC 28208. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cooling towers, condensers, equalizers and exchangers* for air, gas or liquids and (2) *parts, attachments and accessories* for commodities in (1) above

when moving in mixed loads with commodities in (1) above from the facilities of Baltimore Aircoil Co., Inc. at or near Baltimore and Dorsey, MD and Milford, DE to points in the United States in and east of MN, IA, MO, AR, and LA.

NOTE.—Common control may be involved. (hearing side: Washington, DC.)

No. MC 111729 (Sub-No. 734F), filed March 8, 1978. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, NY 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Business papers, records, audit and accounting media and advertising material* of all kinds; and (2) *Plastic, thermal and ceramic home products*, restricted against the transportation of packages or articles weighing in excess of 300 lbs. in the aggregate, on behalf of Geni, Inc., a subsidiary of Avon Products. Between points in AZ, restricted to traffic having a prior or subsequent out-of-State movement by motor vehicle.

NOTE.—Applicant holds motor contract carrier authority in MC 112750, and Sub Numbers thereunder, and therefore dual operations may be involved. Common control may be involved. (Hearing site: Washington, DC.)

No. MC 112520 (Sub-No. 351F), filed March 8, 1978. Applicant: McKENZIE TANK LINES, INC., P.O. Box 1200, Tallahassee, FL 32302. Applicant's representative: Thomas F. Panebianco (same address as applicant). Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: *Calcium palmitate*, in bulk, in tank vehicles, from Port St. Joe, FL, to Bucksport, ME.

NOTE.—Hearing site: Atlanta, GA. Common control may be involved.

No. MC 112989 (Sub-No. 61F), filed February 17, 1978. Applicant: WEST COAST TRUCK LINES, INC., 85647 Hwy 99 South, Eugene, OR 97405. Applicant's representative: John W. White, Jr., 85647 Hwy 99 South, Eugene, OR 97405. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum products*, (1) Between points in OR, WA, and CA, and (2) Between points in OR, WA, and CA on the one hand, and, on the other, ports of entry on the International Boundary line between the United States and Canada located at points in WA, for further movement in foreign commerce.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Portland, OR, or San Francisco, CA.

No. MC 113459 (Sub-No. 119F), filed March 3, 1978. Applicant: H. J. JEFFRIES TRUCK LINE, INC., P.O. Box 94850, Oklahoma City, OK 73109. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, TX 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from the plantsite of Evans Products Co., located at or near Missoula, MT, to points in CO, IL, IA, and WI.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Portland, OR, or Dallas, TX.

No. MC 113678 (Sub-No. 723F), filed February 27, 1978. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Applicant's representative: Roger M. Shaner (same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *candy and confectionery products, dessert preparations* (except in bulk), and *advertising material, premiums and display materials*, when shipped therewith, in vehicles equipped with mechanical refrigeration, from the facilities of Queen Anne Candy Co., located at or near Hammon, IN, to points in AZ, AR, CA, CO, IA, KS, LA, MN, MO, NB, NV, NM, OK, OR, TX, UT, and WI, restricted to traffic originating at and destined to the named points. (Hearing site: Chicago, IL, or St. Louis, MO).

No. MC 113678 (Sub-No. 724F), filed February 27, 1978. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Applicant's representative: Roger M Shaner (same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products* (except commodities in bulk in tank vehicles), from Hyde Park, UT, to points in CA, OR, and TX. (Hearing site: Salt Lake City, UT, or Denver, CO).

No. MC 113678 (Sub-No. 730F), filed February 13, 1978. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Applicant's representative: Roger M. Shaner (same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from City of Industry, CA, to points in AZ and NM.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at: Los Angeles, CA.

MC 113855 (Sub-No. 409F), filed March 1, 1978. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Alan Foss, 502 First National Bank Building, Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in interstate of foreign commerce, transporting:

(1) (a) *Compressors* and (b) *drilling and mining equipment*, (c) *attachments and parts*, from Franklin, PA, to points in the United States (except AK and HI); and

(2) *Materials and supplies* used in the manufacture of the items in (1) above (except commodities in bulk), from points in the United States (except AK and HI) to Franklin, PA.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be at Washington, DC.

No. MC 114015 (Sub-No. 24F), filed February 24, 1978. Applicant: HUSS, INC., Hwy 47 West, P.O. Box 666, Chase City, VA 23024. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Adhesives, building materials, gypsum and gypsum products, lime* (except liquid lime in bulk), and such *materials and supplies* as are used in the manufacture, installation, and distribution of the above-named commodities (except liquid in bulk), between Plasterco, VA, on the one hand, and, on the other, points in the United States in and east of WI, IL, KY, TN, AR, and LA, under a continuing contract or contracts with United States Gypsum Co., located at Chicago, IL.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Atlanta, GA, or Washington, DC.

No. MC 114725 (Sub-No. 83F), filed February 27, 1978. Applicant: WYNNE TRANSPORT SERVICE, INC., 2222 North 11th Street, Omaha, NE 68110. Applicant's representative: Donald L. Stern, Suite 530, Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed and feed ingredients*, from Nebraska City, NE, to points in IA, KS, MO, MN, SD, and CO.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Omaha, NE. Common control may be involved.

No. MC 114761 (Sub-No. 14F), filed February 24, 1978. Applicant: GETTER TRUCKING INC., P.O. Box 368, Cut Bank, MT 59427. Applicant's representative: John R. Davidson, Room 805, Midland Bank Building, Billings, MT 59101. Authority sought as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bentonite*, from points in MT, ND, that part of SD lying on or west of the

Missouri River and north of U.S. Hwy 14, and WY to points in WA. (Hearing site: Billings, MT, or Casper, WY.)

No. MC 115353 (Sub-No. 30F), filed March 1, 1978. Applicant: LOUIS J. KENNEDY TRUCKING CO., 342 Schuyler Avenue, Kearny, NJ 07032. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *refractory products* (except commodities in bulk), from Avenel, NJ to points in NY, NJ, PA, MD, DE, OH, VA and WV, under a continuing contract or contracts with General Refractories Company. (Hearing site: New York, NY.)

NOTE.—Common control may be involved.

No. MC 115663 (Sub-No. 6F), filed February 27, 1978. Applicant: HULL AND SMITH HORSE VANS, INC., Route 1, Box 12, Ashland, NE 68003. Applicant's representative: Scott E. Daniel, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Horses*, other than ordinary, and, in the same vehicle, with such horses, *stable supplies and equipment* used in their care and exhibition, *mascots*, and the *personal effects of their attendants, trainers, and exhibitors*, between points in NE and CO on the one hand and, on the other, points in AZ and CA. (Hearing site: Omaha, NE.)

No. MC 115841 (Sub-No. 615F), filed March 9, 1978. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., Suite 110, 9041 Executive Park Drive, Knoxville, TN 37919. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Rubber articles and plastic articles* from the facilities of Entek Corp. of America at or near Irving, TX, to points in the United States (except AK and HI) and (2) *Materials, equipment and supplies* used in the manufacture, distribution, sale, and transportation of rubber articles and plastic articles (except commodities in bulk) from points in the United States (except AK and HI) to the facilities of Entek Corp. of America at or near Irving, TX. (Hearing site: Dallas, TX.)

NOTE.—Common control may be involved.

No. MC 116915 (Sub-No. 48F), filed February 23, 1978. Applicant: ECK MILLER TRANSPORTATION CORP., 1830 South Plate Street, Kokomo, IN 46901. Applicant's representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Welded steel tubing, and materials, equipment, and supplies* used in the manufacture thereof, between the facilities of Parthenon Metal Works, Inc. located at or near La Vergne, TN on the one hand and, on the other, points in AL, IL, IN, KY, MO, and OH. Restricted to shipments originating at or destined to the facilities of Parthenon Metal Works, Inc. (Hearing site: Nashville, TN, Louisville, KY or Frankfort, KY.)

MC 117685 (Sub-No. 206F), filed February 27, 1978. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Boulevard, Sioux City, IA 51102. Applicant's representative: George L. Hirschback, P.O. Box 417, Sioux City, IA 51102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Ceramic tile, artificial turf, neoprene foam padding, floor coverings*, and (2) *Materials and supplies* used in the installation, manufacture, packaging, distribution and sale of the aforementioned commodities, in mixed shipments with the commodities in (1) above, from (A) points in GA north of a line beginning at the GA, AL State line and extending along Interstate Hwy 20 to Atlanta, GA, then along Interstate Hwy 85 to the SC-GA State line, and (B) Cookeville, TN, to points in MO; Kansas City, KS; Fort Smith, AR; Tulsa, OK; Moline and Rock Island, IL and Des Moines, IA. Restriction: Restricted to traffic destined to the facilities of Cla-Mar, Inc., at or near the above-named destination points. (Hearing site: Omaha, NE or Washington, DC.)

No. MC 119349 (Sub-No. 7F), filed February 24, 1978. Applicant: STARLING TRANSPORT LINES, INC., P.O. Box 1733, Fort Pierce, FL 33450. Applicant's representative: Harry C. Ames, Jr., 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in containers, from Congo and St. Marys, WV, to points in FL (except from St. Marys to points in and south of Levy, Marion, Lake, and Volusia Counties), and GA. Applicant holds contract carrier authority in No. MC 133867 and subs thereunder, therefore dual operations may be involved. (Hearing site: Washington, DC.)

No. MC 119654 (Sub-No. 38F), filed February 27, 1978. Applicant: HI-WAY DISPATCH, INC., 1401 West 26th Street, Marion, IN 46952. Applicant's representative: Norman R. Garvin, 815 Merchants Bank Building, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass containers*, from Terre Haute, IN to points in IL, KY, MI, MO, OH and WI. (2) *Materials, equipment, and supplies*, used in the manufacture of glass containers (except commodities in bulk), from points in IL, KY, MI, MO, OH and WI to Terre Haute, IN. (Hearing site: Indianapolis, IN or Chicago, IL.)

No. MC 119793 (Sub-No. 11F) (correction), filed March 1, 1978, published in the FEDERAL REGISTER issue of March 23, 1978, and republished as corrected this issue. Applicant: DEWEY L. WILFONG, d.b.a. D & W TRUCK LINES, INC., P.O. Box 427, Parsons, WV 26287. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, in the transportation of: (1) *Glass*, from the facilities of Fourco Glass Co., located at or near Clarksburg, WV and Jerry Run (Taylor County), WV, to points in the United States in and east of MN, IA, MO, AR, and TX; and (2) *materials, supplies and equipment* used in the manufacture or distribution of glass, from points in the United States in and east of MN, IA, MO, AR, and TX, to the facilities of Fourco Glass Co., located at or near Clarksburg, WV, and Jerry Run (Taylor County), WV, restricted to the transportation of traffic moving under a continuing contract or contracts with Fourco Glass Co. Applicant holds common carrier authority in MC 142873, therefore dual operations may be involved. (Hearing site: Charleston, WV or Washington, DC.)

NOTE.—The purpose of this republication is to indicate the correct number as MC 119793 (Sub-No. 11), which was previously published as MC 119793 (Sub-No. 1).

No. MC 119974 (Sub-No. 71F), filed March 1, 1978. Applicant: L.C.L. TRANSIT CO. 949 Advance Street, Green Bay, WI 54304. Applicant's representative: L. F. Abel, P.O. Box 949, Green Bay, WI 54305. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of Wisconsin Beef Industries, Inc. at Eau Claire, WI to points in IA, IL, IN, KY, MN, MI, MO, and OH, restricted to traffic originating at the above named origin and destined to the named destination states. (Hearing site: St. Paul, MN or Washington, DC.)

No. MC 126327 (Sub-No. 5F), filed March 8, 1978. Applicant: TRAILS

TRUCKING, INC., 1983 Old Oakland Highway, San Jose, CA 95131. Applicant's representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery products* (other than frozen) from the facilities of Nabisco, Inc. in Buena Park, CA, to points in UT. (Hearing site: Los Angeles, CA.)

NOTE.—Applicant holds contract carrier authority in No. MC 138299 and subnumbers thereunder, therefore dual operations may be involved. Common control may be involved.

No. MC 127042 (Sub-No. 209F), filed February 27, 1978. Applicant: HAGEN, INC., P.O. Box 98-Leeds Station, Sioux City, IA 51108. Applicant's representative: Robert G. Tessar, P.O. Box 98-Leeds Station, Sioux City, IA 51108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages and wine*, except in bulk, from points in TN, KY, IL, Cincinnati, OH, Lawrenceburg, IN, Detroit, MI, and St. Louis, MO, to Dodge City and Wichita, KS. (Hearing site: Wichita, KS.)

No. MC 127579 (Sub-No. 7F), filed February 24, 1978. Applicant: HAULMARK TRANSFER, INC., P.O. Box 343, Cockeysville, MD 21030. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper, paper products, pulpboard, and particleboard*, from the facilities of Union Camp Corp. at Franklin, VA, to points in MD, DE, PA, WV, NJ, DC, NY, CN, RI, MA, NH, VT and ME, restricted to traffic originating at the named origin and destined to the above destination area, and (2) returned shipments of the above-described commodities in the opposite direction. (Hearing site: Newark, NJ or Washington, DC.)

No MC 128220 (Sub-No. 21F), filed February 27, 1978. Applicant: RALPH LATHAM, d.b.a. LATHAM TRUCKING CO., P.O. Box 596, Burnside, KY 42519. Applicant's representative: Robert M. Pearce, P.O. Box 1899, Bowling Green, KY 42101. 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 Crossville, TN to points in the United States, (except AK and HI); (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 AK and HI), to Crossville, TN. (Hearing site: Louisville, KY or Washington, DC.)

No. MC 128273 (Sub-No. 281) (correction), filed November 25, 1977, published in the FEDERAL REGISTER issue of January 19, 1978 as "MC 128273 (Sub-No. 115)" and republished this issue. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Applicant's representative: Elden Corban, P.O. Box 189, Fort Scott, KS 66701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum and petroleum products, vehicle body sealer and/or sound deadener compound* (except in bulk) and filters, from points in Marion County, TN, to points in the United States (except AK and HI), restricted to traffic originating at points in Marion County, TN. (2) *Materials, supplies and equipment* used in the manufacture, sale, and distribution of the commodities named in Part (1) (except in bulk) from points in OH, WV, PA, AL, GA, VA, and KY, to points in Marion County, TN, restricted to traffic destined to points in Marion County, TN. (3) *Petroleum and petroleum products, vehicle body sealer and/or sound deadener compound* (except in bulk) and filters, from points in OH, NY, RI, PA, and WV, to points in Marion County, TN, restricted to traffic destined to Marion County, TN.

NOTE.—The purpose of this republication is to show correct (Sub-No. 281). If oral hearing is deemed necessary applicant requests this application be consolidated with that of similar applications recently filed.

No. MC 128527 (Sub-No. 104F), filed March 8, 1978. Applicant: MAY TRUCKING CO., P.O. Box 398, Payette, ID 83661. Applicant's representative: Mr. J. Michael Alexander, 136 Wynnewood Professional Building, Dallas, TX 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are ordinarily dealt in by *wholesale, retail, or chain discount, drug, hardware, sporting goods or department stores, and nursery supplies* between points in CA, ID, MT, NV, OR, WA, and WY. Restricted to: (1) shipments originating in the named states and destined to points in the named states, and (2) shipments destined to the facilities of Bi-Mart Stores, Inc., or Pay and Save Corp. (Hearing site: (1) Seattle, WA; (2) Boise, ID.)

No. MC 129790 (Sub-No. 6F), filed February 27, 1978. Applicant: JOSEPH A. BECKER, d.b.a. BECKER HI-WAY FRATE, 121 Adams Avenue, Albert Lea, MN 56007. Applicant's representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* (except hides and commodities in bulk), as defined in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, from the facilities of Wilson Foods Corp. located at Albert Lea, MN, to points in TN. Restricted to the transportation of traffic originating at the above named origins and destined to the named destination. Under a continuing contract or contracts with Wilson Foods Corp., located at Albert Lea, MN. (Hearing site: Dallas, TX, or Kansas City, MO.)

No. MC 133666 (Sub-No. 22F), filed February 27, 1978. Applicant: JACOBSON TRANSPORT, INC., Wheaton, MN 56296. Applicant's representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquified petroleum gas*, in bulk, in tank vehicles, from the facilities of Cochin Pipeline Co., located at or near Milford, IN, New Hampton, IA, Benson and Mankato, MN, and Carrington, ND, to points in IL, IA, MI, MN, MO, NE, ND, OH, SD and WI. (Hearing site: Minneapolis or St. Paul, MN.)

No. MC 134645 (Sub-No. 20F), filed March 1, 1978. Applicant: LIVESTOCK SERVICE, INC., 1420 Second Avenue South, St. Cloud, MN 56301. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat byproducts*, and *articles* distributed by meat packinghouses, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of Wisconsin Beef Industries, Inc., at or near Eau Claire, WI to points in MI, IL OH, IN, MO, KS NE, IA, SD, ND and MN, restricted to traffic originating at the above named origins and destined to the named destination States. (Hearing site: St. Paul, MN.)

No. MC 135867 (Sub-No. 3F), filed February 24, 1978. Applicant: H.T.L., INC., P.O. Box 122, Fairfield, AL 35064. Applicant's representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pipe, fittings, valves, and castings, and material and supplies* used in the installation thereof, from the plants and warehouse sites of McWane Cast Iron Pipe Co. at Birmingham, AL, to points in AL, AR, FL,

GA, IL, IN, KS, KY, LA, MS, MO, NC, OH, OK, SC, TN, TX VA, WV, and (2) *Materials and supplies* used in the manufacturing of commodities shown in (1) above, (except commodities in bulk, in tank vehicles,) from points in AL, AR, FL, GA, IL, IN, KS, KY, LA, MS, MO, NC, OH, OK SC, TN, TX, VA, WV, to the plants and warehouse sites of McWane Cast Iron Pipe Co. at Birmingham, AL, under a continuing contract, or contracts, with McWane Cast Iron Pipe Co., at Birmingham, AL. (Hearing site: Birmingham, AL or Atlanta, GA.)

NOTE.—Applicant holds common carrier authority in No. MC 139254, therefore dual operations may be involved.

No. MC 136848 (Sub-No. 19F), filed March 9, 1978. Applicant: JAMES BRUCE LEE & STANLEY LEE, dba. LEE CONTRACT CARRIERS, Old Route 66, P.O. Box 48, Pontiac, IL 61764. Applicant's representative: Edward F. Stanula, 837 East 162nd Street, South Holland, IL 60473. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Grain bins, storage tanks, fans, heaters, augers, dryer, pre-engineered steel buildings, greenhouses, all related parts and accessories*, from the facilities of Superior Equipment Manufacturing Co., at Mattoon, IL to points in the United States (except AK and HI). (2) *Materials, equipment, and supplies used in the manufacture, construction, and distribution of the commodities named in (1) above, except commodities in bulk*, from St. Louis, MO, Detroit and Grand Rapids, MI, Alton, Marengo, Madison, Hennepin, Chicago, Granite City, and Chicago Heights, IL., Houston, TX, Scottsburg, and Sheffield, IA, Cleveland, TN, Redwing, MN, Valley, NE, Indianapolis, Gary, Elwood, and East Chicago, IN, Sharon, PA, Fort Smith, AR, and Dodge City, KS to the facilities of Superior Equipment Manufacturing Co., at Mattoon, IL. under continuing contract or contracts with Superior Equipment Manufacturing Co. (Hearing site: Chicago, IL.)

No. MC 138157 (Sub-No. 59F), filed February 13, 1978. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN 37410. Applicant's representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes, transporting: *Juice concentrate*, in drums, from the facilities of Ermey Vineyards, Inc. near Wapato, WA to points in and east of MN, IA, MO, AR, and TX. Restricted to traffic originating at the facilities of Ermey Vineyards, Inc. and destined to points in the named destinations.

NOTE.—Applicant holds contract carrier authority in MC 134150 (Sub-No. 2) and subs thereunder, therefore dual operations may be involved. Common control may also be involved. (Hearing site: Seattle, WA or Portland, OR.)

No. MC 138438 (Sub-No. 21F), filed March 8, 1978. Applicant: D. M. BOWMAN, INC., Route 2, Box 43A1, Williamsport, MD 21795. Applicant's representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metals, residues, materials, equipment, and supplies used* or useful for a recycling process, between Hagerstown, MD, on the one hand, and, on the other points in the United States located in and east of the states of WI, IA, MO, TN, and AL. Applicant holds motor contract authority in MC 117613 and subs, permits of which, thereunder, are pending before the Commission. Therefore, dual operations may be involved.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Hagerstown, MD.

No. MC 138469 (Sub-No. 61F), filed March 8, 1978. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Applicant's representative: K. E. McLinn, P.O. Box 75354, Oklahoma City, OK 73107. Authority sought as a *common carrier*, by motor vehicle over irregular routes to transport: *Fresh boxed meat* (except commodities in bulk) in vehicles equipped with mechanical refrigeration, from the facilities of Peppertree Beef Co., Denver, CO, to points in NY, NJ, PA, OH, MI, IL, NE, OK, KS, TX, CA, WA, OR, and UT.

NOTE.—Applicant holds contract carrier authority in MC 136375, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Denver, CO, or Oklahoma City, OK.

No. MC 138512 (Sub-No. 32F), filed February 13, 1978. Applicant: ROLAND'S TRANSPORTATION SERVICES, INC., d.b.a. WISCONSIN PROVISIONS EXPRESS, P.O. Box 477, Cudahy, WI 53110. Applicant's representative: Richard C. Alexander, Suite 412, Empire Building, 710 North Plankinton Avenue, Milwaukee, WI 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cheese and cheese products* (except commodities in bulk), (1) from Plymouth, WI, to Memphis and Nashville, TN, Atlanta, GA, and points in LA and TX, and (2) from Hartington, NE, Luana, St. Olaf, and Hopkinton, IA, to Plymouth and Elkhart Lake, WI, under a continuing contract or contracts, with Sargento Cheese Co., Inc., located at Plymouth, WI. (Hearing site: Milwaukee, WI, or Chicago, IL.)

No. MC 138835 (Sub-No. 26F), filed March 1, 1978. Applicant: EASTERN REFRIGERATED TRANSPORT, INC., P.O. Box 113, Crozet, VA 22932. Applicant's representative: Harry J. Jordan, Suite 502, Solar Building, 1000 16th Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Frozen foods* from Seabrook, NJ, to points in PA, OH, IN, IL, KY, MI, and Kansas City, MO/KS, restricted to transportation of shipments originating at the facilities of Seabrook Foods, Inc., at Seabrook, NJ.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 138882 (Sub-No. 48F), filed March 8, 1978. Applicant: WILEY SANDERS, INC., P.O. Box 707, Troy, AL 36081. Applicant's representative: George A. Olson, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier* over irregular routes, transporting: *Moulded pulp nested egg cartons*, from the facilities of Packaging Corp. of America located at or near Macon, GA to points in the States of AR, MO, KY, PA and NJ.

NOTE.—Hearing site, Montgomery, or Birmingham, AL.

No. MC 139206 (Sub-No. 6F), filed February 14, 1978. Applicant: F.M.S. TRANSPORTATION, INC., Box 1597, 2564 Harley Drive, Maryland Heights, MO 64043. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. Authority sought by applicant to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except class A and B explosives, household goods, and commodities in bulk), between the facilities utilized by Chromalloy American Corp., at or near O'Fallon, MO, on the one hand, and, on the other, points in the United States (except AK and HI). Restriction: The authority granted herein is limited to a transportation service to be performed under a continuing contract or contracts with Chromalloy American Corp.

NOTE.—(1) Applicant states that it already holds contract carrier authority in No. MC 139206 to transport for this same shipper commodities between Laredo, Brenham, Houston, and Arlington, TX, Wellsville, MO, and Johnson City, TN, on the one hand, and, on the other, points in the United States (except AK and HI). Applicant states that it is a commonly-controlled contract carrier for and on behalf of Chromalloy American Corp. and that the purpose of this application is to extend its operations for its commonly-controlled contract-

ing shipper, so as to serve its new facilities at or near O'Fallon, MO. (2) Common control and dual operations may be involved. Such dual operations and common control were approved in Docket No. MC-F-12514. If a hearing is deemed necessary it is requested at St. Louis, MO.

No. MC 139428 (Sub-No. 37F), filed February 13, 1978. Applicant: NEW ULM FREIGHT LINES, INC., County Road 29 West, New Ulm, MN 56073. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the States of ND, SD, NE, KS, OK, TX, MN, IA, MO, WI, and IL to the ports located at or near New Orleans, LA, Gulfport, MS, Jacksonville and Miami, FL, and Charleston, SC. (Hearing site: Minneapolis or St. Paul, MN.)

No. MC 139577 (Sub-No. 14F), filed February 27, 1978. Applicant: ADAMS TRANSIT, INC., P.O. Box 338, Friesland, WI 53935. Applicant's representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers, container closures, container ends, container accessories, and materials and supplies* used in the manufacture, sale, and distribution of the aforementioned commodities: (1) between Baraboo and Friesland, WI, on the one hand, and, on the other, points in IL, IN, OH, MN, KS, IA, MO, MI, PA, and NY and (2) between Lima, OH, on the one hand, and, on the other, points in PA, NY, MI, IN, IL, WI, and MN. Restricted: Restricted to traffic originating at or destined to the above-specified points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Madison or Milwaukee, WI.

No. MC 139858 (Sub-No. 21F), filed March 9, 1978. Applicant: AMSTAN TRUCKING INC., 1255 Corwin Avenue, Hamilton, OH 45015. Applicant's representative: Chandler L. Van Orman, 704 Southern Building, Washington, DC 20005. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *Scrap Paper* from Cincinnati, OH to Kalamazoo, MI. Restrictions: The operation authorized above are subject to the following conditions: (1) the product description does not include commodities which because of their size or weight require the use of special equipment, (2) said operations are limited to a transportation service to be performed under a continuing contract with American Standard Inc., of New Brunswick, NJ. (Hearing site: Cincinnati, OH or Washington, DC.)

No. MC 140101 (Sub-No. 2F), filed February 14, 1978. Applicant: I.T.A. TRUCKING, INC., P.O. Box 62, Amherst, WI 54406. Applicant's representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Wire and wire products*, from Appleton, WI, to points in CT, IL, MA, NJ, NY, OH, PA, RI, Quincy, FL, Jonesboro, GA, Oklahoma City, OK, Mesquite, TX, Omaha, NE, Baltimore, MD, and St. Louis, MO, and (2) *rejected shipments, empty wire containers, and materials, equipment, and supplies* used or useful in the manufacture, sale, production, of distribution of wire and wire products, from points in CT, IL, MA, NJ, NY, OH, PA, RI, Quincy, FL, Jonesboro, GA, Oklahoma City, OK, Mesquite, TX, Omaha, NE, Baltimore, MD, and St. Louis, MO, to Appleton, WI.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Appleton or Madison, WI.

No. MC 140464 (Sub-No. 5F), filed February 27, 1978. Applicant: DX TRUCKING, INC., 5660 Southwyck Boulevard, Toledo, OH 43614. Applicant's representative: Michael M. Briley, 300 Madison Avenue, Toledo, OH 43604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass*, from the facilities of Guardian Industries Corp. located at or near Carleton, MI, to all points in the United States, except AK, AZ, CA, HI, ID, NV, OR, UT, WA, and WY, and return of *equipment, materials and supplies* used in the manufacture and distribution of glass. Restricted against the transportation of commodities in bulk.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Toledo, OH or Washington, DC.

No. MC 140829 (Sub-No. 82F), filed March 9, 1978. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Applicant's representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses*, as described in section A of appendix I to the report in Descriptions in Motor Carrier Cases, 61 MCC 209 and 766, from the facilities of Peter Eckrich & Sons, Inc. at or near Allen Township, Hillsdale County, MI to points in the States of AR, IL, KS, MO, OK and TX, restricted to the transportation of traffic originating at the named origin and destined to points in the above-named destination States.

NOTE.—Applicant holds contract carrier authority in MC 136408 and subs thereunder; therefore dual operations may be involved. (Hearing site: Washington, DC.)

No. MC 141297 (Sub-No. 3F), filed March 8, 1978. Applicant: UNITED INDUSTRIES, INC., 487 Parish Street, Houston, MS 38851. Applicant's representative: Thomas B. Davis, P.O. Box 231, Houston, MS 38851. Authority sought to operate in interstate commerce as a *contract carrier* by motor vehicle over irregular routes in the transportation of: *Furniture* from plantsites of Shannon Chair Co., Houston, MS, and Maben Manufacturing Co., Maben, MS, to points in NC under a continuing contract or contracts with the above-named companies.

NOTE.—If an oral hearing is deemed necessary, the applicant requests that it be held at Jackson, MS.

No. MC 142539 (Sub-No. 2F), filed February 14, 1978. Applicant: B.W.T. TRANSPORT, INC., 757 River Drive, Passaic, NJ 07055. Applicant's representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are manufactured, distributed, and used by a manufacturer and distributor of chemicals (except in bulk), between the facilities of Para Industries, Inc., located at Paterson, NJ, on the one hand, and, on the other, the DC, and points in CT, DE, IL, IN, KY, MD, MA, MI, NC, NY, OH, PA, RI, TN, VA, and WV, under a continuing contract or contracts with Para Industries, Inc., located at Paterson, NJ.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Newark, NJ, or New York, NY.

No. MC—143678 (Sub-No. 2F), filed March 1, 1978. Applicant: PAUL NICKLAUS, d.b.a. NICK'S TRUCKING, 1805 Lloyd Street, Apt. No. 1B, Bellevue, NE 68005. Applicant's representative: Bruce A. Bullock, Suite 530, Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Precast and prestressed concrete products*, from the facilities of Wilson Concrete Co. at or near LaPlatte and Bellevue, NE, to all points in IA.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Omaha, NE.

No. MC 143812 (Sub-No. 1F), filed February 13, 1978. Applicant:

MARTIN E. VAN DIEST d.b.a. M. VAN DIEST CO., 8087 Victoria Avenue, Riverside, CA 92504. Applicant's representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wine*, in bulk, from points in CA to the ports of entry on the international boundary line between the United States and Canada located in WA.

NOTE.—Applicant has pending from the Province of BC an application which will allow the through service contemplated by this application. Hearing site: Los Angeles, CA.

No. MC 144049 (Sub-No. 1F), filed February 27, 1978. Applicant: EXPORT STORAGE CO., INC., P.O. Box 333, Laredo, TX 78040. Applicant's representative: Mike Cotten, P.O. Box 1148, Austin, TX 78767. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), over irregular routes, between the port of entry on the international boundary line between the United States and Mexico located at or near Brownsville, TX, on the one hand, and, on the other, the Port of Brownsville, Brownsville, Port Isabel, and Boca Chica, TX, on traffic having a prior or subsequent movement in foreign commerce. (Hearing site: Houston or Dallas, TX.)

No. MC 144140 (Sub-No. 6F), filed March 8, 1978. Applicant: SOUTHERN FREIGHTWAYS, INC., P.O. Box 374, Eustis, FL 32726. Applicant's representative: Gene Baugh, P.O. Box 374, Eustis, FL 32726. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from points in FL to points in VA, WV, MD, DE, NJ, PA, OH, NY, RI, CT, MA, NH, VT, ME, and the DC.

NOTE.—Applicant holds contract carrier authority in MC 104589 and Subs thereto: Therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Orlando, FL or Tampa, FL.

No. MC 144192 (Sub-No. 2F), filed February 24, 1978. Applicant: GEORGE SIMON, d.b.a. SIMON FEED STORE, 206 1st Street NW., Farley, IA 52046. Applicant's representative: Gary Ankeny, 104 1st Street NW., Farley, IA 52046. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Urea ammonium nitrate solution*, from the plantsite and storage facilities of Map-Ren, located at or near East Dubuque, IL, to points in IA.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Dubuque or Des Moines, IA.

No. MC-144361-F, filed February 27, 1978. Applicant: B-BROTHERS CARTAGE, INC., 496 West 138th Street, Riverdale, IL 60627. Applicant's representative: Leonard R. Kofkin, 39 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum articles* (except in bulk), from the facilities of Reynolds Metals Co. at McCook, IL to points in MI, OH, IN and KY, under continuing contract with Reynolds Metals Co. Applicant holds contract carrier authority in MC 127608 and subs thereunder, therefore.

NOTE.—Dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, IL.

No. MC 144367 (Sub-No. 1F), filed February 27, 1978. Applicant: EMERALDA, Route 2, Box 444, Sanford, FL 32771. Applicant's representative: J. B. Rodgers, Jr., 100 South Orange Avenue, Orlando, FL 32801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Horses, other than ordinary and in connection therewith, personal effects of attendants and supplies and equipment and mascots used in the care and/or exhibition of such horses*, between all points in NJ and FL.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Newark, NJ.

No. MC-144376-F, filed February 24, 1978. Applicant: JEN, INC., No. 1 Jacobis Avenue, South Kearny, NJ 07023. Applicant's representative: Thomas F. X. Foley, Colts Neck Professional Plaza, State Highway 34, Colts Neck, NJ 07722. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Food preparations* and *foodstuffs*, in vehicles equipped with mechanical refrigeration, between New York, NY, Philadelphia, PA, and Baltimore, MD, on the one hand, and, on the other Hartford, CT, Dover, DE, Chicago and Monmouth, IL, Munchie, IN, Dennison, Davenport and Souix City, IA, Dodge City and Garden City, KS, Louisville, KY, Boston, MA, Ellsworth, Franklin, Presque Isle and Portland, ME, Baltimore and Salisbury, MD, Benton Harbor, Detroit (including the international crossing at Windsor, ON), Plainview and West Olive, MI, St. Paul and Worthington, MN, West Point, MS, St. Joseph and St. Louis, MO, Gibbon, Madison, Omaha and York, NE, Massena, Oswego, Plattsburgh, Rochester and Watertown, and the international crossing at or near Champlain, NY, Archibald, Christian, Cleveland, Columbus, Defiance, Greenfield and Sandusky, OH, Allentown, Erie, Fredericksburg, Hanover, New Holland and Wyalusing, PA, Smithfield, RI, Charleston, SC, Smithfield, VA, Parkersburg, WV, Green Bay, Madison and Milwaukee, WI, under a continuing contract or contracts with Melrose International Trading Co., Montreal, Canada. Hearing Site: Newark, NJ or New York, NY.

No. MC-144379-F, filed February 27, 1978. Applicant: MORRISON BROTHERS TRUCKING CO., 22 Walnut Street, P.O. Box 3092, Lexington, OH 44904. Applicant's representative: Boyd B. Ferris, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from points in Jefferson, Carroll and Columbiana Counties, OH to points in WV, KY, OH, and AL. Hearing site, Columbus, OH.

By the Commissiion.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-9762 Filed 4-12-78; 8:45 am]

[7035-01]

[Volume No. 80]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

PETITIONS FOR MODIFICATION, INTERPRETATION OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

NOTICE

APRIL 7, 1978.

The following petitions seek modification of interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

All pleadings and documents must clearly specify the suffix (e.g. M1 F, M2 F) numbers where the docket is so identified in this notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this notice. Such protests shall comply with Special Rule 247(e) of the Commission's General Rules of Practice (49 CFR 1100.247)* and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A

*Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

No. MC 119399 (Sub-No. 45) (M1 F), notice of filing of petition to modify commodity description, filed March 9, 1978. Petitioner: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard P.O. Box 1375, Joplin, MO 64801. Petitioner's representative: John Paul Fischer, 256 Montgomery Street, San Francisco, CA 94104. Petitioner holds a motor *common carrier* certificate in No. MC 119399 (Sub-No. 45) issued February 2, 1976, authorizing transportation over irregular routes, of *Flat glass*, from Tulsa, OK, to points in AR, CO, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NM, ND, SD, TN, TX, WI, and WY. By the instant petition, petitioner seeks to modify the commodity description to read: Glass (except glass bottles).

No. MC 129032 (Sub-No. 12) (M1F) (Notice of filing of petition to modify commodity description), filed March 9, 1978. Petitioner: TOM INMAN TRUCKING, INC., P.O. Box 9667, Tulsa, OK 74107. Petitioner's representative: John Paul Fischer, 256 Montgomery Street, San Francisco, CA 94104. Petitioner holds a motor *common carrier* certificate in No. MC 129032 (Sub-No. 12), issued January 28, 1976, authorizing transportation, over irregular routes, of: *Flat glass*, from Tulsa, OK, to points in AZ, AR, CA, CO, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, NM, ND, OH, OR, SD, TN, TX, UT, WA, WI, and WY. By the instant petition, petitioner seeks to modify the above authority by changing the commodity description to read: *Glass* (except glass bottles).

No. MC 133099 (Sub-No. 2) (M1F) (Notice of filing of petition to modify territorial description), filed March 13, 1978. Applicant: THE GLASGOW & DAVIS CO., a corporation, P.O. Box 1717, Salisbury, MD 21801. Applicant's representative: Daniel B. Johnson, 4304 East-West Hwy, Washington, DC 20014. Petitioner holds a motor *common carrier* certificate in No. MC 133099 (Sub-No. 2), issued October 25, 1974, authorizing transportation over irregular routes, of: *Waste paper and waste cardboard* for recycling purposes from points in DE, and those points in that part of MD east of the Susquehanna River and the Chesapeake Bay, points in VA east of the Chesapeake Bay to West Point, VA. By the instant petition, petitioner seeks to add the destination points of Richmond and Hampton, VA.

No. MC 141898 (M1) (Notice of filing of petition to modify territorial description and delete restriction), filed January 9, 1978. Petitioner: ROBERTS CARTAGE OF OHIO, INC., P.O. Box 7162, Akron, OH 44306. Petitioner's representative: Timothy M. Biddle, 1100 connecticut Avenue NW., Washington, DC 20036. Petitioner holds a motor *common carrier* certificate in No. MC 141898 served march 9, 1978, authorizing transportation over irregular routes, of: *General commodities* (except classes A and B explosives),

(1) Between the Cleveland-Hopkins Airport and Akron-Canton Airport, OH, on the one hand, and, on the other, points in that part of OH bounded by a line beginning at Sandusky, OH, and extending along OH Hwy 4 to Bucyrus, OH, then along U.S. Hwy 30N to Mansfield, OH, then east along OH Hwy 39 to New Philadelphia, OH, then along OH Hwy 8 to junction OH Hwy 80, then along OH Hwy 80 to junction U.S. Hwy 30, then along U.S. Hwy 30 to Lisbon, OH, then along OH Hwy 154 to the OH-PA State line, then along the OH-PA State line to the shore of Lake Erie, then along the shore of Lake Erie to point of beginning, including points on the indicated portions of the highways specified;

(2) Between the Cleveland-Hopkins Airport and the Akron-Canton Airport, OH, on the one hand, and, on the other, points in that part of PA bounded by a line beginning at the OH-PA State line and the shore of Lake Erie and extending along the OH-PA State line to junction PA Hwy 108, then along PA Hwy 108 to junction PA Hwy 18, then north along PA Hwy 18 to junction PA Hwy 5, then along an unnumbered highway due north to the shore of Lake Erie, and then along the shore of Lake Erie to point of beginning, including points on the indicated portions of the highways specified;

(3) Between the Youngstown-Warren Airport, the Akron-Canton Airport, and the Cleveland-Hopkins Airport, OH. Restriction: The authority granted herein is restricted to shipments having a prior or subsequent movement by aircraft. By the instant petition, petitioner seeks to modify the above authority by deleting airport references in a portion of (1) above so it would read as follows: Between Cleveland, Akron, and Canton, OH, on the one hand, and, on the other, points in that part of OH bounded by a line * * * (the remainder of (1) is unchanged); Petitioner also seeks to delete the restriction.

Republications of Grants of Operating Rights Authority Prior to Certification

NOTICE

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the Federal Register.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this Federal Register notice. All pleadings and documents must clearly specify the "F" suffix where the docket is so identified in this notice. Such pleading shall comply with Special Rule 247(e) of the Commission's General Rules of Practice (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

No. MC 124004 (Sub-Nos. 27 and 28) (MI) (Republication of notice of filing petition for modification of certificates), filed July 19, 1977, published in the Federal Register issue of August 11, 1977, and republished this issue. Petitioner: RICHARD DAHN, INC., 620 West Mountain Road, Sparta, NJ 07871. Petitioner's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. An order by the Commission, Review Board No. 2, decided March 7, 1978, and served March 17, 1978, finds that the present and future public convenience and necessity require modification of Certificate No. MC 124004 (Sub-No. 27), issued July 10, 1975, and Certificate No. MC 124004 (Sub-No. 28), issued September 24, 1976, authorizing transportation over irregular routes, in No. MC 124004 (Sub-No. 27) of (a) *Animal, poultry, and pet feed and feed ingredients, and cracklings*, between points in PA, NJ, and NY, on the one hand, and, on the other, points in VA and NC; from points in PA, MD, DE, NC, NY, and NJ, to points in OH, IN, MN, IL, WI, and MI; and between points in NY, NJ, and PA; (b) *animal and poultry feed and feed ingredients*, from points in VA and MA, to Philadelphia, PA; and from points in PA, to points in IN, MN, IL, WI, IA, and MI; and (c) *animal, poultry, and pet feed and feed ingredients*, from points in Rhode Island to points in NY, restricted against the transportation of salt and commodities in tank vehicles; and in No. MC 124004 (Sub-No. 28), of a (a) *dry animal and poultry feed, and feed ingredients*, from the facilities of John W. Eshelman & and Sons, located at or near Circleville, OH, to points in CT, DE, MD, NC, NY, PA, VA, VT, and WV; and (b) *dry animal and poultry feed and feed ingredients*, from points in IL, IN, IA, MI, MN, NE, OH,

and WI, to points in CT, DE, ME, MD, MA, NH, NJ, NY, NC, PA, VA, VT, and WV. Petitioner is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to broaden the commodity descriptions in each certificate.

No. MC 130465 (Republication), filed October 20, 1977, published in the FEDERAL REGISTER issue of November 10, 1977, and republished this issue. Applicant: TRAVEL COORDINATORS, INC., P.O. Box 836, Carbondale, IL 62901. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Road NE., Atlanta, GA 30326. An order of the Commission, Review Board No. 2, decided February 17, 1978, and served March 7, 1978, finds that operation by applicant as a broker in interstate or foreign commerce, at Carbondale and Waterloo, IL, and St. Louis, MO, in arranging for the transportation of *passengers and their baggage*, in round-trip tours, in special or charter operations, beginning and ending at points in MO on and east of U.S. Hwy 63, points in IL on and south of U.S. Hwy 36, points in KY on and west of U.S. Hwy 41, and points in Posey and Vanderburgh Counties, IN, and extending to points in the United States (including AK, but excluding HI), will be consistent with the public interest and the national transportation policy; that petitioner is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpse of this republication is to delete the phrase "sightseeing or pleas- ure tours" due to the lack of its necessity, and to indicate that U.S. Hwy 63 rather than 64 as previously published is the actual highway involved in this application.

No. MC 134404 (Sub-No 37) (Republication), filed July 25, 1977, published in the FEDERAL REGISTER issue of September 8, 1977, and republished this issue. Applicant: AMERICAN TRANSFREIGHT, INC., P.O. Box 796, Manville, NJ 08835. Applicant's representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, NY 10048. An order of the Commission, Review Board No. 3, decided February 2, 1978, and served February 14, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *contract carrier* over irregular routes, in the transportation of:

(1) *Steel bath tubs, laboratories, sinks, and parts and accessories; and*

(2) *Plumbers' fittings and supplies,* from Salem, OH, to points in MI, IL, IN, NJ, NY and WV, and those points in PA on and east of a line beginning at the WV-PA State Boundary Line, and extending along U.S. Hwy 119 to Junction U.S. Hwy 219, and then along U.S. Hwy 219 to the PA-NY State Boundary Line, under a continuing contract, or contracts, with American Standard, Inc., of New Brunswick, NJ, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the addition of NY as a destination point.

No. MC 134755 (Sub-No. 105) (Republication), filed May 4, 1977, published in the FEDERAL REGISTER issue of June 16, 1977, and republished this issue. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 65804. Applicant's representative: Larry D. Knox, 900 Hubbell Building, Des Moines, IA 50309. An Order of the Commission, Review Board No. 2, decided January 23, 1978, and served February 21, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier* over irregular routes, in the transportation of *such commodities* as are dealt in or used by chain grocery stores (except frozen foods and commodities in bulk), from Souderton, PA, to points in Kansas and MO, restricted to the transportation of traffic destined to points in the named destination states, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity description.

No. MC 140846 (Sub-No. 7) (Republication), filed July 25, 1977, published in the FEDERAL REGISTER issue of September 1, 1977, and republished this issue. Applicant: CENTRAL DELIVERY SERVICE OF MASSACHUSETTS, INC., 125 Magazine St., Boston, MA 02119. Applicant's representative: Jeremy Kahn, Suite 733, Investment Building, Washington, DC 20005. An Order of the Commission, Review Board Number 1, decided February 21, 1978, and served March 8, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *contract carrier* over irregular routes, in the transportation of *advertising matter*, (1) from the facilities of First National Stores, Inc., at or near Windsor Locks, CT, to Derby, and Nashua, NH; Newport, Pawtucket, and Providence, RI; and Action, Amherst, Arlington, Athol, Attleboro, Beverly, Boston, Brockton, Dedham, Fall River, Falmouth, Framingham, Gardner, Glouster, Hyannis, Lexington, Lynn, Lynnfield, Center, Melrose, New Bedford, Newburyport, Norwood, Peabody, Plymouth, Reading, Salem, Saugus, Springfield, Sudbury, Wakefield, Woburn, and Worcester, MA; and (2) from the offices of First National Stores, Inc., located at or near Windsor Locks, CT, under a continuing contract, or contracts, with First National Stores, of Somerville, MA; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity description and to indicate Windsor Locks, CT, and Boston, MA, as origin points and MA as a destination point.

No. MC 141804 (Sub-No. 70) (Republication), filed July 11, 1977, published in the FEDERAL REGISTER issue of August 25, 1977, and republished this issue. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 422, Goodlettsville, TN 37072. Applicant's representative: Frederick J. Coffman, P.O. Box 81849, Lincoln, NE 68509. An Order of the Commission, Review Board Number 1, decided March 17, 1978, and served March 24, 1978, finds that the present and future convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier* over irregular routes, in the transportation of *alcoholic beverages* (except in bulk), from Plainfield, IL, and Dayton, NJ, to points in CA, AZ, and NV, restricted to the transportation of traffic originating at the facilities of Fleischman Distilling Corp., at Plainfield, IL, and Dayton, NJ, and destined to the indicated destinations, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the origin point at Dayton, NJ.

No. MC 142977 (Republication), filed February 22, 1977, published in the REGISTER issue of April 21, 1977, and republished this issue. Applicant: HOOSIER FREIGHT LINES, INC., 4906 Imperial Court, Louisville, KY 40216. Applicant's representative: James K. Stayton, 216 Atkinson Square, Louisville, KY 40218. An order of the Commission, Review Board Number 1, decided February 13, 1978, and served February 17, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*

over regular routes, in the transportation of *general commodities* (except household goods, commodities in tank vehicles, commodities requiring special handling because of size and weight, building and excavating contractors and mining machinery and equipment, and road building equipment and machinery): Between Pekin, IN, and Louisville, KY, with service to and from the intermediate point of Borden, IN, (1) from Pekin over IN, Hwy 60 to junction of Interstate Hwy 65, then over Interstate 65 to Louisville, and return over the same route; (2) from Pekin over IN, Hwy 60 to junction U.S. Hwy 31E (also portion of Interstate Hwy 65), then over U.S. Hwy 31E (also portion of Interstate Hwy 65), to Louisville, and return over the same route, as an alternate route for operating convenience only; and (3) from Pekin over Interstate Hwy 60 to the junction of Interstate Hwy 65, then over Interstate Hwy 65 to junction Interstate Hwy 264, then over Interstate Hwy 264 to junction Interstate Hwy 64, then over Interstate Hwy 64 to Louisville, and return over the same route, as an alternate route for operating convenience only, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the redescribed proposed routes (1) and (2); and the elimination of proposed route (3).

No. MC 143696 (republication), filed September 12, 1977, published in the FEDERAL REGISTER issue of November 3, 1977, and republished this issue. Applicant: AMERICAN INDUSTRIAL TRANSPORTATION, INC., P.O. Box 1193, Henderson, TX 75652. Applicant's representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. An order of the Commission, Review Board No. 2, decided March 8, 1978, and served March 23, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce, as a *contract carrier* over irregular routes, in the transportation of *metals, railway track materials, rail equipment, and power equipment,*

(1) Between points in NJ on the one hand, and, on the other, points in OR, CA, WA, IA, IL, VA, TX, LA, NY, and AL; and

(2) Between points in TX, on the one hand, and, on the other, points in OR, CA, WA, IA, IL, VA, and NY, under a continuing contract, or contracts, with Naporano Iron & Metal Co., of Newark, NJ, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity and territorial description.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

NOTICE

The following applications are governed by Special Rule 247 of the Commission's general rules of practice (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use a such authority to provide all or part of the service proposed), and shall specify with particularly the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protest not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(e)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 200, (Sub-No. 298F), filed February 13, 1978. Applicant: RISS INTERNATIONAL CORP., 903 Grand Avenue, Kansas City, MO 64142. Applicant's representative: Ivan E. Moody (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Aluminum ingots, aluminum scrap, aluminum sheet metal, aluminum plate, and industrial foil,* serving the facilities of Alcan Aluminum Corp. at Oswego, NY, as an off-route point in connection with applicant's regular route authority to and through Syracuse, NY, on NY Hwy 5 (Hearing site: Cleveland, OH, or Kansas City, MO.)

No. MC 9812 (Sub-No. 10F), filed February 27, 1978. Applicant: C. F. KOLB TRUCKING CO., INC., Rural Route 1, Box 294, Mt. Vernon, IN 47620. Applicant's representative: Edwin J. Simcox, 601 Chamber of Commerce Building, Indianapolis, IN 46204. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting,

(1) *Recyclable aluminum,* from the plantsite of Apex International Alloys, Inc., in Bicknell, IN, to points in IL, KY, MI, OH, and WI, and,

(2) *Aluminum smelting residue,* from points in IL, KY, MI, OH, and WI to the plantsite of Apex International Alloys, Inc., in Bicknell, IN. Restricted against the transportation of the above commodities in dump vehicles.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Indianapolis, IN, or St. Louis, MO. Common control may be involved.

No. MC 2232 (Sub-No. 14F), filed February 27, 1978. Applicant: CREGER FREIGHT LINES, INC., Old Tyburn Road and Corbin Lane, Morrisville, PA 19067. Applicant's representative: Daniel C. Sullivan, 10 South LaSalle Street, Suite No. 1600, Chicago, IL 60603. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Such commodities* as are manufactured or distributed by manufacturers of (a) plastic furniture or (b) plastic toys, (except commodities in bulk), from the facilities of Ride Corp., located at or near Morrisville, PA, to points in the States of CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, and the DC.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, IL.

No. MC 24784 (Sub-No. 12F), filed February 27, 1978. Applicant: BARRY, INC., 463 South Water Street, Olathe, KS 66061. Applicant's representative: Arthur J. Cerra, P.O. Box 19251, 2100 TenMain Center, Kansas City, MO 64141. Authority is sought to operate

as a *common carrier* by motor vehicle, over irregular routes, transporting: *Iron and steel articles* having a prior or subsequent movement by rail between Kansas City, MO, and points in KS. (Hearing site: Kansas City, MO.)

No. MC 25798 (Sub-No. 303F), filed February 14, 1978. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, Auburndale, FL 33823. Applicant's representative: Tony G. Russell (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Cranberry juice,* in bulk, in tank vehicles, from Middleboro, MA; Kenosha, WI; and Bordentown, NJ, to points in AL.

NOTE.—Common control may be involved. (Hearing site: Boston, MA, or Tampa, FL.)

No. MC 25798 (Sub-No. 306F), filed February 27, 1978. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, Auburndale, FL 33823. Applicant's representative: Tony G. Russell, P.O. Box 1186, Auburndale, FL 33823. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, those which because of size or weight require the use of special equipment, household goods as defined by the Commission, articles of unusual value and classes A and B explosives), from the facilities of Drumtop Atlanta Shippers Association, Inc., at Smyrna, GA, to points in FL south and east of the Suwannee River. Restricted to shipments originating at and destined to the above-described points.

NOTE.—Common control may be involved. (Hearing site: Atlanta, GA.)

No. MC 27368 (Sub-No. 12F), filed February 27, 1978. Applicant: FILLIPI TRUCK LINES, INC., Warren, MN 56762. Applicant's representative: Alan Foss, 502 First National Bank Building, Fargo, ND 58102. Authority sought to operate as a *common carrier,* by motor vehicles, over irregular routes, in interstate or foreign commerce, transporting: *Dry fertilizer and dry fertilizer ingredients,* in bulk, from Grand Forks, ND, to points in MN.

NOTE.—If a hearing is deemed necessary, the applicant requests it to be held at St. Paul, MN.

No. MC 29120 (Sub-No. 208F), filed March 1, 1978. Applicant: ALL-AMERICAN, INC., 9393 West 110th Street, Fifth Floor, Overland Park, KS 66210. Applicant's representative: Harold H. Clokey (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts* and articles distributed by meat packinghouses as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facility of Wisconsin Beef Industries, Inc., located at or near Eau Claire, WI, to points in IL, MI, OH, IN, KY, MO, TX, and Denver, CO. Restricted to traffic originating at Wisconsin Beef Industries, Inc. and destined to named destination points.

NOTE.—Common control may be involved. (Hearing site: Washington DC, or Minneapolis-St. Paul, MN).

No. MC 59655 (Sub-No. 12F), filed February 23, 1978. Applicant: SHEEHAN CARRIERS, INC., 62 Lime Kiln Road, Suffern, NY 10901. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier,* over irregular routes, transporting: *Foodstuffs and materials, equipment, and supplies* used in the manufacture and sale of foodstuffs (except commodities in bulk), between the facilities of Flowers Industries, Inc. and their divisions, located at or near Douglas, Atlanta, and Thomasville, GA, Mentone, IN, Stillwell, OK, Birmingham, Gadsen, Opelika, and Tuscaloose, AL, Fort Pierce, Jacksonville, and Miami, FL, Greensboro, High Point, and Rocky Mount, Salisbury, NC, Lafayette and New Orleans, LA, Norfolk, VA, and Johnson City, NY, on the one hand, and, on the other, points in the United States (except AK, and HI). (Hearing site: New York, or Albany, NY, or Washington, DC.)

No. MC 61825 (Sub-No. 74), filed January 20, 1978 (Amendment), published in the FEDERAL REGISTER issue of March 9, 1978, and republished this issue. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: John D. Stone (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Glass containers* from (1) the facilities of Midland Glass Co., Inc., located at or near Terre Haute, IN, Warner Robins, GA, and Henryetta, OK, to points in Bedford, Campbell, Carroll, Floyd, Franklin, Halifax, Henry, Montgomery, Patrick, Pittsylvania, and Roanoke Counties, VA, and Alamance, Caswell, Chatham, Davidson, Davie, Durham, Forsyth, Guilford, Orange, Person, Randolph, Rockingham, Stokes, Surry, and Yadkin Counties, NC, (2) from Martinsville, VA, to Eden, NC.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, DC. The purpose of this republication is to add Henryetta, OK as an origin point in No. 1, and to add Martinsville, VA and Eden, NC as origin and destination points in No. 2.

No. MC 65941 (Sub-No. 48F), filed February 14, 1978. Applicant: TOWER LINES, INC., Third and Warwood Avenue, Box 6010, Wheeling, WV 27003. Applicant's representative: K. Edward Wolcott, P.O. Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (a) *Insulation and insulating materials* (except in bulk, in tank vehicles), from points in GA, NC, and SC, to points in GA, IN, KY, MD, NC, OH, PA, SC, TN, VA, and WV, and (b) *materials, supplies, and equipment* used or dealt in by insulation manufacturing plants (except in bulk), from points in GA, IN, KY, MD, NC, OH, PA, SC, TN, VA, and WV, to points in GA, NC, and SC.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, GA.

No. MC 66886 (Sub-No. 65F), filed February 21, 1978. Applicant: BELGER CARTAGE SERVICE, INC., 2100 Walnut Street, Kansas City, MO 64108. Applicant's representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, MO 64105. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Tractors,* and (2) *accessories, attachments, and parts* of tractors, when moving in connection therewith, from the facilities of American-Coleman Champion Co. at Littleton, CO, to points in the United States in and east of ND, SD, NE, KS, OK, and TX (except AK and HI).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Kansas City, MO.

No. MC 83539 (Sub-No. 483F), filed February 27, 1978. Applicant: C & H TRANSPORTATION CO., INC., 9757 Military Parkway, P.O. Box 270535, Dallas, TX 75227. Applicant's representative: Thomas E. James (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle over irregular routes, transporting:

(1) *Iron, stell, zinc, lead,* and articles or products thereof (except in bulk); *springs*; and *construction materials, supplies and equipment* (except in bulk), from the facilities of Penn-Dixie Steel Corp., Penn Dixie Industries and Steven Spring, Inc., at or near Albuquerque, NM, Denver, CO, Blue Island and Joliet, IL, Grand Rapids and Lansing, MI, Newton, KS, Toledo and Columbus, OH, Winterset and Centerville, IA, Fort Wayne, Kokomo, Elkhart and Cicero, IN, and Jackson, MS, to points in the U.S. (except AK and HI); and

(2) *Materials, supplies and equipment* (except in bulk) used in the manufacture and distribution of commodities named in (1) above, from points in the U.S. (except AK and HI), to the

facilities of Penn-Dixie Steel Corp., Penn Dixie Industries and Stevens Spring, Inc., at or near Albuquerque, NM, Denver, CO, Blue Island and Joliet, IL, Grand Rapids and Lansing, MI, Newton, KS, Toledo and Columbus, OH, Winterset and Centerville, IA, Fort Wayne, Kokomo, Elkhart and Cicero, IN, and Jackson, MS. Restriction: Restricted to the transportation of traffic originating at and destined to the named origins and named destinations in parts (1) and (2) above, except traffic moving in foreign commerce.

NOTE.—If a hearing is deemed necessary, applicant requests that this application be consolidated for hearing with the National Trailer Convoy, Inc., application already consolidated with other cases under Docket No. MC 106398 (Sub-No. 777).

No. MC 87221 (Sub-No. 24F), filed February 14, 1978. Applicant: BAY & BAY TRANSFER CO., INC., 7200 West 128th Street, Savage, MN 55378. Applicant's representative: Pamela N. Merkle, 300 Roanoke Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Silica sand in bag or bulk* from Bay City, WI to all points in IA, MN, ND and SD.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Minneapolis, MN or Chicago, IL.

No. MC 94265 (Sub-No 265F), filed March 1, 1978. Applicant: BONNEY MOTOR EXPRESS, INC., Post Office Box 305, Route 460, Windsor, VA 23487. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Road NE., Atlanta, GA 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the facilities of John Morrell & Co., at or near Fort Smith, AR; Arkansas City, KS and Wichita, KS, to points in CT, DE, MD, MA, NJ, NY, NC, PA and VA and the DC, with no transportation for compensation on return except as otherwise authorized. Restriction: The authority granted herein is restricted to the transportation of traffic originating at the above named facilities. Hearing requested: Chicago, IL or Washington, DC.

No. MC 103798 (Sub-No 13F), filed February 27, 1978. Applicant: MARTEN TRANSPORT, LTD., Route 3, Mondovi, WI. Applicant's representative: Robert S. Lee, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from Durand and Mondovi, WI to points in AL, AZ, CA, CO, FL, GA, KY, LA, MI, MS, MO, NM, NC, SC, and VA, restricted to traffic originating at the facilities of Durand Canning Co. Hearing site: St. Paul, MN.

NOTE.—Applicant holds contract carrier authority in No. MC 139853 and subs thereunder; therefore dual operations may be involved.

No. MC 106603 (Sub-No 171F), filed February 27, 1978. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain Street SW., Grand Rapids, MI 49508. Applicant's representative: Martin J. Leavitt, P.O. Box 400, Northville, MI 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum and gypsum products, and materials and supplies* used in the installation and distribution thereof from the facilities of Georgia-Pacific Corp., at Chicago, IL to points in WI.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, IL or Washington, DC. Common control may be involved.

No. MC 107403 (Sub-No. 1060F), filed February 13, 1978. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, PA 19050. Applicant's representative: Martin C. Hynes, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, over irregular routes, transporting:

(1) *Polyester flake, dry*, in bulk, in tank vehicles, from Lewistown, PA to Front Royal, VA and

(2) *Sodium sulfate*, in bulk, in tank vehicles, from Nitro, WV to points in KY, MD, OH and PA.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held in Washington, DC.

No. MC 107496 (Sub-No. 1130F), filed February 27, 1978. Applicant: RUAN TRANSPORT CORP., 3200 Ruan Center, 666 Grand Avenue, Des Moines, IA 50309. Applicant's representative: E. Check, P.O. Box 855, Des Moines, IA 50304. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Liquified petroleum gas*, in bulk, in tank vehicles, from the facilities of the Cochin Pipeline Co., at or near New Hampton, IA; Mankato and Benson, MN; and Carrington, ND, to points in IA, IL, MN, ND, SD, and WI.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Des Moines, IA or St. Paul, MN. Common control may be involved.

No. MC 107615 (Sub-No. 11F), filed February 14, 1978. Applicant: UNTCO, INC., 850 East Luzerne Street, Philadelphia, PA 19124. Applicant's representative: Richard A. Mehley, 1000 16th Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

(A) *Printed matter* between points in VA, on the one hand, and, on the other, points in DE, MD, NJ, and PA; New York, NY; and points in Rockland, Suffolk, and Westchester Counties, NY, and the DC, and

(B) *Printed matter and products, materials and supplies* used in the manufacture and production thereof, between East Greenville, PA, on the one hand, and, on the other, points in MD, DE, NJ, WV, VA, the DC, and New York, NY; and points in Rockland, Suffolk, Westchester counties, NY, which are not within the New York, NY commercial zone.

NOTE.—Common control may be involved. (Hearing site: Philadelphia, PA, or Washington, DC.)

No. MC 108341 (Sub-No. 88F), filed February 23, 1978. Applicant: MOSS TRUCKING CO., INC., 3027 North Tryon Street, P.O. Box 8409, Charlotte, NC 28208. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

(1) *Zinc, zinc alloy and zinc products*, from points in Montgomery County, TN, to points in the United States in and east of ND, SD, NE, KS, OK, and TX; and

(2) *Equipment, machinery, materials and supplies* (except commodities in bulk) used in the manufacture, process, or distribution of commodities in (1) above, from points in the United States in and east of ND, SD, NE, KS, OK, and TX to points in Montgomery County, TN. Restriction: Restricted to the transportation of traffic originating at or destined to the named origins and named destinations in (1) and (2) above (except traffic moving in foreign commerce).

NOTE.—Common control may be involved. If a hearing is deemed necessary the applicant requests that it be held at Nashville, TN or Washington, DC.

No. MC 109397 (Sub-No. 397F), filed February 23, 1978. Applicant: TRI-STATE MOTOR TRANSIT CO., a corporation, P.O. Box 113, Joplin, MO 64801. Applicant's representative: A. N. Jacobs (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting:

(1) *Zinc, zinc alloy* and *zinc products*, from Montgomery County, TN, to points in the United States in and east of ND, SD, NE, KS, OK, and TX; and

(2) *Equipment, machinery, materials* and *supplies* (except commodities in bulk), used in the manufacture, process, or distribution of commodities in

(1) above, from points in the United States in and east of ND, SD, NE, KS, OK, and TX, to points in Montgomery County, TN. Restriction: Restricted to the transportation of traffic originating at or destined to the named origins and named destinations in (1) and (2) above, except traffic moving in foreign commerce.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Nashville, TN, or Washington, DC.

No. MC 111401 (Sub-No. 511F), filed February 14, 1978. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, Post Office Box 632, Enid, OK 73701. Applicant's representative: Victor R. Comstock (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lubricating oil*, in bulk, in tank vehicles, from Maryland Heights and St. Louis, MO, to points in AR, CO, IA, KS, LA, NE, MN, MS, OK, TN, TX, and NM. (Hearing site: Cincinnati, OH or St. Louis, MO.)

No. MC 112713 (Sub-No. 210F), filed February 27, 1978. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, 10990 Roe Avenue, Shawnee Mission, KS 66207. Applicant's representative: David B. Schneider (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those of unusual value and those requiring special equipment), serving the facilities of Georgia Power Co., approximately 34 miles southeast of Augusta, GA, on River Road, 5 miles northeast of State Hwy 23, as an off-route point in connection with carrier's otherwise authorized operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta, GA.

No. MC 113459 (Sub-No. 117F), filed February 14, 1978. Applicant: H. J. JEFFRIES TRUCK LINE, INC., P.O. Box 94850, Oklahoma City, OK 73109. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, TX 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bentonite clay and lignite coal*, (1) from the plantsite of American Colloid Co., located at or near Belle Fourche, SD; Gascoyne, ND; Upton, WY; and Lovell, WY to points in OK, TX, and LA; and (2) from the plantsite of American Colloid Co., located at or near Malta, MT, and Crook County, WY, to points in AR, IL, IN, IA, KS, KY, LA, MI, MO, OH, OK, PA, WV, and WI. (Hearing site: Chicago, IL and Dallas, TX.)

No. MC 114457 (Sub-No. 357F), filed February 23, 1978. Applicant: DART TRANSIT CO., a corporation, 2102 University Avenue, St. Paul, MN 55114. Applicant's representative: James H. Wills (same address as applicant). Authority sought to operate as a *commom carrier*, by motor vehicle, over irregular routes, transporting: *Flowers pots and trays*, from Lakeville, MN, to points in AZ, CN, DE, IA, ME, MT, ND, NV, NM, NJ, RI, SD, WI, WY, VT, and DC.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at St. Paul MN, or Chicago, IL.

No. MC 114457 (Sub-No. 358F), filed February 28, 1978. Applicant: DART TRANSIT CO., a corporation, 2102 University Avenue, Saint Paul, MN 55114. Applicant's representative: James H. Wills, 2102 University Avenue, St. Paul, MN 55114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat byproducts*, and *articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766 (except commodities in bulk and hides), from Eau Claire, WI to points in IA, KS, and NE. Restricted to traffic originating at Wisconsin Beef Industries, Inc., and destined to above named destinations.

NOTE.—If hearing is deemed necessary, applicant requests that it be held at St. Paul, MN or Chicago, IL.

No. MC 114632 (Sub-No. 149F), filed February 28, 1978. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Applicant's representative: Michael L. Carter, P.O. Box 287, Madison, SD 57042. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat by-products*, as described in Sections A and C of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), in vehicles equipped with mechanical refrigeration from Eau Claire, WI to points in CO, IL, IN, IA, KS, MI, MN, MO, NE, ND and SD. Restricted to shipments originating at the facilities of Wisconsin Beef Industries, at or near Eau Claire, WI and destined to the named destination states.

NOTE.—Applicant holds motor contract carrier authority in No. MC 129706, therefore dual operations may be involved. If a hearing is deemed necessary, applicant request it be held at either Minneapolis, MN or Chicago, IL.

No. MC 114969 (Sub-No. 73F), filed February 27, 1978. Applicant: PROPANE TRANSPORT, INC., 1734 State Route 131, Milford, OH 45150. Applicant's representative: Alki E. Scopelitis, 815 Merchants Bank Building, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed and feed ingredients*, from Fort Wayne, IN, to MI. (Hearing site: Chicago, IL.)

NOTE.—Common control may be involved.

No. MC 115311 (Sub-No. 265F), filed February 14, 1978. Applicant: J&M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting:

(1) *Wallboard; particleboard; composition board; lumber (treated or untreated); insulation; piling; posts and poles (treated or untreated); and, construction materials* (except in bulk), from the facilities of Temple Industries, Inc., located at or near Diboll, TX; Pineland, TX; and West Memphis, AR, to points in TX, OK, KS, MO, IL, IN, OH, WV, VA, MD, NC, SC, KY, TN, FL, GA, AL, MS, AR, LA, and DC; and

(2) *Materials and supplies* (except commodities in bulk), used in the manufacture, production, sale, and distribution of commodities in (1) above, from points in TX, OK, KS, MO, IL, IN, OH, WV, VA, MD, NC, SC, KY, TN, FL, GA, AL, MS, AR, LA, and DC, to the facilities of Temple Industries, Inc., located at or near Diboll, TX; Pineland, TX; and, West Memphis, AR. (Hearing site: Dallas, TX.)

No. MC 115730 (Sub-No. 46F), filed: February 14, 1978. Applicant: THE MICKOW CORP., 531 Southwest Sixth Street, P.O. Box 1774, Des Moines, IA 50306. Applicant's representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, IA 50309. Authority to engage in operation, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Iron and steel articles*,

(1) From the facilities in Des Moines, IA, of Steel Warehousing, Inc., to points in IL, MN, MO, and NE, and

(2) From points in CO, IL, IN, IA, MI, MN, MO, NE, PA, and TX to the facilities of Steel Warehousing, Inc., in Des Moines, IA. (Hearing site: Des Moines, IA.)

No. MC 115826 (Sub-No. 295F), filed February 28, 1978. Applicant: W. J. DIGBY, INC. P.O. Box 5088 T.A., Denver, CO 80217. Applicant's representative: Howard Gore, P.O. Box 5088 T.A., Denver, CO 80217. Authority sought to operate as a *common carri-*

er, by motor vehicle, over irregular routes, transporting: *New furniture, new furniture parts, lamps, and lamp shades,* from GA, IN, MI, NC, SC, and TN, to AZ, CA, CO, ID, NM, OR, TX, UT, WA, and WY.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Denver, CO.

No. MC 117740 (Sub-No. 1F), filed: February 23, 1978. Applicant: LUTHER H. HORTON and TRAVIS A. HORTON, a partnership, d.b.a. HORTON BROS. TRUCKING CO., 11613 Denton Drive, Dallas, TX 75229. Applicant's representative: Mert Starnes, 1806 Rio Grande (P.O. Box 2207) Austin, TX 78768. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in or used by wholesale and retail gift item stores,

(1) From points in CA, to the facilities of Tuesday Morning, Inc., at Addison, TX; and

(2) From the facilities of Tuesday Morning, Inc., at Addison, TX, to the facilities of Tuesday Morning, Inc., at Aspen and Denver, CO, and Memphis, TN, under a continuing contract or contracts with Tuesday Morning, Inc., at Addison, TX.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Dallas, TX.

No. MC 117815 (Sub-No. 277F), filed March 1, 1978. Applicant: PULLEY FREIGHT LINES, INC., 405 Southeast 20th Street, Des Moines, IA 50317. Applicant's representative: Dewey Marselle, 405 Southeast 20th Street, Des Moines, IA 50317. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses,* as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of or utilized by Wisconsin Beef Industries, located at or near Eau Claire, WI, to points in IL, IN, IA, KS, MI, MN, MO, and NE, restricted to the transportation of traffic originating at the above named origin and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Minneapolis, MN, or Chicago, IL

No. MC 117851 (Sub-No. 25F), filed: February 23, 1978. Applicant: JOHN CHEESEMAN TRUCKING, INC., 501 North First Street, Fort Recovery, OH 45846. Applicant's representative: Earl N. Merwin, 85 East Gay Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Bags,* from Valdosta, GA, to points in CT, DE, ME, MD, MA, NH, NJ, RI, VT, VA, and WV, under a continuing contract or contracts with Dowling Bag Co., Inc., at Valdosta, GA. (Hearing site: Atlanta, GA, or Columbus, OH.)

No. MC 118142 (Sub-No. 168F), filed: February 28, 1978. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219. Applicant representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, KS 67202. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Plastic film* (except commodities in bulk, when moving in vehicles equipped with mechanical refrigeration), from the plantsites and storage facilities of Resinite Department, Borden Chemical, Division of Borden, Inc., at or near North Andover, MA; Griffin, GA; Illiopolis, IL; Carson, CA; North Bergen, NJ; Cockeysville, MD; Gloucester City, NJ; Charlotte, NC; Cleveland, OH; Elk Grove, IL; Tampa, FL; Oakland, CA; Seattle, WA; Dallas, TX; and Minneapolis, MN, to points and places in the United States (except AK and HI). Restricted: To traffic originating at the plantsites or warehouses of Resinite Department, Borden Chemical, Division of Borden, Inc. (Hearing site: Witchita, KS, or Kansas City, MO.)

MC 118537 (Sub-No. 7F), filed February 27, 1978. Applicant: MARX TRUCK LINE, INC., 220 Lewis Street, Sioux City, IA 51101. Applicant's representative: Robert A. Wichser, P.O. Box 417, Sioux City, IA 51102. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Beer,* from Omaha, NE, to Sioux City, IA. (Hearing site: Omaha, NE, or Washington, DC.)

NOTE.—Applicant holds contract carrier authority in No. MC 61401 and subs thereunder; therefore dual operations may be involved.

No. MC 119741 (Sub-No. 91F), filed: February 28, 1978. Applicant: GREEN FIELD TRANSPORT CO., INC., 3225 Fifth Avenue South, Fort Dodge, IA 50501. Applicant's representative: D. L. Robson, P.O. Box 1235, Fort Dodge, IW 50501. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses,* as described in sections A and C of appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of Wisconsin Beef Industries, Inc., at Eau Claire, WI, to points in IL, IN, IA, KS, MI, MN, MO, NE, ND, OH, and SD. Restriction: restricted to the transportation of traffic originating at the above-named origin and destined to the above-name destination. (Hearing site: Minneapolis, MN.)

No. MC 119777 (Sub-No. 345F), filed March 1, 1978. Applicant: LIGON SPECIALIZED HAULER, INC., a corporation Madisonville, KY 42431. Applicant's representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Zinc, zinc alloy and zinc products,* from Montgomery County, TN, to points in the United States in and east of ND, SD, NE, KS, OK, and TX: and (2) *equipment, machinery, materials and supplies* (except commodities in bulk), used in the manufacture, process, or distribution of commodities in (1) above, from points in the United States in and east of ND, SD, NE, KS, OK, and TX, to points in Montgomery County, TN. Restriction: Restricted to the transportation of traffic originating at or destined to the named origins or named destinations in (1) and (2) above, except traffic moving in foreign commerce. Hearing site: Nashville, TN or Washington, DC.)

NOTE.—Common control and dual operations may be involved. Applicant holds contract carrier authority in MC-126970 Subs 1 and 3.

No. MC 119789 (Sub-No. 434F), filed February 23, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, TX. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Electrical equipment and parts* (except new household appliances), from the facilities of Sangamo-Weston, Inc., Division of Schlumberger, in Rabun County, GA, to Kansas City, KS, and points in AZ, AR, CA, CO, ID, IN, MN, MS, MO, MT, NV, NM, OK, OR, TX, UT, WA, WI and WY: and (2) *materials and supplies* used in the production and distribution of electrical equipment and parts (except new household appliances), from Kansas City, KS, and points in AZ, AR, CA, CO, ID, IN, MN, MS, MO, MT, NV, NM, OK, OR, TX, UT, WA, WI, and WY to the facilities of Sangamo-Weston, Inc., Division of Schlumberger, in Rabun County, GA. (Hearing site: Greenville or Spartanburg, SC, or Atlanta, GA.)

No. MC 121060 (Sub-No. 55F), filed March 1, 1978. Applicant: ARROW TRUCK LINES, INC., P.O. Box 1416, Birmingham, AL 35201. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting:

Steel bars and bolts, from the facilities of Illinois-Birmingham Bolt Co. located at Kankakee, IL, to points in PA, WV, KY, VA, TN, AL, TX and OH. (Hearing site: Washington, DC or Birmingham, AL.)

No. MC 123048 (Sub-No. 389F), filed February 17, 1978. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021—21st Street, P.O. Box 1557, Racine, WI 53401. Applicant's representative: John L. Bruemmer, 121 West Doty Street, Madison, WI 53703. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Iron, steel, zinc, lead and articles or products thereof* (except commodities in bulk); *springs;* and *construction materials, supplies and equipment* (except commodities in bulk) from the facilities of Penn-Dixie Steel Corp. or Penn-Dixie Industries, Inc. and Steven Springs, Inc., located at or near Denver, CO, Blue Island and Joliet, IL, Cicero, Elkhart, Fort Wayne, and Kokomo, IN, Centerville, IA, Newton, KS, Grand Rapids and Lansing, MI, Jackson, MS, Alburquerque, NM, Columbus and Toledo, OH to points in AL, AR, CO, ID, IA, KS, LA, MN, MS, MO, MT, NE, ND, SD, TN, UT and WI; and (2) *materials, supplies and equipment* (except commodities in bulk) used in the manufacture and distribution of commodities named in (1) above from points in the destination states in (1) above to the origin points named in (1) above. Restriction: Restricted to the transportation of traffic originating at and destined to the named origins and named destinations in parts (1) and (2) above, except traffic moving in foreign commerce.

NOTE,—If a hearing is deemed necessary, applicant requests that this application be consolidated for hearing with the National Trailer Convoy, Inc. application already consolidated with other cases under Docket No. MC 106398 (Sub-No. 777).

No. MC 123407 (Sub-No. 443F), filed February 23, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Gypsum and gypsum products, and materials and supplies,* used in the installation and distribution thereof from the facilities of Georgia-Pacific Corp., Gypsum Division, at Chicago, IL, to points in WI. (Hearing site: Chicago, IL.)

NOTE.—Common control may be involved.

No. MC 124078 (Sub-No. 783F), filed February 14, 1978. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28 Street, Milwaukee, WI 53215. Applicant's representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products, vehicle body sealer and sound deadener compound,* in bulk, in tank vehicles, from points in Marion County, TN, to points in the United States (except AK and HI). (Hearing site: Nashville or Memphis, TN.)

NOTE.—Common control may be involved.

No. MC 124211 (Sub-No. 320F), filed March 1, 1978. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, NE 68101. Applicant's representative: Thomas L. Hilt (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Motorcycles, recreational vehicles, and such commodities* as are dealt in and used by manufacturers and distributors of motorcycles and recreational vehicles (except commodities in bulk, and except commodities which, because of their size or weight, require the use of special equipment), between Seattle, WA, Norfolk, VA, Houston, TX, Charleston, SC, Edison, NJ, Baltimore, MD, Atlanta and Savannah, GA, points in Los Angeles, and Orange Counties, CA, and ports of entry located in NJ and NY on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Los Angeles, CA or Lincoln, NE.)

NOTE.—Common control may be involved.

No. MC 124554 (Sub-No. 20F), filed February 14, 1978. Applicant: LANG CARTAGE CORP., 338 South 17th Street, Milwaukee, WI 53233. Applicant's representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Household cleaning products and personal grooming aids, mops, brooms, waxes, cleaners, degreasers, toilet preparations,* as marketed by home product distributors, from Chicago, IL, to points in Keweenaw, Baraga, Menominee, Chippewa, Houghton, Iron, Delta, Ontonagon, Marquette, Dickinson, Mackinac and Gogebic Counties, MI; and (2) *household cleaning products and personal grooming aids, mops, brooms, waxes, cleaners, degreasers, toilet preparations,* as marketed by home products distributors, from Zanesville, OH to points in Bay, Huron, Lapeer, Livingston, Ingham, Washtenaw, Hillsdale, Saginaw, Sanilac, Genesee, Oakland, Calhoun, Wayne, Lenawee, Tuscola, St. Clair, Shiawassee, Macomb, Jackson, Branch and Monroe Counties, MI, under a continuing contract or contracts with Stanley Home Products, Inc. (Hearing site: Chicago, IL or Washington, DC.)

NOTE.—Common control may be involved.

No. MC 124947 (Sub-No. 99F), filed February 23, 1978. Applicant: MACHINERY TRANSPORTS, INC., 1945 South Redwood Road, Salt Lake City, UT 84104. Applicant's representative: David J. Lister, 1945 South Redwood Road, Salt Lake City, UT 84104. Authority sought to operate as a *common carrier,* by motor vehicle over irregular routes, transporting: *Water heaters, gas fired, house heating boilers,* set up, without wheels, *tanks, hot water storage and garbage disposal units* (except in bulk), from the facilities of A. O. Smith Corp., located at or near Kankakee, IL, to points in AR, CO, LA, OK, and TX. (Hearing site: Washington, DC.)

NOTE.—Common control may be involved.

No. MC 128273 (Sub-No. 281) (correction), filed November 25, 1977, published in the FEDERAL REGISTER issue of January 19, 1978 and republished this issue. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Applicant's representative: Elden Corban, P.O. Box 189, Fort Scott, KS 66701. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Petroleum and petroleum products, vehicle body sealer and/or sound deadener compound* (except in bulk) and *filters,* from points in Marion County, TN, to points in the United States (except AK and HI), restricted to traffic originating at points in Marion County, TN. (2) *Materials, supplies and equipment* used in the manufacture, sale, and distribution of the commodities named in part (1) (except in bulk) from points in OH, WV, PA, AL, GA, VA and KY, to points in Marion County, TN, restricted to traffic destined to points in Marion County, TN. (3) *Petroleum and petroleum products, vehicle body sealer and/or sound deadener compound* (except in bulk) and *filters,* from points in OH, NY, RI, PA, and WV, to points in Marion County, TN, restricted to traffic destined to Marion County, TN. (Hearing site: Consolidation requested with other similar applications).

NOTE.—The purpose of this republication is to indicate the correct Sub-No. 281, in lieu of Sub-No. 115.

No. MC 129387 (Sub-No. 49F), filed February 27, 1978. Applicant: PAYNE TRANSPORTATION, INC., P.O. Box 1271, Huron, SD 57350. Applicant's representative: Scott E. Daniel, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Candy and confectionary items,* from the facilities of the Switzer Candy Co., Division of

Beatrice Foods Corp., located at or near St. Louis, MO to points in WA, OR, CA, NV, ID, MT, WY, UT, AZ, NM, CO, KS, and NE. Restriction: Restricted to traffic originating at the above named origin and destined to the above named destinations. (Hearing site: St. Louis, MO.)

No. MC 129387 (Sub-No. 51F), filed February 28, 1978. Applicant: PAYNE TRANSPORTATION, INC., P.O. Box 1271, Huron, SD 57350. Applicant's representative: Scott E. Daniel, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of the report in Description in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of Wisconsin Beef Industries, Inc. located at or near Eau Claire, WI to points in AZ, CA, CO, ID, MT, NE, NV NM, ND, OR, SD, UT, WA, and WY. Restriction: Restricted to traffic originating at the named origin, and destined to the named destinations. (Hearing site: Minneapolis, MN.)

No. MC 135283 (Sub-No. 30F), filed February 23, 1978. Applicant: GRAND ISLAND MOVING & STORAGE CO., INC., P.O. Box 2122, 432 South Stuhr Road, Grand Island, NE. 68801. Applicant's representative: Gailyn L. Larsen, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Milwaukee, WI, to Fremont, NE. (Hearing site: Fremont or Lincoln, NE.)

No. MC 135895 (Sub-No. 18F), filed February 14, 1978. Applicant: DON RAY BOYD AND JACKIE ROGERS, d.b.a. B & R DRAYAGE CO., P.O. Box 8534, Battlefield Station, Jackson, MS 39204. Applicant's representative: Harold H. Mitchell, Jr., P.O. Box 1295, Greenville, MS 38701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper articles and materials, equipment and supplies* used in the manufacture of paper and paper articles (except lime, and limestone, and commodities in bulk), between the facilities of Interior Packaging Co., Inc. in Rankin County, MS on the one hand, and, on the other, points in AL, AR, LA, MS, and TN. (Hearing site: Jackson, MS.)

No. MC 138882 (Sub-No. 46F), filed February 28, 1978. Applicant: WILEY SANDERS, INC., P.O. Box 707, Troy, AL 36081. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Merchandise dealt* in by wholesale, retail, chain, grocery, and food business houses (except in bulk, in tank vehicles) in mechanically refrigerated equipment, from the plant and warehouse of Kraft, Inc., at Atlanta, Decatur, and Tucker, GA to points in the States of AL, LA and MS.

NOTE.—Hearing site, Atlanta, GA, or Nashville, TN.

No. MC 138882 (Sub-No. 47F), filed March 1, 1978. Applicant: WILEY SANDERS, INC., P.O. Box 707, Troy, AL 36081. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Floor, wall and ceiling tile* from the facilities of Summitville Tiles, Inc., located at Summitville, and Minerva, OH to the facilities of Robert F. Henry Tile Co., Inc., located at Birmingham, AL and Montgomery, AL. (Hearing site, Birmingham or Montgomery, AL.)

No. MC 139206 (Sub-No. 13F), filed February 28, 1978. Applicant: F.M.S. TRANSPORTATION, INC., Box 1597, 2564 Harley Drive, Maryland Heights, MO 64043. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Authority sought by applicant to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Heat exchangers, tubing, condensers, tubes, fins, and finning, and parts and accessories* therefor, and (2) *materials, equipment, and supplies* used in the manufacture, sale, coating, processing, assembly, repair, transportation, and distribution of the commodities in (1) supra (except commodities in bulk), between Houston TX, on the one hand, and, on the other, points in the United States (except AK and HI) restricted to the transportation of traffic moving under a continuing contract, or contracts, with Chromalloy American Corp.

NOTE.—(1) Applicant states that it is a commonly controlled contract carrier for Chromalloy American Corp. (Hearing site, St. Louis, MO.)

No. MC 139495 (Sub-No. 315F), filed February 13, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Applicant's representative: Herbert Alan Dubin, 1320 Fenwick Lane, Suite 500, Silver Spring, MD 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lawn and patio furniture*, from Louisburg, NC, to points in CT, DE, IL, IN, KY, ME, MD, MA, MI, NY, NH, OH, PA, RI, TN, VT, VA, WV, and WI. (Hearing site: Washington, DC.)

No. MC 139495 (Sub-No. 319F), filed February 28, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East Eighth Street, P.O. Box 1358, Liberal, KS 67901. Applicant's representative: Herbert Alan Dubin, 1320 Fenwick Lane, Suite 500, Silver Spring, MD 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fans, defusers, and parts and accessories* thereof from Fort Lauderdale, FL to points in the United States (except AK and HI). (Hearing site: Washington, DC.)

No. MC 139495 (Sub-No. 320F), filed February 24, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East Eighth Street, P.O. Box 1358, Liberal, KS 67901. Applicant's representative: Herbert Alan Dubin, 1320 Fenwick Lane, Suite 500, Silver Spring, MD 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motors, generators, controllers, power transmission equipment and machinery, scales, and parts and accessories* used in the manufacture thereof (except those commodities which because of size or weight require the use of special equipment), between Mishawaka and Columbus, IN, Lawrenceburg, KY, Rogersville, TN, and points in GA, OH, and SC.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, DC.

No. MC 140615 (Sub-No. 22F), filed February 14, 1978. Applicant: DAIRYLAND TRANSPORT, INC., P.O. Box 1116, Wisconsin Rapids, WI 54494. Applicant's representative: Dennis C. Brown (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Polystyrene products and materials and supplies* used in the manufacture and distribution thereof, (1) from Webster, SD, to points in MN and WI, and (2) from Jamesburg, NJ, Leominster, MA, Kobuta and Monaca, PA, and Peru, IL, to Belgrade, MT, Webster, SD, Pembine, WI, and Marne, MI.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Green Bay or Milwaukee, WI.

No. MC 140859 (Sub-No. 3F), filed February 13, 1978. Applicant: WESTERN KENTUCKY TRUCKING, INC., 1245 Center Street, Henderson, KY 42420. Applicant's representative: George M. Catlett, Suite 708, McClure Building, Frankfort, KY 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizers*, in bulk, from the plantsite of Agrico Chemical Co., at Melbourne, KY, to points in IL, IN, KY, MI, OH, VA, and WV. Restricted to the trans-

portation of traffic originating at the above mentioned plantsite.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Louisville, KY, or Evansville, IN. Applicant holds contract carrier authority in MC 110825 (Sub-No. 1), therefore, dual operations may be involved.

No. MC 141532 (Sub-No. 19F), filed February 15, 1978. Applicant: PACIFIC STATES TRANSPORT, INC., 35433 16th Avenue South, Federal Way, WA 98002. Applicant's representative: Henry C. Winters, 235 Evergreen Building, Renton, WA 98055. Authority sought to engage in operations, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting *Flat glass*, from the plantsite of PPG Industries, Inc., located at or near Fresno, CA, to points in WA and points in that part of OR on and north of the 44th parallel.

NOTE.—If a hearing is deemed necessary, applicant requests it be held either at San Francisco or Los Angeles, CA.

No. MC 141597 (Sub-No. 4F), filed February 23, 1978. Applicant: RIVERSIDE TRUCK LINES, INC., 919 Fourth Avenue South, Denison, IA 51442. Applicant's representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of Farmland Foods, Inc., located at or near Denison, Carroll, and Iowa Falls, IA, and Crete, NE, to points in CT, DE, IN, KY, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and DC, under a continuing contract or contracts with Farmland Foods, Inc., at Denison, IA. Restriction: Restricted to the transportation of traffic originating at the above-named origins and destined to the above-named destination states.

NOTE.—If a hearing is deemed necessary, applicant requests that the hearing be held at Omaha, NE.

No. MC 141823 (Sub-No. 4F), filed March 1, 1978. Applicant: GLASS CONTAINER TRANSPORT, INC., Route 1, Box 271, Ridgeway, SC 29130. Applicant's representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass containers and container accessories*, between the facilities of the Kerr Glass Manufacturing Corp. located at or near Dunkirk (Jay County), IN, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IA, KS, KY, LA, MD, MI, MN, MS, MO, NE, ND, OK, OH, PA, SC, SD, TN, TX, VA, WV and WI; and (2) materials, equipment and supplies used in the manufacture and distribution of glass containers and container accessories (except commodities in bulk), from points in the states named in (1) above, to the facilities of Kerr Glass Manufacturing Corp. located at or near Dunkirk (Jay County), IN, under a continuing contract or contracts in (1) and (2) above with Kerr Glass Manufacturing Corp.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Atlanta, GA or Oklahoma City, OK.

No. MC 141871 (Sub-No. 8F), filed February 14, 1978. Applicant: WNI, INC., 8700 Southwest Elligsen Road, Wilsonville, OR 97070. Applicant's representative: Bob Cross (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, and equipment, materials, and supplies* used in the manufacture and distribution of foodstuffs between Buena Park and Oakland, CA, on the one hand, and, on the other, points in ID, NV, WA, OR, and UT.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, IL.

No. MC 143328 (Sub-No. 6F), filed February 23, 1978. Applicant: EUGENE TRIPP TRUCKING, P.O. Box 2730, Missoula, MT 59801. Applicant's representative: David A. Sutherlund, 1150 Connecticut Avenue, NW., Suite 400, Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Floor covering and materials, equipment and supplies* used in the installation thereof, from points in CA, to points in MT.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Missoula, MT. Common control may be involved.

No. MC 143433 (Sub-No. 2 F), filed February 23, 1978. Applicant: B.L. GILBERT d.b.a. GILBERT TRUCKING, P.O. Box 157, Kendrick, OK 74040. Applicant's representative: T. M. Brown, 223 Ciudad Building, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpets, padding, carpet samples, materials* and *accessories*, from the plantsite of Venture Carpets U.S.A., division of Venture Industries, Inc., located at or near Pawhuska, OK, to points in CA. Hearing site: Oklahoma City, OK or Atlanta, GA.

No. MC 143859 (Sub-No. 1 F), filed February 23, 1978. Applicant: FOLTZ TRUCK LINE, INC., P.O. Box 38, Princeton, KS 66078. Applicant's representative: Eugene W. Hiatt, 207 Casson Building, 603 Topeka Boulevard, Topeka, KS 66603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cellulose fiber insulation*, from Ottawa, KS, to points in NE, MO, OK, CO, AR, IA, KS, IL, TX, and SD; and (2) *wastepaper* (newsprint) and *aluminum sulfate*, from points in the destination States in (1) above, to Ottawa, KS, under a continuing contract or contracts with National Insulation, Mfg., Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Topeka or Kansas City, KS.

No. MC 143876 (Sub-No. 1 F), filed February 24, 1978. Applicant: CURLY'S DELIVERY SERVICE, INC., P.O. Box 238, Swisher, IA 52338. Applicant's representative: C. J. Cacioppo, P.O. Box 238, Swisher, IA 52338. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in or used by retail stores* (except foodstuffs and commodities in bulk), between the facilities utilized by Ardan Wholesale, Inc., located at or near Des Moines, IA on the one hand, and on the other, points in MN, WI, IN, OH, KY and TN.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Des Moines, IA.

No. MC 144041 (Sub-No. 4F), filed February 21, 1978. Applicant: DOWNS TRANSPORTATION CO., INC., 2705 Canna Ridge Circle NE., Atlanta, GA 30345. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Shoe polish, shoe strings, shoe dye, shoe trees, socks* and such other items of merchandise that one would normally find in a shoe store, from Morrow, GA to points in AR, LA, MO, OK, MS, and TX.

NOTE.—Applicant holds contract carrier authority in MC 140883 and Subs thereunder; therefore, dual operations may be involved. (Hearing site: Atlanta, GA.)

No. MC 144088 (Sub-No. 2F), filed February 14, 1978. Applicant: RANDAL LAWSON, d.b.a. RANDY'S ENTERPRISES, Route 4, Barboursville, KY 40906. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Coal*, in bulk, in dump vehicles, from points in Bell, Clay, Harlan, Knox, Laurel, and Whitley Counties, KY, and Anderson,

Campbell, Claiborne, Grainger, Morgan, Scott, and Union Counties, TN, to points in NC, SC; points in Bulter and Hamilton Counties, OH, and points in Lawrence County, AL. (Hearing site: DC.)

No. MC 144375F, filed February 28, 1978. Applicant: PACKARD TRUCK LINES, INC., P.O. Drawer H, Buras, LA 70041. Applicant's representative: Harry C. Ames, Jr., 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes transporting: *Oil field machinery, equipment, materials and supplies* (except in bulk), between Cameron, LA, on the one hand, and, on the other, points in TX, under a continuing contract, or contracts, with Phillips Petroleum Co., Franklin Supply Co., Gulf Energy & Minerals Co., U.S. Transco Exploration Co.; and Marathon Oil Co.

NOTE.—If a hearing is deemed necessary, applicant request that it be held at (1) Lafayette, LA; (2) Alexandria, LA; or (3) Baton Rouge, LA.

PASSENGERS

No. MC 82007 (Sub-No. 8F), filed February 17, 1978. Applicant: SAMUEL COOPER GREGG, Yorklyn, DE 19736. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in round-trip charter operations, from Wilmington, DE, to points in NY and MA and return.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Wilmington, DE, or Philadelphia, PA.

No. MC 108531 (Sub-No. 20F), filed February 21, 1978. Applicant: BLUE BIRD COACH LINES, INC., 502-504 North Barry Street, Olean, NY 14760. Applicant's representative: Ronald W. Malin, Bankers Trust Building, Jamestown, NY 14701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with the passengers:

(1) In special operations, in round-trip sightseeing and pleasure tours, beginning and ending at points in Genesee, Monroe, and Orleans Counties, NY and extending to points in the United States, including AK, but excluding HI.

(2) In charter operations, beginning and ending in Allegany, Cattaraugus, Chautauqua, Genesee, Monroe, Orleans, and Wyoming Counties, NY and extending to points in the United States, including AK, but excluding HI.

(3) In special operations, in one-way sightseeing and pleasure tours, from points in Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Monroe, Niagara, Orleans, Steuben, and Wyoming Counties, NY and Erie, McKean, Potter, and Warren Counties, PA, to points in the United States, including AK, but excluding HI. Restricted in (3) above to passengers having a subsequent movement by air to an airport serving the point of origin. Including supplemental motor carrier service from the airport to the actual point of origin.

(4) In special operations, in one-way sightseeing and pleasure tours, from points in the United States, including AK, but excluding HI, to points in Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Monroe, Niagara, Orleans, Steuben, and Wyoming Counties, NY, and Erie, McKean, Potter, and Warren Counties, PA. Restricted in (4) above to passengers having a prior movement by air from an airport serving the point of destination. Including supplemental motor carrier service from the actual point of destination to the airport.

(5) In one-way charter operations, from points in Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Monroe, Niagara, Orleans, and Wyoming Counties, NY, and Erie, McKean, Potter, and Warren Counties, PA, to points in the United States, including AK, but excluding HI. Restricted in (5) above to passengers having a subsequent movement by air to an airport serving the point of origin. Including supplemental motor carrier service from the airport to the actual point of origin.

(6) In one-way charters operations, from points in the United States, including AK, but excluding HI, to points in Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Monroe, Niagara, Orleans, and Wyoming Counties, NY and Erie, McKean, Potter, and Warren Counties, PA. Restricted in (6) above to passengers having a prior movement by air to an airport serving the point of destination. Including supplemental motor carrier service from the actual point of destination to the airport.

NOTE.—Common control and dual operations may be involved. (Hearing site: Rochester, NY.)

No. MC 144339F, filed February 8, 1978. Applicant: HORIZON COACH LINES LTD., 784 Adiron Avenue, Coquitlam, BC, Canada. Applicant's representative: George LaBissoniere, 1100 Norton Building, Seattle, WA 98104. Authority sought to operate as a *common carrier*, over irregular routes transporting: *Passengers and their baggage* in the same vehicle with passengers in round-trip charter and special operations, beginning and ending from ports of entry on the international boundary line, between the United States and Canada, located at or near Blaine, Lynden, and Sumas, WA, to points in WA, OR, CA, and NV.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Bellingham, WA.

BROKERS

No. MC 130473 (correction), filed January 23, 1978. Published in the FEDERAL REGISTER issue of February 16, 1978, and republished this issue. Applicant: MS. LTD., 8800 Queensmere Place, Richmond, VA 23229. Applicant's representative: Calvin F. Major, 200 West Grace Street Richmond, VA 23220. Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Richmond, VA, and points in Henrico, Chesterfield, and Hanover Counties, VA, to sell or offer to sell the transportation of: *Passengers and their baggage*, Individually and in groups, in round-trip sightseeing, pleasure and educational tours by motor, rail and water carriers, beginning and ending at Richmond, VA, and points in Chesterfield, Hanover, and Henrico Counties, VA, and extending to points in the United States, including AK and HI.

NOTE.—The purpose of this republication is to show applicant's correct name. (Hearing site: Richmond, VA.)

No. 130476F, filed February 8, 1978. Applicant: DONALD M. ROBERTS d.b.a. ROBERTS TOURS, 2769 Elmwood Road, Jacksonville, FL 32210. Applicant's representative: Bruce E. Mitchell, 3379 Peachtree Road NE., Suite 375, Atlanta, GA 30326. Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Jacksonville, FL, and Grand Rapids, MI, to sell or offer to sell the transportation of: *Passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, by motor common carriers, beginning and ending at points in FL and MI and extending to points in the United States, including AK but excluding HI.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Jacksonville, FL.

MOTOR CARRIER EXEMPTION

No. MC 144475F, filed March 23, 1978. Applicant: TOTEM OCEAN TRAILER EXPRESS, INC., P.O. Box 24908, Seattle, WA 98124. Applicant's representative: Theodore H. Hoppock, 2033 K Street NW., Washington, DC 20006. Authority sought, pursuant to section 204(a) (4a) of the Interstate Commerce Act, for a certificate of exemption for all motor carrier operations solely within the State of WA which are also within the Seattle com-

mercial zone and which involve traffic having a prior or subsequent movement in interstate commerce from or to points in the State of AK by a common carrier by water.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, DC.

FINANCE APPLICATIONS—NOTICE

The following applications seek approval to consolidate, purchase, merge, lease operating rights, and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protest shall comply with Special Rules 240(c) or 240(d) or the Commission's General Rules of Practice (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

No. MC-F-13540. (correction) (DELTA TRANSPORT CORP.—Purchase—Blue Comet Express, Inc.), published in the March 30, 1978, issue of the FEDERAL REGISTER, on page 13479. The following description of operating rights should have read as follows: (b) *General commodities,* except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading over irregular routes * * *.

No. MC-F-13542. Authority sought for purchase by LANGER TRANSPORT CORP., Box 305 Jersey City, NJ 07303, of a portion of the operating rights of Conley Motor Express, Inc., 930 Saw Mill Run Boulevard, Pittsburgh, PA 15220, and for acquisition by Langer Industries, Inc., and Fannie Langer, Box 305, Jersey City, NJ 07303, of control of such rights through the transaction. Applicants' attorneys: W. C. Mitchell, 370 Lexington Ave., New York, NY 10017 and Arthur J. Diskin, 806 Frick Building, Pittsburgh, PA 15219. Operating rights sought to be transferred: *Petroleum, fish, vegetable oils and greases, synthetic resins, byproducts and compounds* of the above-indicated commodities, in bulk, as a common carrier over irregular routes between Rosslyn Farms Borough, Allegheny County, PA, on the one hand, and, on the other, Trenton, NJ, Buffalo, NY, points in NJ and NY within 30 miles of New York, NY, points in OH, and those in that part of WV on the west of a line beginning at the WV-MD State line at Blaine, WV., and extending southwest along WV Hwy 42 to Petersburg, WV., then south through Dorcas, WV., to the WV-VA State line. Vendee is authorized to operate as a common carrier in all the States in the United States (except AK and HI). Application has not been filed for temporary authority under Section 210a(b).

NOTE.—MC 42261 (Sub-No. 134) is a directly related matter.

No. MC-F-13546. Authority sought for purchase by HARPER TRUCK SERVICE, INC. (1266 North Eighth Street, Paducah, KY 42001), of a portion of the operating rights of F & W Express, Inc. (P.O. Box 2213, Memphis, TN 38101), and for acquisition by Dudley Harper (1266 North Eighth Street, Paducah, KY 42001), of control of such rights through the purchase. Applicant's representative: Robert M. Pearce, P.O. Box 1899, Bowling Green, KY 42101; Dale Woodall, 900 Memphis Bank & Trust Building, Memphis, TN 38103. Operating rights sought to be transferred: *General commodities,* with exceptions, as a common carrier, over regular routes, between Memphis, TN and Dyersburg, TN serving all intermediate points and the off-route point of Munford, TN over U.S. Hwy 51. Vendee is authorized to operate as a common carrier in MO, IL, TN, MS, and AR. Application has not been filed for temporary authority under section.

No. MC-F-13549. Authority sought for purchase by BRALLEY-WILLETT TANK LINES, INC., 2212 Deepwater Terminal Road, P.O. Box 495, Richmond, VA 23204 of a portion of the operating rights of O'Boyle Tank Lines, Inc., P.O. Box 30006, Washington, DC 20014 and for acquisition by Ward W. Johnson, also of Richmond, VA 23204, of control of such rights through the purchase. Applicant's attorneys: Steven L. Weiman, Suite 145, 4 Professional Drive, Gaithersburg, MD, and William P. Sullivan, 1819 H Street, Washington, DC 20006. Operating rights sought to be purchased: *Petroleum products* (except petro acids and chemicals, and asphalt and asphalt products) in bulk, in tank vehicles, as a *common carrier,* by motor vehicle, over irregular routes, from the terminals of Colonial Pipeline at or near Montvale, VA to points in NC and points in that part of WV, in, south, and east of Pendleton, Tucker, Randolph, Upshur, Webster, Nicholas, Clay, Kanawha, Lincoln, and Mingo Counties, WV; and *petroleum products* (except petro acids and chemicals, and asphalt and asphalt products), in bulk, in tank vehicles, as a *common carrier,* by motor vehicle, over irregular routes, from the terminals of the Plantation Pipeline at or near Roanoke, VA to points in WV in, south, and east of Pendleton, Tucker, Randolph, Upshur, Webster, Nicholas, Clay, Kanawha, Lincoln, and Mingo Counties, WV. Vendee is authorized to operate as a common carrier in all the States in the United States (except AK and HI).

No. MC-F-13550. Authority sought for purchase by MANLEY TRANSFER CO., INC., 300 South Jefferson, P.O. Box 1575 S.S.S., Springfield, MO 65805, of a portion of the operating rights of The Rocket Freight Lines Co., 2921 Dawson Road, Tulsa, OK 74110, and for acquisition by Overland Enterprises, Inc., 300 South Jefferson, P.O. Box 1575 S.S.S., Springfield, MO 65805, of control of such rights through the purchase. Applicant's representative: Arthur J. Cerra, 2100 Ten Main Center, P.O. Box 19251, Kansas City, MO 64141. Operating rights sought to be transferred: *General commodities,* with exceptions as a *common carrier* over regular routes between Tulsa, OK, and the OK-KS state boundary line north of Quapaw, OK, serving all intermediate points, from Tulsa, OK, over U.S. Hwy 66 to the OK-KS state boundary line north of Quapaw, OK, return over the same route. Vendee is authorized to operate as a common carrier in MO, KS, IA, OK, and AR. Application has been filed for temporary authority under section 210a(b).

No. MC-F-13555. Authority sought for purchase by SMITHWAY MOTOR XPRESS, INC., Route 4; P.O. Box 404, Fort Dodge, IA 50501, of a portion of the operating rights of Mishak Truck Line, Inc., 302 Seventh Avenue North, Clear Lake, IA 50428, and for acquisition by Harold C. Smith, Russell G. Hilken, William G. Smith, Route 4; Fort Dodge, IA 50501, and Robert E. Miller, 709 Coachlight Drive; St. Louis, MO, of control of such rights through the transaction. Applicant's attorneys: Arlyn L. Westergren, Suite 530, Univac Building, 7100 West Center Road, Omaha, NE 68106, and Larry D. Knox, 900 Hubbell Building, Des Moines, IA 50309. Operating rights sought to be transferred: *Building materials,* with exceptions as a *common carrier* over irregular routes from Shakopee, MN, to points in MN, IA, WI, and IL, with restrictions; *Iron and steel articles,* as a *common carrier* over irregular routes from the plantsites of Midwest Steel, Division of National Steel Corp., at Portage, IN, to points in IA, from the facilities of Keystone Steel & Wire Division of Keystone Consolidated Industries, Inc., at Peoria, IL, to points in IA, MN, SD, and ND, with restrictions;

(1) (a) *Trailers, recreational and commercial, and structures* designed for attachment to motor vehicles, (b)

parts and attachments for the commodities in (a) above; and (c) *parts and attachments* for motor homes;

(2) *Equipment, materials, and supplies* used in the manufacture of distribution of the above-mentioned products (except commodities in bulk); and

(3) *Aluminum extrusions, as a common carrier* over irregular routes between points in Winnebago County, IA, on the one hand, and, on the other, points in NE, WI, IL (except points in Grundy County, East St. Louis, and points in its Commercial Zone, as defined by the Commission, and Alton, IL), IN, MI, and points in that part of OH on and west of a line commencing at Toledo, OH, then south along U.S. Hwy 23 to Columbus, OH, and then southwest along Interstate Hwy 71, to Cincinnati, OH, with restrictions. Vendee is authorized to operate as a *common carrier* in ND, SD, NE, KS, MN, MO, MI, WI, IL, IN, IA, AR, KY, OH, OK, TN, and PA. Application has been filed for temporary authority under section 210a(b).

No. MC-F-13556. Authority sought for purchase by T.I.M.E.-DC, INC., 2598 74th Street, P.O. Box 2550, Lubbock TX 79408, of a portion of the operating rights of Strickland Transportation Co., Inc., 11353 Reed Hartman Hwy, Cincinnati, OH 45241, and for acquisition of control of such rights by National City Lines, Inc., P.O. Drawer 17-G, Terminal Annex, Denver, CO 80217, through the purchase. Applicant's attorneys: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603; Milton H. Borts, 11353 Reed Hartman Hwy, Cincinnati, OH 45241, and Kenneth G. Thomas, P.O. Box 2550, Lubbock, TX 79408. Operating rights sought to be transferred: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), as a *common carrier*, over regular routes, between Milwaukee, WI, and Chicago, IL: From Milwaukee over U.S. Hwy 41 to Chicago (also from Milwaukee over WI Hwy 32 to the WI-IL State line, then over IL Hwy 42 to Chicago), serving all intermediate points and the off-route points of West Allis, Fox Point, Greendale, West Milwaukee, Shorewood, Wauwatosa, and Whitefish Bay, WI, and those in the Chicago, IL, Commercial Zone, as defined by the Commission. T.I.M.E.-DC, Inc., is authorized to operate as a *common carrier* in AL, AZ, AR, CA, CO, CT, DE, DC, GA, ID, IL, IN, IA, KS, KY, MD, MA, MI, MO, NE, NV, NJ, NM, NY, OH, OK, OR, PA, RI, TN, TX, VA, WA, WV, WI, and WY. Application has been filed for temporary authority under section 210a(b).

MC-F-13557. Authority sought for merger by NELSON FREIGHTWAYS INC., 47 East Street, Rockville, CT 06066, of the operating rights and property of Arcticare Transport, Inc., 47 East Street, Rockville, CT 06066, and for acquisition by Clifford J. O. Nelson, 9 Old Farm Road, Dover, MA 02030, Charles G. Chilberg, 33 Reed Street, Rockville, CT 06066, Kenneth Nelson, 32 Earl Street, Manchester, CT and Oscar H. Chilber, 52 Richard Road, Manchester, CT, of control of such rights through the transaction. Applicant's attorney: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street NW, Washington, DC, 20004. Authority sought for merger of assets including operating authority of Arcticare Transport, Inc., a wholly owned subsidiary of Nelson Freightways, Inc., into Nelson Freightways, Inc. Operating rights to be merged: *Frozen foods, frozen foodstuffs, dairy products,* as described in appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209, imitation liquid milk and cream and chocolate candies, in vehicles equipped with mechanical refrigeration over a series of regular routes and irregular routes in the states of ME, NH, VT, MA, CT, RI, NY, PA, NJ, MD, DE, VA, and DC. Nelson Freightways, Inc., holds operating authority to transport general commodities with the usual exceptions and except the commodites authorized to be transported by Arcticare Transport, Inc., over regular and irregular routes in the same state. Application has been filed for temporary authority under section 210a(b).

No. MC-F-13558. Authority sought for control by WALES TRANSPORTATION, INC., P.O. Box 6186, Dallas, TX 75222, of J. J. Willis Trucking Co., P.O. Box 5328, Dallas, TX 75222, and for acquisition by Gifford-Hill & Co., Inc., 8535 Stemmons Freeway, Dallas, TX 75247, of control of such rights through the transaction. Applicant's attorney: (Vendee's) James W. Hightower, 136 Wynnewood Professional Building, Dallas, TX 75224 and (Vendor's) Joseph G. Dail, Jr., 6810 Fleetwood Road, McLean, VA 22101. Operating rights sought to be controlled: Oilfield commodities as described in Mercer-Ext., Oilfield Commodities, 74 MCC 459, *earth drilling commodities,* commodities, which because of their size or weight require the use of special equipment, and self-propelled articles, each weighing 15,000 pounds or more, over irregular routes, from, to, and/or between points in AZ, AR, CA, CO, KS, LA, NM, OK, TX, UT, and WY; *iron and steel articles,* over irregular routes, from Corpus Christi, Galveston, and Houston, TX, to points in NM and TX; *pipe,* over irregular routes, from Sherman, TX, to points in AZ, AR, CA, CO, KA, LA, NM, and OK; *iron and steel articles,* over irregular routes, from Lone Star, TX, to points in the U.S. (except AK and HI); *iron and steel articles,* over irregular routes, from Pueblo, CO, to points in AZ, NM, OK, and TX; *plastic pipe,* over irregular routes, from Houston, TX, to points in the U.S. (except AK and HI); *steel roofing,* over irregular routes, from Phoenix, AZ, to points in CO, NM, NV, TX, and UT; *reinforcing bars,* over irregular routes, from Helena, AZ, to points in CO, NM, NV, TX, and UT; *plastic tanks,* over irregular routes, between Gene Autry, OK, on the one hand, and, on the other, points in the U.S. (except AK and HI); *buses,* over irregular routes, from Los Angeles County, CA, to points in AZ, AR, CO, KA, LA, NV, NM, TX, and UT; *iron and steel articles,* over irregular routes, from city of Industry, Hayward, and Riverside, CA, to points in AR, CO, LA, NM, OK, and TX; *cement asbestos pipe,* over irregular routes, from Van Buren, AR, to points in AZ, CA, CO, ND, and UT; *self-propelled farm tractors,* over irregular routes, from Wharton, TX, to points in the U.S. (except AK and HI); *precut log buildings,* over irregular routes, from Englewood, CO, to points in AZ, CA, NM, OK, and TX; and, *other specified commodities,* as a *common carrier,* over irregular routes, more fully desribed in MC 107993 and subs. Vendee is authorized to conduct operations in all States, except HI. No dual operations involved. Application has been filed for temporary authority under section 210a(b).

Operating Rights Application(s) Directly Related to Finance Proceedings

Notice

The following operating rights applications(s) are filed in connection with pending finance applications under section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under section 212(b) of the Interstate Commerce Act.

An original and two copies of protests to the granting of the authorities must be filed with the Commission within 30 days of this notice. All pleadings and documents must clearly specify the "F" suffix where the docket is so identified in this notice. Protests shall comply with special rule 247(e) of the Commission's general rules of practice (49CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative, or applicant if no representative is named.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 42261 (Sub-No. 134 F), filed March 14, 1978. Applicant: LANGER TRANSPORT CORP., Box 305, Jersey City, NJ, 07303. Applicant's representative: W. C. MITCHELL, 370 Lexington Avenue, New York, NY, 10017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *petroleum and petroleum products*, in bulk, in tank trucks, (a) from Rosslyn Farms Borough, PA, to points in CT, (b) from Rosslyn Farms Borough, PA, to points in NJ and NY more than 30 miles but not in excess of 100 miles of the city hall at New York, NY; (2) *petroleum wax*, in bulk, in tank vehicles, (a) from Rosslyn Farms Borough, PA, to Fort Edward and Hudson Falls, NY, and Nashua, NH, (b) from Rosslyn Farms Borough, PA, to points in AL, FL, GA, LA, MS, SC and TN; (3) *liquid petroleum wax*, in bulk, in tank vehicles, (a) from Houston, TX, to points in Kings, Queens and Nassau Counties, NY, and those in Suffolk County, NY, within 30 miles of New York, NY, (b) from Tulsa, OK, to points in OH, points in Kings, Queens and Nassau Counties, NY, and those in Suffolk County, NY, within 30 miles of New York, NY, (c) from St. Marys, WV, to Trenton, NJ, Buffalo, NY, and points in NJ and NY within 30 miles of New York, NY, (d) from Chicago, IL, to points in OH and that part of WV on and west of a line beginning at the WV-MD State line at Blaine, WV, and extending southwest along WV Hwy 42 to Petersburg, WV, then south through Dorcas, WV, to the WV-VA State line: (4) *petroleum products* (except gasoline, kerosene, distillates and naptha), in bulk, in tank vehicles, from Camden, NJ to points in OH and that part of WV on and west of a line beginning at the WV-MD State line at Blaine, WV, and extending southwest along WV Hwy 42 to Petersburg, WV, then south through Dorcas, WV, to the WV-VA State line; (5) *petroleum products* (except gasoline, kerosene, distillates, naptha, medicinal petroleum products, paraffin wax and asphalt), in bulk in tank vehicles, from points in CT, Boston, MA, New York, NY, and points in that part of NJ on and east of U.S. Hwy 1 and north of the Raritan River to points in OH and that part of WV on and west of a line beginning at the WV-MD State line at Blaine, WV, and extending southwest along WV Hwy 42 to Petersburg, WV, then south through Dorcas, WV, to the WV-VA State line; (6) *petroleum and petroleum products*, as described in appendix XIII to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 (except gasoline, kerosene distillates and naptha), in bulk, from the facilities of Tidewater Oil Company Refinery (at or near Delaware City, DE), to points in OH and that part of WV on and west of a line beginning at the WV-MD State line at Blaine, WV, and extending southwest along WV Hwy 42 to Petersburg, WV then south through Dorcas, WV, to the WV-VA State line; and (7) *dry petroleum chemicals and dry synthetic resins*, in bulk, in tank or hopper-type vehicles, from Niagara Falls and Solvay, NY, to points in OH and that part of WV on and west of a line beginning at the WV-MD State line at Blaine, WV, and extending southwest along WV Hwy 42 to Petersburg, WV, then south through Dorcas, WV, to the WV-VA State line. (Hearing site New York, NY, or Washington, DC.)

NOTE.—The purpose of this application is to eliminate the gateway of Rosslyn Farms Borough, PA, and is directly related to MC-F-13542, Langer Transport Corp.—Purchase (Portion)—Conley Motor Express, Inc., published in a previous section of this FEDERAL REGISTER issue.

MOTOR CARRIER ALTERNATE ROUTE DEVIATIONS

NOTICE

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this FEDERAL REGISTER notice.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

MOTOR CARRIERS OF PROPERTY

No. MC 2229 (Deviation No. 27), RED BALL MOTOR FREIGHT, INC., 3177 Irving Boulevard, Dallas, TX, filed February 6, 1978. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Little Rock, AR over Interstate Hwy 40 to Oklahoma City, OK and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Little Rock, AR over U.S. Hwy 65 to Conway, AR, then over U.S. Hwy 64 to Fort Smith, AR, then over OK Hwy 9A to junction U.S. Hwy 271, then over U.S. Hwy 271 to junction combined OK Hwys 3 and 7, then over combined OK Hwys 3 and 7 to Atoka, OK, then over U.S. Hwy 75 to junction OK Hwy 3, then over OK Hwy 3 to Ada, OK, then over OK Hwy 19 to Stratford, OK, then over U.S. Hwy 177 to Shawnee, OK, then over U.S. Hwy 270 to Oklahoma City, OK, and return over the same route.

No. MC 2229 (Deviation No. 28), RED BALL MOTOR FREIGHT, INC., 3177 Irving Boulevard, Dallas, TX, filed February 3, 1978. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Kansas City, KS, over U.S. Hwy 69 to junction U.S. Hwy 75, then over U.S. Hwy 75 to Dallas, TX, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Kansas City, KS, over city streets to Kansas City, MO, then over U.S. Hwy 71 to Carthage, MO, then over alternate U.S. Hwy 71 to Neosho, MO, then over U.S. Hwy 71 to Fort Smith, AR, then over OK Hwy 9A to junction U.S. Hwy 271, then over U.S. Hwy 271 to Paris, TX, then over TX Hwy 24 to Greenville, TX, then over U.S. Hwy 67 to Dallas, TX and return over the same route.

No. MC 2245 (Deviation No. 7) O. K. TRUCKING COMPANY, 3000 East Crescentville Road, Cincinnati, OH 45241, filed March 10, 1978. Carrier's representative: Jack B. Josselson, 700 Atlas Bank Building, 524 Walnut Street, Cincinnati, OH 45202. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Charleston, WV, over Interstate Hwy 77 to Cleveland, OH and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Charleston, WV, over U.S. Hwy 35 to Chillicothe, OH, then over U.S. Hwy 23 to Columbus, OH, then over Interstate Hwy 71 to junction OH Hwy 18, then over OH Hwy 18 to junction U.S. Hwy 21, then over U.S. Hwy 21 to Cleveland, OH , and return over the same route.

No. MC 29555 (Deviation No. 22), BRIGGS TRANSPORTATION CO., North 400, Griggs-Midway Building, St. Paul, MN 55104, filed March 7, 1978. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Des Moines, IA over U.S. Hwy 65 to junction U.S. Hwy 24, then over U.S. Hwy 24 to Kansas City, MO,

and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Des Moines, IA over U.S. Hwy 6 to junction U.S. Hwy 275 near Council Bluffs, IA, then over U.S. Hwy 275 to junction IA Hwy 2, then over IA Hwy 2 to junction U.S. Hwy 71 near Clarinda, IA, then over U.S. Hwy 71 to Kansas City, MO, and return over the same route.

No. MC 109538 (Deviation No. 10), CHIPPEWA MOTOR FREIGHT, INC., P.O. Box 269, Eau Claire, WI 54701, filed March 14, 1978. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From junction U.S. Hwys 12 and 61 in St. Paul, MN, over U.S. Hwy 61 to junction U.S. Hwy 53 in La Crosse, WI, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From junction U.S. Hwys 12 and 61 in St. Paul, MN, over U.S. Hwy 12 to junction U.S. Hwy 53 at Eau Claire, WI, then over U.S. Hwy 53 to La Crosse, WI, and return over the same route.

Motor Carrier Alternate Route Deviations

NOTICE

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Passengers (49 CFR 1042.(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this Federal Register notice.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

Motor Carriers of Passengers

No. MC 1515 (Deviation No. 733), GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077, filed March 8, 1978. Carrier proposed to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers*, when moving in the same vehicle with passengers, over deviation routes as follows: (1) From Cleveland, OH over Interstate Hwy 77 to junction Interstate Hwy 480, then over Interstate Hwy 480 to junction Ohio Hwy 8 near Bedford, OH, and (2) from junction Interstate Hwy 480 and Ohio Hwy 8 near Bedford, OH over Interstate Hwy 480 to junction Ohio Turnpike at Interchange 13 and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Cleveland, OH, over Ohio Hwy 87 to junction Ohio Hwy 8, then over Ohio Hwy 8 to junction Interstate Hwy 480, then over Ohio Hwy 8 to junction Ohio Turnpike, then over the Ohio Turnpike to junction Interstate Hwy 480 at Interchange 13 and return over the same route.

Motor Carrier Intrastate Application(s)

NOTICE

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 206(a)(6) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's General Rules of Practice (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

Florida Docket No. 780135-CCT, filed March 6, 1978. Applicant: CROWN COURIER SYSTEMS, 5541 Northwest 82nd Avenue, Miami, FL 33166. Applicant's representative: Robert J. Paterno, 1451 Brickell Avenue, Miami, FL 33131. Certificate of Public Convenience and Necessity sought to operate a freight service, over irregular routes, as follows: Transportation of: *General commodities*, from and between all points and places in Dade, Broward, Palm Beach, and Monroe Counties, FL, including without limitation (1) advertising and public relations material, (2) accounting data and financial papers, (3) legal documents and papers, (4) manufacturers' samples, (5) medical equipment, supplies, materials, medical treatment items, lab samples and specimens, test lab animals, (6) machine tools, parts, and replacement parts, (7) data processing equipment, supplies, parts and data processing products, (8) business machines, replacement parts and business machine supplies, (9) business papers and records, (10) engineering and architectural documents and papers, (11) printed materials, (12) theater, sporting and entertainment event tickets, and (13) photographic supplies and film. Restricted against the transportation of cash letters, to packages weighing no more than 125 pounds, and shipments weighing no more than 500 pounds. Service to be performed within a 24 hour period. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time, and place not yet fixed. Requests for procedural information should be addressed to Florida Public Service Commission. 700 South Adams Street, Tallahassee, FL 32304, and should not be directed to the Interstate Commerce Commission.

Oklahoma Docket No. MC. 23190 (Sub-No. 9), filed March 6, 1978. Applicant: OKMULGEE EXPRESS, INC., 207 North Cincinnati, Tulsa, OK 74103. Applicant's representative: Rufus H. Lawson, 2400 Northwest 23rd Street, Oklahoma City, OK 73107. Certificate of Public Convenience and Necessity sought to operate a freight service over regular routes as follows: Transportation of: *General commodities*, (except classes A and B explosives, commodities in bulk, articles of unusual value, household goods as defined by the Commission, and commodities requiring special equipment), between Tulsa, OK and Wagoner, OK, serving the intermediate point of Coweta, OK. From Tulsa OK via State Hwy 51 to Wagoner, OK. Between Coweta, OK and Wagoner, OK, serving the intermediate points of Porter and Tullahassee and the off-route point of Red Bird. From Coweta, OK via State Hwy 51B to its intersection with U.S. Hwy 69, then via U.S. Hwy 69 to Wagoner, OK. Between Wagoner, OK and Afton, OK, serving the intermediate points of Mazie, Chouteau, Locust Grove, Salina, Spavinaw, Towne, Ketchum, and Cleora and the off-route points of Langley, Disney, and Bernice. From Wagoner, OK via U.S. Hwy 69 to its intersection with State Hwy 33 then via State Hwy 33 to its intersection with State Hwy 20, then via State Hwy 20 to its intersection with State Hwy 82, then via State Hwy 82 to its intersection with State Hwy 85, then via State Hwy 85 to its intersection with U.S. Hwy 60, then via U.S. Hwy 60 to Afton, OK. Between Afton, OK and Grove, OK via U.S. Hwy 59. Between intersection of State Hwy 20 and State Hwy 82 and Jay, OK, serving the intermediate point of Chloeta and the off-route point of New Eucha. From the intersection of State Hwy 20 and State Hwy 82, then via State Hwy 20 Jay, OK. Between intersection of State Hwy 82 and State Hwy 28 and Adair, OK, serving the intermediate point of

Pensacola. From the intersection of State Hwy 82 and State 28, then via State Hwy 28 to Adair. Between Adair, OK and Tulsa, OK, serving the intermediate point of Big Cabin and the off-route point of Patton, OK. From Adair, OK via U.S. Hwy 69 to its intersection with U.S. Hwy 44 (Will Rogers Turnpike), then via U.S. Hwy 44 (Will Rogers Turnpike) to Tulsa, OK. Between Afton, OK and Tulsa, OK, serving no intermediate points. From Afton, OK via U.S. Hwy 60 to its intersection with U.S Hwy 44 (Will Rogers Turnpike), then via U.S. Hwy 44 (Will Rogers Turnpike) to Tulsa, OK. Between Tulsa, OK. and U.S. Hwy 40, serving no intermediate points. From Tulsa, OK via Muskogee Turnpike to its intersection with U.S. Hwy 40. Intrastate, interstate, and foreign commerce authority sought. Hearing: June 6, 1978, at 9 a.m., Oklahoma Corporation Commission, 2nd Floor, Jim Thorpe Building, Oklahoma City, OK 73105. Requests for procedural information should be addressed to Oklahoma Corporation Commission, Jim Thorpe Building, Oklahoma City, OK 73105, and should not be directed to the Interstate Commerce Commission.

Oklahoma Docket No. MC 23745 (Sub-No. 4), filed February 15, 1978. Applicant: TRIANGLE EXPRESS, INC., 1015 Southwest 2nd, Oklahoma, City, OK 73125. Applicant's representative: Charles D. Dudley, 3535 Northwest 58th Street, Suite 280, Oklahoma City, OK 73122. Certificate of Public Convenience and Necessity sought to operate freight service as follows: Transportation of: *General commodities*, over the following routes:

(1) Between Guthrie, OK and Perry, OK, serving all intermediate points. From Guthrie over Interstate Hwy 35, and U.S. Hwy 77 to Perry , and return over the same routes.

(2) Between Perry, OK and Lucien, OK. From Perry over OK Hwy 164 to Lucien, and return over the same route.

(3) Between Perry, OK and junction U.S. Hwy 64 and OK Hwy 99, serving all intermediate points, and the off-route point of Maramec, OK. From Perry over U.S. Hwy 64 to junction OK Hwy 99, and return over the same route.

(4) Between junction U.S. Hwy 64 and OK Hwy 99 and Drumright, OK, serving all intermediate points. From junction U.S. Hwy 64 and OK Hwy 99 over OK Hwy 99 to Drumright, and return over the same route.

(5) Between Drumright, OK and Guthries, OK, serving all intermediate points and the off-route point of Ripley, OK. From Drumright over OK Hwy 33 to Guthrie, and return over the same route.

(6) Between junction Interstate Hwy 40 and U.S. Hwy 177 and junction U.S. Hwy 177 and U.S. Hwy 64, serving all intermediate points, and the off-route points of Carney and Tryon, OK. From junction U.S. Hwy 177 and Interstate Hwy 40 over U.S. Hwy 177 to junction U.S. Hwy 64, and return over the same route.

(7) Between junction Interstate Hwy 35 and OK Hwy 51 and junction OK Hwy 51 and OK Hwy 99, serving all intermediate points and the off-route point of Glencoe, OK. From junction Interstate Hwy 35 and OK Hwy 51 over OK Hwy 51 and OK Hwy 99, and return over the same route; and

(8) Between Aydelotte, OK and junction OK Hwy 18 and U.S. Hwy 64, serving all intermediate points, except Meeker and Chandler, OK. From Aydelotte over OK Hwy 18 to junction U.S. Hwy 64, and return over the same routes. Intrastate, interstate, and foreign commerce authority sought. Hearing: May 17, 1978, at 9 a.m., 2nd Floor, Jim Thorpe Building, Oklahoma City, OK 73105. Requests for procedural information should be addressed to Oklahoma Corporation Commission, Jim Thorpe Office Building, Oklahoma City, OK 73105, and should not be directed to the Interstate Commerce Commission.

OK Docket No. MC 41925, filed January 19, 1978. Applicant: OUACHITA MOUNTAIN EXPRESS, INC., Route 4, Box 280 B, Guthrie, OK 73044. Applicant's representative: William L. Anderson, 1612 Classen Drive, Oklahoma City, OK 73106. Certificate of public convenience and necessity sought to operate a freight service over regular routes, as follows: Transportation of: *General commodities*, from Oklahoma City, OK, east over Interstate Hwy 40 to its intersection with south Hwy 56, to Sasakwa; then west on south Hwy 39 to its intersection with south Hwy 99; south Hwy 99 from Ada to Interstate Hwy 35; south Hwy 59 from its intersection with south Hwy 99 to Wewoka; U.S. Hwy 270 from Seminole to Havener; south Hwy 48 from Holdenville and its intersection with south Hwy 1: then on south Hwy 1 to Ada; south Hwy 1 and 63 from Hartshorn to Talihina; U.S. Hwy 271 from Talihini to Poteau; south Hwy 39 from Poteau to Page; south Hwy 2 from Wilburton to its intersection with south Hwy 1 and U.S. Hwy 63. From McAlester via U.S. Hwy 69 to the U.S. Naval Ammunition Depot. The above authority to constitute the right to transport freight in all directions along the routes described, to, from and between all points and places on the routes described, save and except the delivery or picking up freight at any point intermediate to Oklahoma City and the intersection of Interstate Hwy 35 and south Hwy 99 north of Seminole; said authority shall include the right to serve all points and places on the routes described (subject to the restriction stated above) and also the right to serve customers along the routes or adjacent to the communities served where the same are within a reasonable distance from the described routes and may be normally served without going into or through a city or town that carrier does not have authority to serve. Service will be offered the following named cities and towns, as well as all intermediate points not named: Seminole, Wewoka, Holdenville, Saskwa, Cromwell, Lima, Byng, Sylvain, Allen, Atwood, Calvin, Stewart, Cabaniss, McAlester, Krebs, Alderson, Holdenville, Harshorn, Gowan, Wilburton, Panola, Red Oak, Denman, Hughes, Fanshowe, Caston, Victor, Wister, Poteau, Howe, Heavener, Hodgen, Page, Summerfield, Leflore, Talihina, Damon, and Higgins. Schedule of days of service, proposed departure and arrival times, location of terminal facilities and miles of operation will be furnished Commission and interested parties within 10 days after filing this application, at your request and will be presented at hearing. Towns passed through and not served: Shawnee. Intrastate, interstate and foreign commerce authority sought. Hearing: May 3, 1978, time and place not yet fixed. Requests for procedural information should be addressed to Oklahoma Corporation Commission, Jim Thorpe Office Building, Oklahoma City, OK 73105, and should not be directed to the Interstate Commerce Commission.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

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[7035-01]

[Volume No. 81]

MOTOR CARRIER OPERATING RIGHTS APPLICATIONS

April 7, 1978.

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the Federal Register. Failure to seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority

which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use a such authority to provide all or part of the service proposed), and shall specify with particularly the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protest not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(e)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 41406 (Sub-No. 62), filed January 31, 1978. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Avenue, Hammond, IN 46323. Applicant's representative: Alki E. Scopelitis, 815 Merchants Bank Building, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron, steel, zinc, lead, and articles or products thereof* (except in bulk); *springs; and construction materials, supplies and equipment* (except in bulk), and (2) *materials, supplies and equipment* (except in bulk) used in the manufacture and distribution of commodities named in (1) above, from (A) the facilities of Penn-Dixie Steel Corp., Penn-Dixie Steel Industries, Inc. and Steven Springs, Inc., located at or near Denver, CO, Blue Island and Joliet, IL, Cicero, Elkhart, Fort Wayne, and Kokomo, IN, Centerville and West Des Moines, IA, Newton, KS, Grand Rapids and Lansing, MI, Jackson, MS, Albuquerque, NM, Columbus and Toledo, OH, Cabot, PA, and Milwaukee, WI, to points in the United States (except AK and HI); and (B) from points in the United States (except AK and HI) to the facilities of Penn-Dixie Steel Corp., Penn-Dixie Steel Industries, Inc., and Steven Springs, Inc., located at or near Denver, CO, Blue Island and Joliet, IL, Cicero, Elkhart, Fort Wayne, and Kokomo, IN, Centerville and West Des Moines, IA, Newton, KS, Grand Rapids and Lansing, MI, Jackson, MS, Albuquerque, NM, Columbus and Toledo, OH, Cabot, PA, and Milwaukee, WI. Restriction: Restricted to the transportation of traffic originating at and destined to the named origins and named destinations in parts (1) and (2) above (except traffic moving in foreign commerce).

NOTE.—If a hearing is deemed necessary, applicant requests that this application be consolidated for hearing with the National Trailer Convoy, Inc. application already consolidated with other cases under Docket No. MC 106398 (Sub-No. 777).

No. MC 43867 (Sub-No. 35), filed October 25, 1977. Applicant: A. LEANDER McALISTER TRUCKING CO., P.O. Box 2214, Wichita Falls, TX 76307. Applicant's representative: David R. Parker, 2310 Colorado State Bank Building, 1600 Broadway, Denver, CO 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: 1. (a) *Iron, steel, zinc, lead, and articles or products thereof* (except in bulk); (b) *springs;* and (c) *construction materials, supplies, and equipment* (except in bulk) from the facilities of Penn-Dixie Steel Corp., Penn-Dixie Industries and Steven Spring, Inc. located at or near Kokomo, Fort Wayne, Elkhart, and Cicero, IN, Toledo and Columbus, OH, Lansing and Grand Rapids, MI, Denver, CO, Albuquerque, NM, Centerville, IA, Blue Island and Joliet, IL, Jackson, MS, and Newton, KS, to points in the United States (except AK and HI); and 2. *Materials, equipment and supplies* (except in bulk) used in the manufacture and distribution of commodities in (1) above, from points in the United States (except AK and HI) to the origin points in (1) above. Restrictions: (a) Restricted in (1) above to traffic originating at the facilities of Penn-Dixie Steel Corp., Penn-Dixie Industries and Steven Spring, Inc. (b) Restricted in (2) above to traffic destined to the facilities of Penn-Dixie Steel Corp., Penn-Dixie Industries and Steven Spring, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that this application be consolidated for hearing with the National Trailer Convoy, Inc. application already consolidated with other cases under Docket No. MC 106398 (Sub-No. 777).

No. MC 59150 (Sub-No. 109) (amendment), filed November 9, 1977. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose Street, Jacksonville, FL 32206. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *Iron, steel, zinc, lead, and articles or products thereof* (except in bulk); *springs;* and *construction materials, supplies and equipment* (except in bulk); from the facilities of Penn-Dixie Steel Corp., Penn-Dixie Industries, Inc., and Steven Spring, Inc., at or near Jackson, MS, to points in FL, GA, AL, NC, SC, LA, MS, VA, and TN; and (2) *materials, supplies and equipment* (except in bulk used in the manufacture and distribution of commodities names (1) above, from points in FL, GA, AL, NC, SC, LA, MS, VA, and TN, to the facilities of Penn-Dixie Steel Corp., Penn-Dixie Industries, Inc., and Steven Spring, Inc., at or near Jackson, MS. Restriction: Restricted to the transportation of traffic originating at and destined to the named origins and named destinations in parts (1) and (2) above (except traffic moving in foreign commerce).

NOTE.—If a hearing is deemed necessary, applicant requests that this application be consolidated for hearing with the National Trailer Convoy, Inc. application already consolidated with other cases under Docket No. MC 106398 (Sub-No. 777).

No. MC 60014 (Sub-No. 59), filed ———. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, PA 15146. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron, steel, zinc, lead, and articles or products thereof* (except in bulk); *springs; and construction materials, supplies and equipment* (except in bulk), from the facilities of Penn-Dixie Steel Corp., Penn-Dixie Industries, Inc., and Steven Spring, Inc. located at or near Kokomo, Fort Wayne, Cicero, and Elkhart, IN, Centerville, IA, Joliet and Blue Island, IL, Newton, KS, Jackson, MS, Lansing and Grand Rapids, MI, Albuquerque, NM, Toledo and Columbus, OH, and Denver, CO, to points in the United States (except AK and HI) and (2) *materials, supplies and equipment* (except in bulk) used in the manufacture and distribution of commodities named in (1) above, from points in the United States (except AK and HI), to the facilities of Penn-Dixie Steel Corp., Penn-Dixie Industries, Inc., and Steven Spring, Inc. located at or near Kokomo, Fort Wayne, Cicero, and Elkhart, IN, Centerville and Winterset, IA, Joliet and Blue Island, IL, Newton, KS, Jackson, MS, Lansing and Grand Rapids, MI, Albuquerque, NM, Toledo and Columbus, OH, and

Denver, CO. Restriction: Restricted to the transportation of traffic originating at or destined to the named origins and named destinations in parts (1) and (2) above (except traffic moving in foreign commerce).

NOTE.—If a hearing is deemed necessary, applicant requests that this application be consolidated for hearing with the National Trailer Convoy, Inc. application already consolidated with other cases under Docket No. MC 106398 (Sub-No. 777).

No. MC 61592 (Sub-No. 407), filed September 14, 1977. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 737, Moline, IL. Applicant's representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, Indianapolis, IN 46240. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) Iron, steel, zinc, lead, and articles or products thereof (except in bulk), springs, and construction materials, supplies and equipment (except in bulk) from the facilities of Penn-Dixie Steel Corp.; Penn-Dixie Industries, Inc.; and Steven Spring, Inc. at or near Ft. Wayne, Kokomo, Elkhart, and Cicero, IN; Toledo and Columbus, OH; Lansing, MI; Blue Island and Joliet, IL; Centerville IA; and Newton, KS to all points in the United States (except AK and HI) and (2) materials, supplies, and equipment (except in bulk) used in the manufacture and distribution of commodities named in (1) above from points in the United States (except AK and HI) to the facilities of Penn-Dixie Steel Corp.; Penn-Dixie Industries, Inc.; and Steven Spring, Inc. at or near Ft. Wayne, Kokomo, Elkhart, and Cicero, IN; Toledo and Columbus, OH; Lansing, MI; Blue Island and Joliet, IL; Centerville IA; and Newton, KS. Restriction: Restricted to the transportation of traffic originating at and destined to the named origins and named destinations in Parts (1) and (2) above (except traffic moving in foreign commerce).

NOTE.—If a hearing is deemed necessary, applicant requests that this application be consolidated for hearing with the National Trailer Convoy, Inc., application already consolidated with other cases under Docket No. MC 106398 (Sub-No. 777).

No. MC 69397 (Sub-No. 32), filed January 31, 1978. Applicant: JAMES H. HARTMAN & SON, INC., P.O. Box 85, Pocomoke City, MD 21851. Applicant's representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron, steel, zinc, lead,* and *articles or products thereof* (except in bulk); *springs;* and *construction materials, supplies and equipment* (except in bulk), from the facilities of or utilized by Penn-Dixie Industries, Inc., Penn-Dixie Steel Corp., and Stevens Spring, Inc., at or near Lansing and Grand Rapids, MI, Blue Island and Joliet, IL, Kokomo, Fort Wayne, Elkhart, and Cicero, IN, Centerville, IA, Denver, CO, Albuquerque, NM, Jackson, MS, Columbus and Toledo, OH, and Newton, KS, to points in GA, SC, NC, VA, MD, DE, PA, NJ, NY, CT, RI, MA, NH, VT, and ME, and DC; and (2) *materials, supplies and equipment* (except in bulk), used in the manufacture and distribution of the commodities named in (1) above, from points in GA, SC, NC, VA, MD, DE, PA, NJ, NY, CT, RI, MA, NH, VT, ME and DC to the facilities of or utilized by Penn-Dixie Industries, Inc., Penn-Dixie Steel Corp., and Stevens Spring, Inc., at or near Lansing and Grand Rapids, MI, Blue Island and Joliet, IL, Kokomo, Fort Wayne, Elkhart, and Cicero, IN, Centerville, IA, Denver, CO., Albuquerque, NM, Jackson, MS, Columbus, OH, and Newton, KS. Restriction: Restricted to the transportation of traffic originating at and destined to the named origins and destinations in parts (1) and (2) above, except traffic moving in foreign commerce.

NOTE.—If a hearing is deemed necessary, applicant requests that this application be consolidated for hearing with the National Trailer Convoy, Inc. application already consolidated with other cases under Docket No. MC 106398 (Sub-No. 777).

No. MC 73165 (Sub-No. 413), filed August 4, 1977. Applicant: EAGLE MOTOR LINES, INC., 830 North 33rd Street, Birmingham, AL 35202. Applicant's representative: R. Cameron Rollins, 830 North 33rd Street, Birmingham, AL 35202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron, steel, zinc, lead,* and *articles* or *products* thereof (except in bulk); *springs;* and *building* and *construction materials, supplies* and *equipment* (except in bulk), from the facilities of Penn-Dixie Steel Corp., Penn-Dixie Industries, Inc. and Steven Spring, Inc. located at or near Kokomo, IN, Fort Wayne, IN, Cicero, IN, Elkhart, IN, Centerville, IA, Joliet, IL, Blue Island, IL, Newton, KS, Jackson, MS, Lansing, MI, Grand Rapids, MI, Alburquerque, NM, Toledo, OH, Columbus, OH and Denver, CO, to points in AL, AR, FL, GA, KY, KS, LA, MS, MO, NC, OK, PA, SC, TN, TX, VA, AND WV; and (2) *Materials, supplies* and *equipment* (except in bulk) used in the manufacture and distribution of commodities named in (1) above from AL, AR, FL, GA, KY, KS, LA, MS, MO, NC, OK, PA, SC, TN, TX, VA and WV to the facilities of Penn-Dixie Steel Corp., Penn-Dixie Industries, Inc. and Steven Spring, Inc. located at or near Kokomo, IN, Fort Wayne, IN, Cicero, IN, Elkhart, IN, Centerville, IA, Joliet, IL, Blue Island, IL, Newton, KS, Jackson, MS, Lansing, MI, Grand Rapids, MI, Alburquerque, NM, Toledo, OH, Columbus, OH and Denver, CO. Restriction: Restricted to the transportation of traffic originating at and destined to the name origins and named distinations in part (1) and (2) above, except traffic moving in foreign commerce.

NOTE.—If a hearing is deemed necessary, applicant requests that this application be consolidated for hearing with the National Trailer Convoy, Inc. application already consolidated with other cases under Docket No. MC 106398 (Sub-No. 777).

No. MC 74321 (Sub-No. 138), filed December 9, 1977. Applicant: B. F. Walker, Inc., Post Office Box 17-B, Denver, CO 80217. Applicant's representative: Richard P. Kissinger, Steele Park, Suite 330, 50 South Steele Street, Denver, CO 80209. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron, steel, zinc, lead,* and *articles or products thereof* (except in bulk); *springs;* and *construction materials, supplies and equipment* (except in bulk), from facilities of Penn-Dixie Industries, Inc., Penn-Dixie Steel Corp., and Steven Spring, Inc. at or near Lansing and Grand Rapids, MI; Blue Island and Joliet, IL; Kokomo, Fort Wayne, Elkhart and Cicero, IN; Centerville, IA; Denver, CO: Albuquerque, NM; Jackson, MS; Columbus and Toledo, OH; and Newton, KS, to points in the United States, except, AK, CT, HI, ME, MA, NH, NY, RI, and VT; and (2) *Materials, supplies* and *equipment* (except in bulk), used in the manufacture and distribution of commodities named in (1) above, from points in the United States, except AK, CT, HI, ME, MA, NH, NY, RI, and VT, to facilities of Penn-Dixie Industries, Inc., Penn-Dixie Steel Corp., and Steven Spring, Inc., at or near points named in (1) above. Restriction: Restricted to the transportation of traffic originating at and destined to the named origins and named destinations in parts (1) and (2) above, (except traffic moving in foreign commerce).

NOTE.—If a hearing is deemed necessary, applicant requests that this application be consolidated for hearing with the National Trailer Convoy, Inc. application already consolidated with other cases under Docket No. MC 106398 (Sub-No. 777).

No. MC 88380 (Sub-No. 28), filed January 13, 1978. Applicant: REB TRANSPORTATION, INC., P.O. Box 4309, 2400 Cold Springs Road, Fort Worth, TX 76106. Applicant's representative: Jim McHarque, P.O. Box 4309, Fort Worth, TX 76106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron, steel, zinc, lead, and articles or products thereof* (except in bulk), *springs, and*

construction materials, supplies, and equipment (except in bulk), from the facilities of Penn-Dixie Corp., Penn-Dixie Steel Industries, and Steven Spring, Inc., a wholly-owned subsidiary, located at or near Kokomo, IN, Toledo, and Columbus, OH, Lansing and Grand Rapids, MI, Denver, CO, Albuquerque, NM, Centerville, IA, Blue Island and Joliet, IL, Jackson, MS, Cicero, IN, Newton, KS, to all points in U.S. (except AK and HI), (2) *materials, supplies, and equipment* (except in bulk) used in the manufacture and distribution of commodities named in (1) above from all points in the U.S. (except AK and HI), to the facilities of Penn-Dixie Corp., Penn-Dixie Steel Industries, and Steven Spring, Inc., located at or near Kokomo, IN, Toledo and Columbus, OH, Lansing, and Grand Rapids, MI, Denver, CO, Albuquerque, NM, Centerville, IA, Blue Island, and Joliet, IL, Jackson, MS, Cicero, IN, Newton, KS. Restriction: Restricted to the transportation of traffic originating at and destined to the named origins and destinations in parts (1) and (2) above (except traffic moving in foreign commerce). Applicant requests that this application be heard jointly with National Trailer Convoy MC 106398 (Sub-No. 777) and other cases.

No. MC 95876 (Sub-No. 226) (Republication), filed January 13, 1978. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, MN 56301. Applicant's representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Iron, steel, zinc, lead, and articles or products thereof, building materials, construction materials, supplies and equipment* (except in bulk), and *springs* from the facilities of Penn-Dixie Steel Corp., Penn-Dixie Industries, Inc., and Steven Spring, Inc., located at or near Kokomo, Elkhart, Fort Wayne, and Cicero, IN, Toledo and Columbus, OH, Lansing and Grand Rapids, MI, Denver, CO, Albuquerque, NM, Centerville, IA, Blue Island and Joliet, IL, Newton, KS, and Jackson, MS, to all points in the United States (except AK and HI), (2) *materials, supplies, and equipment* (except in bulk) used in the manufacture and distribution of commodities named in (1) above, from points in the United States (except AK and HI), to the facilities of Penn-Dixie Steel Corp., Penn-Dixie Industries, Inc., and Steven Spring, Inc., located at or near Kokomo, Elkhart, Fort Wayne, and Cicero, IN, Toledo and Columbus, OH, Lansing and Grand Rapids, MI, Denver, CO, Albuquerque, NM, Centerville, IA, Blue Island and Joliet, IL, Newton, KS, and in Jackson, MS. Restriction: Restricted to the transportation of traffic originating at and destined to the named origins and named destinations in parts (1) and (2) above, except traffic moving in foreign commerce.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that this application be consolidated for hearing with the National Trailer Convoy, Inc., application already consolidated with other cases under Docket No. MC 106398 (Sub-No. 777).

No. MC 103993 (Sub-No. 901), filed September 12, 1977. Applicant: MORGAN DRIVE-AWAY, INC., 28641 U.S. 20 West, Elkhart, IN 46514. Applicant's representative: Paul D. Borghesani, 28641 U.S. 20 West, Elkhart, IN 46514. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron, steel, zinc, lead, and articles or products thereof* (except in bulk), *springs, and construction materials, supplies, and equipment* (except in bulk), from the facilities of or utilized by Penn-Dixie Industries, Inc., Penn-Dixie Steel Corp., and Steven Spring, Inc., at or near Denver, CO, Blue Island and Joliet, IL, Cicero, Elkhart, Fort Wayne, and Kokomo, IN, Centerville, IA, Newton, KS, Grand Rapids and Lansing, MI, Jackson, MS, Albuquerque, NM, Columbus and Toledo, OK, to points in the States of AL, AR, CO, GA, IL, IN, IA, KS, KY, LA, MD, MI, MS, MO, NE, NJ, NM, NC, OH, OH, PA, SC, TN, TX, VA, WV, and WI, and (2) *materials, supplies, and equipment* (except in bulk) used in the manufacture and distribution of commodities named in (1) above, from points in the States of AL, AR, CO, GA, IL, IN, IA, KS, KY, LA, MD, MI, MS, MO, NE, NJ, NM, NC, OH, OK, PA, SC, TN, TX, VA, WV, WI, to the facilities of or utilized by Penn-Dixie Industries, Inc., Penn-Dixie Steel Corp., and Steven Spring, Inc., located at or near points in (1) above. Restriction: Restricted to the transportation of traffic originating at and destined to the named origins and named destinations in parts (1) and (2) above (except traffic moving in foreign commerce).

NOTE.—If a hearing is deemed necessary, applicant requests that this application be consolidated for hearing with the National Trailer Convoy, Inc., application already consolidated with other cases under Docket No. MC 106398 (Sub-No. 777).

No. MC 105045 (Sub-No. 81F), filed February 10, 1978. Applicant: R. L. JEFFRIES TRUCKING CO., INC., 1020 Pennsylvania Street, Evansville, IN 47701. Applicant's representative: Paul F. Sullivan, 711 Washington Building, Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron, steel, zinc, lead, and articles or products thereof* (except in bulk), *springs, and construction materials, supplies, and equipment* (except in bulk) from the facilities of Penn Dixie Industries, Inc., Penn Dixie Steel Corp., and Steven Spring, Inc., located at or near Lansing and Grand Rapids, MI, Blue Island and Joliet, IL, Kokomo, Fort Wayne, Elkhart, and Cicero, IN, Centerville, IA, Denver, CO, Albuquerque, NM, Jackson, MS, Columbus and Toledo, OH, and Newton, KS, to points in the United States (except AK and HI), and (2) *materials, supplies, and equipment* (except in bulk) used in the manufacture and distribution of commodities named in (1) above, from the destination area named in (1) above, to the specified plant sites and facilities of the described companies. Restriction: Restricted to the transportation of traffic originating at or destined to the named origins and named destinations in parts (1) and (2) above (except traffic moving in foreign commerce).

NOTE.—If a hearing is deemed necessary, applicant requests that this application be consolidated for hearing with the National Trailer Convoy, Inc., application already consolidated with other cases under Docket No. MC 106398 (Sub-No. 777).

No. MC 106398 (Sub-No. 777), filed June 21, 1977. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Applicant's representative: Irvin Tull (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting:

(1) *Iron, steel, zinc, lead, and articles or products thereof* (except in bulk), *springs, and construction materials, supplies and equipment* (except in bulk), from the plantsites and warehouse facilities of Penn-Dixie Steel Corp., Penn-Dixie Industries, and Steven Spring, Inc., located at or near Denver, CO; Newton, KS; Blue Island, IL; Joliet, IL; Cicero, IN; Elkhart, IN; Ft. Wayne, IN; Kokomo, IN; Centerville, IA; Grand Rapids, MI; Lansing, MI; Jackson, MS; Albuquerque, NM; Columbus, OH; and Toledo, OH, to all points in the United States (except AK and HI).

(2) *Materials, supplies and equipment* (except in bulk) used in the manufacture and distribution of commodities named in (1) above, from points in the United States (except AK and HI), to the plantsites and warehouse facilities of Penn-Dixie Steel Corp., Penn-Dixie Industries, and Steven Spring, Inc., located at or near Denver, CO; Newton, KS; Blue Island, IL; Joliet, IL; Cicero, IN; Elkhart, IN; Ft. Wayne, IN; Kokomo, IN; Centerville, IA; Grand Rapids, MI; Lansing, MI; Jackson, MS; Albuquerque, NM; Columbus, OH; and Toledo, OH. Restriction: Restricted to the transportation of traffic originating at and destined to the named origins and named desti-

nations in parts (1) and (2) above (except traffic moving in foreign commerce).

NOTE.—If a hearing is deemed necessary, applicant requests a consolidated hearing with other similar cases.

No. MC 107678 (Sub-No. 65), filed January 6, 1978. Applicant: HILL & HILL TRUCK LINE, INC., P.O. Box 9698, Houston, TX 77015. Applicant's representative: David A. Sutherlund, Fulbright & Jaworski, 1150 Connecticut Avenue NW., Suite 400, Washington, D.C. 20036. Authority is sought to operate as a *common carrier* by motor vehicle, over irregular routes transporting:

(1) (a) *Iron, steel, zinc, lead, and articles or products thereof* (except commodities in bulk), *springs*, and (b) *building and construction materials, supplies, and equipment* (except commodities in bulk), from the plantsites and warehouse facilities of Penn-Dixie Steel Corp., Penn-Dixie Industries, Inc., and Steven Spring, Inc., located at Fort Wayne, Kokomo, Elkhart, and Cicero, IN; Columbus and Toledo, OH; Grand Rapids and Lansing, MI; Blue Island and Joliet, IL; and Newton, KS, to points in the United States (including AK and HI); and

(2) *Materials, supplies and equipment* used in the manufacturing and distribution of the commodities in (1) above (except commodities in bulk), from points in the United States (including AK and HI), to the plantsites and warehouse facilities of Penn-Dixie Steel Corp., Penn-Dixie Industries, Inc., and Steven Spring, Inc., located at Fort Wayne, Kokomo, Elkhart and Cicero, IN; Columbus and Toledo, OH; Grand Rapids and Lansing, MI; Blue Island and Joliet, IL; and Newton, KS.

NOTE.—This application has been consolidated with No. MC-106398 (Sub-No. 777), *National Trailer Convoy, Extension—Penn-Dixie Steel Corp.*, and other related cases. The purpose of this republication is to afford notice of certain amendments which broaden the scope of the authority originally sought.

No. MC 107445 (Sub-No. 15), filed January 31, 1978. Applicant: UNDERWOOD MACHINERY TRANSPORT, INC., 940 West Troy Avenue, Indianapolis, IN 46203. Applicant's representative: Alki E. Scopelitis, 815 Merchants Bank Building, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

(1) *Iron, steel, zinc, lead, and articles or products thereof* (except in bulk); *springs; and construction materials, supplies and equipment* (except in bulk), and

(2) *Materials, supplies and equipment* (except in bulk) used in the manufacture and distribution of commodities named in (1) above, from (A) the plantsites and warehouse facilities of Penn-Dixie Steel Corp., Penn-Dixie Steel Industries, Inc., and Steven Springs, Inc., located at or near Denver, CO., Blue Island, IL, Joliet, IL, Cicero, IN, Elkhart, IN, Fort Wayne, IN, Kokomo, IN, Centerville, IA, West Des Moines, IA, Newton, KS, Grand Rapids, MI, Lansing, MI, Jackson, MS, Albuquerque, NM, Columbus, OH, Toledo, OH, Cabot, PA, and Milwaukee, WI, to points in the United States (except AK and HI) and (B) from points in the United States (except AK and HI) to the plantsites and warehouse facilities of Penn-Dixie Steel Corp., Penn-Dixie Steel Industries, Inc., and Steven Springs, Inc., located at or near Denver, CO, Blue Island, IL, Joliet, IL, Cicero, IN, Elkhart, IN, Fort Wayne, IN, Kokomo, IN, Centerville, IA, West Des Moines, IA, Newton, KS, Grand Rapids, MI, Lansing, MI, Jackson, MS, Albuquerque, NM, Columbus, OH, Toledo, OH, Cabot, PA, and Milwaukee, WI. Restriction: Restricted to the transportation of traffic originating at and destined to the named origins and named destinations in parts (1) and (2) above, except traffic moving in foreign commerce.

NOTE.—If a hearing is deemed necessary, applicant requests that this application be consolidated for hearing with the National Trailer Convoy, Inc., application already consolidated with other cases under Docket No. MC 106398 (Sub-No. 777).

No. MC 107678 (Sub-No. 65), filed: January 6, 1978. Applicant: HILL & HILL TRUCK LINE, INC., P.O. Box 9698, Houston, TX 77015. Applicant's representative: David A. Sutherlund, 1150 Connecticut Avenue NW., Suite 400, Washington, DC 20036. Authority is sought to operate as a *common carrier* by motor vehicle, over irregular routes transporting: (1) (a) *Iron, steel, zinc, lead, and articles or products thereof* (except commodities in bulk), *springs*, and (b) *building and construction materials, supplies, and equipment* (except commodities in bulk), from the plantsites and warehouse facilities of Penn-Dixie Steel Corp., Penn-Dixie Industries, Inc., and Steven Spring, Inc., located at Fort Wayne, Cicero, Elkhart, and Kokomo, IN, Columbus and Toledo, OH, Grand Rapids and Lansing, MI, Blue Island and Joliet, IL, and Newton, KS, to points in the United States (including AK and HI); and

(2) *Materials, supplies and equipment* used in the manufacturing and distribution of the commodities in (1) above (except commodities in bulk), from points in the United States (including AK and HI), to the plantsites and warehouse facilities of Penn-Dixie Steel Corp., Penn-Dixie Industries, Inc., and Steven Spring, Inc., located at Ft. Wayne, Kokomo, Elkhart, and Cicero, IN, Columbus and Toledo, OH, Grand Rapids and Lansing, MI, Blue Island and Joliet, IL, and Newton, KS.

NOTE.—This application has been consolidated with No. MC 106398 (Sub-No. 777), National Trailer Convoy, Extension—Penn-Dixie Steel Corp., and other related cases. The purpose of this republication is to afford notice of certain amendments which broaden the scope of the authority originally sought.

No. MC 108341 (Sub-No. 72) filed October 21, 1977. Applicant: MOSS TRUCKING CO., INC., 3027 North Tryon Street, P.O. Box 8409, Charlotte, NC 28208. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. Authority is sought to operate as a *common carrier* by motor vehicle, over irregular routes transporting: (1) *Iron, steel, zinc, lead, and articles or products thereof* (except in bulk); *springs and construction materials, supplies, and equipment* (except in bulk), from the plantsites and warehouse facilities of Penn-Dixie Steel Corp., Penn-Dixie Industries, Inc., and Steven Spring, Inc., located at or near Jackson, MS, and Fort Wayne, Cicero, Elkhart, and Kokomo, IN, Columbus and Toledo, OH, Grand Rapids and Lansing, MI, Blue Island and Joliet, IL, and Newton, KS, to points in AL, FL, GA, NC, SC, VA, and WV, and

(2) *Materials, supplies, and equipment* (except in bulk) used in the manufacture and distribution of commodities named in (1) above, from points in AL, FL, GA, NC, SC, VA, and WV, to the plantsites and warehouse facilities of Penn-Dixie Steel Corp., Penn-Dixie Industries, Inc., and Steven Spring, Inc., located at or near Jackson, MC, Fort Wayne, Cicero, Elkhart, and Kokomo, IN, Columbus and Toledo, OH, Grand Rapids and Lansing, MI, Blue Island and Joliet, IL, and Newton, KS. Restriction: Restricted to the transportation of traffic originating at and destined to the named origins and named destinations in parts (1) and (2) above, except traffic moving in foreign commerce.

NOTE.—Common control may be involved. If a hearing is deemed, necessary, applicant requests that this application be consolidated for hearing with the National Trailer Convoy, Inc., application already consolidated with other cases under Docket No. MC 106398 (Sub-No. 777).

No. MC 109397 (Sub-No. 373) (Republication), filed November 18, 1977. Applicant: TRI-STATE MOTOR TRANSIT CO., a corporation, P.O. Box 113, Joplin, MO 64801. Applicant's representative: A. N. Jacobs (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting:

(1) *Iron, steel, zinc, lead, and articles or products thereof* (except in bulk); *springs and construction materials, supplies, and equipment* (except in bulk), from the facilities of Penn-Dixie Steel Corp., located at or near Albu-

querque, NM, Denver, CO, Blue Island and Joliet, IL, Grand Rapids and Lansing, MI, Newton, KS, Toledo and Columbus, OH, Winterset and Centerville, IA, Fort Wayne, Kokomo, Elkhart, and Cicero, IN, and Jackson, MS, to points in the United States (except AK and HI); and

(2) *Materials, supplies, and equipment* (except in bulk), used in the manufacture and distribution of commodities named in (1) above, from points in the United States (except AK and HI), to the facilities of Penn-Dixie Steel Corp., located at or near Albuquerque, NM, Denver, CO, Blue Island and Joliet, IL, Grand Rapids and Lansing, MI, Newton, KS, Toledo and Columbus, OH, Winterset and Centerville, IA, Fort Wayne, Kokomo, Elkhart, and Cicero, IN, and Jackson, MS. Restriction: Restricted to the transportation of traffic originating at and destined to the named origins and named destinations in parts (1) and (2) above, except traffic moving in foreign commerce.

NOTE.—If a hearing is deemed necessary, applicant requests that this application be consolidated for hearing with the National Trailer Convoy, Inc., application already consolidated with other cases under Docket No. MC 106398 (Sub-No. 777). Common control may be involved.

No. MC 114211, (Sub-No. 340), filed January 11, 1978. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Applicant's representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, Indianapolis, IN 46240. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting:

(1) *Iron, steel, zinc, lead, and articles or products thereof* (except in bulk); *springs and construction materials, equipment, and supplies* (except in bulk) from the facilities of Penn-Dixie Steel Corp., Penn-Dixie Industries, Inc., and Steven Spring, Inc., at or near Ft. Wayne, Kokomo, Elkhart, and Cicero, IN, Toledo and Columbus, OH, Lansing, MI, Blue Island and Joliet, IL, Centerville, IA, and Newton, KS, to all points in the United States (except AK and HI), and

(2) *Materials, supplies, and equipment* (except in bulk) used in the manufacture and distribution of commodities named in (1) above from points in the United States (except AK and HI), to the facilities of Penn-Dixie Steel Corp., Penn-Dixie Industries, Inc., and Steven Spring, Inc., at or near Ft. Wayne, Kokomo, Elkhart, and Cicero, IN, Toledo and Columbus, OH, Lansing, MI, Blue Island and Joliet, IL, Centerville, IA, and Newton, KS. Restriction: Restricted to the transportation of traffic originating at and destined to the named origins and named destinations in parts (1) and (2) above, except traffic moving in foreign commerce.

NOTE.—If a hearing is deemed necessary, applicant requests that this application be consolidated for hearing with the National Trailer Convoy, Inc., application already consolidated with other cases under Docket No. MC 106398 (Sub-No. 777).

No. MC 114552 (Sub-No. 141), filed September 29, 1977. Applicant: SENN TRUCKING CO., a corporation, P.O. Drawer 220, Newberry, SC 29108. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting:

(1) *Iron, steel, zinc, lead, and articles or products thereof,* (except in bulk); *springs; and construction materials, supplies and equipment* (except in bulk), from the facilities of or utilized by Penn-Dixie Industries, Inc., Penn-Dixie Steel Corp., and Steven Spring, Inc., at or near Denver, CO, Blue Island and Joliet, IL, Cicero, Elkhart, Fort Wayne and Kokomo, IN, Centerville, IA, Newton, KS, Grand Rapids and Lansing, MI, Jackson, MS, Albuquerque, NM, Columbus and Toledo, OH, to points in the United States in and East of ND, SD, NE, OK, TX, CO, and NM; and,

(2) *Materials, supplies and equipment* (except in bulk) used in the manufacture and distribution of commodities named in (1) above, from points in the United States in and east of ND, SD, NE, OK, TX, CO, and NM, to the facilities of or utilized by Penn-Dixie Industries, Inc., Penn-Dixie Steel Corp., and Steven Spring, Inc., located at or near points in (1) above. Restriction: Restricted to the transportation of traffic originating at and destined to the named origins and named in parts (1) and (2) above, except traffic moving in foreign commerce.

NOTE.—If a hearing is deemed necessary, applicant requests that this application be consolidated for hearing with the National Trailer Convoy, Inc., application already consolidated with other cases under Docket No. MC 106398 (Sub-No. 777).

No. MC 114596 (Sub-No. 70), filed October 27, 1977. Applicant: LUMBER TRANSPORT, INC., P.O. Box 111, Cochran, GA 31014. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting:

(1) *Iron, steel, zinc, lead, and articles or products thereof,* (except in bulk); *springs; and construction materials, supplies and equipment* (except in bulk), from the facilities of or utilized by Penn-Dixie Industries, Inc., Penn-Dixie Steel Corp., and Steven Spring, Inc., at or near Denver, CO, Blue Island and Joliet, IL, Cicero, Elkhart, Fort Wayne and Kokomo, IN, Centerville, IA, Newton, KS, Grand Rapids and Lansing, MI, Jackson, MS, Albuquerque, NM, Columbus and Toledo, OH, to points in the United States in and East of ND, SD, NE, OK, TX, CO, and ND; and,

(2) *Materials, supplies and equipment* (except in bulk) used in the manufacture and distribution of commodities named in (1) above, from points in the United States in and east of ND, SD, NE, OK, TX, CO, and NM, to the facilities of or utilized by Penn-Dixie Industries, Inc., Penn-Dixie Steel Corp., and Steven Spring, Inc., located at or near points in (1) above. Restriction: Restricted to the transportation of traffic originating at and destined to the named origins and named in parts (1) and (2) above, except traffic moving in foreign commerce.

NOTE.—If a hearing is deemed necessary, applicant requests that this application be consolidated for hearing with the National Trailer Convoy, Inc., application already consolidated with other cases under Docket No. MC 106398 (Sub-No. 777).

No. MC 115311 (Sub-No. 258) (Amendment), filed December 13, 1977. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: (1) *Iron, steel, zinc, lead, and articles or products thereof* (except in bulk), *springs, and construction materials, supplies, and equipment* (except in bulk), from the facilities of Penn-Dixie Industries, Inc., Penn-Dixie Steel Corp., and Steven Spring, Inc., at or near Lansing and Grand Rapids, MI, Joliet, IL, Kokomo, Fort Wayne, Elkhart, and Cicero, IN, Centerville, IA, Denver, CO, Albuquerque, NM, Jackson, MS, Columbus, and Toledo, OH, and Newton, KS, to points in the U.S. in and east of ND, SD, NE, CO, NM (except ME, VT, and NH), (2) *materials, supplies, and equipment* (except in bulk) used in the manufacture and distribution of commodities named in (1) above, from points in the U.S. in and east of ND, SD, NE, CO, NM (except ME, VT, and NH) to the facilities of Penn-Dixie Industries, Inc., Penn-Dixie Steel Corp., and Steven Spring, Inc., at or near Lansing and Grand Rapids, MI, Joliet, IL, Kokomo, Fort Wayne, Elkhart, and Cicero, IN, Centerville, IA, Denver, CO, Albuquerque, NM, Jackson, MS, Columbus, OH, Toledo, OH, and Newton, KS. (3) Restriction: Restricted to the transportation of traffic originating at and destined to the named origins and named destinations in parts (1) and (2) above, except traffic moving in foreign commerce.

NOTE.—If a hearing is deemed necessary, applicant requests that this application be

consolidated for hearing with the National Trailer Convoy, Inc., application already consolidated with other cases under Docket No. MC 106398 (Sub-No. 777).

No. MC 115904 (Sub-No. 92), filed January 30, 1978. Applicant: GROVER TRUCKING CO., a corporation, 1710 West Broadway, Idaho Falls, ID 83401. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. Applicant seeks authority to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: (1) *Iron, steel, zinc, lead and articles or products thereof* (except in bulk), *springs, and construction materials, supplies, and equipment* (except in bulk) from the facilities of Penn-Dixie Steel Corp., Penn-Dixie Industries, Inc., and Steven Springs, Inc., located at or near Denver, CO, Blue Island and Joliet, IL, Cicero, Elkhart, Fort Wayne, and Kokomo, IN, Centerville, IA, Newton, KS, Grand Rapids and Lansing, MI, Jackson, MS, Albuquerque, NM, Columbus and Toledo, OH, to points in the United States in and west of LA, AR, MO, IL, and WI (except AK and HI, and (2) *materials, supplies, and equipment* (except in bulk) used in the manufacture and distribution of commodities named in (1) above from points in the United States in and west of LA, AR, MO, IL, and WI (except AK and HI) to the origin points named in (1) above. Restriction: Restricted to the transportation of traffic originating at and destined to the named origins and named destinations in parts (1) and (2) above, except traffic moving in foreign commerce.

NOTE.—Common control may be involved. Applicant requests that this application be consolidated for hearing with the National Trailer Convoy, Inc., application already consolidated with other cases under Docket No. MC 106398 (Sub-No. 777).

No. MC 116915 (Sub-No. 39), filed September 29, 1977. Applicant: ECK MILLER TRANSPORTATION CORP., 2015 Alsop Lane, P.O. Box 1279, Owensboro, KY 42301. Applicant's representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron, steel, zinc, lead, and articles or products thereof* (except in bulk), *springs, and construction materials, supplies, and equipment* (except in bulk), from the facilities of Penn-Dixie Steel Corp., Penn-Dixie Industries, Inc., and Steven Spring, Inc., located at or near Kokomo, Fort Wayne, Cicero, and Elkhart, IN, Centerville, IA, Joliet and Blue Island, IL, Newton, KS, Jackson, Lansing, and Grand Rapids, MI, Albuquerque, NM, Toledo and Columbus, OH, and Denver, CO, to points in the United States in and east of ND, SD, NE, CO, and NM, and (2) *materials, supplies, and equipment* (except in bulk) used in the manufacture and distribution of commodities named in (1) above, from points in the United States in and east of ND, SD, NE, CO, and NM, to the facilities of Penn-Dixie Steel Corp., Penn-Dixie Industries, Inc., and Steven Spring, Inc., located at or near Kokomo, Fort Wayne, Cicero, and Elkhart, IN, Centerville and Winterset, IA, Joliet and Blue Island, IL, Newton, KS, Jackson, MS, Lansing and Grand Rapids, MI, Albuquerque, NM, Toledo and Columbus, OH, and Denver, CO. Restriction: Restricted to the transportation of traffic originating at and destined to the named origins and named destinations in parts (1) and (2) above, except traffic moving in foreign commerce.

NOTE.—If a hearing is deemed necessary, applicant requests that this application be consolidated for hearing with the National Trailer Convoy, Inc., application already consolidated with other cases under Docket No. MC 106398 (Sub-No. 777).

No. MC 119522 (Sub-No. 35), filed November 14, 1977. Applicant: McLAIN TRUCKING, INC., 2425 Walton Street, P.O. Box 2159, Anderson, IN 46011. Applicant's representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, Indianapolis, IN 46240. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

(1) *Iron, steel, zinc, lead, and articles or products thereof* (except in bulk), *springs and construction materials, supplies, and equipment* (except in bulk) from the facilities of Penn-Dixie Steel Corp., Penn-Dixie Industries, Inc., and Steven Spring, Inc., at or near Fort. Wayne, Kokomo, Elkhart, and Cicero, IN, Toledo and Columbus, OH, Lansing, MI, Blue Island and Joliet, IL, Centerville, IA, and Newton, KS, to points in IN, OH, MI, MO, IL, WI, KY, and IA, and

(2) *Materials, supplies, and equipment* (except in bulk) used in the manufacture and distribution of commodities named in (1) above from points in IN, OH, MI, MO, IL, WI, KY, and IA, to the facilities of Penn-Dixie Steel Corp., Penn-Dixie Industries, Inc., and Steven Spring, Inc., at or near Fort Wayne, Kokomo, Elkhart, and Cicero, IN, Toledo and Columbus, OH, Lansing, MI, Blue Island and Joliet, IL, Centerville, IA, and Newton, KS. Restriction: Restricted to the transportation of traffic originating at and destined to the named origins and named destinations in parts (1) and (2) above, except traffic moving in foreign commerce.

NOTE.—If a hearing is deemed necessary, applicant requests that this application be consolidated for hearing with the National Trailer Convoy, Inc., application already consolidated with other cases under Docket No. MC 106398 (Sub-No. 777).

No. MC 119656 (Sub-No. 35), filed October 17, 1977. Applicant: NORTH EXPRESS, INC., 219 East Main Street, Winamac, IN 46996. Applicant's representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, Indianapolis, IN 464240. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

(1) *Iron, steel, zinc, lead, and articles or products thereof* (except in bulk), *springs, and construction materials, supplies, and equipment* (except in bulk) from the facilities of Penn-Dixie Steel Corp., Penn-Dixie Industries, Inc., and Steven Spring, Inc., at or near Fort Wayne, Kokomo, Elkhart, and Cicero, IN, Toledo and Columbus, OH, Lansing, MI, Blue Island and Joliet, IL, Centerville, IA, and Newton, KS, to all points in the United States (except AK and HI), and

(2) *Materials, supplies, and equipment* (except in bulk) used in the manufacture and distribution of commodities named in (1) above from points in the United States (except AK and HI), to the facilities of Penn-Dixie Steel Corp, Penn-Dixie Industries, Inc., and Steven Spring, Inc., at or near Fort Wayne, Kokomo, Elkhart, and Cicero, IN, Toledo and Columbus, OH, Lansing, MI, Blue Island and Joliet, IL, Centerville, IA, and Newton, KS. Restriction: Restricted to the transportation of traffic originating at and destined to the named origins and named destinations in parts (1) and (2) above, except traffic moving in foreign commerce.

NOTE.—If a hearing is deemed necessary, applicant requests that this application be consolidated for hearing with the National Trailer Convoy, Inc., application already consolidated with other cases under Docket No. MC 106398 (Sub-No. 777).

No. MC 120257 (Sub-No. 43F), filed February 17, 1978. Applicant: K. L. BREEDEN & SONS, INC., 401 Alamo Street, Terrell, TX 75160. Applicant's representative: Mr. Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting:

(1) *Iron, steel, zinc, lead, and articles or products thereof* (except in bulk); *springs and construction materials, supplies, and equipment* (except in bulk), from the facilities of or utilized by Penn-Dixie Industries, Inc., Penn-Dixie Steel Corp., and Steven Spring, Inc., at or near Denver, CO, Blue Island, IL, Joliet, IL, Cicero, IN, Elkhart, IN, Fort Wayne, IN, Kokomo, IN, Centerville, IA, Newton, KS, Grand Rapids, MI, Lansing, MI, Jackson, MS, Albuquerque, NM, Toledo, OH, and Columbus, OH, to points in AL, AR, CO, FL, GA, IL, IN, IA, KS, KY, LA, MI, MS, MO, MT, NM, OH, OK, TN, TX, UT, and WY; and

(2) *Materials, supplies, and equipment* (except in bulk), used in the manufacture and distribution of com-

modities named in part (1) above, from points in destination states named in part (1) above, to facilities of or utilized by Penn-Dixie Industries, Inc., Penn-Dixie Steel Corp., and Steven Spring, Inc., at or near the origin points named in part (1) above. Restriction: Restricted to the transportation of shipments originating at and destined to the named origins and named destinations in parts (1) and (2) above, except traffic moving in foreign commerce.

NOTE.—If a hearing is deemed necessary, applicant requests that this application be consolidated for hearing with the National Trailer Convoy, Inc., application already consolidated with other cases under Docket No. MC 106398 (Sub-No. 777).

No. MC 123407 (Sub-No. 400) (Amendment), filed August 29, 1977. Previously noticed in the FEDERAL REGISTER of October 6, 1977, and January 12, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

(1) *Iron, steel, zinc, lead, and articles or products thereof* (except in bulk); *springs and construction materials, supplies, and equipment* (except in bulk) from the facilities of Penn-Dixie Industries, Inc., Penn-Dixie Steel Corp., and Steven Spring, Inc., at or near Albuquerque, NM, Denver, CO, Blue Island and Joliet, IL, Grand Rapids and Lansing, MI, Toledo and Columbus, OH, Centerville, IA, Fort Wayne, Kokomo, Cicero, and Elkhart, IN, Jackson, MS, and Newton, KS, to points in the United States (except AK and HI), restricted against the transportation of iron and steel articles from Joliet, IL, to points in KS, MN, NE, and SD, and against the transportation of iron and steel articles from Kokomo, IN, to points in DE, KY, LA, MI, MN, MS, MO, ND, PA, SD, TX, WV, and WI; and

(2) *Materials, supplies, and equipment* (except in bulk) used in the manufacture and distribution of commodities named in (1) above from points in the United States (except AK and HI) to the origin points named in part (1) above. Restricted to the transportation of traffic originating at and destined to the named origins and named destinations in part (1) and (2) above, except traffic moving in foreign commerce.

NOTE.—If a hearing is deemed necessary, applicant requests that this application be consolidated for hearing with the National Trailer Convoy, Inc., application already consolidated with other cases under Docket No. MC 106398 (Sub-No. 777).

No. MC 124692 (Sub-No. 188), filed December 20, 1977. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT 59806. Applicant's representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, Indianapolis, IN 46240. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting:

(1) *Iron, steel, zinc, lead, and articles or products thereof* (except in bulk), *springs and construction materials, supplies, and equipment* (except in bulk) from the facilities of Penn-Dixie Steel Corp., Penn-Dixie Industries, Inc., and Steven Spring, Inc., at or near Fort Wayne, Kokomo, Elkhart, and Cicero, IN, Toledo and Columbus, OH, Lansing, MI, Blue Island and Joliet, IL, Centerville, IA, and Newton, KS, to all points in the United States (except AK, HI, ME, VT, NH, MA, CT, DC, NJ, NY, DE, MD, WV, VA, NC, TN, SC, GA, AL, MS, and FL), and

(2) *Materials, supplies, and equipment* (except in bulk) used in the manufacture and distribution of commodities named in (1) above from points in the United States (except AK, HI, ME, VT, NH, MA, CT, DC, NJ, NY, DE, MD, WV, VA, NC, TN, SC, GA, AL, MS, and FL, to the facilities of Penn-Dixie Steel Corp., Penn-Dixie Industries, Inc., and Steven Spring, Inc., at or near Fort Wayne, Kokomo, Elkhart, and Cicero, IN, Toledo and Columbus, OH, Lansing, MI, Blue Island and Joliet, IL, Centerville, IA, and Newton, KS. Restriction: Restricted to the transportation of traffic originating at and destined to the named origins and named destinations in parts (1) and (2) above, except traffic moving in foreign commerce.

NOTE.—If a hearing is deemed necessary, applicant requests that this application be consolidated for hearing with the National Trailer Convoy, Inc., application already consolidated with other cases under Docket No. MC 106398 (Sub-No. 777).

No. MC 124947 (Sub-No. 63) (republication), filed July 26, 1977, published in the FEDERAL REGISTER issue September 1, 1977 and republished this issue. Applicant: MACHINERY TRANSPORTS, INC., 1945 South Redwood Road, Salt Lake City, UT 84104. Applicant's representative: David J. Lister, 1945 South Redwood Road, Salt Lake City, UT 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron, steel, zinc, lead, and articles or products thereof* (except in bulk); *springs; and construction materials, supplies and equipment* (except in bulk); other than self-propelled, from the facilities of the Penn-Dixie Steel Corp., Penn-Dixie Industries, Inc. and Steven Spring, Inc., located at or near Cicero, Kokomo, Fort Wayne, Elkhart, IN, Toledo and Columbus, OH, Newton, KS, Lansing and Grand Rapids, MI, Denver, CO, Albuquerque, NM, Centerville, IA, Blue Island and Joliet, IL, and Jackson, MS, to points in the United States (except AK and HI), (2) *Materials, supplies and equipment* (except in bulk) used in the manufacture and distribution of commodities named in (1) above, from points in the United States (except AK and HI) to the facilities of Penn-Dixie Steel Corp., Penn-Dixie Industries, Inc. and Steven Spring, Inc., located at or near Cicero, Kokomo, Fort Wayne, Elkhart, IN, Toledo and Columbus, OH, Newton, KS, Lansing and Grand Rapids, MI, Denver, CO, Albuquerque, NM, Centerville, IA, Blue Island and Joliet, IL, and Jackson, MS.

NOTE.—The purpose of this republication is to indicate "springs" in the commodity description and add the origin points of Cicero and Elkhart, IN and Newton, KS, and to delete the commodity description "curing compounds" and "building materials" in (1) and to add the destination cities of Kokomo and Cicero, IN and Newton, KS in (2), and to further clarify that the shipments are restricted to transportation originating or destined to the named origins and named destinations in parts (1) and (2) above. If a hearing is deemed necessary, applicant requests that this application be consolidated for hearing with the National Trailer Convoy, Inc. application already consolidated with other cases under No. MC 106398 (Sub-No. 777).

No. MC 127625 (Sub-No. 27F), filed February 21, 1978. Applicant: SANTEE CEMENT, P.O. Box 638, Holly Hill, SC 29059. Applicant's representative: Frank B. Hand, Jr., P.O. Drawer C, Berryville, VA 22611. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron, steel, zinc, lead, and articles or products thereof* (except in bulk); *springs; and construction materials, supplies and equipment* (except in bulk), from the facilities of Penn-Dixie Steel Corp., Penn-Dixie Industries, Inc., and Steven Spring, Inc., located at or near Cicero, Elkhart, Ft. Wayne and Kokomo, IN, Blue Island and Joliet, IL, Grand Rapids and Lansing, MI, Jackson, MS, and Columbus and Toledo, OH, to points in GA, NC and SC, and (2) *materials, supplies and equipment* (except in bulk) used in the manufacture and distribution of commodities named in (1) above, from points in GA, NC and SC, to Cicero, Elkhart, Ft. Wayne and Kokomo, IN, Blue Island and Joliet, IL, Grand Rapids and Lansing, MI, Jackson, MS, and Columbus and Toledo, OH. Restriction: Restricted to the transportation of traffic originating at and destined to the named origins and destinations in parts (1) and (2) above, (except traffic moving in foreign commerce).

NOTE.—If a hearing is deemed necessary, applicant requests that this application be consolidated for hearing with the National Trailer Convoy, Inc. application already consolidated with other cases under Docket No. MC 106398 (Sub-No. 777).

No. MC 136315 (Sub-No. 26) (amendment) (correction,) filed January 3, 1978, published in the FEDERAL REGISTER issue of January 19, 1978, and republished as corrected and amended, this issue. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 22-A, Philadelphia, MS 39350. Applicant's representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Authority is sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: (1) *Iron, steel, zinc, lead, and articles or products thereof* (except in bulk); *springs; and construction materials, supplies and equipment* (except in bulk), from the facilities of Penn-Dixie Industries, Inc., Penn-Dixie Steel Corp., and Steven Spring, Inc., located at or near Lansing and Grand Rapids, MI, Blue Island and Joliet, IL, Kokomo, Fort Wayne, Elkhart, and Cicero, IN, Centerville, IA, Jackson, MS, Columbus and Toledo, OH and Newton, KS to points in AL, AR FL, GA, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, NC, OK, PA, SC, TN, TX, VA, WI and WV; and (2) *Materials, supplies and equipment* (except in bulk) used in the manufacture and distribution of commodities named in (1) above, from points in AL AR, FL, GA, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, NC, OK, PA, SC, TN, TX, VA, WI, and WV to the facilities of Penn-Dixie Industries, Inc., Penn-Dixie Steel Corp. and Steven Spring, Inc., located at or near Lansing and Grand Rapids, MI, Blue Island and Joliet, IL, Kokomo, Fort Wayne, Elkhart and Cicero, IN, Centerville, IA, Jackson, MS, Columbus and Toledo, OH and Newton, KS. Restriction: Restricted to the transportation of traffic originating at and destined to the named origins and named destinations in parts (1) and (2) above, except traffic moving in foreign commerce.

NOTE.—Applicant states that it holds contract carrier authority in Docket No. MC-123905 and Sub numbers thereunder. Therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests that this application be consolidated for hearing with the National Trailer Convoy, Inc. application already consolidated with other cases under Docket No. MC 106398 (Sub-No. 777). The purpose of this republication is to correct the Docket No. as MC 136315 (Sub-No. 26) in lieu of MC 144126 and to amend the requested authority.

No. MC-138144 (Sub-No. 25), filed November 22, 1977, originally published in the FEDERAL REGISTER issue of January 19, 1978. Applicant: FRED OLSON CO., INC., 6022 West State Street, Milwaukee, WI 53213. Applicant's representative: Paul R. Bergant, Esq., Singer & Sullivan, P.C., 10 South LaSalle Street, Suite 1600, Chicago, IL 60603. Authority is sought to operate as a *common carrier* by motor vehicle, over irregular routes transporting: (1) *Iron, steel, zinc, lead, and articles or products thereof* (except in bulk), *springs; and construction materials, supplies and equipment* (except in bulk), from the facilities of Penn-Dixie Steel Corp., Penn-Dixie Industries, Inc. and its wholly owned subsidiary Steven Spring, Inc. located at or near Ft. Wayne, Kokomo, Elkhart and Cicero, IN, Toledo and Columbus, OH, Lansing and Grand Rapids, MI, Denver, CO, Albuquerque, NM, Centerville, IA, Blue Island and Joliet, IL, Jackson, MS, and Newton, KS, to points in the United States (except AK and HI); (2) *Materials, supplies and equipment* (except in bulk) used in the manufacture and distribution of commodities named in (1) above, from points in the United States (except AK and HI) to the facilities of Penn-Dixie Steel Corp., Penn-Dixie Industries, Inc. and its wholly owned subsidiary Steven Spring located at or near Ft. Wayne, Kokomo, Elkhart and Cicero, IN, Toledo and Columbus, OH, Lansing and Grand Rapids, MI, Denver, CO, Albuquerque, NM, Centerville, IA, Blue Island and Joliet, IL, Jackson, MS, and Newton, KS. Restriction: Restricted to the transportation of traffic originating at and destined to the named origins and named destinations in parts (1) and (2) above, except traffic moving in foreign commerce.

NOTE.—If a hearing is deemed necessary, applicant requests that this application be consolidated for hearing with the National Trailer Convoy, Inc. application already consolidated with other cases under Docket No. MC 106398 (Sub-No. 777).

No. MC 138741 (Sub-No. 42) (republication), filed December 21, 1977. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 North Broadway, Joliet, IL 60435. Applicant's representative: Tom B. Kretsinger, 910 Brookfield Building, 101 West Eleventh Street, Kansas City, MO 64105. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Iron, steel, zinc, lead,* and articles or products thereof (except in bulk); *springs;* and *construction materials, supplies and equipment* (except in bulk) from the facilities of Penn-Dixie Steel Corp. at or near Denver, CO, Blue Island and Joliet, IL, Grand Rapids and Lansing, MI, Newton, KS, Toledo and Columbus, OH, Winterset and Centerville, IA, Fort Wayne, Kokomo, Elkhart and Cicero, IN, and Jackson, MS to points and places in the States of AL, AR, CO, GA, IL, IN, IA, KS, KY, LA, MI, MS, MN, MO, NE, ND, OH, OK, PA, SD, TN, TX and WI, and (2) *Materials, supplies and equipment* (except in bulk) used in the manufacture and distribution of commodities named in (1) above, from points and places in the above destination States to the facilities of Penn-Dixie Steel Corp. at the above-named points. Restriction: Restricted to the transportation of traffic originating at and destined to the named origins and named destinations in parts (1) and (2) above, except traffic moving in foreign commerce.

NOTE.—If a hearing is deemed necessary, applicant requests that this application be consolidated for hearing with the National Trailer Convoy, Inc. application already consolidated with other cases under Docket No. MC 106398 (Sub-No. 777).

No. MC 139615 (Sub-No. 9), filed November 21, 1978. Applicant: D.R.S. TRANSPORT, INC., P.O. Box 29, Oskaloosa, IA 52577. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Iron, steel, zinc, lead,* and *articles or products thereof* (except in bulk); springs; and construction materials, supplies and equipment (except in bulk), from the facilities of or utilized by Penn-Dixie Steel Corp., Penn-Dixie Industries, Inc., and Steven Spring, Inc., at or near Lansing and Grand Rapids, MI; Blue Island and Joliet, IL; Kokomo, Fort Wayne, Cicero, and Elkhart, IN; and Columbus and Toledo, OH, to points in AZ, CA, CO, ID, IL, IN, IA, KS, MI, MN, MO, MT, NE, NV, NM, ND, OH, OK, OR, SD, UT, WA, WI, and WY, from the facilities of or utilized by Penn-Dixie Steel Corp., Penn-Dixie Industries, Inc. and Steven Spring, Inc., at or near Denver, CO; Albuquerque, NM; Newton, KS; and Centerville, IA, to points in AZ, CA, CO, ID, IL, IN, IA, KS, MI, MN, MO, MT, NE, NV, NM, ND, NJ, NY, OH, OK, OR, PA, SD, UT, WA, WI, and WY. (2) Materials, supplies and equipment (except in bulk) used in the manufacture and distribution of commodities named in (1) above, from points in the destination States named in (1) above to the facilities of or utilized by Penn-Dixie Steel corp., Penn-Dixie Industries, Inc. and Steven Spring, Inc., at or near Lansing and Grand Rapids, MI; Blue Island and Joliet, IL; Kokomo, Fort Wayne, Cicero, and Elkhart, IN; Columbus and Toledo, OH; Denver, CO; Albuquerque, NM; Newton, KS; and Centerville, IA. Restriction: Restricted to the transportation of traffic originating at and destined to the named origins and named destinations in parts (1) and (2) above, except traffic moving in foreign commerce.

NOTE.—If a hearing is deemed necessary, applicant requests that this application be consolidated for hearing with the National Trailer Convoy, Inc. application already consolidated with other cases under Docket No. 106398 (Sub-No. 777).

No. Mc. 142059 (Sub-No. 15), filed January 3, 1978. (Republished this

issue to amend the application by enlarging the commodity description and restricting the territorial scope). Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, P.O. Box 911, Joliet, IL 60436. Applicant's representative: Fred H. Daly, Esquire, Farrell and Daly, 1725 K Street, NW., Suite 1009, Washington, DC 20006. Amended application: Applicant seeks to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron, steel, zinc, lead,* and *articles or products thereof* (except in bulk); springs; and construction materials, supplies and equipment (except in bulk) from the plant sites and warehouse facilities of Penn-Dixie Industries, Inc., Penn-Dixie Steel Corp., and Steven Spring, Inc. located at or near Lansing, MI; Grand Rapids, MI; Blue Island, IL; Joliet, IL; Kokomo, IN; Fort Wayne, IN: Elkhart, IN; Cicero, IN; Centerville, IA; Denver, CO; Albuquerque, NM; Jackson, MS; Columbus, OH; Toledo, OH; and Newton, KS; to points in the United States and, (2) Materials, supplies and equipment (except in bulk) used in the manufacture and distribution of commodities named in (1) above, from points in the United States to the plant sites and warehouse facilities of Penn-Dixie Industries, Inc., Penn-Dixie Steel Corp. and Steven Spring, Inc., located at or near, Lansing, MI; Grand Rapids, MI; Blue Island, IL; Joliet, IL; Kokomo, IN; Fort Wayne, IN: Elkhart, IN; Cicero, IN; Centerville, IA; Denver, CO; Albuquerque, NM; Jackson, MS; Columbus, OH; Toledo, OH; and Newton, KS. Restriction: Restricted to the transportation of traffic origination at and destined to the named origins and named destinations in parts (1) and (2) above, except traffic moving in foreign commerce.

NOTE.—If a hearing is deemed necessary, applicant requests that this application be consolidated for hearing with the National Trailer Convoy, Inc. application already consolidated with other cases under Docket No. MC 106398 (Sub-No. 777).

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-9888 Filed 4-12-78; 8:45 am]

[7035-01]

[Notice No. 633]

ASSIGNMENT OF HEARINGS

APRIL 10, 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-F-13300, Stevens Van Lines, Inc.—Control and merger—Airline Van, Inc.; MC 74681 (Sub-No. 6), Stevens Van Lines, Inc. and MC 74681 (Sub-No. 7), Stevens Van Lines, Inc., now assigned May 9, 1978, at Detroit, Mich., will be held in the 13th Courtroom, second floor, Old Federal Building and U.S. Courthouse, 231 West Liberty.

MC 73165 (Sub-No. 406), Eagle Motor Lines, Inc., now assigned May 9, 1978, at Louisville, Ky., will be held in Room 635, Post Office Building, 6th and Broadway.

AB 2 (Sub-No. 19), Louisville & Nashville Railroad Co. abandonment near Greensburg in Taylor and Green Counties, Ky., now assigned May 11, 1978, at Greensburg, Ky., will be held in the Greensburg Courtroom.

AB 2 (Sub-No. 14), Louisville & Nashville Railroad Co. abandonment between Paris and Maysville in Bourbon, Nicholas, Fleming, and Mason Counties, Ky., now assigned May 15, 1978, at Flemingsburg, Ky., will be held in the Flemingsburg County Court.

No. MC 120981 (Sub-No. 24), Bestway Express, Inc., now being assigned June 5, 1978 (2 weeks), at Frankfurt, Ky., in a hearing room to be later designated.

MC 125551 (Sub-No. 13), K & W Trucking Co., Inc., now assigned May 15, 1978, at Anchorage, Alaska, is postponed indefinitely.

MC 124211 (Sub-No. 294), Hilt Truck Line, Inc. now assigned April 17, 1978, at Washington, D.C., is postponed to May 16, 1978, at the offices of the Interstate Commerce Commission in Washington, D.C.

MC-FC-77226, Burmen Co., Inc., Pittsburgh, Pa., transferee, and Sullivan Lines, Inc. (the Union National Bank of Pittsburgh—successor in interest) Pittsburgh, Pa., transferor, now assigned April 24, 1978, at Pittsburgh, Pa., is cancelled and reassigned for prehearing conference at the offices of the Interstate Commerce Commission in Washington, D.C.

MC 124 170 (Sub-No. 72), Frostways, Inc., now assigned May 18, 1978, at New Orleans, La., will be held in the East Courtroom, Room 223, U.S. Court of Appeals, 600 Camp Street.

MC 52460 (Sub-No. 197), Ellex Transportation, Inc.; MC 115162 (Sub-No. 382), Poole Truck Line, Inc.; MC 123255 (Sub-No. 120), B & L Motor Freight, Inc. and MC 115311 (Sub-No. 241), J & M Transportation Co., Inc., now assigned May 16, 1978 at New Orleans, La., will be held in the East Courtroom, Room 223, U.S. Court of Appeals, 600 Camp Street.

AB 43 (Sub-No. 49), Illinois Central Gulf Railroad Co. abandonment between Kosciusko and Fentress, in Attala and Choctaw Counties, Miss., now assigned May 22, 1978, at Kosciusko, Miss., will be held in the Courtroom, Attala County Courthouse.

MC 117686 (Sub-No. 185), Hirschbach Motor Lines, Inc., now being assigned May 8, 1978, for prehearing conference at the offices of the Interstate Commerce Commission in Washington, D.C.

MC 106074 (Sub-No. 48), B & P Motor Lines, Inc.; MC 123407 (Sub-No. 409), Sawyer Transport, Inc. and MC 115162 (Sub-No. 394), Poole Truck Line, Inc., now assigned May 17, 1978 (3 days), at Kansas City, Mo., is reassigned to May 17, 1978 (1 day), at Kansas City, Mo.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-9884 Filed 4-12-78; 8:45 am]

[7035-01]

[Notice No. 634]

ASSIGNMENT OF HEARINGS

APRIL 10, 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-F-11146 (Sub-No. 1), B & P Motor Lines, Inc., petition for declaratory order, is now assigned for prehearing conference April 18, 1978, at the office of the Interstate Commerce Commission, Washington, D.C.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-9885 Filed 4-12-78; 8:45 am]

[7035-01]

[Exception Under Section (a), Paragraph (6), Corrected Service Order No. 1304 Exception No. 3]

ILLINOIS CENTRAL GULF RAILROAD CO.

The Illinois Central Gulf derailed and damaged forty-two (42) privately owned jumbo covered hopper cars in a train of 115 such cars in the vicinity of Edgewood, Ill., on April 2, 1978. The railroad has requested authority to substitute thirty-five (35) of its cars for the damaged cars in order to provide time to repair those cars suffering minor damage and to locate and assemble privately owned cars to replace those which cannot be repaired promptly.

It is ordered, That, pursuant to the authority vested in the Railroad Service Board by section (a)(6) of Corrected Service Order No. 1304, the Illinois Central Gulf Railroad Co. is authorized to operate thirty-five (35) additional jumbo covered hopper cars in

[1] This corrects hearing date.

unit-grain-train service to replace a like number of privately owned cars damaged in a derailment in the vicinity of Edgewood Ill., on April 2, 1978, regardless of the provisions of section (a)(1), of section (a)(4)(i) and of section (a)(5).

Effective April 3, 1978.

Expires April 30, 1978.

Issued at Washington, D.C. April 3, 1978.

By the Board.

ROBERT S. TURKINGTON,
Acting Chairman,
Railroad Service Board.

[FR Doc. 78-9881 Filed 4-12-78; 8:45 am]

[7035-01]

[Exemption Under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241; Exemption No. 135-A]

CAR SERVICE RULES

To all railroads: Upon further consideration of Exemption No. 135 issued March 25, 1978.

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 135 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 is vacated.

This exemption shall become effective at 11:59 p.m., March 31, 1978.

Issued at Washington, D.C., March 27, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-9882 Filed 4-12-78; 8:45 am]

[7035-01]

[Amdt. No. 1 to I.C.C. Order No. 51 Under Revised Service Order No. 1252]

REROUTING TRAFFIC

To all railroads: Upon further consideration of I.C.C. Order No. 51, (Chicago, Milwaukee, St. Paul and Pacific Railroad Co.) and good cause appearing therefor:

It is ordered, That: I.C.C. Order No. 51 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., September 30, 1978, unless otherwise modified, changed or suspended.

It is further ordered, That This amendment shall become effective at 11:59 p.m., March 30, 1978, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association and that a copy be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., March 27, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-9880 Filed 4-12-78; 8:45 am]

[7035-01]

[Amdt. No. 3 to I.C.C. Order No. 31 Under Revised Service Order No. 1252]

REROUTING TRAFFIC

To all railroads: Upon further consideration of I.C.C. Order No. 31, (Western Maryland Railway Co.) and good cause appearing therefor:

It is ordered, That: I.C.C. Order No. 31 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., September 30, 1978, unless otherwise modified, changed or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., March 31, 1978, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that a copy be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., March 27, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-9883 Filed 4-12-78; 8:45 am]

[7035-01]

[Notice No. 22]

MOTOR CARRIER TRANSFER PROCEEDINGS

APRIL 13, 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 77392. By application filed April 5, 1978, MACZUK INDUSTRIES, INC., Atchison, KS 66002, seeks temporary authority to transfer the operating rights of BOOS GRAIN & FERTILIZER, INC., Atchison, KS 66002, under section 210a(b). The transfer to MACZUK INDUSTRIES, INC., of the operating rights of BOOS GRAIN & FERTILIZER, INC., is presently pending.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-9887 Filed 4-12-78; 8:45 am]

[7035-01]

[Notice No. 23]

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 resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the commission on or before May 15, 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-77586, filed March 22, 1978. Transferee: Union City Movers & Warehouses, Inc., 706 Seventh Street, Union City, NJ 07087. Transferor: Alfred Gualino and James Antoniotti, doing business as Union City Warehouses, 706 Seventh Street, Union City, NJ. Applicants' representatives: Laurence M. Miller, attorney at law, 800 Summit Avenue, Union City, NJ, and Eznick Bogosian, 707 Summit Avenue, Union City, NJ 07087. Authority sought for purchase by

transferee of the operating rights of transferor, as set forth in Certificate No. MC 94046, issued April 13, 1951, as follows: *Household goods*, as defined in Practices of Motor Common Carriers of Household Goods, 17 MCC 467, over irregular routes, between points in Hudson County, NJ, on the one hand, and, on the other, points in NY within 100 miles of Union City, NJ. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77593, filed March 27, 1978. Transferee: KENNETH W. SARGENT, doing business as ADA-FARGO TRUCK LINE, 605 East 2nd Avenue, Ada, MN 56510. Transferor: Maurice L. Evenstad, doing business as Ada-Fargo Truck Line, 104 East 3rd Street, Ada, MN 56510. Applicants' representative: Kenneth W. Sargent, 605 East 2nd Avenue, Ada, MN 56510. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 3245, issued October 15, 1959, as follows: *General commodities*, with exceptions, between Ada, MN, and Fargo, ND, serving the intermediate points of Averill, Felton, and Borup, MN. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77597, filed March 28, 1978. Transferee: MOSLEY TRUCKING, INC., Route 15, Box 329, Maxville, FL 32265. Transferor: The Big E Corp., Jerry Funk, Trustee in Bankruptcy, 1020 Atlantic Bank Building, Jacksonville, FL 32202. Applicant's representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. Authority sought for purchase by transferee of the operating rights set forth in Certificate No. MC 117673 issued May 20, 1968, as follows: *Bananas* from Tampa, and Port Everglades, FL and Charleston, SC to Jacksonville, FL; from Tampa and Jacksonville, FL to Cumberland and Hagerstown, MD, Lynchburg and Richmond, VA, Winston-Salem, Raleigh, and Charlotte, NC, Spartanburg, Columbia, and Greenville, SC, Miami, FL, Atlanta, GA, Huntington and Bluefield, WV, Philadelphia, Pittsburgh, and Allentown, PA, Birmingham and Elba, AL, Knoxville, Nashville, Lebanon, and Johnson City, TN, Lexington, KY, Cincinnati, Xenia, Cleveland, and Columbus, OH, Evansville and Indianapolis, IN, Chicago, IL, and Tupelo, MS; and from Tampa, FL to Louisville and London, KY, Rockford, IL, Roanoke and Newport News, VA, and St. Louis, MO and points in FL, NC, GA, TN, SC, AL, and OH. Transferee presently operates as a common carrier under Certificate No. MC 117675; it does not seek section 210a(b) temporary authority.

No. MC-FC-77598, filed March 28, 1978. Transferee: APACHE TRANSPORT, INC., 833 Warner Street SW., Atlanta, GA 30310. Transferor: J. B. Hunt Transport, Inc., Highway 71 South, Lowell, AZ 72745. Applicants' representative: Virgil H. Smith, attorney at law, 1587 Phoenix Boulevard, Suite 12, Atlanta, GA 30349. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificate No. MC 135797 (Sub-3), issued September 8, 1972, as follows: *Polystyrene forms and shapes*, from the plantsite of Dolco Packaging Corp., Lawrenceville, GA, to points in the U.S. on and east of U.S. Hwy 85 (except points in NC, SC, VA, and a specified portion of TN). Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-9886 Filed 4-12-78; 8:45 am]

[7035-01]

[Notice No. 24]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before May 15, 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-77599, filed March 28, 1978. Transferee: KMA LEASING, INC., 1345 North Mascher Street, Philadelphia, PA 19122. Transferor: WM. H. P., INC., 1342 Howard Street, Philadelphia, PA 19122. Applicants' representative: A. David Millner, Esq., P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate Nos. MC-38921 and 38921 (Sub-No. 9), issued August 2, 1976, and December 13, 1977, respectively, as follows: General commodities, with certain exceptions, over specified regular routes, and specific commodities over irregular routes from, to and between points in NY, NJ, PA, MD, DE, VA, and DC. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-9988 Filed 4-12-78; 8:45 am]

[7035-01]

[No. 36881]

MIDDLE ATLANTIC CONFERENCE

Tariff; General Increase

AGENCY: Interstate Commerce Commission.

ACTION: Notice of investigation into all issues related to the lawfulness of the general increase tariff filed by Middle Atlantic Conference (MAC), which became effective April 3, 1978.

SUMMARY: MAAC, for and on behalf of its member carriers (respondents), filed a general increase proposal to raise truckload rates 6.5 percent and less-than-truckload rates 7.5 percent. Upon consideration of protests a majority of the Commission voted on March 31, 1978, to investigate the proposed schedules.

In the investigation the Commission plans to examine, among other things, respondents' evidence insofar as it purports to show (a) need for additional revenue, and (b) the return needed to attract capital sufficient to enable them, under honest, efficient and economical management, to provide adequate and efficient transportation service to the public. Where a particular level of return of investment is based on a comparison with another or other industries, detailed justification from respondents will be required to support use of such comparisons.

DATES: Notice of intent to participate actively (an original and one copy)

shall be filed with the Commission's Office of Proceedings on or before April 24, 1978. The Commission shall then prepare and make available to all interested persons a list containing the names and addresses of all parties to this proceeding. Procedures governing the submission of evidence will be established by subsequent order.

ADDRESSES: Send notice of intent to participate and address to Office of Proceedings (Room 5342), Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak, Deputy Director, or Harvey Gobetz, Assistant Deputy Director, Section of Rates, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, 202-275-7693.

SUPPLEMENTARY INFORMATION: The Commission's Rules governing motor carrier general increase proceedings were adopted in Ex Parte No. MC-82—*New Procedures in Motor Carrier Rev. Proc.*, 339 ICC 324, and 340 ICC 1. They are found at 49 CFR 1104.

Under these rules respondents have already filed their justification materials in support of their general rate increases. Respondents' Ex Parte No. MC-82 evidential submissions are verified and will be incorporated into the record. Copies of these materials are available for inspection at regional offices of the Commission in areas affected by the increase and also are available upon request from the involved rate publishing bureau. Updating and supplementing of this material will be permitted in accordance with a separate procedural order.

One of the key issues, the return needed to attract capital, is common to our concurrent investigations of general increases of other major motor carrier rate bureaus. To avoid duplication on this issue, we plan to hold oral hearings first in the lead investigation of the general increase proposed by the Southern Motor Carriers Rate Conference, Inc., I&S M-29772, General Increase, SMCRC, April 1978. Since our findings on this issue in that proceeding may serve as precedent in this investigation, respondents in this matter will be made respondents in the Southern case, and protestants or other interested parties are encouraged to participate in I&S M-29772. Parties should separately indicate their intent to participate in the latter investigation.

By the Commission.

Decided: April 11, 1978.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-10016 Filed 4-12-78; 8:45 am]

[7035-01]

[Investigation and Suspension Docket No. M-29772]

SOUTHERN MOTOR CARRIERS RATE CONFERENCE, INC.

Tariff: General Increase

AGENCY: Interstate Commerce Commission.

ACTION: Notice of investigation into all issues related to the lawfulness of the general increase tariff filed by Southern Motor Carriers Rate Conference, Inc. (S.M.C.R.C.), to become effective April 1, 1978, and suspended by order of the Commission on March 31, 1978.

SUMMARY: S.M.C.R.C., for and on behalf of its member carriers (respondents), filed a general increase proposal to raise truckload and volume rates, as well as stopoff charges and split pickup and split delivery charges, 5.5 percent, and less-than-truckload and any quantity rates, as well as minimum charges and accessorial charges, 7 percent. Upon consideration of protests a majority of the Commission voted on March 31, 1978, to suspend operation of the proposed schedules for 7 months without prejudice to the filing of certain lesser increases. With this vote the Commission initiated this investigation.

In this investigation, which will be treated as a lead proceeding, the Commission plans to examine, among other things, respondents' evidence insofar as it purports to show (a) need for additional revenue, and (b) the return needed to attract capital sufficient to enable them, under honest, efficient, and economical management, to provide adequate and efficient transportation service to the public. Where a particular level of return on investment is based on a comparison with another or other industries, detailed justification from respondents will be required to support use of such comparisons. Our determination here to the extent it sets a precedent with regard to determination of an adequate return may have an effect on the following pending investigations:

I&S M-29769, General Increase, N.E.M.R.B., April 1978.
I&S M-29768, General Increase, E.C.M.C.A., April 1978.
No. 36881, General Increase, M.A.C., April 1978.
I&S M-29767, General Increase, C.S.M.F.B., April 1978.
I&S M-29766, General Increase, C. & S.M.F.T.A., April 1978.
I&S M-29770, General Increase, M.W.M.F.B., April 1978.
I&S M-29771, General Increase, P.I.T.B., April 1978.
No. 36883, General Increase, R.M.M.T.B., April 1978.
No. 36883, Increased Rates and Charges, Niagara Frontier, Buffer Area, April 1978.
No. 36884, Increased Rates and Charges, N.F.T.N., U.S.A.-Canada, April 1978.

Accordingly, all respondents in the foregoing proceedings are, by order, being named as respondents in this investigation. We also encourage protestants in the other proceedings and other interested parties to participate in this lead proceeding for the purpose of developing a complete record on the determination of adequate return.

The designation of this proceeding as a lead is intended to avoid duplication on the adequate return question, and we plan to schedule oral hearings in Washington at an early date. The Commission's Bureau of Investigations and Enforcement will participate in these hearings.

DATES: Notice of intent to actively participate (an original and one copy) shall be filed with the Commission's Office of Proceedings on or before 10 days from the date of publication of this notice in the FEDERAL REGISTER. The Commission shall then prepare and make available to all interested persons a list containing the names and addresses of all parties to this proceeding. Procedures governing the submission of evidence, including oral hearing, will be established by subsequent order.

ADDRESS: Send notice of intent to participate and address to Office of Proceedings (Room 5342), Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak, Deputy Director, or Harvey Gobetz, Assistant Deputy Director, Section of Rates, Office of Proceedings, Interstate Commerce Commission, Washington, DC 20423, 202-275-7693.

SUPPLEMENTARY INFORMATION: The Commission's Rules governing motor carrier general increase proceedings were adopted in Ex Parte No. MC-82, New Procedures in Motor Carrier Rev. Proc., 339 I.C.C. 324, and 340 I.C.C. 1. They are found at 49 C.F.R. 1104.

Under these rules respondents have already filed their justification materials in support of their proposed increases. Respondents' Ex Parte No. MC-82 evidential submissions are verified and will be incorporated into the record. Copies of these materials are available for inspection at regional offices of the Commission in areas affected by the increase proposal and also are available upon request from the involved rate publishing bureau. A separate procedural order will set forth a schedule for updating and supplementing this material and for filing replies.

The reason for instituting this investigation is to develop satisfactory ways

of measuring the financial needs of the motor carrier industry. We expect to use the data provided by MC-82 for this purpose. Among the issues that we would like the parties to address are the following:

(1) Which of the traditional financial ratios are most useful in determining the financial needs of the motor carrier industry?

(2) Can the motor carrier industry appropriately be compared to other industries for the purpose of evaluating a suitable rate of return? If so, which other industries are comparable and why? To what extent is risk a factor affecting the carriers' cost of capital or rate of return needs? How can risk best be measured?

(3) In evaluating rates of return, how should variations for individual carriers within a single rate territory be treated?

(4) What factors should be evaluated in determining whether to allow carriers to pass through experienced or provable cost increases? How should such matters as:

(a) Possible or achieved productivity increases;

(b) Inflationary effects;

(c) Changes in operational circumstances;

be treated?

(5) What is the importance of operating ratios in evaluating general increase proposals?

This list is not intended to be exclusive. The parties are encouraged to bring similar types of issues to the Commission's attention.

By the Commission.

Decided: April 11, 1978.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-10015 Filed 4-12-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 91-409), 5 U.S.C. 552b(e)(3).

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[6320-01]

1

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 9 a.m.—April 13, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Oral Argument in Docket 30277, Chicago-Midway Low-Fare Proceeding.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202-673-5068.

[S-768-78 Filed 4-11-78; 9:19 am]

[6320-01]

2

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 9:30 a.m.—April 14, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.
2. Dockets 31436 and 31437, National's Applications to Suspend and Delete Service at Tallahassee (Memo No. 7815, BPDA).
3. Docket 29085, Allegheny's request to delete Youngstown (BPDA).
4. Docket 31177, Piedmont's application to extend its system to Boston (BPDA).
5. Docket 30631, Amendment of Rules of Practice in Economic Proceedings, Standardized Method for Costing Proposed Changes in Authorized Operations of Local Service Carriers (Subpart K) (Memo No. 6875-A, BPDA, BAS, OGC, BLJ).
6. Review of Board approval of ATC rules preventing a user of air transportation from acquiring and benefiting from a captive travel agency (BPDA, OGC).
7. Dockets 28515, 28604, and 28578, Additional requests of Pan American to market inclusive tours in the United Kingdom; TIA to control additional tour operator subsidiaries in Switzerland and Luxemburg; and World for a blanket authorization to acquire tour operators abroad (BPDA, BIA, OGC).
8. Dockets 30833 and 31402, Intra-Hawaii Priority and Non-priority Service Mail Rates (Memo No.7872, BPDA, OGC).
9. Docket 30777, Agreement C.A.B. 27168, IATA agreement establishing Mid-Atlantic passenger fares (Memo No. 7868, BPDA, BIA).
10. Docket 30332, IATA agreements relating to ancillary cargo matters (Memo No. 7344-A, BPDA, BIA).
11. Dockets 30332 and 30777, TWA motion for clarification and/or amendment of Order 77-8-114, August 23, 1977 and 77-2-22, Feburary 3, 1977 (Memo No. 7344-B, BPDA, BIA, OCA).
12. Docket 30777, Agreements 27064 & 27183, IATA agreements readopting weight-based free baggage allowances, excess baggage charges, and other baggage charges (BPDA, BIA).
13. Docket 30777, IATA agreement increasing North/Central Pacific passenger fares (BPDA, BIA).
14. Dockets 30332, 32284, and 32298, Complaints of the American Horse Council against tariff filings implementing an IATA agreement increasing rates for horses (BPDA).
15. Docket 32290, Consequential damages and routing rule proposed by various carriers (BPDA).
16. Northwest "Orient Express" Seattle/Portland-Japan fares (BPDA).
17. Docket 26603, Termination of investigation of *Puerto Rico/Virgin Islands Freight Rates* (Memo No. 4490-A, BPDA).
18. Docket 24353, Motion of Eastern to modify Order 74-10-78, *Mainland U.S.-Puerto Rico/Virgin Islands Fares* (Memo No. 4611-H, BPDA).
19. Docket 32253, Mainland-Puerto Rico/Virgin Island fare increases proposed by American and Eastern (BPDA).
20. Docket 32316, Mainland-Hawaii fare increases proposed by various carriers (BPDA).
21. Dockets 31232, 31234, 31235, 31246, 31247, 31285, 31305, 31534, 31538, 31555, 32192, 32206, 32207, 32210, 32211, and 32212, North Atlantic Summer Fare filings (BPDA, BIA).
22. Dockets 29549, 29561, and 29623, Passenger fares between the United States and Caribbean (BPDA, BIA).
23. Docket 32305, Night coach "Super-Saver" fares proposed by Eastern (BPDA).
24. Dockets 32360 and 32372, Southern charter rate increase (BPDA).
25. Petition of National Airlines, Inc. for review of Staff Action denying National's request for Special Tariff Permission to meet competitive fares of Western (BPDA).
26. Docket 31164, petition of the State of Alaska for reconsideration of Order 77-7-160 (BPDA).
27. Dockets 21866- 5, 7, 9, Order to Show Cause why reduced rates for retired persons, senior citizens and handicapped persons, pursuant to Pub. L. 95-163 should not be treated as discount rates for normal ratemaking purposes (Memo No. 7880, BPDA).
28. Docket 32056, Petition of *Anthony R. Martin-Trigona* to "Unbundle" Meal Service from Air Fares (Memo NO. 7877, OGC, BIA, BPDA, OEA).
29. Docket 29139, Overbooking and Oversales (Request for Instructions) (Memo No. 5963-J, OGC, BPDA).
30. Docket 30616, "Super-Saver" discount fares proposed by American—American's motion to terminate the case (Memo No. 6870-D, OGC).
31. Docket 31976, *California-Florida Low-Fare* Case, (Previoulsy, Miami-Los Angeles Low-Fare Case)—Consolidation of American's Application (Memo No. 7354-I, OGC).
32. Procedures for Processing Certain Licensing and Rate Cases (Memo No. 7884, OGC).
33. Notice of Proposed Rulemaking to create a means for enforcing the statutory restrictions on participation by former Board employees in Board proceedings on behalf of private parties (Memo No. 7883, OGC).
34. Docket 31366, *Danzas AG (Switzerland) d/b/a All-Airtransport Incorporated* (U.S.A.) (Memo No. 7876, OGC).
35. Docket 32143, et al., *Austin/San Antonio-Atlanta Service Investigation* (Memo No. 7773-A, OGC).
36. Annual Review of Outstanding Delegations to the Office of the General Counsel (Memo No. 7882, OGC).
37. Equatoriana: Waiver to Permit Extra Sections (Memo No. 7881, BIA, OGC).
38. Docket 31337, Condor Aviation Services Limited; Final Board Action on Show Cause Order 77-12-11 (Memo No. 7594-A, BIA, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202-673-5068.

[S-769-78 Filed 4-11-78; 9:19 am]

[6351-01]

3

COMMODITY FUTURES TRADING COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 43, No. 66—Wednesday, April 5, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2:30 p.m., April 14, 1978.

CHANGES IN THE MEETING: Time changed to 10 a.m.

[S-766-78 Filed 4-11-78; 9:19 am]

[6351-01]

4

COMMODITY FUTURES TRADING COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 43, No. 66—Wednesday, April 5, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., April 14, 1978.

CHANGES IN THE MEETING: Meeting canceled.

[S-765-78 Filed 4-11-78; 9:19 am]

[6351-01]

5

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., April 18, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Proposed Revisions to Section 1.50 of the Regulations.
Proposed FEDERAL REGISTER release on the practice of Spread Trading.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-781-78 Filed 4-11-78; 3:18 pm]

[6740-02]

6

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (Published April 7, 1978, 43 FR 14794).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: April 12, 1978, 10 a.m.

CHANGE IN THE MEETING: The following item has been added:

Item No., Docket No., and Company

ER-6—E-8494, Minnesota Power & Light Co.

KENNETH F. PLUMB,
Secretary.

[S-776-78 Filed 4-11-78; 3:18 p.m.]

[6720-01]

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., April 18, 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 Amendment to Section 545.6-1(a)(4) and (5) of the Federal Regulations (Loans in Excess of 80% of Value)—Deletion of References to Charter E and Charter K (Section 545.6-1, 545.6-2, 545.6-3 of the Federal Regulations).
Branch Office Application—Commercial Federal Savings & Loan Association, Omaha, Nebr.
Satellite Office Application—First Federal Savings & Loan Association of Berwyn, Berwyn, Ill.
Holding Company Application for Approval of Director Interlock—Baldwin-United Corp., Cincinnati, Ohio.
Limited Facility Application—First Federal Savings & Loan Association of Fort Myers, Fort Myers, Fla.
Discussion of Liquidity Regulations.
Consideration of Proposed Amendments Regarding Loans Involving Mortgage Insurance.
Branch Office Application—Commonwealth Federal Savings & Loan Association, Lowell, Mass.
Application for Merger, Maintenance of Branch Offices, Cancellation of Membership and Insurance, and Transfer of Stock—First Harford Federal Savings & Loan Association, Aberdeen, Md. into Atlantic Federal Savings & Loan Association, Baltimore, Md.
Application for Bylaw Amendment—United Federal Savings & Loan Association, San Francisco, Calif.
Consideration of Proposed Tax and Loan Accounts Regulations.
No. 145, April 11, 1978.

[S-780-78 Filed 4-11-78; 3:18 pm]

[6720-01]

8

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 43, No. 67, Page 14598, April 6, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: April 10, 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.

CHANGES IN THE MEETING: The following item has been changed from the open to the closed portion of the meeting:

Application for Relocation of Branch Office—Union Federal Savings & Loan Association of Cook County, Matteson, Ill.
No. 144, April 10, 1978.

[S-767-78 Filed 4-11-78; 9:19 am]

[6730-01]

9

FEDERAL MARITIME COMMISSION.

TIME AND DATE: April 19, 1978—10 a.m.

PLACE: Room 12126—1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Dow Chemical International, Inc.—Petition for waiver of Guatemalan fines.
2. Proposed amendments to Rules of Practice and Procedure to simplify Special Docket proceedings.

Portion closed to the public:

1. Union Camp Corp., et al.—Activities under Sections 15, 16, 18 and 44 of the Shipping Act and General Order No. 4.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5725.

[S-772-78 Filed 4-11-78; 11:28 am]

[6750-01]

10

FEDERAL TRADE COMMISSION.

TIME AND DATE: 2:00 p.m., Thursday, April 20, 1978.

PLACE: Room 532, (open); Room 540 (closed) Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, N.W. Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the Public.

MATTERS TO BE CONSIDERED: Portions open to public:

(1) Oral argument in Equifax, Inc., Docket No. 8954.

Portions closed to the public:

(2) Post-oral argument meeting to consider disposition of appeal from initial decision in Equifax, Inc., Docket No. 8954.

CONTACT PERSON FOR MORE INFORMATION:

Wilbur T. Weaver, Office of Public Information: 202-523-3830; Recorded message: 202-523-3806.

[S-778-78 Filed 4-11-78; 3:18 pm]

[6750-01]

11

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Wednesday, April 19, 1978.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED:

The Commission has not yet scheduled any matters for discussion at this meeting. If no item is placed on the agenda by 10 a.m., on Wednesday, April 19, 1978, the meeting will automatically be cancelled. Any item that is placed on the agenda before that time will be announced in accordance with the Additional Information procedures posted with Commission Meeting Notices outside Room 130 of the Federal Trade Commission.

CONTACT PERSON FOR MORE INFORMATION:

Wilbur T. Weaver, Office of Public Information: 202-523-3830; Recorded message: 202-523-3806.

[S-779-78 Filed 4-11-78; 3:18 pm]

[7590-01]

12

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of April 10, 1978 (Changes).

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTER TO BE CONSIDERED:

Monday, April 10

10:30 a.m.—Affirmation of Amendments to Table S-3; Response to NECNP Petition (*Rescheduled* from 4/4/78).

CONTACT PERSON FOR MORE INFORMATION:

Roger Tweed, 202-634-1410.

ROGER M. TWEED,
Office of the Secretary.

APRIL 11, 1978.

[S-773-78 Filed 4-11-78; 11:28 am]

[7590-01]

13

NUCLEAR REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 14599.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Friday, April 7, 2 p.m.

CHANGES IN THE MEETING: Meeting titled "Discussion of NRDC Request for Hearing in Tarapur Export License" is Canceled.

This item will be rescheduled in the near future.

CONTACT PERSON FOR MORE INFORMATION:

Roger Tweed, 202-634-1410.

ROGER M. TWEED,
Office of the Secretary.

APRIL 7, 1978.

[S-774-78 Filed 4-11-78; 11:28 am]

[7590-01]

14

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of April 17, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Monday, April 17—10 a.m.

Discussion of NRDC request for Hearing in Tarapur Export License (Approx. 2 hrs.) (Public Meeting.) (Postponed from April 7, 1978.)

CONTACT PERSON FOR MORE INFORMATION:

Roger Tweed, 202-634-1410.

ROGER M. TWEED,
Office of the Secretary.

APRIL 10, 1978.

[S-775-78 Filed 4-11-78; 11:28 a.m.]

[8010-01]

15

SECURITIES AND EXCHANGE COMMISSION.

STATUS: Open meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

PREVIOUSLY ANNOUNCED TIME AND DATE: Monday, April 10, 1978, 9 a.m.

CHANGE IN THE MEETING: Additional item to be considered.

The following additional item will be considered by the Commission at the open meeting scheduled for Monday, April 10, 1978, at 9 a.m.

Consideration of the issuance of public notice of the filing of a plan for the implementation of an intermarket communications linkage by certain national securities exchanges to request comment on the plan and discussion of related issues.

Chairman Williams, Commissioners Loomis, Evans, and Karmel determined that Commission business required consideration of this matter and that no earlier notice thereof was possible.

APRIL 10, 1978.

[S-770-78 Filed 4-11-78; 9:19 am]

[8010-01]

16

SECURITIES AND EXCHANGE COMMISSION:

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of April 17, 1978, in Room 825, 500 North Capitol Street, Washington, D.C.

An open meeting will be held on Tuesday, April 18, 1978, at 10 a.m. A closed meeting will be held on Tuesday, April 18, 1978, immediately following the open session.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified, that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(8)(9)(i) and (10).

Commissioners Loomis, Evans, and Karmel determined to hold the aforesaid meeting in closed session.

The subject matter of the open meeting scheduled for April 18, 1978, at 10 a.m., will be:

1. Discussion regarding proposed Rule 13f-1 and related Form 13F under the Securities Exchange Act of 1934, which concerns reporting by institutional investment managers of information with respect to accounts over which they exercise investment discretion.
2. Proposed extension of the expiration date of Temporary Rule 206A-1(T) under the Investment Company Act of 1940, which exempts certain brokers and dealers from the requirements of the Investment Advisers Act of 1940 and related rules; proposed publication of guidelines concerning the circumstances in which broker-dealers will be required to register also as advisers.
3. Proposed adoption of amendments to the beneficial ownership rules under Section 13(d) of the Securities Exchange Act of 1934; announcement of proposed rules to implement related Section 13(g), which would expand the classes of persons required to disclose beneficial ownership.
4. Proposed issuance of an order for a hearing on an application filed by The Anaconda Company for exemptions from the certain reporting requirements under the Securities Exchange Act of 1934.
5. Proposed transmittal of comments concerning S. 2386, a bill to amend the Ship-

ping Acts of 1916, to the Senate Committee on Commerce, Science and Transportation.

6. Proposed amendment to Rule 6(b) of the Commission's Rules of Practice, which would set Washington, D.C. as the preferred location for hearings in regulatory proceedings and establish specific criteria to be evaluated in determining whether to hold such a hearing outside of Washington, D.C.
7. Proposal not to modify the requirement that senior securities issued utility companies subject to the Public Utility Holding Company Act of 1935 be callable but may include a restriction of not more than five years duration, on refunding if effected by sale of new senior securities at lower rates.

The subject matter of the closed meeting scheduled for April 18, 1978, immediately following the open meeting, will be:

Formal orders of investigation.
Referral of investigatory files to Federal, State, or Self-Regulatory authorities.
Institution of administrative proceedings of an enforcement nature.
Settlement of administrative proceedings of an enforcement nature.
Institution of injunctive actions.
Settlement of injunctive actions.
Regulatory matter bearing enforcement implications.
Opinion.
Other litigation matters.

FOR FURTHER INFORMATION CONTACT:

Linda W. Jarrett at 202-755-1271 or Myrna Siegel at 202-755-1183.

APRIL 10, 1978.

[S-771-78 Filed 4-11-78; 9:19 am]

Federal Register

THURSDAY, APRIL 13, 1978
PART II



DEPARTMENT OF DEFENSE

Department of the Army

■

ARMY DISCHARGE REVIEW BOARD

Procedures and Standards

[3710-08]

Title 32—National Defense

CHAPTER V—DEPARTMENT OF THE ARMY

PART 581—PERSONNEL REVIEW BOARDS

Procedures and Standards of the Army Discharge Review Board

AGENCY: Army Discharge Review Board.

ACTION: Final rule.

SUMMARY: This rule implements the provisions of Department of Defense Directive 1332.28 which establishes DOD uniform standards and procedures for discharge review to meet statutory requirements. The intended effect is to inform applicants and other interested parties of the means by which the Army Discharge Review Board will comply with the uniform standards and procedures.

EFFECTIVE DATE: April 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Col. Richard J. W. McCollum, Army Discharge Review Board, Room 1-E-466, The Pentagon, Washington, D.C. 20310, 202-697-3166.

SUPPLEMENTAL INFORMATION: Publication of this regulation for comment prior to adoption is unnecessary, impracticable, and contrary to the public interest. Pre-publication is unnecessary because this regulation is substantially similar to Department of Defense Directive 1332.28 that was formally adopted on March 29, 1978 and published in the FEDERAL REGISTER on March 31, 1978 (48 FR 13564). Further, this regulation is not "originated" by the Department of the Army because it is an implementation by a subordinate component of the Department of Defense of the regulation adopted by the Department of Defense.

Pre-publication of this regulation is impracticable and contrary to the public interest because the regulation is necessary for the Army Discharge Review Board to conduct the initial re-review pursuant to Pub. L. No. 95-126 of discharges previously upgraded pursuant to the Department of Defense Special Discharge Review Program. Pursuant to this statute, there are approximately 12,000 cases that must be re-reviewed. If the upgraded discharge granted under the DOD Special Discharge Review Program (SDRP) is not affirmed on re-review, the individual will not be eligible for veterans' benefits, and if he/she is now receiving benefits, they will be terminated. An individual whose SDRP discharge upgrade is not affirmed during the initial re-review will have the additional right to a personal appearance hearing. Pursuant to Pub. L. No. 95-126, all initial re-reviews and subsequent personal appearance hearings must be complete prior to October 7, 1978. In order to meet this statutory requirement and to avoid additional hardship to the individuals concerned, approximately 3,600 initial re-reviews will have to be conducted in the next 30 days alone.

In addition, this regulation is necessary to permit the Army Discharge Review Board to conduct almost 300 hearings that were previously scheduled to be conducted during the next 30 days. Many of these hearings have been scheduled for at least 120 days, with attendant arrangements by the concerned individuals for counsel at the hearings. Pre-publication of this regulation for comment would require cancellation of the scheduled hearings at great inconvenience and hardship to the individuals concerned. Further, there is currently a backlog of approximately 15,000 discharge upgrade applications, in addition to the 12,000 SDRP cases subject to re-review under Pub. L. 95-126. Delay pending receipt and consideration of comments will cause this backlog to grow further, causing substantial hardship and inconvenience to the individuals concerned and to the Army Discharge Review Board.

Effective date: April 3, 1978.

WILLIAM E. WEBER,
Colonel, IN, President, Army Discharge Review Board.

Accordingly, 32 CFR 581.2 is revised as follows:

§ 581.2 Army Discharge Review Board.

(a) *Purpose.* This regulation establishes policies for the review of discharges and dismissals under Uniform Standards and Procedures as set forth in Title 10, United States Code 1553, and DOD Directive 1332.28 1978.

(b) *Applicability and Scope.* (1) This regulation applies to the RA, to the USAR, and to the ARNG concerning those records of former members of the ARNG maintained by the Federal Government in conduct of discharge reviews.

(2) Definitions of terms used in this regulation are contained in Appendix A.

(c) *General.* (1) The Army Discharge Review Board (ADRB), an entity which may consist of such number of panels as the Secretary of the Army may deem necessary, is an administrative agency created within the Office of the Secretary of the Army, Department of the Army, under authority of Section 301, Title 1, Act of June 22 1944 (10 U.S.C. 1553) to review on its own motion or upon application by or on behalf of the individual concerned, the discharge or dismissal of former members of the Army. The scope of the inquiry of the ADRB will be to determine whether the discharge received was equitably and properly given. When the ADRB determines, in an individual case, that the discharge was not properly and/or equitably given, it is authorized, in the manner herein prescribed, to direct The Adjutant General to take appropriate action: that is, to change, correct, or modify any discharge or dismissal, and to issue a new discharge, such direction being subject to review and modification only by the Secretary of the Army. Such remedial action is intended primarily to insure that no discharged or dismissed former member of the Army will be deprived unjustly of any benefit provided by law for former members of the military service or will be unjustly stigmatized by reason of a type of discharge or dismissal inequitably or improperly given.

(2) The ADRB will not review a discharge or dismissal given by reason of the sentence of general court-martial.

(3) The ADRB has no authority to revoke any discharge or dismissal, to reinstate any person in the military service subsequent to his discharge or dismissal, or to recall any person to active duty.

(d) *Composition*—(1) *President of the ADRB.* The President of the ADRB is designated by the Secretary of the Army and is responsible for the operation of the ADRB and its panels. The President prescribes the operating procedures of the panels, designates officers to sit on panels and schedules panels to hear discharge review appeals. The President when so directed further may act to monitor the DOD directed "administrative focal point" responsibilities of the Secretary of the Army on service discharge review board matters for the DOD.

(2) *ADRB Panels and Members.* (i) Panels. The ADRB will have one or more panels, each of which, when in deliberation, will consist of five officers with the senior line officer member acting as presiding officer.

(ii) For the purpose of maintaining the number of members needed to conduct hearings, additional members may be appointed to the ADRB by the Secretary or be detailed to a panel by a field commander when requested by the President of the ADRB. In any proceeding, a member who has not been present at prior sessions of a panel may participate thereafter if that member has reviewed all pertinent documents and summaries of proceedings held during his/her absence or prior to his/her participation.

(3) *Secretary/Recorder Personnel.* (i) The Secretary/Recorder (S/R) is the

ADRB Division Chief charged with the responsibility to insure the efficient overall operation and support of the ADRB Panels in the conduct of discharge appeal hearings held in Washington, D.C. or at deployed panel sites. The S/R authenticates the Case Reports and Directives of cases heard.

(ii) The Alternate Secretary/Recorder (ASR) is an officer assigned to the S/R Division whose duties are to schedule, coordinate, and arrange for panel hearings at a designated site; to administer oaths to applicant/witnesses under Article 136, UCMJ; and to insure that the proceedings of the cases heard are accurately recorded and entered into the Case Reports and Directives of cases heard.

(iii) The Secretary/Recorder Assistant (SRA) is an enlisted member assigned to the S/R Division whose duties are to assist the ASR in arranging Panel Hearings, record the Findings, Conclusions, Decisions, and Justification of the Presiding Officer of a convened panel; and to transcribe such Findings, Conclusions, Decisions, and Justification into the Case Reports and Directives of cases heard.

(4) *Administrative Personnel.* Such administrative personnel as are required for the proper functioning of the ADRB and its panels will be furnished by the Secretary of the Army or by field commanders when so directed by the Secretary of the Army.

(e) *Discharge Review Procedures.* See Appendix B.

(f) *Discharge Review Standards.* See Appendix C.

(g) *Procedural Rights of Applicants.* See Appendix D.

(h) *Decisional Document.* See Appendix E.

(i) *Findings, Conclusions, and Reasons of a Panel of the ADRB.* (1) Findings, conclusions and reasons of the panel will be made in closed session and where agreed to by a majority of the panel will constitute the determination of the panel, and will be made in writing in each case. No corrective action which exceeds the jurisdiction of the ADRB, as defined in paragraph (c) of this section will be taken. Statements of findings, conclusions, and reasons shall include:

(i) Date, character of and reason for the discharge or dismissal, including the specific regulatory authority under which it was issued.

(ii) Findings on all issues of fact, law or discretion upon which the panel's determination is based, including factors required by applicable army regulations to be considered for determination of the character of and reason for the discharge or dismissal certificate in question when such factor(s) is (are) a basis for denial of any relief requested.

(iii) Findings and conclusions on all other issues of fact, law, or discretion raised by the applicant including claims by the applicant that statutory, regulatory or constitutional provisions were violated, and such other claims made by the applicant, which in the opinion of the panel would warrant greater relief than that afforded applicant by the panel's determination if resolved in the applicant's favor.

(iv) Conclusions as to whether or not any change, correction or modification should be made in the type or character of the discharge or dismissal certificate, and/or the reason and authority for the discharge or dismissal, and, if so concluded, the particular changes, corrections or modifications that should be made.

(v) A statement of the reasons for the findings and conclusions made in accordance with paragraph (i)(1) (ii) through (iv) of this section.

(2) Advisory opinions or portions thereof containing factual information relied upon for final decision not fully set forth in the statement of findings, conclusions, and reasons; or containing advice, recommendation(s) or opinion(s) accepted as a basis for rejecting any of applicant's claims that are not fully set forth in the statement of findings, conclusions, and the reasons shall be incorporated by reference in the statement of findings, conclusions and reasons, and appended to the decision.

(3) The name and vote of each panel member will be recorded on each statement of findings, conclusions and reasons.

(4) The final determination and the statement of findings, conclusions, and reasons together with any required appendices thereto and minority opinions, if any, shall be sent promptly to the applicant and counsel with the notice of decision.

(5) Statements of findings, conclusions, and reasons. The record of the votes of board members, and minority opinions, if any, will be made available for public inspection and copying promptly after a notice of final decision is sent to the applicant. If not otherwise listed in the statements of findings, conclusions, and reasons, a list of contentions and/or the issues of fact, law or discretion presented by the applicant will be made public with the decision.

(6) To the extent required to prevent a clearly unwarranted invasion of personal privacy, identifying details of applicant and other persons will be deleted from the documents made available for public inspection and copying. Names, addresses, social security numbers and military service numbers must be deleted. Written justifications which are to be made available for public inspection, shall be made for all other deletions.

(7) Documents and records required by this agreement to be made available for public inspection and copying shall be made available at a reading room location within the Washington, D.C. metropolitan area as is readily accessible to the public.

(8) All documents made available for public inspection and copying as provided above shall be indexed in a usable and concise form so as to enable those who represent applicants before the Boards to isolate from all those decisions that are indexed those cases that may be similar to any applicant's case and that indicate the circumstances under and/or reasons for which the Board and/or Secretary have granted or denied relief. The index shall include, in addition to any other items determined by each Board, and identifying characteristic (i.e., case number) for each case, the date, character of, reason for and authority for the discharge or dismissal challenged therein, the decision of the Board and the reviewing authorty, if any; and the issues addressed in the statement of findings, conclusions and reasons.

(9) Each index shall be published quarterly or more frequently and upon request be distributed by sale or otherwise.

(10) The ADRB shall make its index available for public inspection and distribution by sale or otherwise at the reading room(s) established in accordance with paragraph (i)(7) of this section.

(11) Each index shall also be made available at all regional locations where ADRB panels shall meet to hear cases. Notice of hearings to applicants shall include information as to where the ADRB indexes may be located for inspection and copying. Indexes shall be permanently maintained only at permanent regional locations.

(12) The ADRB will make timely submission to the Reading Room of individual case information required for update of the indexes. These indexes shall be available for public inspection and distribution by sale at the Reading Room, which is in the Concourse of the Pentagon. Notices to applicants of scheduled hearings will contain this information.

(13) Correspondence relating to matters under the cognizance of the Reading Room shall be addressed to:

Armed Forces Discharge Review/Correction, Boards Reading Room, The Pentagon Concourse, Washington, D.C. 20310.

(j) *Minority Opinions and Secretarial Review.* (1) In case of a disagreement between members of a panel, a formal minority opinion may be submitted. The formal minority opinion must include the reasons upon which the minority bases its belief that the case should be referred to the Secretary of the Army, or his designee, for

resolution. The complete case with the minority opinion and the majority comments will be submitted to the President of the ADRB. After review, the President will forward the complete case including the minority opinion and the majority comments along with his/her recommendation to the Office of the Assistant Secretary of the Army for final resolution.

(2) On every decision of the ADRB that is reviewed by the Secretary, or one to whom reviewing authority has been delegated, the decision on the review shall be made in writing.

(3) In every case, the decision of the review authority, if any, shall include a statement of findings, conclusions, and reasons, except where the reviewing authority adopts the Board's statement of findings, conclusions, and reasons, there is no requirement for duplicative publication and indexing under terms of paragraph (i) of this section.

(k) *Directive to The Adjutant General.* Except in minority report cases submitted to the Office of the Secretary of the Army for final resolution, the President of the ADRB, in the name of the Secretary of the Army, will issue a directive to The Adjutant General specifying the action to be taken as a result of the ADRB's review of discharge or dismissal of former members of the U.S. Army. Presiding Officers, other than the President of the ADRB, will not take the foregoing action. They will return the completed case to the President of the ADRB for final action.

(l) *Record of Proceedings.* (1) When the proceedings in any review have been concluded, a record thereof will be prepared. Records may include written records, electro-magnetic records, videotape recordings, or a combination thereof.

(2) At a minimum, the record will include the following:

(i) The application for review;

(ii) A record of the testimony in verbatim, summarized, or recorded form at the option of the President, ADRB;

(iii) Documentary evidence or copies thereof considered by the ADRB panel other than the Military Service Record;

(iv) Briefs/arguments submitted by or on behalf of the applicant;

(v) Advisory opinions considered by the ADRB, if any;

(vi) The findings, conclusions, and reasons developed by the ADRB;

(vii) Notification of the ADRB's decision to The Adjutant General;

(viii) Minority reports, if any;

(ix) A copy of the decisional document.

(3) The record so prepared will be signed by the President of the ADRB and authenticated by the Secretary/Recorder. In the event of the absence or incapacity of the Secretary/Recorder, the record may be authenticated by a designated alternate secretary/recorder.

(4) Release of information from such records will be in accordance with AR 340-17 and AR 340-21 contained in Parts 518 and 505 of this chapter.

(m) *Final Disposition of the Record of Proceedings.* The original record of proceedings and all appendices thereto shall in all cases be incorporated in the service record of the petitioner and the service record shall be returned to the custody of the National Personnel Records Center, St. Louis, Mo., via The Adjutant General.

(n) *Transmittal of Records and Action by The Adjutant General.* Designated alternate secretary/recorders will forward cases heard by their panels, and as approved by the Presiding Officers, to the President of the ADRB for final disposition. Except in minority report cases submitted to the Office of the Secretary of the Army for final resolution, the record of the proceedings in each case will be transmitted by the Secretary/Recorder to The Adjutant General for appropriate Department of the Army action to carry out the directions of the President, ADRB. The Adjutant General will perform such administrative acts as may be necessary, and thereafter will notify the applicant and his/her counsel/representative, if any, of the action taken. Written notice specifying the action taken and the date thereof will be transmitted by The Adjutant General to the President of the ADRB to be filed as a part of the records of the ADRB pertaining to each case. The Adjutant General, upon written request from the applicant, his guardian, or legal representative, will furnish a copy of the directive of the Secretary of the Army, and a copy of the record of proceedings and testimony, if any: *Provided,* That such record of proceedings and testimony has been reduced to written form. If it should appear that furnishing a copy of the record of proceedings and testimony would prove injurious to the physical or mental health of the applicant, such information will be furnished only to the guardian or legal representative of the applicant.

(o) *Privacy Act Information.* Information protected under the Privacy Act is involved in the discharge review functions. The provisions of AR 340-21 will be observed throughout the processing of a request for review of discharge.

(p) *Consideration Initiated by the ADRB.* The President of the ADRB may, at any time, direct consideration of a case which appears, on the face of the record, likely to result in a decision favorable to the former member without the knowledge or presence of the former member. If, upon consideration by a panel, such a case does not result in a decision favorable to such member, it will be returned to the files with no formal action recorded and will be considered without prejudice if and when an appeal is made by the former member. If such consideration results in a decision favorable to the former member, The Adjutant General will be directed to notify the member at his/her last known address. Only the President of the ADRB may schedule the hearing of such cases.

(q) *Reports.* Reports will be submitted semi-annually in accordance with Appendix F.

(r) *Changes.* The ADRB will initiate recommendation for changes to policies, procedures, standards, and directives under which discharge review is conducted as may be deemed necessary for the proper functioning of the ADRB.

APPENDIX A—DEFINITIONS

1. *ADRB.* An administrative board (entity) designated by the Secretary of the Army consisting of one or more panels.

2. *ADRB Panel.* A panel consisting of five officers for the purpose of hearing a discharge review appeal. Panels are located at Washington, D.C., and at such other locations as designated by the Secretary of the Army.

3. *ADRB Traveling Panel.* A panel designated to hear discharge review appeals at a temporary field location.

4. *ADRB Hearing Examiner.* An experienced ADRB panel member designated to conduct video tape hearings of discharge review appeals at a temporary field location.

5. *Video Tape Hearing.* A hearing conducted by an ADRB Hearing Examiner at which an applicant is given the opportunity to present his appeal to the Hearing Examiner, with the entire presentation, including cross-examination by the Hearing Examiner, recorded on video tape. This video tape presentation is later displayed to an ADRB panel designated by the President of the ADRB. Video tape hearings shall be conducted only with the consent of the applicant and with the concurrence of the President of the ADRB.

6. *President of the ADRB.* An officer designated by the Secretary of the Army to control operations of the ADRB and its panels. Only the President of the ADRB will execute action under this regulation in the name of the Secretary. In the event of absence or inconvenience of the President of the ADRB, the next senior line officer member on the ADRB in Washington, D.C., will serve as acting President for all purposes.

7. *Presiding Officer.* The senior line officer member of any ADRB panel convened by the President of the ADRB for the purpose of conducting hearings.

8. *Secretary/Recorder of the ADRB.* An officer designated by the President of the ADRB performing the functions as directed, and with the authority to administer oaths in accordance with Article 136, Uniform Code of Military Justice.

9. *Alternate Secretary/Recorder.* An officer designated by the President of the ADRB to exercise certain Secretary/Recorder functions for a panel of the ADRB.

10. *Legal Advisor of the ADRB.* An officer of The Judge Advocate General's Corps as-

signed to the ADRB to provide opinions and guidance on legal matters relating to ADRB functions.

11. *Medical Consultant of the ADRB.* An officer of the Army Medical Corps assigned to the ADRB to provide opinions and guidance on medical matters relating to ADRB functions.

12. *Members of the ADRB.* Officers assigned, attached to, or, when authorized by the Secretary of the Army upon request by the President ADRB, detailed by installation commanders to sit as panel members to hear discharge review cases when scheduled by the President of the ADRB.

13. *Applicant.* A former service member of the Army who, in accordance with statutory and regulatory provisions, requests to have an appeal heard by the ADRB.

14. *Applicant's Counsel/Representative.* Any individual designated by the applicant to represent him in his appeal before the ADRB. Except as otherwise provided by competent authority, under no circumstances will applicant's Counsel/Representative, compensation for applicant's Counsel/Representative, or travel expenses for applicant or his/her Counsel/Representative be provided by agencies of the United States Army. Categories of representatives:

a. Counsel—A lawyer who is a member of the bar of a Federal court or of the highest court of a state.

b. Accredited representative—One who has been so designated by an organization recognized by the Administrator of Veterans' Affairs as provided in 10 U.S.C. Section 1553.

c. Representatives from a State agency concerned with veterans' affairs.

d. Representatives from private organization or local governmental agencies.

e. Any other individual or agency designated by applicant.

15. *ADRB Field Panel.* A panel located at fixed field installations as designated by The Secretary of the Army. Such panels are also referred to as Static Panels.

Appendix B—Discharge Review Procedures

1. *Secretarial Responsibilities.* a. The Secretary of the Army is responsible for the overall operation of the discharge review program within the Department of the Army. The following delegations of authority have been made:

(1) To the Office of the Assistant Secretary of the Army (Manpower and Reserve Affairs) to act for the Secretary of the Army in all discharge review actions specified in b below. This may be further delegated to a designated Deputy Assistant Secretary, if appropriate.

(2) To the President, Army Discharge Review Board for operation of all phases of the discharge review program and authority to take action in the name of the Secretary of the Army in all discharge review actions except those specified in b below.

b. The following categories of discharge review requests are subject to the review of the Secretary of the Army or his designee (a(1) above).

(1) All cases in which a minority of the DRB/Panel requests their recorded opinion be forwarded for consideration (see paragraph (j) of this section regarding minority opinions).

(2) Selected cases when required in order to provide information to the Secretary on specific aspects of the discharge function or of the discharge review function which are of interest to the Secretary.

(3) Any specific case in which the Secretary has an interest.

(4) Any case which the President of the Army Discharge Review Board believes is of significant interest to the Secretary.

c. Consideration by the Secretary in such cases will be in accordance with paragraph G, DOD Directive 1332.28, 1978, and paragraph (j) (2) and (3) of this section.

2. *Application for Review.* a. An applicant may submit a written request for review to the ADRB concerned with such statements, affidavits, or documentation as desired. Applicants are defined as former service personnel who have been discharged or dismissed in accordance with Army administrative regulations or by sentence of a Special Court-Martial.

(1) The request for review shall be made on DD Form 293, Application for Review of Discharge or Separation from the Armed Forces of the United States, which is available at most military installations and regional offices of the Veterans Administration. When an individual submits a DD Form 293, he/she must also acknowledge that under the Privacy Act, failure to provide information may result in the appeal being returned without action. The request will state in brief the full name, service number and/or social security number, grade and organization or assignment at date of discharge of the person whose discharge or dismissal is in question; the date and place of discharge; the type and nature of the discharge or dismissal; the basis of the claim for review; what corrective action is desired of the ADRB; and the mode of hearing desired. Where the applicant desires to be represented by Counsel/Representative, it should be so designated, and the address to which correspondence in connection with the review is to be sent must be included.

(2) The request will be signed by the former officer or enlisted member, or if deceased, by the surviving spouse, next-of-kin, or legal representative. If the former member is deceased, proof of death must accompany the request. If the applicant is mentally incompetent, his or her spouse, next-of-kin, or legal guardian will sign the request. Such requests must be accompanied by legal proof of the mental incompetency.

b. Applicants should seriously contemplate submitting evidence and/or supporting documents at the time of application. Briefs, legal arguments, etc., to support a formal personal appearance should be submitted at the time notification is received of scheduled hearing date.

c. The request for review will be forwarded to:

Commander, US Army Reserve Components Personnel and Adminstration Center, 9700 Page Boulevard, St. Louis, Mo. 63132.

d. Upon receipt of an application, the Adjutant General will verify that the provisions of a and b above have been met. The Adjutant General will then assemble the originals or certified copies of all available Department of the Army records pertaining to the former service man or woman named in such application. Such records, together with the application and any supporting documents, will be transmitted to the President of the ADRB, Washington, D.C.

e. The Adjutant General will make specific written notification to each applicant whose record indicates a reason for discharge that bars receipt of benefits under Title 38, U.S.C. 3103a. This notification will advise the applicant that separate action by the Army Board for Correction of Military Records (ABCMR) and/or the Veterans Administration (in the case of 180 days consecutive unauthorized absence disqualification) may confer eligibility for VA benefits. As regards the 180 days consecutive unauthorized absence:

(1) Such absence must have been included as part of the basis for the applicant's discharge under other than honorable conditions.

(2) Such absence is computed without regard to the applicant's normal or adjusted expiration of term of service.

f. A motion or request for review must be made within 15 years after the date of discharge or dismissal; except that, in accordance with Pub. L. 95-126, any former member administratively discharged under other than honorable conditions, and otherwise eligible to make application for review may do so without regard to the 15 year limitation period in Title 10, U.S.C. 1553, if such application is received prior to January 1, 1980.

3. *Conduct of Reviews.*—a. *Members.* As designated by the Secretary of the Army, the ADRB and panels thereof, if any, shall consist of five members. One member of the ADRB shall be designated as the President and may serve as a presiding officer. Other officers may be designated to serve as presiding officers for ADRB panels under regulations prescribed by the Secretary of the Army.

b. *Locations.* Reviews by the ADRB will be conducted in Washington, D.C. and such other locations as designated by the Secretary of the Army or the President of the ADRB.

c. *Modes of Appearance.* An applicant, upon request, is entitled to appear before an ADRB in person, with or without Counsel/Representative, or to have Counsel/Representative present the applicant's case in the absence of the applicant.

d. *Applicant's Expenses.* Unless otherwise specified by law or regulation, expenses incurred by the applicant, witnesses, or Counsel/Representative will not be paid by the Department of the Army.

e. *Withdrawal of Application.* An applicant shall be permitted to withdraw an application without prejudice at any time before the scheduled review.

f. *Failure to Appear for Hearing.* Except as authorized or directed by the Secretary of the Army, further opportunity for personal appearance shall not be made available to an applicant who requests a hearing and who, after being duly notified of the time and place of the hearing, fails to appear at the appointed time, either in person or by representative, not having made a prior, timely request for a continuance or withdrawal of the application. In such cases the applicant shall be deemed to have waived the right to a personal appearance and the ADRB shall complete its review of the discharge based upon the evidence of record. Further request for a personal hearing shall not be granted unless the applicant can demonstrate that the prior failure to appear or to request continuance or withdrawal of the application was due to circumstances beyond the applicant's control.

g. *Continuances and Postponements.* (1) A continuance of a discharge review hearing may be authorized by the President of the ADRB or presiding officer of the panel concerned: *Provided,* That such continuance is of reasonable duration and is essential to

achieving a full and fair hearing. Where a proposal for continuance is indefinite, the pending application shall be returned to the applicant with the option to resubmit when the case is fully ready for review.

(2) Postponements of scheduled reviews normally shall not be permitted other than for demonstrated good and sufficient reason set forth by the applicant in a timely manner, or for the convenience of the government.

h. *Reconsideration.* A discharge review shall not be subject to reconsideration except:

(1) Where the only previous consideration of the case was on the motion of the ADRB;

(2) When the original discharge review did not involve a personal hearing and a personal hearing is now desired, and the provisions of paragraph 3f do not apply;

(3) Where changes in discharge policy are announced subsequent to an earlier view of an applicant's discharge, and the new policy is made expressly retroactive;

(4) Where the ADRB determines that policies and procedures under which the applicant was discharged differ in material respects from policies and procedures currently applicable on a Service-wide basis to discharges of the type under consideration, provided that such changes in policies or procedures represent a substantial enhancement of the rights afforded a respondent in such proceedings;

(5) Where an individual is to be represented by a Counsel/Representative, and was not so represented in any previous consideration of the case by the ADRB;

(6) Where the case was not previously considered under uniform standards published pursuant to Pub. L. 95-126 and such application is made before January 1, 1980 or within 15 years after the date of discharge; or

(7) On the basis of presentation of new, substantial, relevant evidence not available to the applicant at the time of the original review. The decision as to whether evidence offered by an applicant in support of a request for reconsideration is in fact new, substantial, relevant, and was not available to the applicant at the time of the original review will be based on a comparison of such evidence with the evidence considered in the previous discharge review. If this comparison shows that the evidence submitted would have had a probable effect on matters concerning the propriety or equity of the discharge, the request for reconsideration shall be granted.

i. *Availability of Records.* (1) Prior to a review, applicants or other designated representatives may obtain copies of military records by submitting a Standard Form 180, Request Pertaining to Military Records, to the National Personnel Records Center (NPRC), 9700 Page Boulevard, St., Louis, Mo. 62132. The request must be submitted prior to the time the DD Form 293 is submitted, since, once the DD Form 293 is submitted, the records will be requested from the NPRC by the ADRB and will not be available to NPRC for reproduction.

(2) If the ADRB is not authorized to provide copies of documents that are under the cognizance of another governmental department, office or activity, applications for such information must be made by the applicant to the cognizant authority. The ADRB shall advise the applicant of the mailing address of the governmental department, office, or activity to which the request should be submitted.

(3) In the event that the official records relevant to the discharge review are not available at the agency having custody of the records, the applicant shall be notified of the situation and requested to provide such information and documents as may be desired in support of the request for discharge review. A period of not less than 30 days shall be allowed for such documents to be submitted. At the expiration of this time period, the review may be conducted with information available to the ADRB.

(4) The ADRB may take steps to obtain additional evidence material to the discharge review under consideration beyond that found in the official military records or submitted by the applicant, if a review of available evidence suggests certain aspects of the review would be incomplete without the additional information or when the applicant presents testimony or documents which require additional information to evaluate properly. Such information shall be made available to the applicant, upon request, with appropriate modifications regarding classified material.

(5) Prior to initiation of the decision process specified in paragraph 4 below. The applicant and/or Counsel/Representative is entitled to request access to the records to be considered by the ADRB in the discharge review.

(a) At a reasonable time prior to the initiation of the decision process, in any case heard on request of an applicant, the ADRB shall provide the applicant and/or Counsel/Representative with a description of all documents to be considered in the discharge review, except for documents in the official personnel/medical records and any documents submitted by the applicant. The ADRB shall also notify the applicant and/or Counsel/Representative: (1) Of the right to examine such documents or to be provided with copies of the documents upon request, (2) of the date by which such request must be received, and (3) of the opportunity to respond within a reasonable period of time to be set by the ADRB.

(b) When necessary to acquaint the applicant with the substance of a classified document, the classifying authority, on the request of the ADRB, shall prepare a summary of or extract from the document deleting all references to sources of information and other matters, the disclosure of which, in the opinion of the classifying authority, would be detrimental to the national security interests of the United States. Should preparation of such summary be deemed impracticable by the classifying authority, information from the classified source shall not be considered by the ADRB in its review of the case.

j. *Convening of Panels.* (1) Panels located in Washington, D.C., will be convened at the call of the President of the ADRB. Panels designated to conduct hearings in other locations will convene at the time and place indicated by the President of the ADRB to consider cases directed to the panels by him in accordance with established procedures. Presiding Officers may, when authorized by the President of the ADRB, modify the time and place of scheduled hearings, and will recess and adjourn the panels in accordance with established procedures.

(2) Panels of the ADRB will assemble in open or closed session for the consideration and determination of cases presented to them.

(3) Cases in which no request for either a personal, Counsel/Representative only, or video tape hearing is made by the applicants will be considered only by a panel in Washington, D.C., in closed session on the basis of all documentary evidence presented to the ADRB, including any briefs submitted by the applicant.

(4) Cases in which the applicant has elected to present his/her appeal by means of a video tape hearing will be considered only by a panel in Washington, D.C., in closed session, on the basis of the video tape and all documentary evidence presented to the ADRB, including any briefs, submitted by the applicant and/or Counsel/Representative.

(5) Cases in which the applicant has selected appearance by Counsel/Representative only from a private organization and/or any other source other than accredited agencies listed on DD Form 293, may be scheduled for presentation to a Traveling Panel of the ADRB if a specific request is made. Such cases will be arranged by separate correspondence.

k. *Hearing Process.*—(1) *Scheduling.* (a) An applicant, upon request, is entitled by law to appear before a panel of the ADRB in open session, either in person or represented by Counsel/Representative of his/her selection.

(b) An applicant may, for his/her convenience, be offered an opportunity to appear by video tape hearing. The use of such video tape hearings is encouraged, in appropriate cases, since it does not require the applicant and his Counsel/Representative to travel to the panel location. Video tape hearings will be conducted as directed by the President of the ADRB.

(c) In every case in which either a personal or video tape hearing is requested, the ADRB will transmit to the applicant and to designated Counsel/Representative for the applicant, if any, a written notice stating the time and place of the hearing. The record will contain evidence that written notice to the applicant and his/her counsel, if any, has been given.

l. A Secretary/Recorder or assistant shall be designated to assist in the functioning of each ADRB panel by the President of the ADRB.

m. Personal appearance hearings (including Hearing Examinations) shall be conducted with recognition of the rights of the individual to privacy. Accordingly, the presence at hearings of individuals other than those whose presence is required will be limited to persons authorized by the Secretary of the Army or expressly requested by the applicant. If in the opinion of the Presiding Officer, presence of other individuals would be prejudicial to the interests of the applicant or the government, such hearings may be held in closed session.

n. *Evidence and Testimony.* (1) The ADRB may consider any evidence obtained in accordance with this regulation.

(2) Formal rules of evidence shall not be applied in ADRB proceedings. The Presiding Officer shall rule on matters of procedure and shall insure that reasonable bounds of relevancy and materiality are maintained in the taking of evidence and presentation of witnesses.

(3) Applicants undergoing personal appearance hearings shall be permitted to introduce witnesses, documents, sworn or unsworn statements or other information on their behalf, all at no expense to the Department of Defense.

(4) Applicants may also make oral or written arguments personally and/or through Counsel/Representatives.

(5) Applicants and witnesses may be questioned by the ADRB. All testimony shall be taken under oath or affirmation unless the applicant specifically requests to make an unsworn statement.

(6) There is a presumption of regularity in the conduct of governmental affairs. This presumption can be applied in any review unless there is substantial credible evidence to rebut the presumption.

o. Contentions:

(1) Applicants must state clearly and specifically their contentions, and/or the issues of fact, law, or discretion for a written determination to be made in accordance with paragraph 9a (3) of this regulation.

(2) In addition, the ADRB shall consider such issues of fact, law, or discretion as are discerned by the ADRB in the discharge review process.

(3) The ADRB shall make findings and conclusions with respect to the contentions and issues as required by paragraph (i)(1) of this section.

p. Decisions. On the basis of its findings and conclusions, the ADRB shall record its decision as to whether relief should be granted. The nature of any change shall be specified clearly.

q. Implementation of discharge review Decision. A written notification shall be issued to implement the decision of the ADRB, or that of higher authority, in each discharge review case.

4. *Decision Process.* a. The ADRB or the ADRB panel, as appropriate, shall meet in plenary session to review discharges and exercise its discretion on a case-by-case basis in applying the standards set forth in Appendix C.

b. The Presiding Officer shall convene, recess, and adjourn the ADRB panel as appropriate and shall maintain an atmosphere of dignity and decorum at all times.

c. Each ADRB member shall act under oath or affirmation requiring careful, objective consideration of the application. ADRB members are responsible for eliciting all facts necessary for a full and fair hearing. They shall consider all information presented to them by the applicant. In addition, they shall consider available service and health records, together with such other records as may be in the files of the military department concerned and relevant to the issues before the ADRB, and any other evidence obtained in accordance with this Appendix.

d. If the applicant does not appear in person and the designated Counsel/Representative does not appear in the applicant's behalf, the ADRB shall review the application on the basis of available official records, documentary evidence submitted by or on behalf of the applicant, available official records, presentation of the Hearing Examination, if any, and any other relevant evidence obtained in accordance with this Appendix.

e. If the applicant appears in person or the designated Counsel/Representative appears before the ADRB in the applicant's behalf, the ADRB shall review the application on the basis of testimony on behalf of the applicant, available official records, documentary evidence submitted by or on behalf of the applicant, presentation of the hearing examination, if any, and any other relevant evidence obtained in accordance with this regulation.

f. Application of Standards:

(1) When the ADRB determines that an applicant's discharge was improper (paragraph 2, appendix C), the ADRB will determine which reason for discharge should have been assigned based upon the facts and circumstances properly before the discharge authority in view of the service regulations governing reasons for discharge at the time the applicant was discharged. Unless it is also determined that the discharge was inequitable (paragraph 3, appendix C), any change will be based on the evaluation of the applicant's overall record of service and relevant regulations of the Military Service of which the applicant was a member.

(2) When the ADRB determines that an applicant's discharge was inequitable (see appendix C, paragraph 3), and change will be based on the evaluation of the applicant's overall record of service and relevant Army Regulations.

g. Voting shall be conducted in closed session, a majority of the five members' votes consituting the ADRB decision.

h. Details of closed session deliberations of an ADRB panel are privileged information and shall not be divulged.

i. Minority opinions may be recorded by any member in accordance with procedures prescribed by paragraph (j) of this section.

j. The ADRB may request advisory opinions from the Army Staff. These opinions are advisory in nature and are not binding on the ADRB in its decisionmaking process.

Appendix C.—Discharge Review Standards

1. *Objective of Review.* The objective of a discharge review is to examine the propriety and equity of the applicant's discharge and to effect changes, if necessary. The standards of review and the underlying factors which aid in determining whether the standards are met shall be historically consistent with criteria for determining honorable service. No factors shall be established which require automatic change or denial of a change in a discharge. Neither the ADRB or the Secretary of the Army shall be bound by any methodology of weighing of the factors in reaching a determination. In each case, the ADRB or Secretary of the Army shall give full, fair and impartial consideration to all applicable factors prior to reaching a decision.

2. *Propriety.* A discharge shall be deemed to be proper, unless in the course of discharge review it is determined that:

a. There exists an error of fact, law, procedures, or discretion associated with the discharge at the time of issuance; and that the rights of the applicant were prejudiced thereby. Such error shall constitute prejudicial error, if there is substantial doubt that the discharge would have remained the same if the error had not been made; or

b. A change in policy by the Department of the Army of which the applicant was a member, made expressly retroactive to the type of discharge under consideration, requires a change in the discharge.

3. *Equity.* A discharge shall be deemed to be equitable unless:

a. In the course of a discharge review, it is determined that the policies and procedures under which the applicant was discharged differ in material respects from policies and procedures currently applicable on an Army-wide basis to discharges of the type under consideration: *Provided,* That:

(1) Current policies or procedures represent a substantial enhancement of the rights afforded a respondent in such proceedings; and

(2) There is a substantial doubt that the applicant would have received the same discharge if relevant current policies and procedures had been available to the applicant at the time of the discharge proceedings under consideration;

b. At the time of issuance, the discharge was inconsistent with standards of discipline in the Army.

c. In the course of a discharge review, it is determined that relief is warranted based upon consideration of the applicant's Service record and other evidence presented to the ADRB viewed in conjunction with the factors listed in this subparagraph and the regulations under which the applicant was discharged, even though the discharge was determined to have been otherwise equitable and proper at the time of issuance. Areas of consideration include, but are not limited to:

(1) Quality of Service, as evidenced by factors such as:

(a) Service history, including date of enlistment, period of enlistment, highest rank achieved, conduct or efficiency ratings (numerical or narrative).

(b) Awards and decorations.

(c) Letters of commendation or reprimand.

(d) Combat service.

(e) Wounds received in action.

(f) Level of responsibility at which the applicant served.

(g) Other acts of merit that may not have resulted in a formal recognition through an award or commendation.

(h) Length of service during the service period which is the subject of the discharge review.

(i) Prior military service and type of discharge received or outstanding post-service conduct to the extent that such matters provide a basis for a more thorough understanding of the performance of the applicant during the period of service which is the subject of the discharge review.

(j) Convictions by court-martial.

(k) Record of non-judicial punishment.

(l) Convictions by civil authorities while a member of the Army, reflected in the discharge proceedings or otherwise noted in the service records.

(m) Record of periods of unauthorized absence.

(n) Records relating to a discharge in lieu of court-martial.

(2) Capability to serve, as evidenced by factors such as:

(a) *Total Capabilities.* This includes an evaluation of matters such as age, educational level, and aptitude scores. Consideration may also be given to whether the individual met normal military standards of acceptability for military service and similar indicators of an individual's ability to serve satisfactorily, as well as ability to adjust to the Army.

(b) *Family/Personal Problems.* This includes matters in extenuation or mitigation of the reason for discharge that may have affected the applicant's ability to serve satisfactorily.

(c) *Arbitrary or Capricious Actions.* This includes actions by individuals in authority which constitute a clear abuse of such authority and which contributed to the decision to discharge or to the characterization of service.

(d) *Discrimination.* This includes unauthorized acts as documented by records or other evidence.

Appendix D.—Procedural Rights

1. *General.* This appendix outlines the procedural rights of applicants who request

a review of their discharges by the Army Discharge Review Board. The rights herein described are in accordance with those listed in Department of Defense Directive 1332.28, 1978.

2. *Specific.* Each applicant is entitled to the following:

a. To request review of his/her discharge or dismissal from the United States Army or its components on DD Form 293 within 15 years after the date of that separation. As a specific exception to the 15-year rule, any applicant administratively discharged under other than honorable conditions whose case has not been reviewed previously under the procedures and standards set forth in DoD Directive 1332.28, 1978, regardless of the date of discharge, may request review of his/her discharge: *Provided,* The request is made prior to January 1, 1980. The review of all discharges will be conducted in accordance with Appendix B of this regulation.

b. To have that request considered by a panel of the ADRB consisting of five members either in Washington, D.C., or at a location elsewhere in the United States where the ADRB conducts hearings.

c. To appear before the ADRB in person, with or without Counsel/Representative; to have Counsel/Representative present the applicant's case in the absence of the applicant; or, to have the review conducted based on records and any additional documentation submitted by the applicant or Counsel/Representative.

d. To request any regulations, documents or other evidence to be considered by the ADRB in the review of his/her discharge or dismissal other than the documents or evidence contained in the official military record or submitted by the applicant prior to the conduct of the formal review and to be afforded an opportunity to examine such other documents or evidence or to be provided with copies of them (a nominal charge may be made for copies of army regulations).

e. To withdraw his/her application without prejudice at any time prior to the scheduled review.

f. To request a continuance of his/her review when the continuance is of a reasonable duration and essential to achieving a full and fair hearing. The request must indicate the reason why the continuation is required.

g. To request a postponement of his/her discharge review for good and sufficient reason set forth in a timely manner.

h. To request reconsideration of his/her discharge review under the conditions set forth in DoD Directive 1332.28, 1978.

i. To request copies of any evidence gathered by the ADRB beyond that found in his/her official record or submitted by the applicant and to be provided copies of such evidence with appropriate modification regarding classified material.

j. To request access to the information to be considered by the ADRB prior to the actual hearing of his/her case.

k. To have his/her right to privacy protected in any hearing conducted by the ADRB.

l. When appearing personally before the ADRB:

(1) To introduce witnesses, documents, sworn or unsworn testimony.

(2) To present oral or written arguments personally or through Counsel/Representative.

(3) To specifically request to present unsworn testimony which entitles the applicant to choose whether to respond to questions from members of the ADRB panel concerning that testimony.

m. To submit documents, affidavits, briefs or arguments in writing. When the Counsel/Representative appears in person before the board, argument may be presented orally.

n. To state the contentions or issues which he/she desires the ADRB to answer in writing. These may be presented either orally or in writing by the applicant or Counsel/Representative.

o. To have his/her discharge reviewed under the standards of equity and propriety contained in Appendix C of this regulation.

p. To be provided with a written decision of his/her discharge review which conforms to the description contained in Appendix E of this regulation.

Appendix E—Decisional Document

1. The Army Discharge Review Board shall issue a Case Report and Directive (OSA Form 172) on each discharge review conducted. In those instances where the review is a rehearing and a prior Case Report and Directive was issued as a result of the former hearing, an addendum may be issued.

2. At a minimum, this Case Report and Directive shall contain:

a. The date, character of, and reason for the discharge or dismissal certificate issued to the applicant upon separation from military service, including the specific regulatory authority under which the discharge or dismissal certificate was issued.

b. The circumstances and character of the applicant's service as extracted from Service records, health records and information provided by other governmental authority or the applicant, such as, but not limited to:

(1) Date of enlistment
(2) Period of enlistment
(3) Age at enlistment
(4) Length of service
(5) Periods of unauthorized absence
(6) Conduct and efficiency ratings (numerical or narrative)
(7) Highest rank achieved
(8) Awards and decorations
(9) Educational level
(10) Aptitude test scores
(11) Incidents of punishment pursuant to Article 15, Uniform Code of Military Justice (including nature and date of offense or punishment)
(12) Conviction by court-martial
(13) Prior military service and type of discharge received

c. Reference to the written brief, documentary evidence, and testimony presented to the ADRB by or on behalf of the applicant.

d. A statement of findings, conclusions, and reasons consisting of:

(1) Findings of all issues of fact, law, or discretion upon which the decision on the application is based, including those factors required by applicable Army regulations to be considered for determination of the character of and reason for the discharge or dismissal certificate in question.

(2) Findings and conclusions on all other issues of fact, law, or discretion raised by the applicant, including claims by the applicant that statutory, regulatory, and/or constitutional provisions were violated, and such other claims made by the applicant, which in the opinion of the ADRB would have warranted greater relief than that afforded the applicant by the ADRB's decision if resolved in the applicant's favor.

(3) Conclusions as to whether or not any change, correction, or modification should be made in the type or character of the discharge or dismissal and/or the reason and authority for the discharge or dismissal; and, if so concluded, the particular changes, corrections, or modifications that should be made.

(4) A statement of the reasons for the findings and conclusions made in accordance with (1) through (3) above.

e. Advisory opinions, including those containing factual information, where such opinions have been relied upon for final decision or have been accepted as a basis for rejecting any of the applicant's claims. Such advisory opinions or relevant portions thereof that are not fully set forth in the statement of findings, conclusions and reasons shall be incorporated by reference therein. A copy of such opinions shall be appended to the decision and included in the record of proceedings.

f. A record of the ADRB members' names and votes.

g. The ADRB decision and written minority opinions or reports, if any.

h. A listing of the contentions or issues presented by the applicant, if not included elsewhere.

i. An authentication of the document by an appropriate official.

j. Issuance of Decisions Following Discharge Review. The applicant and Counsel/Representative, if any, shall be provided with a copy of the decisional document and of any further action in review. Final notification of decisions shall be issued to the applicant with a copy to the Counsel/Representative, if any, and to the Office of The Adjutant General, as prescribed in paragraph (o) of this section.

(1) Notification to applicants, with copies to Counsel/Representatives, shall normally be made through the U.S. Postal Services. Such notification shall consist of a notification of decision, together with a copy of the decision document.

(2) Notification to the Office of The Adjutant General shall be for the purpose of appropriate action and inclusion of review matter in personnel records. Such notification shall bear appropriate certification of completeness and accuracy.

(3) Actions on review by the Secretary of the Army, when occurring, shall be provided to the applicant and Counsel/Representative in the same manner as notification of the review decision.

3. In addition to the minimum elements as outlined above, the Case Report and Directive may contain additional information generated in the preparation of the request for discharge review as a part of the administrative processing of the applicant's request and his/her military record for presentation to a panel of the Army Discharge Review Board. This includes the processing of the case file by an analyst, a prereview officer and/or a Hearing Examiner (when the applicant has elected to make his presentation through a Hearing Examination), and the legal advisor or medical consultant to the ADRB.

Appendix F—Report Requirement

1. Semi-annual reports will be submitted by the 20th day of April and October for the preceding six month reporting period (October 1 through March 31, and April 1, through September 30).

2. The reporting period will be inclusive from the first through the last days of each reporting period.

3. The report will contain four parts:

a. Part I—Regular Cases.

b. Part II—Reconsideration of President Ford's memorandum of January 19, 1977/ Special Discharge Review Program Cases.

c. Part III—Cases heard under Pub. L. 95-126 by waiver of Title 10, U.S.C. 1553 with regard to the statute of limitations.

d. Part IV—Total Cases Heard.

4. The report format is Attachment 1 to this appendix.

SAMPLE REPORT FORMAT

SUMMARY OF STATISTICS FOR

ARMY DISCHARGE REVIEW BOARD

(FY____)

(Inclusive Period)

Non-Personal Appearance			Personal Appearance			TOTAL		
Appl.	No. Approved	% Appr.	Appl.	No. Approved	% Appr.	Appl.	No. Approved	% Appr.

(Identify numbers separately for traveling panels, regional panels or hearing examiners, as appropriate. Use of additional footnotes to clarify or amplify the statistics being reported is encouraged.)
RCS: DD-M(SA)1489

APPENDIX G—REFERENCES

1. Title 10, United States Code, 1553
2. Title 38, United States Code, Sections 101, 3103, 3103a, as amended by Pub. L. 95-126, October 8, 1977
3. Stipulation of Dismissal, Civil Action No. 76-530, United States Court for the District of Columbia, *Urban Law Institute of Antioch College, Inc., et al., Plaintiffs* v. *Secretary of Defense, et al., Defendants*, January 31, 1977
4. DOD Directive 5400.11, "Personal Privacy and Rights of Individuals Regarding Their Personal Records," August 4, 1975
5. DOD Directive 1332.14, "Enlisted Administrative Separations," December 29, 1976
6. Title 10, United States Code, 801 et seq. "Uniform Code of Military Justice (UCMJ)"
7. Title 10, United States Code, Chapter 47, "Uniform Code of Military Justice"
8. Presidential Memorandum, January 19, 1977, regarding an extention of Presidential Proclamation 4313 of September 16, 1974
9. Secretary of Defense Memorandum, April 5, 1977, subject: Implementation of the Discharge Review Program
10. DOD Directive 1332.28, "Discharge Review Board (DRB) Procedures and Standards," March 1978

[FR Doc. 78-9859 Filed 4-12-78; 8:45 am]

federal register

THURSDAY, APRIL 13, 1978
PART III



DEPARTMENT OF TRANSPORTATION

Coast Guard

■

REPORTING OF CASUALTIES AND ACCIDENTS; NUMBERING OF VESSELS

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Parts 173, 174]

[CGD 77-117]

REPORTING OF CASUALTIES AND ACCIDENTS; NUMBERING OF VESSELS

AGENCY: Coast Guard, DOT.

ACTION: Proposed rules.

SUMMARY: The standard vessel numbering system promulgated in parts 173 and 174 has been effective since July 1, 1973. Since that time several States have come into full compliance with these regulations. There are, however, several sections of the numbering regulations that have not been complied with by most of the States. An examination of these sections indicates that although beneficial for the sake of uniformity they do not enhance boating safety. The Coast Guard is proposing to make these sections optional, recognizing that the responsibility for the administrative details of a numbering program lies with the individual State governments.

DATE: Comments must be received on or before June 12, 1978.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/81), United States Coast Guard, Washington, D.C. 20590. Comments will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1477.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Written comments should include the docket number (CGD-77-117), the name and address of the persons submitting the comments, and the specific section of the proposal to which the comment is addressed. All comments received will be considered before final action is taken on this proposal. No hearing is contemplated, but one may be held at a time and place set out in a later notice in the FEDERAL REGISTER, if requested by a person or organization desiring to comment orally at a public hearing and raising a genuine issue.

DRAFTING INFORMATION

The principal persons involved in the drafting of this proposal are: Lt. D. R. Gauthier, Project Manager, Office of Boating Safety; Lt. R. R. Meeks, Project Attorney, Office of Boating Safety.

DISCUSSION OF PROPOSED REGULATIONS

In the early part of 1975, a review of all State numbering and casualty reporting systems was conducted by the Coast Guard and each State was provided with a list of those sections with which the State did not comply. At the same time, conditional approval of the state's system was granted in accordance with 46 U.S.C. 1467. At that time each State was asked to correct any remaining deficiency prior to July 1, 1976. Many of the problems which the Coast Guard expected in pursuading the States to comply were not encountered, and most of the major discrepancies were corrected. Many States, however, still did not comply with certain sections of the regulations. On April 29, 1976 the July 1, 1976 deadline for full compliance was withdrawn.

The Coast Guard continues to urge acceptance of the standard vessel numbering system by all States. However, certain numbering and reporting regulations with which large scale noncompliance exists are such that failure to comply by many States does not adversely affect boating safety. Further, the costs of forcing compliance upon the States by withdrawal of approval of the numbering systems involved would not be justified by the resulting marginal increase in uniformity.

The following requirements for an approved State numbering system would therefore be made optional:

1. Section 173.31 *Surrender of certificate of number.*
2. Section 173.33 *Removal of number.*
3. Section 173.53 *Immediate notification of death or disappearance.*
4. Paragraph (c) of § 173.55 *Report of casualty or accident.*
5. Subparagraph (a)(15) of § 174.19 *Contents of a certificate of number.*

In consideration of the foregoing, it is proposed to amend Part 174 of 33 CFR as follows:

1. By revising § 174.13 to read as follows:

§ 174.13 Owner or operator requirements.

A State numbering system must contain the requirements applicable to an owner or a person operating a vessel that are prescribed in the following sections of Part 173:

(a) Paragraph (a) of § 173.15 *Vessel number required.*

(b) Section 173.19 *Other numbers prohibited.*

(c) Paragraph (a) of § 173.21 *Certificate of number required.*

(d) Section 173.23 *Inspection of certificate.*

(e) Section 173.25 *Location of certificate of number.*

(f) Section 173.29 *Notification of issuing authority.*

(g) Section 173.71 *Application for certificate of number.*

(h) Section 173.73 *Duplicate certificate of number.*

(i) Section 173.77 *Validity of certificate of number.*

2. By adding a new § 174.14 to read:

§ 174.14 State numbering system optional sections.

A State numbering system may in addition, contain any of the other requirements applicable to a boat owner or operator prescribed in Part 173.

3. By striking subparagraph 174.19(a)(15) and adding a new paragraph 174.19(e) as follows:

§ 174.19 Contents of a certificate of number.

* * * * *

(e) An issuing authority may print on the certificate of number a quotation of the State regulations pertaining to change of ownership or address, documentation, loss, discovery of vessel, carriage of the certificate of number on board when the vessel is in use, rendering aid in a boat accident, and reporting of vessel casualties and accidents.

4. By revising § 174.105 to read as follows:

§ 174.105 Owner or operator casualty reporting requirements.

A State casualty reporting system must contain the following requirements of Part 173 applicable to an owner or a person operating a vessel:

(a) Paragraphs (a) and (b) of § 173.55 *Report of casualty or accident.*

(b) Section 173.57 *Casualty or accident report.*

(c) Section 173.59 *Where to report.*

5. By adding a new § 174.106 to read:

§ 174.106 State casualty reporting system optional sections.

A State casualty reporting system may in addition, contain any of the other requirements applicable to a boat owner or operator prescribed in Part 173.

(Secs. 2,18,39, Pub. L. 92-75, 85 Stat. 213, 220, 228 (46 U.S.C. 1451, 1467, 1488); 49 CFR 1.46(n)(1).)

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

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

APRIL 7, 1978.

[FR Doc. 78-9877 Filed 4-12-78; 8:45 am]

federal register

THURSDAY, APRIL 13, 1978
PART IV



DEPARTMENT OF TRANSPORTATION

Coast Guard

■

U.S. MARINE SAFETY INFORMATION SYSTEM

Notification of Tank Vessel Ownership Information, Names, and Country

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 161]

[CGD 77-213]

U.S. MARINE SAFETY INFORMATION SYSTEM

Notification of Tank Vessel Ownership Information, Names and Country of Registry

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard is considering amending the rules for protection of the marine environment relating to tank vessels carrying oil in bulk by requiring all oil tankers of 20,000 tons deadweight (DWT) or more, U.S. and foreign, that call at U.S. ports, places or deepwater ports to engage in commercial service to report certain ownership information, all registered names the vessel has had since it began operation, and the country of current registry. This amendment is in response to that portion of the President's March 17, 1977, message to Congress relating to development of a U.S. Marine Safety Information System. This amendment is intended to contribute to a reduction in the number of oil spills in U.S. waters and at U.S. ports.

DATES: 1. Comments must be received on or before June 12, 1978. 2. Public Hearing: The Coast Guard will hold three public hearings concerning this proposal. The first will be held on May 12, 1978, beginning at 9:30 a.m. in Great Hall, New York Chamber of Commerce and Industry, 65 Liberty Street, New York, N.Y. The second will be held on May 23, 1978, beginning at 9:30 a.m. in The Flamingo Room, on board the Queen Mary Hyatt Hotel in Long Beach, Calif. The third will be held on May 26, 1978, beginning at 9:30 a.m. in Room 747A, Houston Host International Hotel, 18700 Kennedy Boulevard, Houston, Tex.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/81) (CGD 77-213), U.S. Coast Guard, Washington, D.C. 20590. Comments will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1477.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Each person submitting a comment should include his name and address, identify this notice (CGD 77-213) and the specific section of the proposal to which his comment applies, and give the reasons for his comment. All comments received will be considered before final action is taken on this proposal. Interested persons are invited to attend the hearings and present oral or written statements on this proposal. It is requested that anyone desiring to make comments notify Captain Greiner at least 10 days before the scheduled date of the public hearing and specify the approximate length of time needed for the presentation. It is urged that a written summary or copy of the oral presentation be included with the request.

Drafting Information

The principal persons involved in drafting this document are: Lieutenant Commander Edward H. Bonekemper, III, Project Manager, Office of Marine Environment and Systems, and Lieutenant Edward J. Gill, Jr., and Robert Horowitz, Project Attorneys, Office of the Chief Counsel.

Discussion of the Proposed Regulations

The President's Message of March 17, 1977, to Congress announced development of a U.S. Marine Safety Information System. This system contains information on tankers obtained by the Coast Guard from its tanker boarding program and other sources. The President stated that the System will also contain information on the names of tanker owners, major stockholders and changes in vessel names. The Coast Guard has been tasked with implementing this ownership and vessel names requirement.

The regulations would prohibit a vessel bound for a U.S. port for commercial service from entering the navigable waters of the United States or from entering the safety zone of a U.S. deepwater port unless the ownership, vessel name, and registry information has been disclosed to the Captain of the Port (COTP).

The regulations are designed to require the broadest possible disclosure, by requiring disclosure of the identity of any person or entity having a beneficial interest in the vessel, legal or otherwise. If the owner is a corporation then the stockholders of the corporation holding five or more percent of the voting stock issued and outstanding must be disclosed. If the vessel is on bareboat, time, or voyage charter, the disclosure provisions apply to the charterer (in addition to the owner) in the same manner as they apply to the owner.

The regulations also will require disclosure of all registered names the vessel has been identified by since it first entered into commercial service, and identification of the country of current registry.

Knowing the names of the vessel since it has been in operation will enhance the Coast Guard's capability to identify chronic polluters so that the appropriate measures can be taken to minimize the danger of oil pollution. Knowing the owner and charterer of the vessel will enable the Coast Guard to contact the party responsible for the vessel in the event of a pollution incident or a threatened pollution incident. Knowing the country of current registry will facilitate appropriate contact which may be necessary to avoid or mitigate damages. In addition, identifying the responsible parties may result in fewer ships being operated in a condition jeopardizing the environment.

These regulations will contribute toward protection of the marine environment and are being promulgated under authority of the Tank Vessel Act, Section 4417a of the Revised Statutes of the United States (46 U.S.C. 391a). Failure to comply with the regulations would subject the violator to the penalties provided in the Tank Vessel Act.

In consideration of the foregoing, it is proposed to amend Part 161 of Title 33 of the Code of Federal Regulations as follows:

By adding a new Subpart D to read as follows:

Subpart D—Tank Vessel Ownership Information and Names

Sec.

161.3000 Applicability.
161.3005 Definitions.
161.3010 Information required to be provided.

Subpart D—Tank Vessel Ownership Information and Names

§ 161.3000 Applicability.

This subpart applies to all tank vessels of 20,000 deadweight tons or more carrying oil in bulk that enter the navigable waters of the United States or the safety zone of a U.S. deepwater port to engage in commercial service at a port or place in the United States or at the deepwater port.

§ 161.3005 Definitions.

As used in this subpart:

"Beneficial owner" means any individual, corporation, partnership, firm, or association having any interest in the vessel or in the charter of the vessel if the vessel is on bareboat, time, or voyage charter. Interest includes, but is not limited to, any right

to profit, benefit, or receive any advantage or loss, either proprietary or financial, from the vessel or from the charter. Interest includes actual control and is not limited to legal ownership or control over the vessel or the charter.

"Oil" means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil.

§ 161.3010 Information required to be provided.

(a) No vessel may enter the navigable waters of the United States, or the safety zone of a deepwater port, unless the owner, master, agent, or person in charge of the vessel has provided the Captain of the Port (COTP) of the port or place of destination of the vessel the following information at least 24 hours before entering the port, place, or deepwater port:

(1) The names of all beneficial owners. If a corporation is a beneficial owner, the names of holders of five or more percent of voting stock issued and outstanding must be provided.

(2) Each registered name the vessel has been identified by since the vessel began commercial service.

(3) The country of the vessel's registry.

(b) The information required under paragraph (a) may be submitted directly to the U.S. Marine Safety Information System, Commandant (G-WLE-1/73), U.S. Coast Guard, Washington, D.C. 20590 (Telex: 892427). The submittal must be made at leat 30 day before the vessel's arrival.

(c) If the information is submitted in accordance with paragraph (b), if there is no change in the information from the time it was last submitted, and if the owner, master, agent, or person in charge of the vessel informs the COTP that the information is on file in the U.S. Marine Safety Information System, the report required under paragraphs (a) need not be made.

(Title II, Sec. 201, 86 Stat. 427, as amended (46 U.S.C. 391a); Pub. L. 93-627, 88 Stat. 2131 (33 U.S.C. 1504); 49 CFR 1.46(n)(4), (s).)

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: April 10, 1978.

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

[FR Doc. 78-9878 Filed 4-12-78; 8:45 am]

Federal Register

THURSDAY, APRIL 13, 1978
PART V



DEPARTMENT OF TRANSPORTATION

Coast Guard

■

GREAT LAKES PILOTAGE RATES

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Part 401]

[CGD 78-016]

GREAT LAKES PILOTAGE RATES

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard is proposing to increase, effective April 1, 1978, the basic rates for U.S. Great Lakes Pilotage by 10 percent in all three Pilotage Districts, except the Welland Canal. The Welland Canal is entirely within Canada and U.S. pilots do not provide services there. This change in pilotage rates is proposed in order to provide the three U.S. Pilot Associations with funds for a pilot training program, to cover increased operating costs, and to increase U.S. pilot compensation.

DATES: Comments must be received on or before: May 15, 1978.

ADDRESSES: Comments should be submitted to and are available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590. A copy of the economic evaluation from which the economic summary in this document is taken is available for examination at the above address.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transprtation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1477.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Each person submitting a comment should include the commenter's name and address, identify this notice (CGD 78-016) and the specific section of the proposal to which the comment applies, and give the reasons for the comment. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned but one may be held at a time and place to be set in a later notice in the FEDERAL REGISTER if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are: John J. Hartke, Project Manager, Office of Merchant Marine Safety, and Stephen D. Jackson, Project Attorney, Office of Chief Counsel.

DISCUSSION OF THE RULE

Revenues and expenses for 1977 have been reviewed. Revenue requirements for 1978 have been developed and the number of vessels, their size, and route patterns have been projected for 1978.

The rates in effect during the 1977 season were adequate to cover the operating costs of providing pilotage services and to provide sufficient revenue remaining after expenses so that U.S. pilot compensation met the target pilot compensation standards established for 1977.

The guideline followed in the development of a pilot compensation figure is that the target compensation for U.S. pilots is to be comparable to the earnings of their licensed counterparts on U.S. Great Lakes vessels. This guideline is contained in the *Statement of Policy for Pilotage in the Great Lakes System, United States Department of Transportation, June 16, 1973.* This means that a registered pilot should earn compensation comparable to a Master on Great Lakes vessels when providing pilotage services in designated waters (Rivers), and that a registered pilot should earn compensation comparable to a Chief Mate on Great Lakes vessels when providing pilotage services in undesignated waters (Lakes).

The pilots' counterparts on Great Lakes vessels have received compensation increases for this year. Increasing pilotage rates by six percent would increase pilot compensation enough to maintain a reasonably close relationship in compensation between the Great Lakes pilots and their licensed counterparts on U.S. Great Lakes vessels. This six percent rate increase would also cover the projected increase in pilot association operating costs for 1978, specifically, the increases in pilot boat and dispatching costs.

The remaining four percent of this 10 percent rate increase will provide the three U.S. Pilot Associations with funds for a pilot training program.

The need for a training program for U.S. Great Lakes registered pilots has been under consideration for over a year and was discussed at a public meeting held August 2, 1977, in Cleveland, Ohio.

The average age of the U.S. registered pilot force is 55. The mandatory retirement age for Great Lakes pilots is 65. Five pilots reached that age during the 1977 season and three more pilots will be 65 during the 1978 season. Through 1988 at least two pilots will reach retirement age each year and as many as five will retire in some of those years. Assuming that the demand for pilotage services continues at approximately the same level as in the last three years, 57 percent of the existing pilot force will have to be replaced within the next 10 years.

The purpose of a pilot training program is to train new pilots to replace those that retire or otherwise leave the pilot force.

Presently, an Applicant Pilot receives no compensation while in training and personally absorbs travel and other expenses incurred while in training. Providing the U.S. Pilot Associations with funds to cover these training expenses should assist them in attracting new pilots.

In the past the Coast Guard has not considered training funds as a cost element in establishing pilotage rates. This rule recognizes pilot training costs as a reasonable and necessary cost of providing pilotage services.

The annual Coast Guard audit of the financial accounts of the three U.S. Pilot Associations will include an audit of the accounting records for pilot training and reasonable expenditures for training will be included as operating expenses in future pilotage rate determinations.

The 1978 Great Lakes shipping season begins approximately April 1, 1978.

The 1977 financial data and traffic statistics needed to set pilotage rates were not available until January 1978.

In order to meet the goals of pilot compensation comparability and adequate funds for pilot training these proposed rates must be in effect for the entire shipping season.

If this rate increase is not made retroactive, it would then be necessary to increase pilotage rates by an amount greater than 10 percent in order to have U.S. pilot compensation reach the intended level for the 1978 shipping season. This would result in artificially higher rates from that date and beyond.

It is proposed to make this 10 percent increase in U.S. Great Lakes pilotage rates effective April 1, 1978. Since the final rule will not be published until after April 1, comments are invited on any problems which would be caused by making this rate increase retroactive.

The words "U.S." are deleted in § 401.405(b)(1) because the Welland Canal is entirely within Canada and U.S. pilots do not provide services there.

A new paragraph (b)(1)(iii) is added to § 401.405 regarding a dock/undock in the Welland Canal. Passage through the Welland Canal is not handled by U.S. pilots and this new paragaph is added to accommodate Canada. By including the Welland Canal in the U.S. pilotage regulations, the rates for the entire Great Lakes

System are available in one place for the convenience of the users of the system.

This rule has been reviewed under Department of Transportation "Policies and Procedures for Simplification, Analysis, and Review of Regulations." The estimated cost of the U.S. regulatory proposal (as distinguished from a similar Canadian regulatory proposal) is $550,823. This cost figure is the amount of additional revenue the U.S. pilots should receive under this proposal and is the additional amount that shippers will pay per season. The benefit of this rule is the value of avoiding or minimizing costly delays and disruptions in shipping attributable to the failure to be able to retain qualified pilots and to attract new qualified pilots. The overall efficiency of the pilotage system is enhanced by having an appropriate number of pilots available to provide the required services.

In consideration of the foregoing, it is proposed to amend Part 401 of Title 46 of the Code of Federal Regulations as follows:

1. By revising § 401.405 to read as follows:

§ 401.405 Basic rates and charges on designated waters.

Except as provided under § 401.420, the following basic rates shall be payable effective April 1, 1978, for all services and assignments performed by U.S. Registered Pilots in the areas described in § 401.300:

(a) District 1:

(1) For passage through the District or any part thereof, $5.70 for each statute mile, plus $75 for each lock transited, but with a minimum basic rate of $166 and a maximum basic rate for a through trip of $730.

(2) For movage in any harbor, $250.

(b) District 2:

(1) Passage through the Welland Canal or any part thereof, $26.80 for each statute mile, plus $99 for each lock transited but with a minimum basic rate of $331, and a maximum basic rate for a through trip of $1,221. When U.S. pilots are changed at Lock 7 on a through trip, the basic rates are apportioned as follows:

(i) Between northerly limits and Lock 7, $611.

(ii) Between Lock 7 and southerly limits, $611.

(iii) When a vessel docks or undocks for any purpose during the course of her passage through the Welland Canal, except on the instructions of the St. Lawrence Seaway Authority or of the Great Lakes Pilotage Authority Ltd., there shall be no maximum basic fee for the through trip.

(2) Southeast Shoal to Toledo or any point on Lake Erie west of Southeast Shoal, $369.

(3) Between points on Lake Erie west of Southeast Shoal, $218.

(4) Southeast Shoal to Port Huron Change Point or any point on the St. Clair River when pilots are not changed at Detroit Pilot Boat, $642.

(5) Southeast Shoal to Detroit/Windsor or any point on the Detroit River, $369.

(6) Southeast Shoal to Detroit Pilot Boat, $267.

(7) Toledo or any point on Lake Erie west of Southeast Shoal and Port Huron Change Point, when pilots are not changed at Detroit Pilot Boat, $744.

(8) Toledo or any point on Lake Erie west of Southeast Shoal and Detroit/Windsor or any point on the Detroit River, $479.

(9) Toledo or any point on Lake Erie west of Southeast Shoal and the Detroit Pilot Boat, $369.

(10) Detroit/Windsor or any point on the Detroit River and between points on the Detroit River, $218.

(11) Detroit/Windsor or any point on the Detroit River to Port Huron Change Point or any point on the St. Clair River, $484.

(12) Detroit Pilot Boat to any point on the St. Clair River, $484.

(13) Detroit Pilot Boat to Port Huron Change Point, $375.

(14) Between points on the St. Clair River, $218.

(15) Port Huron Change Point to any point on the St. Clair River, $267.

(c) District 3:

(1) Between the southerly limit of the District and the northerly limit of the District or the Algoma Steel Corp. Wharf at Sault Ste. Marie, Ontario, $664.

(2) Between the southerly limit of the District and Sault Ste. Marie, Ontario or any point in Sault Ste. Marie, Ontario other than the Algoma Steel Corp. Wharf, $557.

(3) Between the northerly limit of the District and Sault Ste. Marie, Ontario, including the Algoma Steel Corp. Wharf, or Sault Ste. Marie, Mich., $250.

(4) For a movage in any harbor, $250.

2. By revising § 401.410(a) to read as follows:

§ 401.410 Basic rates and charges on undesignated waters.

(a) Except as provided under § 401.420 and subject to paragraph (b) of this section, the basic rates to be paid by a ship that has a U.S. registered pilot on board in the undesignated waters shall be: In Lake Ontario, $133. In Lake Erie, $174. In Lakes Huron, Michigan, and Superior, $133.

For each 6 hour period or part thereof that the U.S. pilot is on board, plus $127 for each time the U.S. pilot performs the docking or undocking of the ship.

* * * * *

3. By revising § 401.420 to read as follows:

§ 401.420 Cancellation, delay or interruption in rendition of services.

(a) When, in designated or undesignated waters, the passage of a ship is interrupted for the purpose of loading or discharging cargo or for any reason and the services of the U.S. pilot are retained during the interruption or when a U.S. pilot is detained on board a ship after the end of an assignment for the convenience of the ship, the ship shall pay an additional charge calculated on a basic rate of $21 for each hour or part of an hour during which each interruption lasts with a maximum basic rate of $322 for each 24 hour period during which the interruption continues. However, there is no charge for any interruption caused by ice, weather, or traffic, except during the period beginning the 1st of December and ending on the 8th of the following April. Additionally, no charge shall be made for any interruption if the total interruption ends during the 6 hour period for which a charge has been made under § 401.410.

(b) When, in designated or undesignated waters, the departure or movage of a ship for which a U.S. pilot has been ordered is delayed for the convenience of the ship for more than one hour after the U.S. pilot reports for duty at the designated boarding point or after the time for which he is ordered, whichever is later, the ship shall pay an additional charge calculated on a basic rate of $21 for each hour or part of an hour after the first hour of the delay, with a maximum basic rate of $322 for each 24 hour period of the delay.

(c) When, in designated or undesignated waters, a U.S. pilot reports for duty as ordered and the order is cancelled, the ship shall pay:

(1) A cancellation charge calculated on a basic rate of $125.

(2) If the cancellation is more than one hour after the U.S. pilot reports for duty at the designated boarding point or after the time for which he is ordered, whichever is the later, a further charge calculated on a basic rate of $21 for each hour or part of an hour after the first hour, with a maximum basic rate of $322 for each 24 hour period.

4. By revising § 401.428 to read as follows:

§ 401.428 Basic rates and charges for carrying a U.S. pilot beyond normal change point.

If a U.S. pilot is carried beyond his normal change point or is unable to board at his normal boarding place, the U.S. pilot shall be paid at the rate of $127 per day or part thereof, plus reasonable travel expenses to or from his base. These charges are not appli-

cable if the ship utilizes the services of the U.S. pilot beyond his normal change point and the ship is billed for those services. The change points to which this section applies are designated in § 401.450.

(Sec. 4 and sec. 5, 74 Stat. 260 (46 U.S.C. 216b, 216c); sec. 6(a)(4), 80 Stat. 937, as amended (49 U.S.C. 1655(a)(4); 49 CFR 1.46(a)).)

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: April 10, 1978.

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

[FR Doc. 78-9879 Filed 4-12-78; 8:45 am]

federal register

THURSDAY, APRIL 13, 1978
PART VI



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

■

HEALTH FINANCING RESEARCH AND DEMONSTRATION GRANTS

[4110-35]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

HEALTH FINANCING RESEARCH AND DEMONSTRATION GRANTS

Availability of Grants

The Office of Policy, Planning and Research (OPPR) of the Health Care Financing Administration (HCFA) announces the availability of Fiscal Year 1978 funds for research and demonstrations. Applications for grants may be made by nonprofit or public organizations and institutions (including state agencies responsible for administering the Medicaid Program). Grants may be made for research, planning or conduct of demonstrations, conferences, or data collection activities.

General Policy Considerations

The grant activities funded by HCFA are intended to assist in the resolution of major health financing policy and program issues and to assist in developing new methods for the administration of HCFA programs. In general HCFA will consider funding projects which:

Develop or demonstrate new financing mechanisms or controls, management or administrative procedures, service delivery concepts or technological innovations designed to improve HCFA programs, or

Develop knowledge about the basic nature of costs and inflation in the health care field or the economic and behavioral relationships between health care financing methods and the activities in the health care sector.

Applicants who have ideas in either of these general areas are encouraged to develop them into complete applications.

In Fiscal Year 1978 and 1979 there are 17 areas of interest and concern which are described below. The topics described within each area are merely illustrative, not exhaustive of HCFA interests. Acceptable applications in one of the priority areas of interest will be considered as "solicited" and funded first. If an application does not fit one of these areas, it will be treated as "unsolicited" and will be considered for funding after decisions are made on the solicited projects.

Applications in any of the priority areas will be treated as "solicited" but there is no guarantee that there will be sufficient funds to make awards in all the topics. These applications will have to compete with one another and across areas.

HCFA Priority Areas for Grants

1. *Access to Care/Utilization of Services.* Analysis of the effects of coinsurance (particularly on the low income and aged populations) on utilization rates, the mix of services and the locations in which services are rendered; analysis of how Medicare and Medicaid have affected access and utilization for their beneficiaries; analysis of how low income persons ineligible for Medicaid finance and receive their care; analysis of the distribution of benefits (e.g., by age, income, race geography, etc. and the incidence of costs in HCFA programs; analysis of the nature and extent of medicare supplemental coverage; analysis of the extent of private health insurance coverage for various ancillary or innovative services, facilities, providers (e.g., long term care, pharmacy, dental, eye glasses and hearing aids, ambulatory surgery and diagnostic centers, physician extenders, etc.); analysis of the extent of private health insurance coverage for Medicaid eligibles.

2. *Clinical Efficacy Studies.* Studies to identify and define the types of and the extent to which Medicare and Medicaid beneficiaries receive ineffective or unnecessary services; generation of information for educational materials for Medicare and Medicaid beneficiaries to enhance their ability to participate in treatment decisions (e.g., materials describing when certain types of diagnostic procedures or therapies may be questionable, including when second opinions on surgery may be appropriate); limited support to evaluate clinical demonstrations to enable the collection and analysis of cost data associated with alternative therapies; studies to assess the efficacy, costs and system effects of new medical technologies.

3. *Competition and Regulation.* Studies to identify the nature and types of competitive forces that exist in the health care marketplace, how these differ from the traditional models of competition, whether these competitive forces tend to increase or decrease the cost of services, and how these forces could be strengthened to hold down health care costs and promote system efficiency. Where there is a lack of competitive forces in the health sector, analyses are needed to determine the appropriate roles of different types of government (local, State and Federal authorities) including regulations that are promulgated for "the public good" (e.g., life and safety code regulations). Studies to analyze the costs and benefits of existing or alternative regulatory approaches and their impact on access costs and quality of care received by Medicare and Medicaid beneficiaries are needed. Studies could analyze price as well as nonprice (quality, intensity, amenities) forms of competition.

4. *Graduate Medical Education.* Studies of the costs of graduate medical education in all specialties; the impacts of third party reimbursements on the supply, mix and location of residencies; how various third party payors cover graduate medical education costs; the effects of graduate medical education on hospital costs, utilization and case-mix patterns; conceptual analyses of alternative methods to pay for graduate medical education and teaching physicians and the implications of alternative financing mechanisms.

5. *Health Education/Consumer Awareness.* Studies of the extent to which consumers understand the health care system and programs which seek to increase that awareness. Of special interest are projects that orient themselves to patients' awareness of alternate locations where care is available, the costs of care, the sources/causes of these costs, and the impact of lifestyle choices in maintaining good health. Studies which analyze the implications of consumer knowledge about treatment alternatives for influencing utilization of health care services and studies which analyze the extent to which patients rely on physician's judgment about medical care utilizations are desired. Studies which develop or test programs, policies, or materials to make Medicare and Medicaid beneficiaries more aware of their health care benefits and better "shoppers" for medical care services or make HCFA programs more understandable to beneficiaries are of high priority.

6. *Hospital Costs.* Studies that attempt to discover the basic composition of and underlying factors influencing costs in hospitals and factors which influence hospital costs upward or downward; the direct and indirect effect of physicians' decisions on hospital costs; studies of United States or foreign efforts, successful or not, to control costs and the factors that contribute to this success or failure. Studies analyzing the effects of alternative methods of reimbursement of capital costs in hospitals. Studies of the nature and extent of utilization of various pieces of medical equipment in hospitals, examination of the issue of tertiary care, and the impact on hospital costs.

7. *Integrated Data Management Systems.* Studies to develop and implement alternative data collection and processing systems consistent with the intent of Section 19 of Pub. L. 95-142, particularly systems that integrate provider billing, cost and discharge data into one system. Among those methods of interest are State authorized and directed systems or other data broker models. Emphasis will be placed upon the relative costs, benefits, and utility of various systems approaches, given a multiplicity of potential users. Among the users of these systems are State and local health planning agencies, rate regula-

tors, PSRO's, researchers, and the Federal Government.

8. *Laboratory Reimbursement.* Studies analyzing the following issues are of interest: the impacts and interrelationships of alternative reimbursement schemes and practice arrangements on the price, quality and quantity of laboratory tests; centralized procurement or performance of laboratory work, especially as they relate to the costs and quality of such services to the Medicaid and Medicare programs; the application of "prudent buyer" billing concepts to the selection of laboratories and reimbursement of laboratory services for major third party payors.

9. *Long Term Care Demonstration Design/Development.* This category offers support for the development of experimental projects to test alternative systems of long term care. The objective is to demonstrate the effectiveness and efficiency of comprehensive organization and delivery of long-term care services. These would include coordination, needs assessment, and management of care. In general, projects in this area should seek answers to the following questions:

a. What steps must communities take to achieve a coordinated and comprehensive long-term care delivery system that provides continuity, quality, and access to needed care?

b. Are there significant cost and quality trade-offs between this comprehensive and coordinated approach to long-term care and the present system?

c. How can Federal long-term care programs be restructured to permit financing and delivery of this comprehensive care?

d. What methods are suitable to control Federal, State, and local program costs with adversely affecting access to and quality of care? Is it possible to control them through service monitoring and client assessment mechanisms or through the provision of a special set of services?

Applications in this area should address the following elements in a unique or innovative manner:

a. Organization and delivery of services in a coordinated, comprehensive manner;

b. Services packages that seek to alter and improve the current configuration of services;

c. Methods of financing service(s) or groups of services (such as fixed budget, capitation, etc.)

Due to limited funds, grants will only be awarded for the planning and development of demonstrations. Operational funding and granting of titles XVIII and XIX waivers are planned for future fiscal years.

10. *Long Term Care Research.* Studies of the characteristics of residents or facilities, health status of residents, and of services delivered to residents of domiciliary/congregate care facilities. The impact of regulations, e.g., life and safety codes and requirements for staffing, on access, cost and the quality of care; the impact of Medicaid and Medicare funding patterns on the use, cost and availability of long term care; studies of changes in societal patterns that may be affecting the growth in the institutional provision of long-term care; what these patterns predict for the future, especially as they relate to the demand for long term care services by Medicare and Medicaid benficiaries and the outlay implications of covering these services as part of the benefit structure of these or alternative programs; the efficiency and effectiveness of utilization review programs in long term care facilities.

11. *Medicaid Research and Demonstration.* A wide range of topics including analyses of the effects of state Medicaid program restrictions and cutbacks (e.g., benefits, reimbursements, eligibility); analysis of physician participation in State Medicaid programs; analysis of the substitution between lack of physician participation in Medicaid and patient utilization of hospital outpatient departments and emergency services; analysis of the interactions between Medicaid and welfare policies and provisions; analysis of utilization patterns and other characteristics of beneficiaries with both Medicaid and Medicare coverage; analysis of the operation and effectiveness of spenddown provisions for Medicaid; a demonstration of collecting data to meet Federal EPSDT reporting needs; studies of the utilization patterns of Medicaid beneficiaries under different comprehensive reimbursement arrangements (e.g., capitation, fee-for-service, fixed budget, etc.); review and analysis of Medicaid management systems, including ways of enhancing the effective uses of information collected and processed (reported) in surveillance and utilization review and controls, quality of care appraisal, and related activities.

12. *Medical Equipment and Supplies.* Economic, management and behavioral studies of the organization, structure, performance and operation of this segment of the health care market. Studies examining the impact of for-profit status in what is largely a not-for-profit and heavily insured segment of the United States economy; the relationship between these industries and the reimbursement policies of the Medicaid and Medicare programs; how prices of various equipment and supplies vary across areas and have changed over time; comparative rates of return to various items of medical equipment; the impact of various types of Federal regulation (e.g., certificate of need, FDA) on the nature and costs of products supplied by these industries.

13. *Physician Reimbursement.* Descriptive and analytical studies of reimbursement practices, arrangements and rates; studies of the effects of alternative reimbursement methods, practice arrangements and area characteristics on physician pricing patterns and other behavior (e.g., location, specialty, workload, productivity, practice volume and mix of services, practice mode, practice inputs, etc.) in the United States and other nations; demonstrations which develop and analyze the effects of alternative methods of reimbursement (e.g., case/diagnosis payment, fee schedules, etc.).

14. *Preventive Services.* Analysis of existing information and development of new data on the costs and effectiveness of various preventive health services, including screening programs, routine health assessments, and inpatient education and counseling regarding the control and treatment of chronic diseases. Studies which focus on Medicare and Medicaid target populations, especially the health of children and which address specific, prevalent health problems are of greatest interest. Also of interest are studies of the quantity and variety of preventive services currently provided to Medicare and Medicaid beneficiaries and the extent of Medicare and Medicaid payments.

15. *Risk Sharing Research.* Support of demonstrations or studies in which physicians bear some financial risks for the total costs of the services they render (e.g., HMO's, and other prepaid or prenegotiated arrangements). Studies comparing demographic and utilization characteristics, including patient satisfaction, of enrollees in risk sharing arrangements with those of other population groups, comparisons of the characteristics of physicians entering into such arrangements with characteristics of other physicians/including volume and mix of services, physician satisfaction, etc.; analyses to determine barriers to the further establishment of such risk sharing arrangements; analyses to determine the optimal extent of physician risk sharing; analyses of how a physicians' practice and treatment patterns change as the extent of his at-risk patient load increases; demonstration projects which test procedures or incentives for HMO's to enroll or increase their enrollment of Medicare and Medicaid beneficiaries or which encourage beneficiaries to join HMO's.

16. *Terminal Illness.* Studies of the costs and manner of treating the medical, social and emotional problems posed by terminal illness; possible alternatives, such as home care or hospice care, and their costs and effectiveness; examination of when the "ill-

ness" is or is not a medical issue, i.e., when should the Medicare or Medicaid program be responsible to pay costs "related" to the illness.

17. *Utilization Review/PSRO Studies and Quality of Care.* Methods of assessing unnecessary health care services, including ancillary services; studies to identify and evaluate the impact of PSRO performance on utilization, appropriateness or quality of care, including health status; methods of analyzing utilization and variations suggesting methods for utilization controls; methods to assess unnecessary care across sectors, including ambulatory care.

Studies that look at alternatives to quality assurance by regulation or input and structural type standards (personnel licensing, credentialing, minimum training, facility certification); analyses of the relation between these input or structural type standards and the quality of health care services; analyses of the effects of physician experience and training on quality of care; utilization review/claims review/quality assurance mechanisms employed in other countries; studies of the quality of care rendered to Medicaid patients; comparisons of the qulaity of care in teaching and nonteaching hospitals; studies that focus on the utilization of a single type health service; studies assessing the quality of care within entire communities.

Availability and Duration of Funding

For Fiscal Year 1978 HCFA has allocated approximately $6,000,000 to fund the 17 solicited areas.

Grants are awarded for a period of 1 year, and may be continued on a noncompeting basis generally for up to 5 years if originally awarded as a multiple year project. Continuation funding is contingent upon the availability of future year funds, the meeting of project objectives, and the continued relevance of the project to the declared interests of HCFA.

General Criteria for Funding New Projects

The Associate Administrator for Policy, Planning and Research determines which projects will be funded. These decisions are based on the recommendations of technical review panels and on the comments of other Department components and outside individuals or organizations. More specifically, the factors that are considered in arriving at the award decision are:

1. Whether the project addresses an area of declared interest, and the relevance of the anticipated results to HCFA programs or general issues involving HCFA programs.
2. The adequacy and creativity of the research design and questions, the validity and appropriateness of the methods and data base(s) proposed, and the experience and competence of the researchers.
3. Whether the knowledge base, project design or methodology is such that the project can be carried out within the times specified.
4. Whether the proposed project methodology is rigorous and consistent with what is generally agreed to be the state of the art.
5. Whether the overall budget, the personnel resources to be used, and the facilities and equipment are appropriate for the project and to the concern of HCFA for that issue.
6. If it is a demonstration project it shows a commitment of the parties necessary to the success of the planned project.

Project Requirements

In addition to meeting the general criteria described above the application must meet the following requirements:

1. The project goals and objectives must be clearly stated and be measurable.
2. The research design, including the questions to be addressed, the methods and the data to be used must be explicitly described. The methodology must be well defined and scientifically valid.
3. A demonstration project must include a demonstration design, objectives and proposed analytical and evaluation methods.
4. The relevance of the findings to HCFA policy concerns should be discussed.
5. Tasks and milestones must be clearly described and scheduled.
6. The application must specify the availability of the data to be used. If data are to be collected, the discussion should describe the nature of the data sought, the sample design and size, controls (if any) and the problems that might be encountered. Data that are collected under a HCFA grant must be available to anyone the Project Officer designates at any time and only to those individuals or organizations designated by the Project Officer. The applications must assure the confidentiality of data and the protection of the privacy of individuals when the data allow for such identification.
7. The application should show the qualifications and experience of the personnel and demonstrate how their qualifications make the individuals capable of performing the tasks in the project. The application should also show how the personnel are to be organized in the project; who will be responsible for which portions of the project and what lines of authority will exist.
8. The application should show the availability of adequate facilities and equipment for the project or clearly state how these are to be obtained.
9. The budget must be developed in detail with justifications and explanations for the amounts requested. The estimated costs must be reasonable considering the anticipated results. Applicants should directly share in the costs of the projects (see Application Procedures, 2. *Grant Policies* below).
10. Experiments and demonstration projects must have a proposed evaluation component. This must describe data collection and analysis procedures for an evaluation that will assess the degree to which the objectives of the project were met. The evaluation component may, at the discretion of the HCFA, be separately funded. Therefore, the evaluation effort should be separately and distinctly budgeted.
11. Sections 1115 and 222 projects that require waivers must define the services, list the waivers, discuss the implications if such waivers are granted, state the effect on Federal, State and local laws as well as the effect (beneficial or adverse) on beneficiaries enrolled in the project.
12. Plans for utilization of the project's results should be discussed along with the deliverable products and the points in the project schedule when these reports/products will be available.
13. The application must assure the applicant's willingness to comply with the human subjects regulations by the inclusion of a completed form HEW-596 (Rev. 1975) "Protection of Human Subjects" (45 CFR Part 46).

Review of the Applications

The review process will consist of two phases. During the first phase applications will be separated into three groups: solicited, unsolicited and not relevant to the interests of HCFA. The first two groups will be screened for completeness and assigned to review panels; the last group will be returned to the applicants. The second phase will consist of the review, ranking and award. The review will be conducted by a panel of not less than three experts (who are not staff members of OPPR).

There will be at least one panel for each area of interest and at least one panel to consider all the "unsolicited" applications. A OPPR/HCFA Project Officer will coordinate the panel's review but will not vote. This individual will also prepare the panels recommendation to the Associate Administrator for Policy, Planning and Research. The panel's recommendations will contain numerical ratings, rankings of acceptable projects and a written assessment of each application.

Number and Size of Awards

In fiscal year 1978 awards may range from $25,000 to $1,000,000, in total cost. Most grants will range between $25,000 and $250,000 per year and range from 1 to 5 years. The number of awards in the priority areas will depend on the size of the highest quality/greatest interest applications.

In fiscal year 1979 the number and size of awards will depend on the availability of funds and on the need of projects that are continuing from prior years. A later announcement will state the availability of FY 1979 funds.

Authorities

The authorities for these grants are:

Social Security Act, Title XI, and Sections 1110 and 1115.
Section 222(a) of the Social Security Amendments of 1972.
Section 402(a) of Social Security Amendments of 1967.
Public Health Act, Section 1526(a), as restricted by Section 1521(b)(3).
Public Health Act, Section 1533(a), as it relates to Section 1533(d).

APPLICATIONS PROCEDURES

1. *Application forms.* A standard application form has been developed for the HCFA research and demonstration grant program. Application kits and guidance for the completion of the forms are available from:

Health Care Financing Administration, Project Grants Branch, 4200-C Mary E. Switzer Building, 330 C Street SW., Washington, D.C. 20201, telephone 202-245-0671.

The application should include, in the project title, the solicited area from this announcement to which the applicant is responding. The solicited area designation should also be clearly marked on the outside of the package/envelope. If the application is unsolicited (not in response to any of the priority areas) the project title should include the phrase, ". . . an unsolicited grant application" and the package/envelope should indicate the same.

2. *Grant Policies.* The funding of grants is made through a competitive process based on a choice of proposals submitted in response to this notice. All grantees are expected to share directly (not in-kind) in the costs of the projects. This sharing should not be less than 5 percent of the total project cost.

Other policies in terms of grantee responsibilities, awarding and payment procedures, special provisions and assurances may be found in the following documents that are included in the application kit:

Project Grants Policy Handbook, DHEW Publication No. (SRS) 76-04001

45 Code of Federal Regulations, Part 74; Administration of Grants

3. *Closing Dates and Times.* In order to be considered for a grant using fiscal year 1978 funds in one of the following priority areas, an application must be received by the Project Grants Branch (at the address shown above) not later than 3 p.m. local time, Monday, June 5, 1978.

Clinical Efficacy Studies
Competition and Regulation
Health Education/Consumer Awareness
Hospital Costs
Preventive Services
Terminal Illness
Utilization Review/PSRO Studies and Quality of Care

In order to be considered for a grant using Fiscal Year 1978 funds in one of the following priority areas, an application must be received by the Project Grants Branch not later than 3 p.m. local time, Monday, June 12, 1978.

Access to care/Utilization of Services
Graduate Medical Education
Integrated Data Systems
Laboratory Reimbursement
Long Term Care Demonstration Design
Long Term Care Research
Medicaid Research and Demonstrations
Medical Equipment and Supplies
Physician Reimbursement
Risk Sharing Research
Unsolicited Applications

Applications received after these cut-off dates will not be considered unless they were sent by registered or certified mail 5 working days in advance of the specified dates. The postmark on the package will establish the date the application was mailed. Late applications will be carried over until the next closing date unless the applicant notifies the Project Grants Branch that it is being withdrawn.

In order to be considered for a grant using fiscal year 1979 funds, an application must be received by the Project Grants Branch by one of the following four dates:

Monday, July 10, 1978, not later than 3 p.m. local time (however, at the discretion of HCFA, applications received by this cutoff may be advanced for award with fiscal year 1978 funds).
Monday, October 2, 1978, not later than 3 p.m. local time.
Monday, January 8, 1979, not later than 3 p.m. local time.
Monday, April 2, 1979, not later than 3 p.m. local time.

Applications received not later than 3 p.m. local time, Monday, July 9, 1979 will be reviewed with the intent of making awards in the first quarter of fiscal year 1980. However, at the discretion of HCFA, these applications may be advanced for award with fiscal year 1979 funds. On each of these five cutoff dates (July and October 1978, January, April and July 1979) applications in all of the declared priority areas and unsolicited applications will be accepted.

(Catalog of Federal Domestic Assistance Program No. 13.766, Health Financing Research, Demonstrations, and Experiments.)

Dated: April 7, 1978.

WILLIAM D. FULLERTON,
Acting Administrator, Health Care Financing Administration.

[FR Doc. 78-9852 Filed 4-12-78; 8:45 am]

federal register

THURSDAY, APRIL 13, 1978
PART VII



ENVIRONMENTAL PROTECTION AGENCY

Standards of Performance for New Stationary Sources

■

BASIC OXYGEN PROCESS FURNACES: OPACITY STANDARD

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 841-6]

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Basic Oxygen Process Furnaces: Opacity Standard

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This action establishes an opacity standard for basic oxygen process furnace (BOPF) facilities. In March 1974 (39 FR 9308), EPA promulgated a standard limiting the concentration of particulate matter emissions from BOPF's, however, an opacity standard was not promulgated at that time becuase of insufficient data to define variations in visible emissions from well-controlled facilities. An opacity standard had been proposed on June 11, 1973 (38 FR 15406) and was reproposed on March 2, 1977 (42 FR 12130). Additional data have provided the basis for the opacity standard which will help insure that control equipment is properly operated and maintained. Like the concentration standard, this opacity standard applies to BOPF facilities the construction or modification of which was commenced after June 11, 1973 since both standards were proposed on that date.

EFFECTIVE DATE: April 13, 1978.

ADDRESS: The public comments received may be inspected and copies at the Public Information Reference Unit (EPA Library), Room 2922, 401 M Street SW., Washington, D.C.

FOR FURTHER INFORMATION:

Don R. Goodwin, Emission Standards and Engineering Division (MD-13), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone No. 919-541-5271.

SUPPLEMENTARY INFORMATION:

Comments

A total of 10 comment letters were received—4 from industry, 5 from governmental agencies, and 1 from an environmental interest group. The significant comments received and EPA's responses are presented here.

Three commenters expressed the need for establishing an opacity standard for fugitive emissions. Fugitive emissions occur when off gases from the furnace are not completely captured by the furnance hood (which ducts waste gases to the control device). During some operations, the fugitive emissions can be significant. The fugitive emissions escape to the atmosphere through roof monitors.

EPA recognizes that fugitive emissions from BOPF shops are an important problem. However, it was not within the scope of this evaluation to consider an opacity standard for fugitive emissions. The particulate concentration standard covers only stack emissions. The purpose of the opacity standard for stack emissions is to serve as a means for enforcement personnel to insure that the particulate matter control system is being properly operated and maintained. EPA will be reviewing the standards of performance for new BOPF's in accordance with the 1977 amendments to the Clean Air Act. This review will address the need for limits on fugitive emissions as well as any revisions of the particulate concentration and opacity standards.

It should be noted that the absence of standards for fugitive emissions under this part does not preclude the establishment of standards as part of the new source review (NSR) and prevention of significant deterioration (PSD) programs of the Agency or as part of the programs of State and local agencies.

Two commenters questioned how the standard would apply to BOPF shops that have plenums to exhaust the emissions from more than one furnace into a single control device. They reasoned that if the production cycles overlap, it would be impossible to determine when an opacity of greater than 10 percent (but less than 20 percent) was attributable to a violation by one furnace or an acceptable emission by another furnace during oxygen blowing. EPA was aware that this situation would occur during the development of the opacity standard. Several of the plants at which visible emission tests were conducted had a single control device serving more than one furnace. The furnace production cycle data were recorded and it was not difficult to correlate the opacity data with the production cycle. Enforcement personnel can evaluate a plant's operation (length of cycle, degree of overlapping, etc.) prior to completing an inspection and correctly identify probable violations from a correlation of their opacity readings with the plant's production and monitoring records. Correlation of the data and the synchronization requirements described later will prevent the enforcement problems described by the commenters. Promulgation of an unduly complex standard that addresses the peculiarities of every BOPF installation would complicate rather than simplify enforcement. Although it is unlikely that two furnaces will be simultaneously started on a blow, production data should be examined for such peculiarities before drawing any conclusions from the opacity data.

Other issues raised include the effect of oxygen "reblows" on the standard and a request for a more lenient monitoring requirement. One industry commenter claimed that there would be a "significant" number of production cycles with more than one opacity reading greater than 10 percent due to the blowing of additional oxygen (after the initial oxygen blow) into a furnace to obtain the proper composition. The opacity standard, however, is based on 73 hours of BOPF operation during which numerous reblows occurred. It was found that although the opacities could be very large at these times, they were of short enough duration that the six-minute average was still 10 percent or less.

EPA agrees with the comment that the requirement for reporting of instantaneous scrubber differential and water supply pressures that are less than 10 percent of the average maintained during the most recent performance test needs further clarification. The requirement has been revised so that any deviation of more than 10 percent over a three hour averaging period must be reported. The three hour averaging period was chosen since it is the minimum duration of a performance test. Thus instantaneous monitoring device measurements caused by routing process fluctuations will not be reported. The reports needed are the periods of time when the average scrubber pressure drop is below the level used to demonstrate compliance at the time of the performance test. In addition, the requirement for a water pressure monitor has been retained (despite the comment that it will not indicate a plugged water line) since it will perform the function of assuring that the water pumps have not shut down. A flow monitoring device was not specified because they are susceptible to plugging.

To provide for the use of certain partial combustion systems on BOPFs, new requirements have been added to the monitoring section and two clarifications added to the test methods and procedures section. A partial combustion system uses a closed hood to limit gas combustion and exhaust gas volumes. To recover combustible exhaust gases, the system may be designed to duct its emissions away from the stack to a gas holding tank during part of the steel production cycle. Steel plants in this country may begin to make more use of this approach due to its significant energy benefits. This type of control/recovery system presents two problems for enforcement personnel. First is the problem of knowing

when the diversion of exhaust gases from the stack occurs. The new requirements of paragraphs (a), (b)(3), and (b)(4) of § 60.143 address this question. Second is the problem of how to sample or observe stack emissions. New provisions under § 60.144 clarify this question for determining the opacity of emissions (paragraph (a)(5)) and for determining the concentration of emissions (paragraph (c)).

In addition to addressing the problem posed by exhaust gas diversion, the new requirements of paragraphs (a), (b)(3), and (b)(4) of § 60.143 are also designed to minimize errors in recording the time and duration of the steel production cycle for all types of BOPFs. Accurate records are essential for determining compliance with the opacity standard. Likewise the synchronization of daily logs with the chart recorders of monitoring devices is necessary for determining that acceptable operation and maintenance procedures are being used as required by paragraph (d) of § 60.11.

An alternative to the manual method of synchronization under paragraph (b)(3) of § 60.143 which may minimize costs of this requirement would be to have the chart recorder automatically mark the beginning and end of the steel production cycle and any period of gas diversion from the stack. Such marking could be electrically relayed from the production equipment and exhaust duct damper operation in order to be fully automatic. Source owners or operators who wish to employ this method or equivalent methods in lieu of the synchronization procedure prescribed by the regulations may submit their plans to the Administrator for approval under paragraph 60.13(i).

The concentration standard promulgated in March, 1974, applies to both top and bottom-blown BOPFs. In developing the proposed opacity standard, data from both types of BOPFs were considered. Scrubber-controlled top and bottom-blown BOPFs were demonstrated capable of meeting the opacity limits proposed and here promulgated. Thus the promulgated opacity standard applies to bottom as well as top-blown BOPFs.

Although there was no announced intentions to utilize electrostatic precipitators (ESPs) as a control device (rather than venturi scrubbers), during the development of the proposed standard, one industry commenter asserted that ESPs may become more attractive in the future, especially in the semi-arid regions of the West where the water and energy demands of scrubbers are not easily met. If a BOPF furnace is constructed with an ESP control device, the establishment of a site-specific opacity standard may be necessary. Upon request by the owner or operator of the BOPF furnace, a determination will be made by EPA pursuant to § 60.11(e) if performance tests demonstrate compliance with the mass concentration standard.

MISCELLANEOUS

It should be noted that standards of performance for new sources established under section 111 of the Act reflect emission limits achievable with the best adequately demonstrated technological system of continuous emission reduction (taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impact and energy requirements). State implementation plans (SIPs) approved or promulgated under section 110 of the Act, on the other hand, must provide for the attainment and maintenance of national ambient air quality standards (NAAQS) designed to protect public health and welfare. For that purpose, SIPs must in some cases require greater emission reductions than those required by standards of performance for new sources. Section 173(2) of the Clean Air Act, requires, among other things, that a new or modified source constructed in an area which exceeds the NAAQS must reduce emissions to the level which reflects the "lowest achievable emission rate" for such category of source, unless the owner or operator demonstrates that the source cannot achieve such an emission rate. In no event can the emission rate exceed any applicable standard of performance.

A similar situation may arise when a major emitting facility is to be constructed in a geographic area which falls under the prevention of significant deterioration of air quality provisions of the Act (Part C). These provisions require, among other things, that major emitting facilities to be constructed in such areas are to be subject to best available control technology. The term "best available control technology" (BACT) means "an emission limitation based on the maximum degree of reduction of each pollutant subject to regulation under this Act emitted from or which results from any major emitting facility, which the permitting authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such facilities through application of production processes and available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of each such pollutant. In no event shall application of 'best available control technology' result in emissions of any pollutants which will exceed the emissions allowed by any applicable standard established pursuant to section 111 or 112 of this Act."

Standards of performance should not be viewed as the ultimate in achievable emission control and should not preclude the imposition of a more stringent emission standard, where appropriate. For example, while cost of achievement may be an important factor in determining standards of performance applicable to all areas of the country (clean as well as dirty), costs must be accorded for less weight in determining the "lowest achievable emission rate for the new or modified sources locating in areas violating statutorily-mandated health and welfare standards. Although there may be emission control technology available that can reduce emissions below the level required to comply with standards of performance, this technology might be selected as the basis of standards of performance due to costs associated with its use. This in no way should preclude its use in situations where cost is a lesser consideration, such as determination of the "lowest achievable emission rate." Furthermore, since partial combustion systems and bottom blown BOPFs have been shown to be inherently less polluting, more stringent emission limits may be placed on such sources for the purposes of defining "best available control technology" (under Prevention of Significant Deterioration regulation) and "lowest achievable emission rate" in non-attainment areas.

In addition, States are free under section 116 of the Act to establish even more stringent emission limits than those established under section 111 or those necessary to attain or maintain the NAAQS under secton 110. Thus, new sources may in some cases be subject to limitations more stringent than standards of performance under section 111, and prospective owners and operators of new sources should be aware of this possibility in planning for such facilities.

The effective date of this regulation is (date of publication), because section 111(b)(1)(B) of the Clean Air Act provides that standards of performance or revisions thereof become effective upon promulgation.

The opacity standard, like the concentration standard, applies to BOPFs which commenced construction or modification after June 11, 1973. That is the date on which both standards were originally proposed. The opacity standard will add no new control burden to the sources affected, but will provide an effective means of monitoring the compliance of these facilities. The relief provided under § 60.11(e) insures that the opacity standard requires no greater reduction in emissions than the concentration standard.

NOTE.—The Environmental Protection Agency has determined that this document does not contain a major proposal requiring

preparation of an Economic Impact Analysis under Executive Orders 11821 and 11949 and OMB Circular A-107.

Dated: April 4, 1978.

DOUGLAS M. COSTLE,
Administrator.

Part 60 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart N—Standards of Performance for Iron and Steel Plants

1. Section 60.141 is amended by adding paragraph (c) as follows:

§ 60.141 Definitions.

* * * * *

(c) "Startup means the setting into operation for the first steel production cycle of a relined BOPF or a BOPF which has been out of production for a minimum continuous time period of eight hours.

2. Section 60.142 is amended by adding paragraph (a)(2) as follows:

§ 60.142 Standard for particulate matter.

(a) * * *

(2) Exit from a control device and exhibit 10 percent opacity or greater, except that an opacity of greater than 10 percent but less than 20 percent may occur once per steel production cycle.

(Secs. 111, 301(a), Clean Air Act as amended (42 U.S.C. 7411, 7601).)

3. A new § 60.143 is added as follows:

§ 60.143 Monitoring of operations.

(a) The owner or operator of an affected facility shall maintain a single time-measuring instrument which shall be used in recording daily the time and duration of each steel production cycle, and the time and duration of any diversion of exhaust gases from the main stack servicing the BOPF.

(b) The owner or operator of any affected facility that uses venturi scrubber emission control equipment shall install, calibrate, maintain, and continuously operate monitoring devices as follows:

(1) A monitoring device for the continuous measurement of the pressure loss through the venturi constriction of the control equipment. The monitoring device is to be certified by the manufacturer to be accurate within ±250 Pa (±1 inch water).

(2) A monitoring device for the continous measurement of the water supply pressure to the control equipment. The monitoring device is to be certified by the manufacturer to be accurate within ±5 percent of the design water supply pressure. The monitoring device's pressure sensor or pressure tap must be located close to the water discharge point. The Administrator may be consulted for approval of alternative locations for the pressure sensor or tap.

(3) All monitoring devices shall be synchronized each day with the time-measuring instrument used under paragraph (a) of this section. The chart recorder error directly after synchronization shall not exceed 0.08 cm (1/32 inch).

(4) All monitoring devices shall use chart recorders which are operated at a minimum chart speed of 3.8 cm/hr (1.5 in/hr).

(5) All monitoring devices are to be recalibreated annually, and at other times as the Administrator may require, in accordance with the proceduces under § 60.13(b)(3).

(c) Any owner or operator subject to requirements under paragraph (b) of this section shall report for each calendar quarter all measurements over any three-hour period that average more than 10 percent below the average levels maintained during the most recent performance test conducted under § 60.8 in which the affected facility demonstrated compliance with the standard under § 60.142(a)(1). The accuracy of the respective measurements, not to exceed the values specified in paragraphs (b)(1) and (b)(2) of this section, may be taken into consideration when determining the measurement results that must be reported.

4. Section 60.144 is amended by adding paragraphs (a)(5) and (c) as follows:

§ 60.144 Test methods and procedures.

(a) * * *

(5) Method 9 for visible emissions. For the purpose of this subpart, opacity observations taken at 15-second intervals immediately before and after a diversion of exhaust gases from the stack may be considered to be consecutive for the purpose of computing an average opacity for a six-minute period. Observations taken during a diversion shall not be used in determining compliance with the opacity standard.

* * * * *

(c) Sampling of flue gases during each steel production cycle shall be discontinued whenever all flue gases are diverted from the stack and shall be resumed after each diversion period.

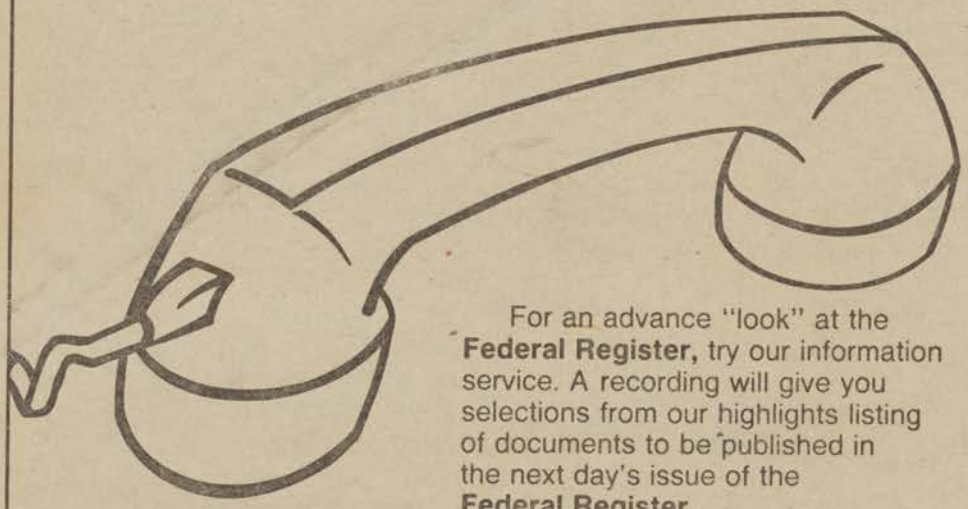
(Secs. 111, 114, 301(a), Clean Air Act as amended (42 U.S.C. 7411, 7414, 7601).)

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